

LSM

THE OSWALD PAPERS:
THE FBI VERSUS THE WARREN COMMISSION

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(DPD, Davison, Klein's ads, Dodd, Radio Tapes, "D", Revill/Hosty, &c)

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DRAFT
March 1974

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- 265X. See Ch. __, pp. ____ (ONI files)
266. Rankin memo for the staff, Apr. 7, 1964, "Re: Depositions and Testimony before the Commission"
- 267C. Some additional people were used to check footnotes in the Report and for similar work; however, no new investigative staff was added at the level of the fourteen Assistant Counsel.
268. Rankin memorandum for members of the staff, Mar. 24, 1964
269. Rankin memorandum to members of the staff, Apr. 16, 1964
270. Stern memo to Rankin, Apr. 21, 1964 (cited in note 244 supra)
271. Epstein, "Inquest," p. 147
- 272C. Stern seems to be telling Rankin about this draft for the first time; this suggests that Rankin had not been involved in the original decision not to send it. (See Ch. 2, pp. 6-8.)
273. Stern memo to Willens, Mar. 18, "Subject: Treatment of Oswald by Dallas Police - Necessary Witnesses"
274. Rankin letter (drafted by Stern) to Hoover, Apr. 24, 1964
275. Executive Session, Apr. 30, 1964, p. 5851
276. Executive Session, Apr. 30, 1964, p. 5886
277. Rankin letter (drafted by Goldberg) to Hoover, Nov. 18, 1964
- 278X. See Ch. 3, p. 29.
- 279X. See Ch. __. (FBI intra-office communication procedures)
280. 4 H 417-8.
281. 4 H 418
- 282C. Quigley must have also passed on to his superiors, or filed, the papers that Oswald had given him (a handbill and a pamphlet). (See Ch. __.)
283. 4 H 449-450
284. 4 H 418
285. 4 H 457
286. 5 H 26
287. 4 H 435
288. 4 H 425
289. 4 H 426
290. 4 H 411
291. 4 H 469
292. 4 H 457, 4 H 466
293. 4 H 446
294. 4 H 454; see CE 1831 (CD 208)
295. CE 1809; cf. CE 1831.
296. 5 H 1

297. 5 H 6
- 298X. See Ch. 7, p. 3.
- 299C. 5 H 8. The FBI might also have assumed that the investigation of the returnee was being covered by the INS, the CIA, and any interested Congressional committees.
300. 5 H 9
- 301X. 4 H 444. See also Ch. __, P. __. (Dallas FPCC incident)
302. 5 H 10
303. 5 H 11. (This discussion of CE 834, through 5 H 14, is quoted in full.)
304. 5 H 3
- 305X. See Ch. __. (Incompleteness of the Headquarters Oswald file)
- 306C. This article is actually dated October 23, not October 2. (See CE 834, item 1.) Oswald did not appear at the U.S. Embassy in Moscow until October 31. This clipping is an editorial commenting on two previous defectors. I know of no curiosity among the Commission staff about why it is in the Oswald file.
307. 5 H 12
308. 5 H 12
309. Congressional Record, Dec. 18, 1973, p. E8111-2
310. Items 1, 26, 46. (See the copy of CE 834 in the Appendix)
311. Items 4, 5, 6, 7, 9, 10, 11, 31, 32.
312. Respectively items 19, 22, 33, 36, 58; items 14, 20; item 2.
313. Items 23, 41, 43, 52, 63.
314. According to Stern, the Commission did not have the 5 Identification Division records, items 12, 29, 45, 51, and 56. Compare (e.g.) 22 H 821 (CE 1413), obtained from Louisiana authorities.
315. Items 3, 8.
316. Respectively items (35,53), (27,28,42,44(sic),48,49,50,57,64,67) - Dallas; (47), (54,55,59,60,66,68) - New Orleans; (21,25,30,34,37,69) - Washington Field Office; (39), (13,38,40) - New York; (65) - from Little Rock; (15,16,17,18,24) - from Paris; (62),(61) - Mexico. Note that there are no communications here to Little Rock or Paris.
317. Rankin, Memorandum for the Commission, May 12, 1964
318. Media files (WIN edition), pp. 40-1, 42. See also John T. Elliff in "Investigating the FBI," p. 258, 284-5.
319. 5 H 98
320. Toledano, "Hoover," p. 301-2; White House Press Release, May 8, 1964; NYT, May 9, 1964, p. 12:1.
321. 5 H 97
322. Rankin memo (drafted by Stern) to McCloy, May 22, 1964.

323. List of Basic Source Materials (CD's) (Entry 4), p. 113.
- 324C. Two of the attachments in CD 1084 are letterhead memoranda relating to the Mexico investigation; a third is a December 3 report from the FBI's Legal Attache in Mexico; the fourth, which is undated, appears to be a very early summary of the evidence in the Ruby case. The fifth attachment, still withheld, is probably the analogous summary of the evidence in the Kennedy assassination.
325. Justice Department letter to PLH, Aug. 24, 1973; Archives letter to PLH, May 14, 1973.
326. FBI letter to PLH, May 17, 1973.
327. Epstein, "Inquest," p. 38
328. Rankin, memorandum for the Commission, May 12, 1964
329. CE 2428, CE 3034
330. The withheld part of the Stern office file is described in a letter of Nov. 27, 1973, to the author, from the Archives.
331. See Ch. 6, pp. 1-6. WR 434-440
332. Norman Redlich memo to Dulles, June 12, 1964
- 333C. See, e.g., Rankin memo to Richard B. Russell, June 26, 1964, "Subject: Commission Meeting on Monday, June 29, 1964." There are indications (in the KC 6-1 file, Entry 20) that this meeting was postponed to or continued on July 2, and it may not have been held at all; I know of no transcript or other record of a Commission meeting between June 23 and September 18.
334. Ford letter and memo to Rankin, Aug. 12, 1964 (cited at notes 109, 111 *supra*); Lloyd L. Weinreb memo to Willens, "Re: Chapter VIII," Aug. 12, 1964.
335. Archives letter to PLH, Feb. 15, 1974
336. Undated Chapter 8 draft, p. 73
337. WR 327
338. Undated Chapter 8 draft, p. 69
339. Undated Chapter 8 draft, p. 70
340. WR 327
341. Liebler memo to Willens, Sep. 14, 1964
342. Ford, "Portrait," pp. 289-290

APPENDIX

Item #	Description	# of pages in original form	Page first discussed
1	Goulden article (Dec. 8, 1963)	3	3.5
2	Huddins article (Jan. 1, 1964)	2	3.5
3	Redlich memo to Rankin, Feb. 11, 1964, re Feidman article in "The Nation"	4	3.17
4	Listing of Commission personnel (WR v)	1	3.2
5	Hoover letter to Rankin, Jun. 27, 1964	3	3.20
6	Original FBI listing of Oswald's address book (part) (CD 205, pp. 671, 672, 696, 697)	4	5.7
7	Gamberling affidavit re Hosty entry	5	5.5
8	Kesler affidavit re Hosty entry	1	5.5
9	Hoover letter to Rankin, Apr. 6, 1964 (Cover letter for CE 833 (Item 12))	2	6.19
10	Stern memo to Rankin, Feb. 10, 1964	3	6.13
11	Rankin letter to Hoover, Mar. 26, 1964 (The reply is CE 833)	1	2.7
12	FBI memo of April 6, 1964, responding to the Commission's questions. (This is identical to CE 833; the cover letter is item 9.)	15	6.19
13	Hoover letter to Rankin, May 4, 1964, listing the FBI Headquarters file on Oswald (CE 834, marked to indicate items in the Commission's possession)	10	7.17

Ruby Posed as TV Cameraman's Helper to Get at Oswald

By Joseph C. Goulden, Inquirer Reporter

DALLAS, Dec. 7. -- Jack Ruby became an equipment-carrying flunky for a television crew to get into the jail basement where he killed accused Presidential assassin Lee H. Oswald.

An unimpeachable law enforcement source says Ruby relied on a close friendship with a local TV cameraman to gain a spot on the crew. (Passed Guards)

Laden with heavy electronic equipment, he walked unimpeded past police whose security cordon around the basement was somewhat less than tight.

A pistol in his overcoat pocket, the strip-tease club operator waited patiently until detectives brought Oswald through the basement the morning of Nov. 24 for transfer to the county jail, a mile away.

Then with a single pistol shot Ruby mortally wounded Oswald, silencing forever the man who had the answers to America's crime of the century.

Ruby's ruse is one of several previously overlooked facets of the slaying of President Kennedy noted by an Inquirer reporter in Dallas this week.

Others included: -- The discovery that the U.S. Communist Party wrote Castro-sympathizer Oswald a letter thanking him "for your photographic contributions to the Communist Party." Photo materials and a negative of a blank selective service system card were found among Oswald's effects.

-- The revelation that the Federal Bureau of Investigation tried to recruit Oswald as an undercover informant in Castro groups two months before Mr. Kennedy's death.

-- Statements from residents who saw Oswald with a rifle in a window of the Texas School Book Depository Building 15 minutes before the shots killed Mr. Kennedy and wounded Texas Gov. John Connally.

-- Indications of bitter rivalry and lack of cooperation among officers working on the case - both between themselves and with the county district attorney, Henry Wade, and Texas Attorney General Waggoner Carr. The implied villain is the FBI.

The story of the Oswald slaying, as pieced together from authoritative law enforcement sources, is at sharp variance with the version offered publicly by Ruby's lawyer, Tom Howard.

Ruby's story, as relayed by Howard, is that he sneaked through officers guarding the jail basement at Dallas City Hall and fired the shot before anyone could stop him.

An investigator who has interrogated Ruby says Howard's version "just isn't true." (Sporadic Check)

Ruby came to the jail about 9:45 A. M. Nov. 24, 15 minutes before the time Police Chief Jesse Curry had set to transfer Oswald in full view of TV cameras and waiting newsmen.

Police were making a sporadic and inefficient check of newsmen's credentials - supposedly the only outsiders allowed in the basement.

Ruby had wandered freely through the police station the previous two nights, even attending, and asking questions at, one of Wade's press conferences. (Offers to Help)

With more serious things on his mind now, Ruby took no chances of being barred at the gate. He approached a cameraman for a Dallas area television station who is a frequenter of his strip-tease joint, the downtown Carousel Club.

"How about getting me in there?" Ruby asked the cameraman, who was unloading equipment. "I can help you with some of that gear."

The cameraman agreed, and Ruby carried several satchels of TV equipment. He then mingled with the mass of newsmen and policemen in the basement until Oswald came out.

officers - said he glanced at the building several minutes before the Presidential cavalcade rolled by.

"He was sitting up there and looking down, apparently waiting for the same thing I was - the President," the man said. He noticed nothing unusual, then casually looked up again as Mr. Kennedy's car approached.

In stunned, frozen horror, the man said: "He was taking aim with a high-powered rifle. I was looking at the time he fired the shots. He did not seem to be in any hurry."

(*Man in Window*)

A couple was standing at an intersection across from the building, 15 minutes before the parade. The man remarked to his wife that he hoped no incidents would mar the President's visit, that the Secret Service was protecting him. He looked at the building and saw a man.

"He was holding in his arms what appeared to be a high-powered rifle," the man said. "He was holding it at parade rest."

"Looks like the Secret Service is really on the job," the man said, pointing to the rifleman. His nearsighted wife could not see him.

A quarter of an hour later the couple was among hundreds of sidewalk viewers who heard the fatal shots from the building.

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The name of the cameraman is known to law enforcement agencies here. And presumably the episode will be made public in a report on Ruby now being drafted by a special panel of police investigators.

(Refuses Discussion)

The cameraman, however, denied helping Ruby. "I don't know anything about it," he said, and would not discuss the matter further.

Dallas police are handling the matter gingerly. Curry and Capt. Will Fritz, homicide division head, have been roasted in the national and foreign press for "Keystone Kop bungling" on the transfer.

If police are able to prove, therefore, that an unsuspecting newsman helped Ruby get into the basement, they expect much of the criticism to halt.

(Closely Guarded)

Newsmen have not been able to ask Ruby how he entered the basement. Sheriff Bill Decker has him under heavy guard in the county jail; his only visitors, save for Howard and investigators, have been relatives and business associates.

The fact Oswald had done photographic chores for the Communist Party was revealed by Assistant District Attorney William F. Alexander, Wade's chief prosecutor.

The letter, Alexander said, was among perhaps six found in Oswald's room in Oak Cliff, which he occupied under a false name.

Several expensive cameras and rolls of film were found in the room by sheriff's detectives and turned over to the FBI.

The most vital piece of material, however, was the negative for a blank draft card.

A Federal intelligence source - not involved in the murder investigation - said such a negative "would be invaluable" to anyone involved in espionage work.

"With a printing plate made from such a negative, you could run off blank draft cards by the hundreds," the intelligence agent said.

Oswald had worked for a photographic firm in Dallas earlier this year. This was after a visit to the Soviet Union during which he sought to renounce his U.S. citizenship.

(Instructions Given)

Alexander said one of the letters - three pages in length - gave Oswald detailed instructions on how to set up a "Fair Play for Cuba Committee." This was on Communist Party stationery and was signed by the same man who had thanked Oswald for the photographic help.

The FBI has not released the text of the letters, nor would local agents discuss them.

Other materials were found in Oswald's quarters in suburban Irving, where his wife and two children lived with Mrs. Ruth Paine, who had befriended them. These included:

-- Seven metal file boxes with names of Castro sympathizers.

-- Batches of leaflets with the legend "Hands Off Cuba." These bore the imprint of the "Fair Play for Cuba Committee."

-- A catalogue of books and pamphlets on socialism and Communism.

The FBI attempt to recruit Oswald as an informant, an informed law enforcement source said, was made in September, just after he had moved to Dallas from New Orleans.

Oswald's mother said an "agent named Hosty" came to the Irving house and talked to the young man at length in his car.

An FBI agent named Joseph Hosty handles investigations of subversives for the Dallas field office.

The source said he did not know if the FBI succeeded in hiring Oswald; and the Federal agency would not discuss the matter.

Investigators previously said Oswald built a "cave" of boxes in which he hid from view in a fifth-floor window of the book warehouse, and was not clearly visible from the street.

This is contradicted however, by at least two residents who told deputy sheriffs immediately after the shooting they had spotted a man there earlier.

(*Was Taking Aim*)

One of the men - whose name is being withheld by The Inquirer at the request of

OSWALD NAMED AS INFORMANT FOR U.S.

Federal Agent Approached Son, Mother Quoted as Saying By LONNIE HUDKINS, Post Staff Correspondent

The Houston Post Wednesday January 1, 1964

DALLAS - Was Lee Harvey Oswald a stool pigeon for a federal government agency? That's the question being asked by many people in responsible positions here.

If the answer is "yes," then the 24-year-old accused as the slayer of President Kennedy pulled one of the biggest and certainly the most embarrassing double-crosses in the nation's history.

AND IF the answer is "no," it will go down as just another one of the fantastic rumors floating around in official and unofficial circles in Dallas.

Here are some of the facts and some of the opinions and the sources from which they came.

Oswald, who was later shot to death by night club operator Jack Ruby, did know of Joe Hosty, the FBI agent who handles subversive matters in the Dallas FBI office.

"He had Hosty's home phone, office phone and car license number," said Bill Alexander, assistant district attorney to Henry Wade and one of the state's most able prosecutors.

ALEXANDER was one of the men who got a chance to listen in on the grilling of Oswald on Nov. 22, the day the President was killed, and Nov. 23, the day before Oswald's life also came to an end.

Mrs. Marguerite Oswald, mother of Oswald, had a terse "no comment" when asked if her son had told her he was or had at least been asked to be an informant in anti-subversive work. She did not deny it.

However, she was quoted in the Philadelphia Inquirer as saying her son had been approached by a government agent to be an informant and then had informed her about it.

INASMUCH AS she had no direct contact with her son after September of 1962, the contact, if made, would have been before she went to work for a Fort Worth matron in the same month and indicated to her employer that "Lee was doing important work."

The social matron said she got the impression from Mrs. Oswald, a practical nurse, that Lee Oswald was doing some sort of work for the federal government. She described Mrs. Oswald as "a very good nurse."

One thing the FBI cannot brush aside is the fact its agents knew Oswald was in Dallas before the slaying of President Kennedy and the wounding of Gov. John Connally.

"THEY (MEANING THE FBI) asked me where he (Oswald) worked and I told them," said Mrs. Ruth Paine, the Irving housewife with whom Oswald's Russian-born wife and two children made their home in Irving, a Dallas County suburban town.

Mrs. Paine recalled that FBI agents came to her home on two occasions to inform Oswald's wife that it was the FBI's custom, or policy, to contact immigrants from behind the Iron Curtain after they had been in this country for a year and that they (the immigrants) could, if they wanted to do so, disclose any pressure that might be on them from relatives or governments left behind.

The Irving housewife, a Quaker who speaks Russian, recalled that the FBI's first visit was "in late September or early October" of this year and that the agents returned a week later.

SHE SAID she told them neither she nor Oswald's wife knew where Oswald was living (in an Oak Cliff boarding house) but did tell them where he was working, at the Texas Book Depository (from which rifle bullets were fired into President Kennedy and Gov. Connally during a motorcade).

Reporters on hand to interview Police Chief Jesse Curry on Nov. 22 recall that he first revealed that the FBI knew that Oswald was in Dallas but had not given his name to check to police or other law enforcement agencies involved in the President's protection.

Chief Curry later retracted the statement.

But informed sources in Dallas tell of seeing a report forwarded to the Commission investigating President Kennedy's death that states that at 7:30 PM Dallas, Nov. 22,

February 10, 1964

MEMORANDUM FOR MR. RANKIN

FROM: Mr. Stern

In the course of analyzing the materials already available to the Commission, which bear upon the questions of the effectiveness of the Secret Service's Protective Research Section in its preventative intelligence operations, and the adequacy of liaison arrangements between the Secret Service and other federal intelligence agencies, it has become apparent that the record, as presently constituted, is significantly incomplete. A great deal of additional information must be obtained from each of the intelligence agencies before the Commission will be able to make reasoned judgments in this area. It is the purpose of this memorandum to suggest, in summary fashion, the kinds of further inquiry of all investigative agencies involved that appear to be necessary, using the Secret Service and the FBI as illustrations.

1. Secret Service

The Secret Service has provided a memorandum by the agent in charge of the Protective Research Section, summarizing in very general terms its operations. (See Comm. No. 3, Exhibits 2 and 3.) The memorandum tells us almost nothing about the qualitative standards used for determining when information warrants being placed in PRS files, the extent to which original investigations are instituted to develop preventative intelligence information, the data storage and retrieval systems used, including the degree of automation or other modern data processing techniques employed, etc.

To develop the kind of information the Commission will ultimately require, as a first step the Commission should write to Secretary Dillon, requesting all existing written information about arrangements for safeguarding the President, including particularly descriptions of PRS operations, and also requesting the preparation of written reports to the extent that materials do not now exist. A draft letter has been prepared for the Commission's consideration.

Once such information is received, it may well suggest other fruitful lines of inquiry. Members of the Commission staff should conduct extensive interviews with Secret Service, and particularly, PRS personnel, to learn precisely how these functions are carried out.

- 3 -

(4) In New Orleans and perhaps earlier in Dallas, he took part in street demonstrations for F.P.C.C., which led to his arrest in New Orleans. He asked to be interviewed in August 1963 by an FBI agent and proceeded to tell the agent a great many lies about his past activities. The information given by Oswald was significantly inconsistent with data known by the FBI to be correct.

(5) CIA advised FBI that Oswald had contacted Soviet Embassy in Mexico City on October 1, 1963.

(6) When Oswald left New Orleans, FBI learned that he gave the address of Mrs. Paine's home in Irving, Texas as his forwarding address. FBI agents made three visits to Mrs. Paine's house within eight days to try to determine his whereabouts. They learned he was living separately in Dallas and working at the Book Depository but apparently did not pursue this lead and waited until Mrs. Paine could tell them his Dallas address.

(7) On November 18 the FBI was advised that Oswald wrote to the Soviet Embassy in Washington that he had been in Mexico City under an assumed name and that he had originally intended to visit the Soviet Embassy in Cuba but was unable to reach Cuba.

(8) An FBI agent told two Secret Service agents on November 22 that Oswald had, within the past 15 days, contacted two known subversive agents.

The historical record compiled by the Commission would obviously be incomplete if the FBI were not to be given an opportunity to explain the many questions raised by the record now before the Commission. On the facts now available, the Commission cannot begin to understand the true degree of concern in which the FBI held Oswald immediately preceding the assassination, why the FBI apparently did not consider that his conduct merited advice to the Secret Service, particularly in the liaison activities immediately preceding the President's trip, and why the FBI was not more actively pursuing Oswald in connection with its own direct responsibilities.

Initially, this information may best be obtained by putting to the FBI a series of specific questions concerning its investigation of Oswald. It seems probable that it will be necessary to follow these questions by requesting from the FBI all internal memoranda, internal surveillance and mail cover reports, and logs of the activities of those agents who had any contact with his case. The next stage might be staff interviews with FBI personnel, and the Commission may ultimately desire to memorialize this information by taking the testimony of particular agents.

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Eventually, the Commission may well want to memorialize the statements of the most knowledgeable Secret Service agents by taking their testimony.

2. Federal Bureau of Investigation

The Commission has very little from the FBI describing its processes and operations in the area of Presidential security. Any information on these matters now available to the Commission is only in the form of case reports, occasionally augmented by more general statements in response to particular inquiries.

As a first step in obtaining further information, the Commission should send to the FBI a general request for any existing memoranda or studies pertaining to arrangements for safeguarding the President, particularly with respect to liaison with the Secret Service, and should request the preparation of written descriptions covering any matters which are not now adequately set forth in existing writings. A draft letter has been prepared for the Commission's consideration, and parallel letters have also been prepared to solicit the same information from the CIA, DOW, and a representative sample of local law enforcement agencies.

The information already available to the Commission regarding the FBI's investigation of Oswald from 1960 until the assassination, raises a number of specific questions. The FBI knew a great deal about Oswald and his activities before the assassination, the most important aspects of which may be summarized as follows:

(1) Before his return in June 1962, the FBI knew of his U.S. Marine Corps experience and training, his attempted defection and efforts to become a Soviet citizen, his threat to divulge military information to the Soviet Government, his marriage to a Soviet national, and his impending return.

(2) The FBI apparently did not attempt to interview him until two weeks after his return. When interviewed, his attitude was "impatient and arrogant." He was interviewed a second time within two months of the first interview.

(3) He was not interviewed again by the FBI for a full year. During this time, the FBI knew that he was having trouble maintaining a job, and that neighbors had complained of his drinking and wife beating. He subscribed to Communist Party publications and became active for the F.P.C.C.

JLR: SAS/HP/etal
3/25/64 ret.

J. Edgar Hoover, Director
Federal Bureau of Investigation
United States Department of Justice
Washington, D. C. 20533

Dear Mr. Hoover:

As you know, one of the most important matters being considered by this Commission is the extent to which various federal law enforcement agencies know of the activities of Lee Harvey Oswald before the assassination of President Kennedy. In the course of its inquiry in this regard, the Commission has obtained from each of the agencies concerned a great deal of information.

The FBI has been most cooperative in furnishing its formal reports on Oswald, and in responding by letter or memorandum to certain questions that have arisen from time to time. The Commission has a number of specific questions regarding these FBI materials; for convenience, the questions are set forth in an attachment to this letter. Although some of the questions are, in form, susceptible of a simple affirmative or negative response, the Commission would appreciate instead a reasoned response to each question, in reasonable detail, and with such substantiating materials as seem appropriate.

On behalf of the Commission I wish to thank you and your representatives for your continued assistance to the work of the Commission.

Sincerely,

SICARD

J. Lee Rankin
General Counsel

cc: Mr. Rankin
Mr. Willons
Mr. Stern

GA 1 F.3.

MAR 26 1964

HPW
3/25/64

JLR



UNITED STATES DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Washington 25, D. C.

April 6, 1964

In Reply, Please Refer to
File No.

LEE HARVEY OSWALD

1. QUESTION: Was there any FBI interest in Oswald before the April, 1960 FBI interviews of Mrs. Marguerite Oswald and Robert Oswald? If so, what was the nature and extent of the interest? What initiated the April, 1960 questioning of Mrs. Oswald and Robert Oswald?

ANSWER: Yes. The FBI's first interest in Lee Harvey Oswald arose as a result of a "Washington Capital News Service" release dated October 31, 1959, at Moscow which announced that Oswald, a 20-year-old former United States Marine, advised the United Press International during his press conference in his room at the Metropole Hotel, Moscow, that he had applied to renounce his American citizenship and to become a Soviet citizen for "purely political reasons." He further announced that he would never return to the United States.

We checked our records on October 31, 1959, and determined that our files contained no information identifiable with Oswald other than a service fingerprint card showing his enlistment in the United States Marine Corps (USMC) on October 24, 1956, at Dallas, Texas. On November 2, 1959, we determined through liaison with the United States Navy Department that the files of the Office of Naval Intelligence (ONI) contained no record of Oswald. On the same date, his record at the Headquarters of the USMC disclosed that Oswald had been released to inactive duty on September 11, 1959, with obligated service until December 5, 1962. No derogatory information was contained in the USMC files concerning Oswald, and ONI advised that no action against him was contemplated in this matter. A stop was placed in the files of the Identification Division of the FBI on November 10, 1959, so as to alert us in the event he returned to the United States under a different identity and his fingerprints were received. A file concerning Oswald was prepared and, as communications were received from other United States Government agencies, those communications were placed in his file. Our basic interest was to correlate information concerning him and to evaluate him as a security risk in the event he returned, in view of the possibility of his recruitment by the Soviet intelligence services.

The questioning of Mrs. Marguerite C. Oswald and Robert Oswald in April, 1960, arose as follows: We determined on January 25, 1960, that Mrs. Marguerite C. Oswald had transmitted

COMMISSION EXHIBIT No. 2718

(This CE is a retyped copy of the memo in CE 833 - PLH)

3. QUESTION: Since the State Department advised the FBI on June 4, 1962 of Oswald's scheduled return, why did the FBI apparently wait until June 22, nine days after arrival, to check on his arrival? Why did the FBI not interview Oswald upon his arrival?

ANSWER: We did not wait until June 22, 1962, to check on Oswald's arrival. A news clipping on June 9, 1962, indicated that Oswald was on his way back to the United States and on June 12, 1962, our New York Office confirmed with the Immigration and Naturalization Service (INS) that Oswald's name was on the Advanced Manifest for the SS. "Maasdam." Our New York Office subsequently verified with INS the arrival of Oswald, his wife and daughter and determined that they were destined for 7313 Davenport Street, Fort Worth, Texas. The New York Office also determined that INS Inspector Frederick J. Wiedersheim interviewed Oswald upon his arrival in the United States. Oswald told Wiedersheim that he had been employed as a mechanic in Russia, had threatened to renounce his United States citizenship but had never carried out the threat, had never voted in Russia and had not held any position in the Soviet Government.

He was not interviewed by the FBI on his arrival in the United States, since the FBI preferred to interview him after he had established residence, and instructions had been issued to our Dallas Office on May 31, 1962, to this effect.

4. QUESTION: Did the FBI learn of Oswald's return to Fort Worth from his sister-in-law, Mrs. Robert Oswald (who advised on June 26, 1962 that he had arrived in Fort Worth on June 14), or was this information developed independently, and if so, in what way? Was Oswald placed under surveillance upon his arrival in New York, or was the first FBI contact the interview with him on June 26, 1962?

ANSWER: INS advised our New York Office on June 22, 1962, of Oswald's destination as 7313 Davenport Street, Fort Worth, Texas. On May 18, 1962, Mrs. Robert Oswald was interviewed and she promised to advise FBI Agents at Fort Worth immediately upon the arrival of Lee Harvey Oswald in Fort Worth. As Mrs. Robert Oswald did not notify the Agents, she was reinterviewed on June 26, 1962, at which time she advised that Lee Harvey Oswald, his wife and child had arrived in Fort Worth on June 14, 1962, and were currently residing at her address. He was not placed under surveillance upon his arrival in New York as such action was considered undesirable and unnecessary. Our first contact with him was on June 26, 1962.

the sum of \$25 to Lee Harvey Oswald in care of the Hotel Metropole, Moscow. That information prompted our interview with Robert Oswald and Marguerite Oswald on April 27, 1960, and April 28, 1960, respectively.

2. QUESTION: At page 31 of the FBI Report on the Investigation of the Assassination of President Kennedy, it is stated that:

"An FBI investigation of Oswald had been instituted on May 31, 1962, so that the FBI would be notified of his re-entry by Immigration authorities. The purpose of this investigation was to determine if Oswald had been recruited by a Soviet intelligence service."

What was the nature of the FBI's investigation prior to May 31, 1962? Why was the investigation to determine if Oswald had been recruited by Soviet intelligence not instituted earlier, since his plans to return to the United States were known much earlier than May 31, 1962. (According to the report of SA Fain of July 3 1961, page 10, the files of the State Department Passport Office were reviewed on May 9, 1961, and revealed Oswald's correspondence with the U. S. Embassy in Moscow regarding his desire to return to the United States.)

ANSWER: Prior to May 31, 1962, our investigation involved the development of background information concerning Lee Harvey Oswald and the taking of appropriate steps to insure our being advised of his return to the United States. Such steps included the placing of a stop in our Identification Division records on November 10, 1959, inquiry through liaison channels in October, 1960, at the Albert Schweitzer College in Switzerland, the periodic inquiry of State Department and relatives concerning the status of his efforts to return to the United States. Our inquiries at State Department included inquiries on May 9, 1961, August 22, 1961, January 29, 1962, February 28, 1962, March 27, 1962, and May 5, 1962. On May 17, 1962, the State Department furnished information indicating that Oswald was returning to the United States and based upon that communication, on May 31, 1962, a communication was directed by FBI headquarters to the Dallas Office instructing that Oswald be interviewed upon his return. Other than these steps, until his return to the United States, there was no practical investigation which could have been initiated to determine if Oswald had been recruited.

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COMMISSION EXHIBIT No. 2718-Continued

5. QUESTION: What was the FBI evaluation of Oswald as a result of the June 26, 1962 interview?

ANSWER: The report of SA John W. Fain dated July 10, 1962, at Dallas reported the results of the interview of Oswald on June 26, 1962, by SAs Fain and B. Tom Carter. According to that report, Oswald exhibited an impatient and arrogant attitude and when questioned as to why he made the trip to Russia, Oswald stated he did not care to "relive the past." Oswald did agree to promptly contact the FBI should he be contacted in the future under suspicious circumstances by representatives of Soviet intelligence. SA Fain described Oswald as being generally uncooperative, but said this interview developed no indications that Oswald represented any potential for acts of violence.

6. QUESTION: Why was Oswald interviewed so soon thereafter on August 14, 1962? What was the FBI evaluation of Oswald as a result of this interview? Where was this interview held, how long did it take, and was there anything remarkable about Oswald's demeanor during the course of the interview?

ANSWER: The second interview of Oswald was conducted by SAs John W. Fain and Arnold J. Brown on August 16, 1962. The results of this interview are contained in the report of SA Fain dated August 30, 1962, at Dallas. This interview was in the nature of a follow-up interview to determine Oswald's employment, to again alert him to our interest should he be recontacted by the Soviets and to further evaluate whether or not he represented a security risk to the internal security of the United States. No information was developed during that interview to indicate he constituted a potential threat to the personal safety of the President or to anyone else. This interview was conducted in secure surroundings in an FBI automobile in the vicinity of Oswald's residence (at that time 2703 Mercedes, Fort Worth, Texas). This interview lasted from approximately 4:45 p.m. to 6 p.m. and Fain and Brown have advised that they noted nothing unusual about Oswald's demeanor during that interview. Brown's recollection of the interview is that Oswald seemed a little evasive but was not belligerent or antagonistic and he gave no indication of being dangerous. Fain recalled that Oswald, during the interview, continued to play down the possibility that the Soviets were interested in contacting him but agreed to contact the FBI should the Soviets initiate contact with him in the future.

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COMMISSION EXHIBIT No. 2718-Continued

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COMMISSION EXHIBIT No. 2718-Continued

7. QUESTION: The Retail Merchants' Credit Association of Fort Worth has stated that the FBI inquired about Oswald on February 27, 1961, and again on February 7, 1963. If these inquiries took place, why are they not mentioned in the FBI reports for the period involved?

ANSWER: Inquiries were made at the Retail Merchants' Credit Association of Fort Worth on February 21, 1961 (not February 27, 1961) and again on February 7, 1963. The purpose of these contacts was to obtain background data for leads concerning Oswald. Since both inquiries determined there was no record, these contacts were not considered pertinent for inclusion in an investigative report.

8. QUESTION: The report of SA Hosty of September 10, 1963, contains the following item:

"On April 21, 1963 Dallas confidential informant T-2 advised that LEE H. OSWALD of Dallas, Texas, was in contact with the Fair Play for Cuba Committee in New York City at which time he advised that he passed out pamphlets for the Fair Play for Cuba Committee. According to T-2, OSWALD had a placard around his neck reading, 'Hands Off Cuba Viva Fidel'."

Is this information correct as of the date indicated, and does it describe activities which occurred before Oswald's move to New Orleans?

ANSWER: Information from our informant, furnished to us on April 21, 1963, was based upon Oswald's own statement contained in an undated letter to the Fair Play for Cuba Committee (FPCC) headquarters in New York City. A copy of this letter is included as exhibit 61 in our Supplemental Report dated January 13, 1964, entitled "Investigation of Assassination of President John F. Kennedy, November 22, 1963."

Our informant did not know Oswald personally and could furnish no further information. Our investigation had not disclosed such activity on Oswald's part prior to this type of activity in New Orleans.

9. QUESTION: How and when did the FBI learn of Oswald's move to New Orleans?

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COMMISSION EXHIBIT No. 2718--Continued

residence. The additional information reported in SA Kaack's report, developed both prior to and subsequent to SA Hosty's report, was not sent to Dallas inasmuch as the New Orleans Office planned to and did include that information in its report.

12. QUESTION: Did SA Quigley, who interviewed Oswald at the New Orleans jail, or SA Kaack, who prepared a report on Oswald, review earlier FBI reports on Oswald? Were they aware that, contrary to his statement, Oswald had not lived with his mother following discharge from the Marine Corps, but rather had gone to Russia? Were they aware that, contrary to his statement, his wife's maiden name was not "Prossa", and that they had not married in Fort Worth but in Russia?

ANSWER: SA John L. Quigley's interview with Oswald at the New Orleans Police Department jail on August 10, 1963, was based on a telephone call from the police to the effect that Oswald had been arrested for disturbing the peace on August 9, 1963, in distributing FPCC leaflets and that Oswald had requested to see an FBI Agent. SA Quigley listened to what Oswald had to say and made it a matter of record. Quigley had not had an opportunity to review prior interviews and investigation of Oswald. SA Milton R. Kaack, who prepared a report concerning Oswald dated October 31, 1963, did review the results of prior FBI investigation concerning Oswald and he, of course, was aware of the various contradictions in the information furnished by Oswald. In the event the investigation of Oswald warranted a further interview, these discrepancies would have been discussed with him.

13. QUESTION: The information about Oswald's residence and employment in New Orleans is also substantially duplicated in the report of SA De Bruys of October 25, 1963 on the Fair Play for Cuba Committee -- New Orleans Division. Why, however, is Mrs. Oswald described only as "his wife" in the Hosty and Kaack report entries concerning residence information given by Mrs. Jessie Garner, while the De Bruys' report identifies her more specifically as "his wife, Marina Nikolaevna Oswald" in the same reference to Mrs. Garner's statement? Was either SA Quigley or SA Kaack aware of this indication that Mrs. Oswald's maiden name was not "Prossa"?

ANSWER: The reports of SA James P. Hosty dated September 10, 1963, SA Milton R. Kaack, dated October 31, 1963 at New Orleans, both captioned "Lee Harvey Oswald" and the report of SA Warren C. De Bruys, dated October 25, 1963, at New Orleans

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COMMISSION EXHIBIT No. 2718--Continued

ANSWER: A confidential source advised our New York Office on June 26, 1963, that one Lee H. Oswald, Post Office Box 30061, New Orleans, Louisiana, had directed a letter to "The Worker," New York City. Our New Orleans Office checked this post office box and determined it was rented to L. H. Oswald on June 3, 1963, residence 657 French Street, New Orleans. This was an incorrect address and further inquiries showed Oswald was residing at 4905 Magazine Street, New Orleans. Oswald's residence in New Orleans was verified on August 5, 1963, by Mrs. Jessie James Garner, 4909 Magazine Street, New Orleans. On the same date his employment at the William B. Rely Coffee Company, 640 Magazine Street, New Orleans, was determined.

10. QUESTION: What prompted the New Orleans FBI Office inquiry were Oswald's activities, which inquiry appears to have begun at least as early as June 26, 1963? (See report of SA Kaack, October 31, 1963, page 3.)

ANSWER: As indicated above, the information received at the New York Office on June 26, 1963, that one Lee H. Oswald, Post Office Box 30061, New Orleans, Louisiana, had corresponded with "The Worker" was furnished to the New Orleans Office, and this caused that office to make inquiries concerning Oswald.

11. QUESTION: Why are items about Oswald's residence and employment in New Orleans set forth in almost identical form in the report of SA Hosty of the Dallas FBI Office (September 10, 1963) and the report of SA Kaack of the New Orleans FBI Office (October 31, 1963)? Why is there no other mention in the Hosty report of information set forth in the Kaack report under dates earlier than the date of the Hosty report, and in several instances under dates earlier than the items about residence and employment that appeared in both reports?

ANSWER: Oswald's residence and employment in New Orleans, Louisiana, were verified by the New Orleans Office of the FBI on August 5, 1963, and this information was furnished to the Dallas Office by letter dated August 13, 1963. This data was included in the report of SA James P. Hosty, Jr., dated September 10, 1963, to record that Oswald had left the Dallas Office territory and had moved to New Orleans. Since this information was originally developed by the New Orleans Office, when SA Milton R. Kaack submitted his report dated October 31, 1963, at New Orleans, he included that information concerning Oswald's employment and

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COMMISSION EXHIBIT No. 2718--Continued

captioned "Fair Play for Cuba Committee - New Orleans Division" accurately set forth the basic information in this instance and in substance all three reports contain the same information with respect to Oswald's employment and residence. At the time SA John L. Quigley interviewed Lee Harvey Oswald on August 10, 1963, and prepared the results of that interview, he set forth the maiden name of Oswald's wife as it was furnished to him by Oswald. SA Kaack's report dated October 31, 1963, at New Orleans, pages 6 through 10, incorporated the results of SA Quigley's interview of Oswald. Inasmuch as Oswald had furnished Marina's maiden name to SA Quigley as "Prossa," it was so recorded in SA Kaack's report. SA De Bruys set forth the full name of Oswald's wife and the other two Agents did not feel it was necessary to do so in the context of their reports.

14. QUESTION: What was the FBI reaction to the advice obtained on August 30, 1963 from Mr. Bill Stuckey that Oswald had told him he had worked and been married in Russia as contrasted with his inconsistent statements to SA Quigley on August 10?

ANSWER: That Oswald's statements to Mr. Stuckey were inconsistent with Oswald's statements to SA John L. Quigley on August 10, 1963, was recognized. These inconsistencies were considered in subsequent investigation. In the event the investigation of Oswald warranted a further interview, these discrepancies would have been discussed with him.

15. QUESTION: The report of SA Quigley of October 31, 1963 states that on August 22, 1963 Radio Station WDSU made available a transcript of the radio broadcast in which Oswald participated on August 21, 1963. Why does the report of SA De Bruys of October 25, 1963 not include this item, but state instead that on September 12, 1963 a confidential informant made available a transcript of the same radio broadcast?

ANSWER: Concerning your reference to the report of SA Quigley of October 31, 1963, it is assumed you have reference to the report of SA Milton R. Kaack dated October 31, 1963, at New Orleans concerning Lee Harvey Oswald. Page 11 of that report stated that on August 22, 1963, Mrs. Jeanne Rodgers, Secretary to the Manager, Radio Station WDSU, New Orleans, Louisiana, had made available a transcript of a radio broadcast. Page 12 of the report of SA Warren C. De Bruys dated October 25, 1963, at New Orleans captioned "Fair Play for Cuba Committee -- New Orleans Division" reported that on September 12, 1963, confidential informant NO T-3 made available a transcript of the same radio broadcast. That source is Mrs. Jeanne Rodgers. The date this transcript was obtained from her should have been reported in SA De Bruys' report as August 22, 1963.

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COMMISSION EXHIBIT No. 2718--Continued

16. QUESTION: The report of SA Kaack of October 31, 1963 states that on October 1, 1963 a confidential informant who was acquainted with some phases of Communist Party activities in New Orleans, advised that Oswald was unknown to him. Why does this item not appear in the report of SA De Bruys, which instead includes a similar reference to a statement by a confidential informant made on October 15, 1963, that the informant did not know of Oswald or his wife? Why does this item not appear in the Kaack report?

ANSWER: The informant listed as confidential informant NO T-8 in the report of SA Milton R. Kaack dated October 31, 1963, at New Orleans entitled "Lee Harvey Oswald; IS - R - Cuba" is the same individual identified as NO T-2 in the report of SA Warren C. De Bruys dated October 25, 1963, at New Orleans entitled "Fair Play for Cuba Committee -- New Orleans Division; RA - Cuba; IS - Cuba." Therefore, both of these reports set forth the same information as to Lee Harvey Oswald. SA Kaack's report shows this informant was contacted on October 1, 1963, and had no information concerning Lee Harvey Oswald. SA De Bruys' report shows this same informant was contacted on October 15, 1963, and was questioned concerning the FPCC activities in New Orleans and Oswald and his wife. This is in accordance with our custom to check with confidential informants having knowledge of communist and subversive activities to determine if they know of the subject under investigation. There is no inconsistency in the reporting in these two reports.

17. QUESTION: The De Bruys report of October 25, 1963 states that on October 7, 1963 a confidential informant advised that P. O. Box 30016 did not exist in the New Orleans area, and on the same date inquiry at the New Orleans Retailers' Credit Bureau failed to turn up any record of an A. J. Midell. Why do these items not appear in the report of SA Kaack of October 31, 1963?

ANSWER: SA Milton R. Kaack did not repeat in his report of October 31, 1963, the negative record checks with the New Orleans Retailers' Credit Bureau or a check of the city directory in New Orleans regarding A. J. Midell nor did he report the negative check to determine the subscriber to P. O. Box 30016, inasmuch as he had already determined the correct P. O. Box, 30061, which was rented by Oswald on June 3, 1963.

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COMMISSION EXHIBIT No. 2718--Continued

pressed for details regarding meetings and identities of other FPCC members in New Orleans and he obviously was evasive and uncooperative as indicated by his statements that although he knew other FPCC members by their first names, he could not recall such names and further by his refusal to disclose how he contacted other alleged FPCC members in New Orleans for purpose of notifying them of meetings held allegedly at Oswald's residence in New Orleans.

At no time during the August 10, 1963, interview with Oswald by SA Quigley did Oswald give any indication he was potentially dangerous or might engage in an act of physical violence.

In regard to the FPCC during the Summer of 1963, you are advised that our investigation during that period in New Orleans disclosed no existence of organized FPCC activities in the New Orleans area. The only activities in behalf of the FPCC appeared to be those efforts made by Oswald. Inasmuch as there were no FPCC activities in New Orleans prior to Oswald's activities in behalf of this organization in New Orleans and since there have been no FPCC activities in New Orleans subsequent to Oswald's departure from New Orleans in September, 1963, it appears that the only activities of such organization in New Orleans were those prompted by Oswald.

In regard to over-all activity of the FPCC during the Summer of 1963 throughout the United States, we have noted that your letter of March 26, 1964, to this Bureau requested in detail what we possessed concerning such organization. Therefore, we are responding to your March 26, 1964, letter by separate communication.

21. QUESTION: Why did the FBI Investigation Division furnish an identification record to the New Orleans FBI Office consisting of a description of the two occasions on which the FBI had received Oswald's fingerprints: first, upon his entry into the Marine Corps; second, upon his arrest in New Orleans? Why was this information furnished under FBI number 327 925 D, and not under Oswald's FBI Bureau File Number which is 105-82555?

ANSWER: It is the policy of this Bureau when the subject of a security investigation of interest to this Bureau is arrested, a complete copy of his identification record as maintained by the FBI Identification Division is furnished to the office concerned for its information.

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COMMISSION EXHIBIT No. 2718--Continued

18. QUESTION: When did the FBI first obtain from the New Orleans Police Department the list of Russian names and telephone numbers which had been obtained from Oswald's wallet at the time of his arrest? If this information was retained by the New Orleans Police Department but not made available until after the assassination, has the FBI received any explanation for this delay?

ANSWER: The FBI first obtained a copy of the list of Russian names and telephone numbers on November 29, 1963. This list was made available to our New Orleans Office by Lieutenant Francis L. Martello of the New Orleans Police Department, who explained that this data had inadvertently been placed with pamphlets, leaflets and booklets taken from Oswald at the time of his arrest on August 9, 1963. Martello said he had not submitted a report until contacted on November 29, 1963. Martello's report is set forth on pages 364-373 of the report of SA Warren C. De Bruys dated December 2, 1963, at Dallas, captioned "Lee Harvey Oswald."

19. QUESTION: How did the FBI evaluate Oswald's voluntary request to be interviewed by the FBI in New Orleans, particularly in view of the attitude he displayed at earlier interviews?

ANSWER: As is customary with the FBI, when an individual requests an interview, we accommodate him and make a record of the interview. This was done in the case of Oswald when he requested through the New Orleans Police to be interviewed on August 10, 1963. The results were set forth by SA John L. Quigley following the interview. It was apparent from the interview with Oswald on August 10, 1963, that he was making a self-serving statement in an attempt to explain his activities in connection with his distributing leaflets for the FPCC.

20. QUESTION: What was the FBI evaluation of Oswald as a result of the August 10, 1963 interview? What was the FBI evaluation of the Fair Play for Cuba Committee during the summer of 1963, and of Oswald's work for it?

ANSWER: During the interview of Lee Harvey Oswald on August 10, 1963, he appeared to be responsive in furnishing general background information concerning himself and some information concerning the FPCC. However, his attitude changed when he was

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COMMISSION EXHIBIT No. 2718--Continued

Under FBI procedures, the FBI Identification Division maintains a separate filing system for handling fingerprint records. In this particular instance, the FBI identification record of Oswald is 327 925 D. The investigative reports on the subject are handled under a different file number. In connection with Oswald, this Bureau utilized file number 105-82555 to handle the investigative reports of Oswald.

22. QUESTION: The FBI Report on the Investigation of the Assassination of President Kennedy, page 39, states that in October, 1963, an investigation was initiated to ascertain the whereabouts of the Oswalds, following advice from a rental agent that they had vacated their apartment and that Mrs. Oswald and their child had departed in a station wagon with Texas registration. What was the reason for this investigation to ascertain Oswald's whereabouts?

ANSWER: In view of Oswald's background and activities the FBI had a continuing interest in him. Therefore, when the rental agent advised on October 1, 1963, that the Oswalds had moved, investigation was initiated to determine their current whereabouts.

23. QUESTION: What was the FBI reaction to the CIA report of October 10, regarding Oswald's visit to the Soviet Embassy in Mexico City? Why did the FBI not request additional information or follow-up information by the CIA? What was the FBI evaluation of Oswald in view of the CIA report?

ANSWER: The investigation of Oswald in 1963 prior to receipt of the Central Intelligence Agency communication dated October 10, was directed toward the primary objective of ascertaining the nature of Oswald's sympathies for, and connection with, the FPCC or other subversive elements. The Central Intelligence Agency communication which reported that a man, tentatively identified as Oswald, had inquired at the Soviet Embassy concerning a telegram which had been sent to Washington did not specify the nature of the telegram. This contact with the Soviet Embassy interjected a new aspect into the investigation and raised the obvious questions of why he was in Mexico and exactly what were his relations with the Soviets. However, the information available was not such that any additional conclusions could be drawn as to Oswald's sympathies, intentions or activities at that time. Thus, one of the objectives of the continuing investigation was to ascertain the nature of his relations with the Soviets considering the possibility that he could have been recruited by the Soviet Intelligence Services. The Central Intelligence Agency communication dated October 10, 1963, stated that any further information received

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COMMISSION EXHIBIT No. 2718--Continued

concerning Oswald would be furnished and that our liaison representatives in Mexico City were being advised. On October 18, 1963, one of our FBI liaison representatives in Mexico City was furnished this information by Central Intelligence Agency and he arranged follow-up with Central Intelligence Agency in Mexico City for further information and started a check to establish Oswald's entry into Mexico. Subsequent to the assassination, Central Intelligence Agency also advised us of Oswald's contact with the Cuban Embassy in Mexico City at the time of his visit there.

24. QUESTION: Was the FBI aware of Oswald's application on June 24, 1963, for a passport, or the issuance of a passport on June 25, 1963. Why did the FBI not request that the Passport Office of the Department of State include Oswald on a list which would have resulted in advice to the FBI of any application for a passport?

ANSWER: The FBI was not aware of Oswald's application on June 24, 1963, for a passport or of the issuance of a passport to Oswald on June 25, 1963.

We did not request the State Department to include Oswald on a list which would have resulted in advising us of any application for a passport inasmuch as the facts relating to Oswald's activities at that time did not warrant such action. Our investigation of Oswald had disclosed no evidence that Oswald acting under the instructions or on behalf of any foreign government or instrumentality thereof.

25. QUESTION: What prompted the FBI efforts to locate Oswald on October 18 in Fort Worth, or Robert Oswald on October 19 in Fort Worth (before receiving advice on October 25, 1963, that Oswald had given the New Orleans Post Office a forwarding address in Irving, Texas)?

ANSWER: Information from Mrs. Jessie James Garner, 4909 Magazine Street, New Orleans, Louisiana, on October 1, 1963, to the effect that Oswald and his wife had vacated their apartment at 4905 Magazine Street, New Orleans, on September 25, 1963, and that Mrs. Oswald and child had departed in a station wagon bearing Texas license plates prompted our efforts to locate Oswald at Fort Worth, Texas.

26. QUESTION: Why did the FBI make three attempts within eight days (October 29 - November 5, 1963) to locate Oswald? After being advised of his place of employment by Mrs. Faine, did the FBI attempt to locate him through that lead? Were any further efforts made between November 5 and November 22 to locate Oswald, and if not, why not?

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COMMISSION EXHIBIT No. 2718--Continued

ANSWER: Following receipt of information that Oswald had reportedly been in contact with the Soviet Embassy, Mexico City, Mexico, investigation was conducted to determine Oswald's whereabouts and particularly his employment to ascertain whether he had access to strategic information. These efforts included a pretext neighborhood investigation in the vicinity of 2515 West Fifth Street, Irving, Texas, on October 23, 1963; personal contact with Mrs. Ruth Faine, 2515 West Fifth Street, Irving, on November 1, 1963, and again on November 5, 1963. These inquiries established that Oswald was employed at the Texas School Book Depository (TSBD), Dallas, Texas, in a nonstrategic position where he had no access to classified data or to information of a national defense nature and that he was residing at an unknown address in Dallas during weekdays and at the residence of Mrs. Faine during weekends. After Mrs. Faine advised on November 1, 1963, of Oswald's employment at the TSBD, a pretext telephone call was made to the TSBD to determine Oswald's residence address. Advice was received that Oswald was working at TSBD but his residence was shown on TSBD records as the Faine residence in Irving, Texas. No efforts were made between November 5, 1963, and November 22, 1963, to locate Oswald since his employment in a nonstrategic capacity had been established and arrangements had been made with Mrs. Ruth Faine to be advised of any change in the status of Oswald.

27. QUESTION: Did SA Hosty interview Marina Oswald and Mrs. Faine alone on November 1, 1963, or was he accompanied by another agent or agents? At what time of day did SA Hosty conduct the interview on November 1, 1963, and did he receive any advice regarding the time when Oswald was expected to visit Mrs. Faine's house that day, or when he might be there on another day?

ANSWER: SA Hosty was alone when he interviewed Mrs. Ruth Faine on November 1, 1963. Marina Oswald entered the room during the course of the interview but was not formally interviewed by SA Hosty at that time or any other time prior to the assassination.

The interview was conducted approximately 2:30 p.m. SA Hosty did not receive or specifically ask for information as to when Oswald was expected to visit Mrs. Faine's house on that day or a later day. The information in which we were primarily interested had been established--Oswald was in Dallas and was employed in nonstrategic work.

28. QUESTION: What was the FBI evaluation of confidential information received on November 18, 1963 regarding Oswald's letter to the Soviet Embassy in Washington?

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COMMISSION EXHIBIT No. 2718--Continued

ANSWER: The information received on November 18, 1963, concerning Oswald's contact with the Soviet Embassy tended to confirm his contact with the Soviet Embassy in Mexico City as reported by the Central Intelligence Agency and to indicate the reason for such contact, namely to secure visas to the Soviet Union.

29. QUESTION: Did SA Hosty state to anyone on November 22, 1963, that Oswald had contacted two known subversive agents about 15 days before the assassination, but that the entire information was Top Secret? If so, to what did SA Hosty refer?

ANSWER: SA Hosty does not recall making such a statement on November 22, 1963, or at any other time, inasmuch as he was not in possession of any information to the effect that Oswald had been in touch with two subversives within 15 days prior to the President's assassination.

SA Hosty does recall that he advised Mr. Sorrels of Secret Service on November 22, 1963, that the FBI had information on Oswald which he was not free to furnish Sorrels, as it was Top Secret but Secret Service Headquarters could obtain the information from FBI Headquarters in Washington. In this connection, Hosty had in mind the information that Oswald had been in touch with the Soviet Embassies in Washington and Mexico City.

30. QUESTION: When and for what reason were pages 279 through 283 of the report of SA Gemberling of February 11, 1964 prepared (setting forth the entries in Oswald's address book which had not been included in the report of SA Gemberling of December 23, 1963)?

ANSWER: Pages 279 through 283 of the report of SA Gemberling dated February 11, 1964, were prepared at the time such report was being typed by the Dallas Office during the few-day period immediately preceding submission of such report to FBI Headquarters by the Dallas Office. In this connection, your attention is also directed to this Bureau's letter to the Commission dated February 27, 1964, enclosing an affidavit executed by SA Robert P. Gemberling explaining in detail his handling and reporting of data in Lee Harvey Oswald's address book. You will note that in his affidavit, SA Gemberling explains why certain data in Oswald's address book was reported in his December 23, 1963, report, whereas the remaining data in Oswald's address book was reported in SA Gemberling's February 11, 1964, report.

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COMMISSION EXHIBIT No. 2718--Continued



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON 25, D.C.

May 4, 1964

Honorable J. Lee Rankin
General Counsel
The President's Commission
200 Maryland Avenue, N. E.
Washington, D. C.

Dear Mr. Rankin:

Reference is made to the discussion between staff members of the Commission and Mr. A. H. Belmont of this Bureau May 4, 1964.

In accordance with this discussion, there are listed below the contents of the FBI headquarters file concerning Lee Harvey Oswald up to the time of the assassination of the late President John F. Kennedy on November 22, 1963:

1. A newspaper clipping from the "Corpus Christi Times," dated October 23, 1959, indicating another American citizen had defected to the Soviet Union.
2. A United Press Release dated October 31, 1959, at Moscow advising that Lee Harvey Oswald had gone to Russia and had applied to renounce his American citizenship and become a Soviet citizen for "purely political reasons."
3. A memorandum dated October 31, 1959, from E. B. Reddy to A. H. Belmont reporting that a check of this Bureau's files disclosed no information identifiable with Lee Harvey Oswald. It was noted a military service fingerprint card was located in the files of the Identification Division which appeared to relate to Oswald.
4. A State Department telegram classified "Confidential" dated October 31, 1959, from Moscow to the Secretary of State reporting that Oswald appeared at the American Embassy, Moscow, to renounce his American citizenship.

From Rankin's covering memo of May 12, 1964: "X" signifies a document the Commission does not have; "cover page" means the Commission has the report but not the cover page. PLH

Honorable J. Lee Rankin

5. A copy of an Office of Naval Intelligence memorandum dated November 2, 1959, containing the results of a check of the U.S. Marine Corps file regarding Oswald.

6. A Navy Department communication classified "Confidential" from Moscow to the Chief of Naval Operations dated November 2, 1959, advising of Oswald's request for Soviet citizenship.

7. A Navy Department communication classified "Confidential" from the Chief of Naval Operations to the Naval Attache in Moscow dated November 4, 1959, furnishing background information regarding Oswald.

8. A memorandum from W. A. Branigan to A. F. Belmont dated November 4, 1959, summarizing agency checks regarding Oswald and recommending that no further action was warranted by this Bureau concerning Oswald at that time. It was also recommended that a stop be placed against the fingerprints of Oswald in the files of the Identification Division should Oswald re-enter the U.S. under any other name.

9. A copy of a State Department Despatch from the American Embassy, Moscow, to the Department of State Washington, D. C., dated November 2, 1959, classified "Confidential," which set forth results of Oswald's contacts with the American Embassy in Moscow.

10. A copy of a telegram classified "Confidential" from the American Embassy, Moscow to the Secretary of State dated November 9, 1959, advising of efforts to relay a personal message from John Pic, half brother of Lee Harvey Oswald, to Oswald.

11. A copy of a telegram classified "Confidential" from the American Embassy, Tokyo, Japan, to the Secretary of State dated November 8, 1959, setting forth results of an interview with John E. Pic regarding Lee Harvey Oswald.

12. A copy of the Identification Record Number 327 925D regarding Lee Harvey Oswald. This record disclosed Oswald was fingerprinted by the U.S. Marine Corps on October 24, 1953.

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13. A copy of an airtel from the New York office to this Bureau dated May 23, 1960, captioned "Funds Transmitted to Residents of Russia, Internal Security - R," which sets forth results of an interview with Marguerite C. Oswald regarding Oswald's plans to attend the Albert Schweitzer College in Switzerland.

14. A letter from this Bureau to the Department of State dated June 3, 1960, furnishing the State Department data in the possession of the FBI concerning Lee Harvey Oswald and requesting the State Department to furnish this Bureau any information it may have concerning Oswald.

15. A letter to this Bureau from the Legal Attache in Paris dated July 27, 1960, setting forth results of his inquiries through his sources to locate Lee Harvey Oswald.

16. A letter to this Bureau from the Legal Attache in Paris dated September 27, 1960, setting forth results of his efforts to determine if Oswald was enrolled in the Albert Schweitzer College in Switzerland.

17. A letter to this Bureau from the Legal Attache in Paris dated October 12, 1960, advising that information from his sources indicated Oswald was not in attendance at the Albert Schweitzer College in Churwalden, Switzerland.

18. A letter to this Bureau from the Legal Attache in Paris dated November 3, 1960, which set forth additional data developed from officials of the Albert Schweitzer College regarding Lee Harvey Oswald.

19. A letter to this Bureau from the Office of Naval Intelligence dated November 15, 1960, advising that Lee Harvey Oswald was given an undesirable discharge from the U.S. Marine Corps Reserve on August 17, 1960.

20. A letter from this Bureau to the State Department dated February 27, 1961, advising the State Department that Oswald had not shown up at the Albert Schweitzer College in Switzerland and also advising that Oswald had been given an undesirable discharge from the U.S. Marine Corps Reserve.

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29. A copy of Identification Division Record Number 327 925D regarding Oswald.

30. A letter from the Washington Field Office to this Bureau dated February 19, 1962, which set forth results of a review of the records of the Passport Office regarding Oswald.

31. A copy of a communication classified "Confidential" from the Director of Naval Intelligence to the Naval Attache in Moscow dated March 3, 1962, which set forth information in Office of Naval Intelligence files regarding Oswald.

32. A copy of a communication from the Office of Naval Intelligence to the Department of State dated March 3, 1962, which enclosed results of an interview of John Edward Pic by the Department of the Air Force on February 12 and 15, 1962.

33. A letter from the Office of Naval Intelligence to this Bureau dated April 25, 1962, enclosing a copy of a letter Oswald sent to Brigadier General R. McC. Tompkins, U.S. Marine Corps, dated March 22, 1962. In this letter, Oswald indicated that General Tompkins should consider his letter a request by Oswald for a full review of his case.

34. A letter from the Washington Field Office to this Bureau dated May 11, 1962, which set forth results of a check of State Department files regarding Oswald.

35. A letter from this Bureau to the Dallas office dated May 31, 1962, advising that Oswald planned to return to the U.S. and instructing the Dallas office to be alert for his arrival in this country and thereafter to interview him to determine whether Oswald was recruited by Soviet intelligence or made any deals with the Soviets in order to obtain permission to return to the U.S.

36. A letter to this Bureau from the State Department classified "Confidential" dated May 17, 1962, entitled "American Defectors: Status of in the USSR," included in the list of defectors named was Lee Oswald.

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21. A letter from the Washington Field Office to this Bureau dated May 23, 1961, setting forth results of a review of the files of the Passport Office, Department of State, concerning Oswald.

22. A letter from the Department of State to this Bureau dated May 25, 1961, advising that the State Department possessed no information which indicated that Oswald had renounced his nationality of the U.S. and that if he had not expatriated himself in any way, the American Embassy was prepared to furnish Oswald a passport for travel to the U.S.

23. The report of Special Agent (SA) John W. Fain dated July 3, 1961, Dallas Texas, which set forth results of investigation of Oswald.

24. A routing slip from the Legal Attache, Paris, to this Bureau dated July 28, 1961, advising that the Legal Attache had informed one of his sources as to the present status of Lee Harvey Oswald.

25. A letter from the Washington Field Office to this Bureau dated September 1, 1961, which set forth results of a review of the records of the Passport Office regarding Oswald.

26. A copy of a State Department name check regarding Oswald's wife, Marina Nikolaevna Oswald, dated September 12, 1961. This Bureau responded to such name check "no investigation conducted by FBI pertinent to your inquiry." We also referred State Department to data previously disseminated to the State Department on July 13, 1961, regarding Lee Harvey Oswald. (Report of SA John W. Fain dated July 3, 1961, at Dallas.)

27. A letter from the Dallas office to this Bureau dated September 29, 1961, setting forth results of inquiries in Dallas made in an effort to obtain data regarding the status of Lee Harvey Oswald in Russia.

28. A letter from the Dallas office to this Bureau dated November 20, 1961, setting forth results of an interview with Marguerite C. Oswald, subject's mother, regarding plans of Oswald to return to the U.S.

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37. An airtel to this Bureau from the Washington Field Office dated June 6, 1962, which set forth results of a check of State Department records regarding Oswald.

38. An airtel from the New York office to this Bureau dated June 12, 1962, which set forth results of a check of the records of the Immigration and Naturalization Service (INS), regarding Oswald and which enclosed two newspaper clippings regarding Oswald.

39. An airtel to the New York office from this Bureau dated June 14, 1962, advising the New York office as well as the Washington Field, Dallas and Newark offices to be alert for Oswald's arrival and destination in the U.S.

40. A letter from the New York office to this Bureau dated June 26, 1962, which set forth results of a check with INS concerning Oswald and a check of the records of the Holland America Line regarding Oswald and his family.

41. A report of SA John W. Fain dated July 10, 1962, at Dallas, which set forth results of investigation regarding Oswald and his wife, Marina. This report also set forth results of the interview of Oswald on June 26, 1962, by SAs John W. Fain and B. Tom Carter.

42. A letter from the Dallas office to this Bureau dated July 25, 1962, entitled "Marina Nikolaevna Oswald," which placed the FBI investigation of Marina Oswald in a pending inactive status. It was pointed out that it was felt her activities could be sufficiently followed at that time in connection with the case on her husband, Lee Harvey Oswald.

43. A report of SA John W. Fain dated August 20, 1962, at Dallas, Texas, set forth results of additional investigation of Oswald. This report also set forth results of the interview of Oswald on August 16, 1962, by SAs John W. Fain and Arnold J. Brown.

44. A letter from the Dallas office to this Bureau dated March 25, 1963, advising that information had been received from a confidential source on September 28, 1962, that Oswald's name was contained on a list of names and addresses of subscribers maintained by "The Worker," an east coast communist newspaper.

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45. A copy of the Identification Division Record Number 327 925D regarding Oswald which set forth the fact he had been arrested in New Orleans, Louisiana, on August 9, 1963.

46. A newspaper clipping of the "Times Picayune," of New Orleans, Louisiana, dated August 15, 1963, which reported that Oswald had been arrested in New Orleans for passing out Fair Play for Cuba Committee (FPCC) literature.

47. A letter from this Bureau to the New Orleans office dated August 21, 1963, instructing the New Orleans and Dallas offices to conduct additional investigation of Lee Harvey Oswald as a result of his distribution of literature in New Orleans on August 9, 1963.

48. An airtel from the Dallas office to this Bureau dated August 23, 1963, which set forth results of its investigation to establish the residence and employment of Oswald in New Orleans.

49. A letter from the Dallas office to this Bureau dated September 10, 1963, which changed the office of origin of our investigation concerning Lee Harvey Oswald from Dallas to New Orleans.

50. A letter from the Dallas office to this Bureau dated September 10, 1963, which changed the office of origin in our investigation entitled "Marina Nikolaevna Oswald" from Dallas to New Orleans.

51. A copy of the Identification Record Number 327 925D regarding Lee Harvey Oswald.

52. The report of SA James P. Hosty dated September 10, 1963, at Dallas which set forth results of investigation of Oswald. This report indicated that Oswald was then residing and working in New Orleans, Louisiana.

53. A letter from this Bureau to the Dallas office dated September 25, 1963, furnishing an Appendix page regarding the FPCC.

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54. An airtel from the New Orleans office to this Bureau dated September 12, 1963, requesting that the New York office furnish an appropriate characterization of Corliss Lamont. It was noted that Oswald, in addition to disseminating material from the FPCC in New Orleans, also passed out booklets entitled "The Crime Against Cuba" by Corliss Lamont.

55. An airtel from the New Orleans office to this Bureau dated September 24, 1963, which enclosed copies of a memorandum dated September 24, 1963, concerning Oswald which set forth data surrounding Oswald's arrest in New Orleans on August 9, 1963. Such data was obtained from the New Orleans Police Department.

56. A copy of the Identification Division Record Number 327 925D concerning Oswald.

57. An airtel from Dallas to this Bureau dated October 22, 1963, reporting that INS in Dallas had received a communication classified "Secret" from the Central Intelligence Agency (CIA), Mexico City, which indicated that an individual, possibly identical with Lee Harvey Oswald, was in contact with the Soviet Embassy in Mexico City.

58. A CIA Release dated October 10, 1963, which was sent to the FBI, Department of State and Department of the Navy classified "Secret" which reported that an American male who identified himself as Lee Oswald had contacted the Soviet Embassy, Mexico City, on October 1, 1963. The CIA Release indicated Oswald may be identical to Lee Henry Oswald, born October 18, 1939, in New Orleans, Louisiana.

59. An airtel from the New Orleans office to this Bureau dated October 25, 1963, advising that Oswald left a forwarding address in New Orleans on September 26, 1963, showing his new address to be 2515 West Fifth Street, Irving, Texas.

60. An airtel from the New Orleans office to this Bureau dated October 24, 1963, requesting the Dallas office to locate subject and his wife.

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61. A cablegram to this Bureau from our Legal Attache in Mexico dated October 18, 1963, which furnished information from CIA classified "Secret - Not To Be Further Disseminated" reporting that Lee Oswald had contacted Soviet Vice Consul Valeriy V. Kostikov of the Soviet Embassy, Mexico City, Mexico, on September 28, 1963. Our Legal Attache indicated he was following this matter with CIA and was attempting to establish Oswald's entry into Mexico and his current whereabouts.

62. A cablegram to the Legal Attache, Mexico, from this Bureau dated October 22, 1963, furnishing a brief summary of data in the files of this Bureau concerning Oswald.

63. The report of SA Milton R. Kaack dated October 31, 1963, at New Orleans, Louisiana, which set forth results of additional investigation regarding Oswald.

64. An airtel from the Dallas office to this Bureau dated October 30, 1963, wherein SA James P. Hosty, Jr., reported a pretext interview in the vicinity of 2515 West Fifth Street, Irving, Texas. Such interview revealed Marina Oswald was residing with Mrs. Michael R. Paine and that Lee Harvey Oswald visited Marina at this address but was not living there.

65. An airtel from the Little Rock office to this Bureau dated November 5, 1963, which furnished a change of address regarding Robert Oswald, brother of Lee Harvey Oswald.

66. A letter from the New Orleans office to this Bureau dated November 15, 1963, entitled "Marina Nikolaevna Oswald" which changed the office of origin from New Orleans to Dallas.

67. An airtel from the Dallas office to this Bureau dated November 4, 1963, reporting results of the contact with Mrs. Michael R. Paine on November 1, 1963.

68. A letter from the New Orleans office to this Bureau dated November 19, 1963, changing the office of origin of the Lee Harvey Oswald investigation from New Orleans to Dallas.

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69. An airtel from the Washington Field Office to this Bureau dated November 19, 1963, reporting that an informant advised on November 18, 1963, that Lee Harvey Oswald had been in contact with the Soviet Embassy, Mexico City, Mexico.

Sincerely yours,

J. Edgar Hoover

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[This index does not cover the
 Appendix or page 1. For this draft,
 topics and place names have not been
 indexed. The footnotes have been
 indexed, even though there is much
 redundancy with the references in
 the text.]

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storage, and retrieval techniques for himself and Willens. At the same time, he was pursuing his investigation of the FBI by preparing for the testimony of the agents involved in the Oswald case. On April 24, he drafted a letter which Rankin sent to Hoover that day. He narrowed his goal considerably from the broad concerns expressed in his April 21 memo, 274

"The Commission desires to take the testimony of a representative group of the FBI agents who interviewed Lee Harvey Oswald, Marina Oswald, and Mrs. Ruth Paine, prior to the assassination of President Kennedy. It would appear that these interviews could be covered by the testimony of Special Agents James P. Hosty, Jr. and John L. Quigley, and retired Special Agent John W. Fain."

This abbreviated list precluded any possibility of assessing the FBI's reaction to Oswald's FPCC activities in New Orleans from testimony by the two agents who compiled reports on him, Kaack and DeBruyets.

On April 28, Hoover advised Rankin that the three named agents would be instructed to testify on May 5, and to appear for a preliminary informal review with the Commission staff on May 4, as Stern's letter had requested.

The Commission had one of its occasional formal meetings on April 30. Senator Cooper suggested that it would be proper to call the heads of the FBI and CIA to testify about the allegations that Oswald had been an informant. 275 Warren agreed, adding that he "would like to ask Edgar Hoover whether he had, as a result of the investigation of his Bureau, any evidence indicating that there has been a conspiracy with anybody..." 276 Of course, the FBI had gathered lots of evidence, much of it obviously unreliable, pointing towards a conspiracy; it was the Commission's job to evaluate that evidence. Perhaps as a consequence of this inclination to get the testimony of high-level Federal officials (testimony which would predictably be pro forma, putting on the record positions which had already been expressed in writing) the staff was given another chance to go into the details of FBI procedures and files which might shed light on the important allegations involving the FBI.

Perhaps prompted by Cooper's suggestion, on May 1 Rankin again sent Hoover a letter written by Stern, about the desired testimony:

"I would like to confirm our informal request to Assistant to the Director Alan H. Belmont, that Mr. Belmont give testimony before the Commission, following the testimony of the Special Agents who are scheduled to testify on May 5, 1964.

"... In accordance with our discussion with Mr. Belmont, the general purposes of his testimony would be to serve as a basis for admission to the record of the Commission of numerous documents which you have sent to the Commission, to furnish the Commission an understanding of the operations of the FBI with particular regard to the investigation of Lee Harvey Oswald before November 22, 1963, and to discuss liaison arrangements between the FBI and the Secret Service in the area of Presidential protection."

Stern did not ask Belmont to bring over any new documents relating to the purposes of his testimony, even though he did imply that what had already been furnished was not enough for "an understanding of the operations of the FBI" in this case. Nevertheless, Stern may have still been hoping to get some new factual information out of the FBI.

The subtleties of the positions taken by the FBI and the Commission here are not easy to discern, since some important points seem to have been discussed informally. Stern closed his letter by saying that he had "made arrangements through Inspector Malley to give Mr. Belmont further details on the matters the Commission wishes to cover." That presumably refers to a meeting held on May 4, involving Stern, Willens, and Belmont. I have not been able to find any memorandum on this conversation, only a few references to it. One consequence of that meeting was that Hoover sent Rankin a letter dated May 4 (and received the next day), in which "in accordance with this discussion" he listed the contents of the FBI Headquarters file on Oswald. (This listing was to be the basis of much of Belmont's testimony.)

From the other known reference to the May 4 meeting, we can see that the FBI took a very hard position against the public release of certain kinds of FBI records. In a letter of October 23, 1964, Hoover argued strongly against the publication of raw FBI reports with unsubstantiated or personal information on (for example) Oswald's associates, notably the Paines and the DeBohrenschildts. (The Commission decided that it was necessary to publish some such material in the 26 volumes anyhow. 277) We can assume that the FBI felt the same way about

making its pre-assassination reports available, even to the staff. In fact, part of Hoover's letter may have been referring to Stern's inquiries about the pre-assassination Oswald reports:

"I also want to point out that on May 4, 1964, Mr. A. H. Belmont of this Bureau discussed the matter of making public our investigative reports with Mr. Howard Willens and Mr. Samuel Stern of your staff. Mr. Belmont pointed out to Mr. Stern at that time that at a previous meeting Mr. Stern had raised questions on certain items in our reports which might reflect on innocent persons if the reports are made public in their entirety. Both Mr. Stern and Mr. Willens at that time concluded [possible translation: 'agreed?'] that if the Commission publicized [a peculiar substitute for 'published'] such reports in their entirety, the Commission will be criticized for making public information concerning innocent persons."

FBI agents Fain, Quigley, and Hosty were scheduled for a preliminary review of their testimony, presumably with Stern, on May 4. Their testimony occupied the Commission all day on May 5, from 9:25 a.m. to 1:05 p.m., and 2:20 to 5:10 P.M. Stern conducted the questioning, taking the agents through the formal reports dealing with their contacts with Oswald, asking for explanations of details (such as the symbols and abbreviations used), and trying to get more explanations of the FBI's motivations for their actions. As already noted, Stern did not get much new information relevant to the allegations that Oswald had been an informant. He did not ask the kind of questions that would have been likely to bring out such a relationship, or to provide a basis for evaluating a flat denial. 278X

SA John Fain was asked about his management of the Oswald case, of which he was in charge in Fort Worth until his retirement in August 1962. He tended to let the reports he had written speak for themselves, although he did have a fairly good recollection of his encounters with Oswald. He did provide some useful details about FBI procedures which are relevant to our concern about additional FBI files on Oswald. 279X

Fain took the standard FBI position when asked for his "overall evaluation of Oswald" as a result of one of his interviews: 280

"Well, that was - of course, that would be calling for my opinion, and we are interested only in getting facts on this case, facts, and all I could say is that he seemed tense."

Fain's opinion was drawn out a bit more by Commissioner Dulles; he described Oswald as "arrogant, cold, and inclined to be just a little insolent." 281 But little useful information about the FBI's evaluation was obtained.

Agent John Quigley testified fairly briefly, principally about his interview with Oswald in New Orleans on August 10. (He also confirmed his affidavit that he had not recruited Oswald as an informant.) He had been sent to see Oswald on that Saturday, when the FBI office operated with a skeleton staff; apparently he had no special responsibility for this type of security investigation. He simply made a written report of the interview and discussed it orally with SA Kaack, who (as Quigley found out after the interview) had the Oswald case assigned to him. 282C The name of SA DeBruyeys, who wrote a report on the FPCC in New Orleans within a week of Kaack's report on Oswald, was not mentioned in Quigley's testimony.

SA James Hosty testified for nearly three hours in the afternoon. He had been the agent responsible for the Dallas investigation of Oswald after Fain retired - that is, from late in 1962 until the assassination. Hosty was the agent most on the spot - in part just because he was in charge of the investigation as of November 22 - although he had never talked with Oswald. His first contact with the Oswald case was in March of 1963, after the New Orleans office asked him to locate Oswald; in May, he found out that he had moved to New Orleans. Oswald returned to Dallas in October 1963; in October and November Hosty ran a rather leisurely series of checks, talking with Marina Oswald and Ruth Paine to find out what Oswald was doing, but not interviewing Oswald himself. At the time of the assassination, the formal notice that the office of origin was being changed back from New Orleans to Dallas had just reached the Dallas office. For an evaluation of the FBI's reaction to Oswald during the crucial period of autumn 1963, the New Orleans case agents (Kaack and DeBruyeys) would have been at least as important as witnesses. Hosty was also a prime suspect in the search for anyone who had mishandled the Oswald case, since he had not called Oswald to

the attention of the Secret Service; his name was in Oswald's notebook; and Lt. Jack Revill of the Dallas Police had claimed that Hosty had told him he had known that Oswald was capable of the assassination.

Hosty was asked to testify about the work he had done on the Oswald case which was written up in a brief formal report, dated September 10, 1963. He also testified about his "background checks" in October and November, which were not written up until after the assassination. He was also questioned about his nonreferral of Oswald to the Secret Service, his reaction to the news of the assassination, his conversation with Lt. Revill, and his post-assassination interview with Oswald. He was the only one of several agents involved in those interviews to testify before the Commission; his own role was being examined so closely that he was naturally not used very much as a witness to the behavior during the interrogations of the Dallas Police and other involved agencies. He repeated the information in his affidavit about not having recruited Oswald as an informant.

For our immediate purposes, the most relevant part of the agents' testimony is that dealing with the nature and extent of the files on Oswald. The only pre-assassination documents introduced as evidence were six of the seven known investigative reports. Stern did not refer to any other pre-assassination material; evidently he did not have any and did not yet have the list of the FBI Headquarters file. The agents had clearly had access to such other material, presumably having made notes during their own review of the files in preparation for the testimony. For example, Hosty testified that his interview of Ruth Paine on October 1, 1963 started about 2:30 p.m. and lasted about 20 to 25 minutes;²⁸³ unless he had an exceptional memory, he must have checked the log of his daily activities.

Both Fain and Hosty referred to intra-office communications which the Commission did not have. The details will be relevant to our analysis of the incompleteness of the Headquarters Oswald file; here we note only that the

Commission did learn about this material, and expressed considerable interest in it. Fain, for example, testified that after his interview of Oswald on June 26, 1962,²⁸⁴

"Well, I didn't feel satisfied because of his answers there as to why he went to Russia. He was evasive, and that was the reason I set out a lead to have him reinterviewed."

Stern asked about the procedures involved; Fain verified that no such recommendation was made in the body of his report (CE 823), and then explained,

"It is probably on the transmittal to the chief of the Dallas office." Two Commissioners made the obvious followup:

"Mr. DULLES. I wonder, Mr. Chairman, whether we should not have that transmittal letter; it seems to be pertinent to the case.

"Representative FORD. I think it would be helpful in light of the testimony, Mr. Fain."

Fain's next comment indicated that he may have seen that lead sheet recently:

"Mr. FAIN. It was a lead sheet, what we call a lead, and I recall that on that I suggested that the records of [The] Immigration and Naturalization Service be checked and incorporated, and also that he be reinterviewed. Those were the two things I remember specifically having put in the report.

"Representative FORD. That would be a cover to Commission No. [CE] 823?

"Mr. FAIN. A lead sheet; yes, sir."

As far as I know, despite this discussion, the lead sheet was never given to the Commission; it certainly is not published. Stern presumably knew that it would do no good simply to ask Fain to provide that document; he already knew how reluctant the FBI was to make its inner workings public. He got the Commission to defer to the next day's witness:

"Mr. STERN. We are going to have the testimony, gentlemen, of Mr. Alan Belmont, the third-ranking official of the Bureau, who can testify from an overall Bureau viewpoint on the way this case was handled and be able to respond to questions of that sort, what was in the internal memoranda, transmittal documents, and things of that sort.

Mr. DULLES. That is satisfactory."

Later in the day, SA Hosty testified about a letter which he sent from Dallas to New Orleans on November 4, concerning his interview with Mrs. Paine on November 1. As Hosty explained, the original of that letter went to

Headquarters, with a copy to New Orleans. At that time, Stern may not have known that the letter was Item 67 in the listing of the Headquarters file; he may have explained the delicate situation surrounding the FBI files after

Dulles expressed his interest. Unfortunately, it is hard to tell from the published record.²⁸⁵

"Mr. DULLES. Do we have a copy of that letter of November 4?"

"Mr. HOSTY. I don't know.

"Mr. DULLES. That you sent to headquarters and to New Orleans?"

"(Discussion off the record.)

"Mr. STERN. You tell us you have reviewed these two pages? [CE 830, a post-assassination report]"

Again, it seems that the FBI was never asked to produce this letter; it is not in the 26 volumes. The next day, Belmont was asked to confirm that it was in substance the same as the post-assassination writeup, and he did so, but Stern did not follow the usual procedure in hearings of this kind and ask him to furnish a copy.²⁸⁶

Stern's performance in the interrogation of these FBI agents is quite a letdown after his earlier memos. His failure to pursue some points aggressively may have been due in part to a desire to let the Commissioners themselves do the probing in the key areas. This unfortunate practice was obvious in the 1973 Watergate hearings, where the Senate Committee staff laid the groundwork and confirmed details of the evidence, while the Committee members tried to pursue the broader implications of the testimony. In both cases, this meant that the people who were most familiar with the details of the evidence were not in a position to explore conflicts involving obscure details, while less prepared senior people, with many other things on their minds, asked provocative but incomplete questions.

There were several areas, in addition to the problem of documents not in the Commission's files, where Stern was too easy on the witnesses. One such area was the FBI's evaluation of Oswald at various times. As we have seen, the FBI's written answers to Stern's questions were not responsive. Stern did not do much better in person. Typically, when asked for his evaluation of Oswald, the FBI agent would describe his demeanor, or (at most) his belief as to whether Oswald had been telling the truth. Each agent was asked if he wanted to correct or amplify his reports; none did. What was lacking was a systematic effort to

compare Oswald's case with others. The Commissioners themselves were relatively successful in evoking this kind of comparison. Even Earl Warren, for example, was surprised to hear Quigley's testimony that "frequently persons who are in custody of local authorities would like to talk to the FBI," and asked for amplification.²⁸⁷

McCloy questioned SA Fain sharply about his evaluation of Oswald, bringing out the issue which Stern had included in the draft letter which was never sent; without focusing (with hindsight) on the idea of Oswald as a potential threat to the President, "why was the FBI inquiry into Oswald's activities not more active in connection with its own direct responsibilities?" Stern asked if Fain had any indication that Oswald was "dangerous or potentially violent"; Fain said no.²⁸⁸ McCloy took over and pushed (for a full page of printed testimony) until he got an answer. He began by alluding to the FBI's usually broad concern with threats to "national security":

"Mr. McCLOY. You felt he constituted no security risk to the United States? "Mr. FAIN. Well, we couldn't prove that he was a member of the Communist Party in Fort Worth; had no report that he was a member of the party.

"Mr. McCLOY. Quite apart from the party, from party membership, was it your conclusion that he was -- he did not constitute a security risk?"

"Mr. FAIN. I couldn't see any potential for violence.

"Mr. McCLOY. I am not talking about potential for violence. I am talking about security risk. You know what I mean by that. You are an experienced security officer."

Fain again emphasized that he had found indications that Oswald was not associated with the Communist Party; he explained that he thought "any Communist is a threat because I think they are atheistic, materialistic." This does not really clarify Fain's reaction to Oswald, but at least McCloy had succeeded in bringing out the personal opinions and evaluations whose existence the FBI was so reluctant to admit.

McCloy asked a valuable hypothetical question: if Fain had found that Oswald had been in contact with the CPUSA, would he have recommended that he be kept under surveillance? Fain said he would have.²⁸⁹ That should have been the starting point for an assessment of the reactions of other FBI agents to Oswald's

contacts, in 1963, with the CPUSA, the FPCC, and the Socialist Workers Party; did not the FBI consider all these organizations comparably dangerous? McCloy dropped this line of questioning here, however.

Certainly Stern had the knowledge to pursue this kind of issue, and he had earlier expressed a desire to do so. It seems that he was frustrated by the FBI's formalistic "evaluations"; 290

"Mr. STERN. Again would you summarize your recollection of the purpose and direction of the investigation at this stage, at the time covered by this report [CE 822, dated July 2, 1961]. What do you recall to have been the purpose and direction of the investigation?

"Mr. FAIN. At this particular point it seems we were looking at this individual, opened the case to find out who he was and see if he was any kind of an internal threat, a threat to the internal security of our country.

"Mr. STERN. What was your evaluation of that question as a result of your investigation?

"Mr. FAIN. At that time we — there was nothing appearing that he was of any potential danger to the security of — I was trying to find out whether or not ... he was a member of the Communist Party....

"Mr. STERN. And this entered into your evaluation at the time, the fact that he was not a member of the Communist Party?

"Mr. FAIN. [Presumably relieved that his "answer" had been accepted.] Yes, sir; there was no indication that he was a member of the Communist Party in Fort Worth.

"Mr. STERN. Was it also relevant to your evaluation that he was apparently living in Russia at the time?

"Mr. FAIN. [Taken aback.] I beg your pardon?

"Mr. STERN. Was it also relevant to your conclusion about his not being a threat to the internal security of the United States that at the time he was apparently living in Russia, at the time covered by this report?

"Mr. FAIN. [Weakly.] Well, certainly we were going to keep track of him from then on, naturally, if he is over there."

Touché. But proof that the witness is not being forthcoming is not as good as getting an answer.

So we have a situation where Stern, who was most familiar with the details essential to an assessment of the FBI's relationship with Oswald, was not very successful in getting the witnesses to talk; the more aggressive of the Commissioners could not have been as conversant with the factual background.

To make things worse, Warren was getting impatient. Late in the afternoon, just as Stern began to question Hosty about his affidavit on the Revill incident, Warren spoke up: 291

"The CHAIRMAN. Is that all, Mr. Stern?

"Mr. STERN. There are a few other points.
"The CHAIRMAN. Let's hurry them along."

Stern himself was unnecessarily discreet in handling some details, including some which would have called attention to SA Warren DeBruveys. For example, Stern was justifiably skeptical of Hosty's testimony about the processing of the records relating to his investigation in October and November, which were not included in a formal report before the assassination. Hosty testified that after he dictated the details of that investigation, he proofread the writeup and destroyed his notes. This was, he explained, standard procedure; he did not consider retaining the notes in view of the intervening assassination. 292 Stern introduced CE 830 into evidence, allowing Hosty to identify it simply as two pages from a post-assassination report. 293 Later the Commissioners brought out the fact that it was a report with a file number for Mrs. Paine, not Oswald. 294

Ford got Hosty to explain that this information was also in an Oswald report dated December 2, 1963. In fact, that December 2 report contained three additional items, and the other items were not written up in exactly the same way. 295 The differences do seem insignificant, but it would seem that the longer version should have been used during the testimony. Stern was familiar with that version, having used it in February in a chronology of the FBI's information on Oswald.

That longer version was pages 137-138 of one of the early composite reports on the Oswald case, CD 75. This was where the facts about Hosty's October-November investigation were first set down (although they first reached the Commission in very abbreviated form in the Summary Report, CD 1). Although obviously quite important, these investigative efforts were not mentioned in the synopsis; they were slipped in at the end of a section entitled "Residences" as part of the "Background Investigation." Presumably the arrangement and synopsising of this report was the personal responsibility of the reporting agent listed on the first page, Warren C. DeBruveys.

Stern avoided bringing DeBruveys into the picture in a second instance. When Quigley testified, he was asked about his five-page writeup of his interview

of Oswald. Stern gave him a copy of the Kaack report, which includes those pages. But the DeBruyeys report also included those pages, and Stern (who had discovered it in the State Department file) knew that it contained information not in the Kaack report. But it was never mentioned - and not even Kaack, much less DeBruyeys, was a witness.

Alan Belmont, Hoover's assistant, testified the next morning. Warren formally explained that the purpose of the hearing was to take Belmont's testimony "concerning the general procedures of the FBI and [] to explain their relationship to the case of Lee Harvey Oswald."²⁹⁶ During the testimony, the Commissioners themselves asked many questions indicating skepticism about the FBI's apparent lack of concern about Oswald (given that he was a returned defector), the decision to close the case in August 1962, and the lack of reaction to Oswald's lies to the FBI. There was discussion of liaison with the Secret Service, both in the Oswald case and in general.

Stern's questions focused on the details of the FBI's files on Oswald. After some background questions, Stern tried to get into the FBI's "circumspect" answers to his earlier questions, but was discouraged from doing so. He introduced the FBI answers into evidence (as CE 833), and established that Belmont had supervised their preparation. He said that he would touch on several of the most important questions, and ask Belmont not to read his answer, but to paraphrase it. He explained,²⁹⁷

"I think we have had a good deal of the specific detail but what I am interested in is a description from your examination of the investigation as it was carried on, of the nature of the FBI interest in Oswald."

As he started his questioning, Warren interrupted:

"The CHAIRMAN. You mean by that that you could get, we could get, a better idea from paraphrasing the answer than we could get from the exact answer itself?"

"Mr. STERN. I think he might be able to highlight the answer. We have the exact answer on record, and I thought it might -"

"The CHAIRMAN. Well, highlight it, if there is anything in addition I would think that would be relevant and pertinent.... If you have anything in addition that you want to ask him ... that is all right. But to just ask him to paraphrase answers that have been done with great care would seem to me to be confusing the record, and serve no purpose."

As Stern clearly understood, part of the problem with the FBI's answers was exactly that they had been prepared with "great meticulousness," as Warren put it, in such a way as to obscure rather than clarify. But he chose to defer to Warren's strong feelings and impatience:

"Mr. STERN. I might ask, Mr. Belmont, whether there is anything you would like to add or amplify in these questions?"

Naturally, Belmont had nothing to add, although he expressed his willingness to discuss the FBI's approach to the Oswald case.

After Dulles and Belmont discussed the FBI's early interest in Oswald, Stern turned to his questions about some of the FBI's responses. He asked about just seven of the thirty questions. Presumably he was working from the followup questions which he mentioned in his April 21 memo, but I do not know if Warren's attitude kept him from asking them all.^{298X} Certainly more than seven of the FBI responses were not adequate.

Stern did get more information in several instances. For example, he first asked Belmont to refer to question 3, and to explain why the FBI preferred not to interview Oswald when he arrived in New York on his return from Russia, but waited until he had established residence. Belmont's answer referred to the atmosphere created in such cases by press interest, and suggested that the returnee would be busy with the Immigration and Naturalization Service.^{299C} Stern seemed satisfied with the answer. He did not point out to Belmont that he had asked exactly the same question the first time, but had gotten only the non-answer that the FBI "preferred" to wait.

Stern asked several other questions designed to bring out the FBI's evaluation of, and reaction to, Oswald. The answers, to the extent that they were helpful, showed that Belmont had more information and opinions than he had revealed earlier. For example, this time Belmont answered the part of question 8 which asked if there was any record that the Dallas FPCC demonstration which Oswald described in a letter to the FPCC ever took place. Belmont's reply was negative,³⁰⁰ Hosty had testified the previous day that he probably would have

known about that demonstration if it had taken place. 301X

After his seven questions, Stern told Warren that "I believe the answers to the other questions give us a complete enough record."³⁰²

After some more discussion between Belmont and the Commissioners, Stern brought up CE 834, and asked Belmont to identify it. He then led Belmont through questioning to set forth the FBI's position on the limited availability of the FBI Headquarters file on Oswald: 303

"Mr. BELMONT. This is a letter dated May 4, 1964, addressed to the Commission which sets forth in summary the contents of the headquarters file on Oswald prior to the assassination.

"Mr. STERN. Do you have that file with you?

"Mr. BELMONT. Yes, sir.

"Mr. STERN. Would you explain generally to the Commission what materials there are in that file that for security reasons you would prefer not to disclose?

"Mr. BELMONT. The file contains the identity of some of our informants in subversive movements. It contains information as to some of the investigative techniques whereby we were able to receive some of the information which has been made available to the Commission.

"Mr. STERN. I think that is enough, Mr. Belmont, on that.

"Mr. McCLOY. You didn't have anything further to add on that, did you?

"Mr. BELMONT. No."

Warren expressed his strong desire not to get into security matters:

"The CHAIRMAN. I think as to those things if it is agreeable to the other members of the Commission, we will not pursue any questioning that will call for an answer that would divulge those matters that you have just spoken of.

"Mr. BELMONT. I would like to make it clear, Mr. Chairman, that — I think that is very kind of you — I would like to make it clear that Mr. Hoover has expressed a desire to be of the utmost help to the Commission, and to make any information available that will be helpful to the Commission. I think your observation is very much worthwhile.

"Mr. STERN. Mr. Belmont, have you reviewed the actual file and this letter of May 4 which summarizes each document in the file?

"Mr. BELMONT. Yes, sir.

"Mr. STERN. And to your knowledge, is this an accurate summary of each piece of information in the file?

"Mr. BELMONT. Yes, sir.

"Mr. STERN. The file is available to the Commission?

"Mr. BELMONT. Yes, sir.

"Mr. STERN. If they want to look at any item in it?

"Mr. BELMONT. Yes, sir.

"The CHAIRMAN. The file does not include that security matter that you mentioned, or does it?

"Mr. BELMONT. This file is as it is maintained at the Bureau with all information in it.

"The CHAIRMAN. With all information in it?

"Mr. BELMONT. Yes, sir; this is the actual file.

"The CHAIRMAN. I see."

In the subsequent discussion, Warren remained reluctant. Rankin argued with

him, but largely from the position of wanting the record to look good. He seemed to think he was talking about everything the FBI had on Oswald; earlier, Belmont had explained that Headquarters needs to have "all pertinent information" on any case and that "the reports and information developed" are sent to Headquarters. 304 We will later go into the substantial information which was not in that file.^{305X} here we simply note that Stern was in a position to know that the Headquarters file was incomplete. However, he took no part in the subsequent discussion.

Presumably he had persuaded Rankin to argue for access to that single file, and he may have known that he himself could get no further with Warren.

"Mr. RANKIN. Mr. Belmont, are you willing to leave the file a reasonable time in case any of the Commissioners desire to examine it personally?

"Mr. BELMONT. Yes, sir.

"Mr. RANKIN. We will return it.

"The CHAIRMAN. I wonder if we do want it on those conditions. If we want to get anything from it don't you think, Mr. Rankin, that we ought to make it known here while the witness is here. I personally don't care to have this information that involves our security unless it is necessary, and I don't want to have documents in my possession where it could be assumed that I had gotten the information and used it, so I would rather, I would rather myself confine our questions to this file to the testimony of Mr. Belmont. Then if we want it, if we want any of those things, it then becomes a matter to discuss here in the open, and not just in privacy.

"Mr. RANKIN. Mr. Chairman, I felt it made a better record if the file is available only to the Commissioners in case they do want to examine it, and then it will be taken back and the staff will not examine it.

"The CHAIRMAN. I think he has stated that the file will be made available to us whenever we want it.

"Mr. RANKIN. Yes.

"The CHAIRMAN. If we do want it to read it that is one thing. For myself, I think we can get what we want from examining the witness, and then if there is any portion of it that comes into play why we can determine the question here, but I really would prefer not to have a secret file, I mean a file that contains matters of that kind in our possession.

"Mr. RANKIN. There is one factor that I wanted to get before the Commission and in the record, and that is that you had all the information that the FBI had in regard to this matter, and I thought that was important to your proceedings, so that we would not retain such a file, and we had an accurate summary but that it is available so that the Commission can be satisfied that nothing was withheld from it in regard to this particular question. That was the purpose of the inquiry."

Two members of the Commission - John McCloy, and Allen Dulles, who as the former head of the CIA was well aware of the need for detailed study of such intelligence matters - were at least curious about this file. McCloy, in particular, recognized that a listing would not be good enough:

"Mr. DULLES. I assume, Mr. Belmont, if later other testimony arises that would make us desire to refer to this file we could consult it in your offices or you would make it available to us?"

"Mr. BELMONT. Yes, sir."

"The CHAIRMAN. I think I would personally rather have it done on that basis. What do you think, Mr. McCloy?"

"Mr. McCLOY. I was just glancing at the file, and it seems to have the regular, the usual type of reports that we have seen. But there is a good bit of elaboration in those, in that file of the summary which is here. This summary I don't think can purport to be a complete description of the documents that are in here, as I glance through them here."

"I just happened to see a good bit of detail in here which doesn't have anything to do with the security problem we talked about, but I would think that probably it would be wise for some member of the Commission, or members of the Commission as a whole, to run through that file in order to be sure that we have seen the material elements of the file that we would not perhaps, might not, be able to get from this letter of May 4."

Warren both played down the relevance of the file and emphasized how

sensitive it was - not a very consistent position. Perhaps sensing this, he backed down a bit:

"The CHAIRMAN. Well, there are so many of these questions in here that are obviously matters that we would have no more concern with than just to know about them."

"Start from the very beginning, a news clipping from the Corpus Christi Times, dated October 2, 1959. [See note 306C.] Now if that excites any interest on the part of any member, why we could say, 'Well, could you show us that?'. Then the next is the United Press release, dated October 31 at Moscow, and a great many of these."

"Now, I wonder if it wouldn't be better for us to look over all of these various things, items that are in the file, and then if there are any that happen to excite our interest, we can ask Mr. Belmont about it. If it is a matter that involves security, we could then discuss it and make our determination as to whether we wanted to see it. I would think that when we are dealing with things that are as sensitive as the FBI has to deal with in that respect, that that would be adequate; that is my opinion of it."

"But if the rest of the Commission feel that they want to see it notwithstanding the security measure, I would, of course, have no objection."

Rankin then interjected an explanation of the staff position, evidently as worked out with the FBI. Apparently Stern had agreed to settle for a list to be kept as part of the record, and examination but not retention of the file itself:

"Mr. RANKIN. Mr. Chief Justice, what I was trying to deal with was a claim by someone that the Commission never saw all there was in the hands of the FBI about Lee Harvey Oswald, and we recognize that some of these items should not be considered important by anyone, as we look at the matter, but we wanted you to be able to satisfy the public and the country that whatever there was that the FBI had, the Commission had it, and we didn't think that in light of the security problems the whole file should be a part of the files of the Commission. And we tried to present here a

summary, even of items that did not seem important, but we did want the record in such condition that the Commission could say in its report, 'We have seen everything that they have.' I think it is important to the case."

(The 'security problems' referred to by Rankin were probably the leaks of Commission material which had been occurring, not the 'security matters' in the FBI file.)

McCloy, who had been going through the file during this discussion, started to discuss some of it with the witness:

"Mr. McCLOY. I notice, Mr. Belmont, in running through this file, a note here that symbols are used in instances where the identities of the sources must be concealed."

"Mr. BELMONT. That is correct, sir."

"Mr. McCLOY. If that is so -"

"Mr. BELMONT. In some instances."

"Mr. McCLOY. Only in some instances. There are other cases where that is not the case."

"Mr. BELMONT. Yes; that is right."

"Mr. McCLOY. There is a great deal of narrative in here about Oswald and his relations with the [American] Embassy [in Moscow]. Maybe it is elsewhere in the record."

"Mr. BELMONT. I would presume that you have received that from the other agencies. Those are copies of communications that the other agencies sent to us."

Warren then made a suggestion which McCloy properly criticized:

"The CHAIRMAN. Well, why couldn't we go over this list and see what items we would be interested in and then we can determine, can we not, whether we want -"

"Mr. McCLOY. I am not so sure, you can look through this yourself, I am not so sure if from reading just that short summary you get the full impact of all the narrative that is in the various reports. There is a good bit here. For example, one page I have here about this business of beating his wife and the drinking. There is a good bit of detail."

"Mr. BELMONT. Mr. McCLOY, you have that record."

"The CHAIRMAN. We have the record, I have read the records myself."

I do not know what records Warren was referring to; I have no reason to believe that he had read the entire file under consideration. McCloy's reference was evidently to CE 829, a Hosty report. McCloy had made an error, and he backed down:

"Mr. McCLOY. Maybe we have that one."

"Mr. BELMONT. Any investigative report you have."

"Mr. McCLOY. Is there any investigative report in here that we have not got?"

"Mr. BELMONT. No, sir."

In fact, as Stern knew, there was a relevant investigative report - the

DeBruy's report - which was not "in here" and had been obtained only indirectly. Rankin again emphasized that he wanted the record to appear complete. He repeated the incorrect statement that this was all the FBI had on Oswald:

"Mr. RANKIN. We are trying to develop, Mr. Chief Justice and Commissioners, that you have everything that the FBI had, this is their total file in regard to this matter of Lee Harvey Oswald so that there is nothing withheld from you as far as the FBI is concerned. That is part of what we are trying to develop this morning, in addition to the items themselves."

Dulles came up with a compromise which ended this awkward dispute and put off a final decision until later:

"Mr. DULLES. I wonder if the staff, Mr. Rankin, could not go over this and check over those items we have from other sources and what the FBI has already furnished us so what we deal with with respect to this file are only items that are not in the Commission's records already. That would cut this down by half, I would imagine or more."

"Mr. RANKIN. Yes; we could do that for you."

"Mr. DULLES. Then we could have this available possibly at a later date just to check over the other items against your files to see if there is any information there that we really need."

"The CHAIRMAN. You could come back, couldn't you, Mr. Belmont?"

"Mr. BELMONT. I am at your disposal."

Warren quickly accepted this suggestion, and summarized his sensitivity to the security issue:

"The CHAIRMAN. I think that would be better. I think, Mr. Rankin, your purpose is entirely laudable here, but I think we do have to use some discretion in the matter, and you say that you want it so we can say we have seen everything. Well, the same people who would demand that we see everything of this kind would also demand that they be entitled to see it, and if it is security matters we can't let them see it."

This appears to be an argument against public access to this FBI material; as such, it is improper but comprehensible. However, Warren's next words show that the people who would demand that they see the file were on the Commission staff - most prominently, his former clerk, Sam Stern. Warren said:

"It [the file] has to go back to the FBI without their scrutiny."

Warren gave no reason for this opinion. Certainly he knew that if there was to be a proper study of this file, it would have to be done by the staff. The Commission's commitment to get to the bottom of the informant problem had obviously been forgotten. Of course, the entire staff had "Top Secret"

clearances, and most of the FBI records were not even that highly classified. And, as Rankin had said earlier, his suggestion was only that the file be kept

for the Commissioners, "and the staff will not examine it."³⁰⁷

Warren concluded by again incorrectly deemphasizing the amount of information in the file:

"So unless, I would say, unless there is something that we think here is vital to this situation, that it isn't necessary for us to see the whole file, particularly in view of the fact that we have practically -- we have all the reports, he says we have all the reports that are in that file, and it just seems like thrashing old straw to go over it and over it again."

Then, McCloy again got into a discussion of the contents of the file with Belmont:

"Mr. McCLOY. Do we have copies of all these telegrams that are in here from the Embassy?"

"Mr. BELMONT. You are looking at --"

"Mr. McCLOY. Not Embassy; here is one from Mexico. Do we have that? We don't have these in our files, for example."

"Mr. BELMONT. This is subsequent to the assassination. You see your area of interest at this point is information, all information we had prior to the assassination. I did not remove from this file the items that started to come in subsequent to the assassination, you see."

McCloy then summed up his position:

"Mr. McCLOY. My feeling is that somebody on the Commission should examine that file. I can't come to any other conclusion after [sic - "without" intended?] reading it all, because I don't know what is in it, what is in our record, and what is in that file. There is a good bit of material there that is narrative, which I think would be relevant. Certainly, I don't believe we can be possibly criticized for deleting or not producing a file which contains the type of information that you are speaking of. We are just as interested in protecting the security of your investigative processes as you are. But I don't think that when it is on the record that we have this file, that may contain material that was not in our files, and we are given the opportunity to examine it, without disclosing these confidential matters that we ought not to have somebody go through it."

McCloy recognized that the legitimate problem was not giving Stern access to that file, but making it public. In fact, Warren's earlier comments indicated that he too was concerned about public release: he said he did not want to have documents in his possession "where it could be assumed that I had gotten that information and used it,"³⁰⁸ presumably meaning "leaked it." As McCloy pointed out and everyone knew, the Commission was quite entitled to retain records without making them public.

Dulles then made a specific suggestion which closed out the discussion:

"Mr. DULLES. I agree with that but I think we could save time if we checked off first those we have already and that would cut out about half of that file

probably.

"Mr. McCLOY. I think in a rapid glance through it, I think just about half of it.

"The CHAIRMAN. Well, suppose you do that then, get those and let's see. All right, proceed, Mr. Stern.

"Mr. STERN. I think perhaps we ought to leave the entire matter of the file then until we can give you the information.

"The CHAIRMAN. That is right.

"Mr. STERN. May we admit for the purposes of the record this list at this time, Mr. Chief Justice, which has been marked No. 834?

"The CHAIRMAN. Yes. There are no security matters in this?

"Mr. BELMONT. No, sir.

"The CHAIRMAN. It may be admitted as [Commission] Exhibit No. 834."

Warren's comments during this discussion completely destroy any belief that his integrity guaranteed an unfettered investigation. His deference to the inviolability of "security matters" is comparable to President Nixon's 1972 instructions that the CIA and FBI not investigate certain national security matters related to Watergate. The most obvious difference is that Warren's stand was not for his own protection - but that makes it even harder to understand or defend.

Ten years later, speaking about Watergate, Warren had changed his views on governmental secrecy,³⁰⁹

"It would be difficult to name a more efficient ally of corruption than secrecy... If anything is to be learned from our present difficulties, conspicuously known as Watergate, it is that we must open our public affairs to public scrutiny on every level of Government...."

Warren praised the Freedom of Information Act, which I have been trying (without success) to use to get the same FBI records he did not want to see. Warren could have been describing the failure of his own Commission when he said that "It must be obvious to all by this time that secrecy in high places has spawned this great tragedy of our time."

As we have seen, Stern did not contribute much to this discussion of the FBI's Headquarters file. In his earlier discussions with Rankin, he had presumably done his best to bring out the evidentiary value of this material. He understood, even if Rankin did not, that major substantive questions about the FBI's relations with Oswald had not been answered. He knew this in March, when he drafted the request for every scrap of paper the FBI had on Oswald. In

my opinion, when Belmont had finished testifying, Stern had been put in a position where he could not do the job that he knew should be done, and he should have resigned.

Stern, of course, did not resign; as far as I know he did not attempt to reopen the issue. What he did was to pursue the most promising opening left, McCloy's interest in the files. First he did what Dulles had suggested, by compiling a list of the items described in CE 834 which the Commission did not have.

McCloy had ventured the estimate that the Commission already had about half the file. In fact, Stern's compilation (reprinted in the Appendix) showed that they had only a small fraction of the internal FBI records, which were crucial to an assessment of the FBI's relationship with Oswald. We will return to some specific items in Part III; for now, we will just summarize Stern's compilation.

The FBI headquarters file, supposedly listed in full in Hoover's May 4 letter (CE 834), consists of 69 items. Eleven are dated in 1959, covering Oswald's defection to Russia. The seven 1960 items concern funds sent to him in Russia, his contacts with Albert Schweitzer College in Switzerland, and his undesirable discharge from the Marines. The 9 items dated 1961 relate to his citizenship status, the State Department files, and his plans to return. There are 14 items dated 1962, both before and after his return from the USSR in June. The 23 items in 1963 cover his activities in Texas, New Orleans, and Mexico. (The additional 5 items, copies of Oswald's FBI Identification Division record, are not dated.)

Twenty of the 69 items are not internal FBI records. The Commission had all except 3 of them, 2 of which were newspaper clippings.³¹⁰ It did have the 9 items of correspondence between other agencies, copies of which were sent to the FBI;³¹¹ it also had the 5 items sent to the FBI by other agencies, the two FBI records sent to the State Department, and one newspaper clipping.³¹² Of

course, there may have been some lost information even in these items, since the FBI copies may indicate the Bureau's reactions.

The other 49 items in the Headquarters file are internal FBI records. The Commission had only five of them, the formal reports on the Oswald case. They did not have the 5 copies of the Identification Division records (although various copies of that record are in the files). There are two items which appear to be memos between officials at FBI Headquarters. The remaining 37 items not in the Commission's possession are the records which would be most revealing on the issue of the FBI's evaluation of Oswald: communications between Headquarters and the field offices. These consist of 2 items to Dallas and 10 from Dallas, 1 to and 6 from New Orleans, 6 from the Washington Field Office, 2 to and 10 from New York, Little Rock, and the Legal Attaches in Paris and Mexico City.

The result of Stern's work, a copy of the list marked to indicate which items the Commission did not have, was passed on to the Commissioners with a cover memo in Rankin's name dated May 12. The memo explained that Belmont had "preferred ... that the file not be introduced into evidence, since some of the entries would reveal the names of confidential informants or disclose secret techniques."³¹⁷ Rankin concluded by explaining the availability of the file to the members (but not the staff):

"The FBI is entirely willing to make the report [sic; "file" meant] available for inspection by the Commission. The report could be made available for review by each Commissioner interested in reading it, either alone or with the assistance of Mr. Belmont or another FBI representative. Perhaps a better alternative would be to recall Mr. Belmont for any further testimony on the Oswald file that might be desired after each Commissioner has had an opportunity to review the file."

This memo gave a misleading description of some of the records which the Commission did not have, namely the cover pages of the five investigative reports. Rankin said that "The FBI advises that the cover page is an internal administrative document which shows the routing of a report and also the names or symbols of any confidential informant relied upon in the report." The copy

of this list in Stern's office files has some handwritten comments, evidently reflecting a discussion he had with the FBI. One is "cover page of report shows name of informant or symbol." The descriptions here and in Rankin's May 12 memo emphasize the purely administrative aspects of the cover page. But the earlier testimony by Belmont and the case agents clearly indicated that the cover page was also a lead sheet, including in some cases an evaluation of the status of the case. The files which were removed from the Media, Pennsylvania FBI office in 1971 include some cover pages for letterhead memoranda (which are presumably comparable to those for reports); in addition to identification of informants and dissemination information (including file numbers), they include leads, opinions, cross-references, and similar material relevant to the question of FBI evaluations.³¹⁸ File numbers, for example, might have brought to the Commission's attention the existence of relevant files besides the Headquarters Oswald file. As far as I know, the Commission never saw any of the cover pages.

The other handwritten comment on Stern's working copy of CE 834 is "Have everything in diff[erent] form, except e.g. change of off[ice] of origin." This claim of completeness might be valid only with regard to information about Oswald; that is, all relevant information is supposed to be summarized in the formal reports which had been given to the Commission. It is certainly not true with regard to the FBI's handling of the Oswald case, where the key evidence might be precisely what was not reported to Headquarters,

When J. Edgar Hoover himself testified on May 14, the question of the FBI files did not come up. The statement which Warren, as usual, read to the witness at the start of the hearing mentioned the specific areas the Commission wanted to hear about: the allegation that Oswald was an informant, any evidence known to Hoover of any kind of conspiracy, a far-out charge that the Justice Department had told the Dallas Police not to arrest Oswald and Ruby in connection with the attack on General Edwin Walker earlier in 1963, the omission of the Hosty entry from the listing of Oswald's notebook, and Hoover's suggestions on

the protection of the President.³¹⁹ Hoover touched on these and other topics during his testimony, which took more than half the morning.

The circumstances of Hoover's appearance were not favorable for the required critical examination. On May 8, President Johnson used the occasion of Hoover's 40th anniversary as FBI Director to deliver a strong personal endorsement. Although Hoover would not reach the mandatory retirement age of 70 until the following January, Johnson chose this opportunity to exempt him indefinitely from that requirement. "The nation," he said, "cannot afford to lose you." The Warren Commission was put in the position of questioning an officially proclaimed "hero to millions of decent citizens and an anathema to evil men."³²⁰ Perhaps because of the stature of the witness, Rankin himself conducted the questioning, rather than deferring to more knowledgeable and critical but lower-ranking staff. For no reason known to me, Stern was not even present at that session.³²¹

Stern's apparently final attempt to stir up interest in the problems raised by the FBI files was a memo of May 22 to McCloy. This memo, in Rankin's name but prepared by Stern, did not argue for an examination of the Headquarters file but rather plaintively reminded McCloy of his earlier position. It read in full,³²²

"I believe you had expressed an interest in reviewing the FBI file on Oswald, when we had marked on the FBI's list of items in the file, those items which the Commission does not already have. Such a list was distributed on May 12, 1964; a copy of that list and my covering memorandum is attached for your convenience.

"If you would advise me how you would like this handled, and what day or days might be convenient for you, I will make the necessary arrangements with Mr. Belmont."

I have seen no indication that McCloy responded to this suggestion.

One subsequent exchange of letters suggests a further attempt by the Commission to be sure that they at least knew about all the FBI records on Oswald. CD 1084 is described in the list of numbered Commission Documents as a Secret letter of June 10, 1964, from Hoover, "re dossier on Lee Harvey Oswald" with five attachments.³²³ The word "dossier" was not commonly used to refer to

the FBI's post-assassination records, but of course would be appropriate for the file on Oswald, especially the pre-assassination file. Four of the five attachments are available; from their dates and lack of obvious connections with each other it appears possible that they were sent to the Commission in response to a request for any post-assassination reports in the "dossier" on Oswald which had not previously been given to the Commission.³²⁴ Unfortunately, the cover letter for CD 1084, and the Commission's letter to which it is a response, are both withheld from the public.³²⁵ The Justice Department and the FBI declined to confirm or deny this interpretation of this document, or to tell me if CD 1084 has anything to do with the pre-assassination FBI files on Oswald.³²⁶ We will have to wait to find out what this interesting document is, but it is probably not relevant to the issues that Stern was pursuing.

The evidence is that Stern's attempt to gain access to everything the FBI had on Oswald was turned back. I have found no record that he or anyone else on the Commission ever saw even the Headquarters file, much less the field office files. Neither the final Report nor the available internal files show any interest in further study of the FBI records. Alan Belmont, for example, was not recalled for more testimony. Stern reportedly told Epstein that no independent check was ever made of the Headquarters file.³²⁷

Stern told me, however, that he did see the Headquarters file on one occasion. He explained that his recollection of his work nine years previously was hazy, and we did not discuss the circumstances in detail, but my impression was that he had merely looked at the Headquarters file briefly, just enough to verify that all the items listed in CE 834, and no others, were there. This probably was done when Stern was working "in coordination with the FBI" to prepare the marked-up copy of that list.³²⁸

There were cases of staff members seeing but not retaining FBI files. Two such examinations were described in published memos. Burt Griffin examined all FBI reports pertaining to "subversive activities" and to certain anti-Castro

groups in Dallas and Fort Worth for 1963; he was looking for references to Ruby (not Oswald) but found none. 329 If Stern had done any substantive examination of the FBI Headquarters file, it would have been appropriate to record it in a memo, which should have been published and cited. There is no such memo in the available or withheld parts of his office files at the Archives. 330 In any case, the proof that Stern's original intentions were thwarted is the absence of an investigation of the additional FBI records, and the lack of any reference in the Warren Report itself to anything but the testimony and published exhibits.

The relevant section of the Report is the discussion of the FBI's pre-assassination information on Oswald in Chapter 8, which is reproduced above. 331 After his investigation came to an end, Stern presumably turned his attention to preparing a draft of Chapter 8, which covered the whole area of Presidential protection. Because of the difficulty in finding copies of his drafts, it is hard to avoid the conclusion that an effort was made to remove this sensitive material from the Commission's files before they were turned over to the Archives. There are probably two drafts involved. A "preliminary draft" written by Stern was given to Dulles by Redlich on June 12, 332 and (along with other drafts) to various Commissioners around June 26. 333C A draft of Chapter 8 was also the subject of memos dated August 12 by Gerald Ford and staff lawyer Lloyd Weinreb 334 presumably they were responding to a draft dated in early August or late July which was routinely and widely distributed for comments. I could not find any such drafts in any of the appropriate places, namely the office files of staff members (Entry 44) and the collection of drafts in Entry 27. After considerable delay and effort, Archives personnel located a partial and undated copy of the draft referred to in the memos of August 12, among a small amount of miscellaneous general material "at the beginning of the John F. Kennedy files." 335 I have not yet obtained all relevant pages of this draft.

There are references to the extent of the Commission's inquiry into the FBI

files in the section of this draft on the allegation that Oswald was an informant, which was later moved from Chapter 8 to Chapter 6 of the Report. The conclusion of the section about Oswald and the FBI read as follows: 336

"In short, no evidence has developed, in the course of extensive examination, which suggests that Oswald's relationship with the FBI was any different from that described by the FBI. All of the evidence which the Commission has examined is completely consistent with the affidavits and testimony of the representatives of the FBI, inconsistent with the suggestion that Oswald was an FBI informant."

In the comparable paragraph in the final Report, the conclusion has been strengthened, the reference to interest in a non-informant "special relationship" has been removed, and an incorrect implication about the extent of the Commission's examination of the files has been added: 337

"Thus, close scrutiny of the records of the Federal agencies involved and the testimony of the responsible officials of the U.S. Government establish that there was absolutely no type of informant or undercover relationship between an agency of the U.S. Government and Lee Harvey Oswald at any time."

A similar incorrect reference to the Commission's study of the FBI files was added earlier in this section. In the draft, the affidavits and testimony from the FBI were supported by some analysis of "the asserted facts which were relied upon in the rumors that Oswald was an FBI informant." 338 Some of the points made by the author (presumably Stern) were well taken, although hardly conclusive. For example, 339

"One important source of the rumors seems to have been the fact that Oswald was not unknown to the FBI when he was arrested.... While there are three recorded interviews of Oswald, and a continuing effort to know where he resided, there is nothing to support the claim that he was functioning as an informant. Indeed, the record is plainly to the contrary. Had he been in the employ of the FBI, there would have been no occasion to conduct the continuing checks in his location and activities, and there would have been no point in recording, in internal records, that such checks were being made."

Of course, the Commission did not have the necessary knowledge of FBI practices with regard to informants to justify this final sentence, logical as it may seem. This kind of argument is not in this section of the final Report. After the reference to the evidence provided by FBI personnel, a sentence has been added: 340

"This testimony is corroborated by the Commission's independent review of the Bureau files dealing with the Oswald investigation."

A comment made on the galley proofs of the Report sums up the situation with regard to the FBI files. In a memo of September 14, Liebeler asked "Who is going to attest that they have reviewed the complete Bureau files dealing with the Oswald investigation?"³⁴¹ Of course, nobody could attest to that, since it was not true. The Report, as published, contains no attestation for that claim - no footnote at all. Naturally there was no citation to Belmont's testimony and Warren's refusal to accept even the Headquarters Oswald file.

From the most conservative reading of the evidence, what must be concluded from this study of the Commission's investigation of the FBI and Oswald?

* If Lee Harvey Oswald had been on the FBI's roster of Potential Security Informants, and thus not the hostile subject of an investigation, would the FBI have admitted it to the Warren Commission? The evidence shows that Hoover evaded an explanation of a similar informant relationship involving Jack Ruby, and could equally well have claimed that if Oswald was a PSI he was not an informant.

* If there had been a proper investigation of the sources of the published rumors that Oswald was an informant, would evidence on the validity or purposes of these rumors have been found? Hoover made it difficult for the Commission to carry out such an investigation, and the Commission did not press the issue.

* If Oswald had entered the name of FBI Agent Hosty in his notebook for some reason connected with his relationship with some law-enforcement agency, would the Commission have found out about it? The staff did not notice some of the evidence that the FBI lied about the omission of this entry from their original listing, and did not pursue other evidence. The reason for the FBI's concealment remains unknown.

* If there had been FBI evaluations of Oswald that were more meaningful than those given in testimony by the agents, they might have been recorded in the Headquarters file items listed for the Commission. But even the more curious members of the Commission did not learn of them. Warren and the FBI agreed that

the Headquarters file had to be kept from the staff investigators.

* If there was a special relationship between Oswald and the FBI, an examination of all the records on Oswald could have clarified it. The request made by the most knowledgeable staff member for all those records was turned back. The available evidence is that there was such a special relationship. The FBI had something they wanted to hide.

* If there were any clues to an assassination conspiracy in material that the FBI did not want to reveal, the Warren Commission would not have found out about them. In fact, there were such clues, both in the Commission's files and in the FBI records which never were given to the Commission. In later chapters we will analyze some of them.

The Commission started with the express intent of investigating the allegations about Oswald and the FBI. The staff quickly learned that such an investigation was necessary and that the Bureau could not be relied upon to be open about such sensitive matters. Under the pressure of J. Edgar Hoover's manipulation of the Commission's access to evidence, the investigation faded away. We may let the last words be those of Gerald Ford:³⁴²

"The Commission carefully reconstructed the sequence and character of all interviews the FBI had with Lee Oswald, Marina and Ruth Falne. They ransacked the files of every agent having anything to do with Oswald. They checked witness upon witness and approached the question raised by Attorney General Carr, Hudkins, Feldman and others with a thoroughness beyond question. Members of the Commission investigated the grave question of whether Lee could be an agent of any United States Government department with an intensity of purpose that left no stone unturned."

Footnotes

For the reader's convenience, footnotes which include substantive comments are indicated by "C" after the number. Those with "X" are cross-references to other pages in this manuscript. (A few notes of the form "(A544)" or "(544A)" are notes to the author which are not included here.) Other footnotes, i.e. those designated by number alone, are simply references.

Several sentences may have only one footnote; the use of "Ibid." has been avoided.

References to the Warren Report (Report of the President's Commission on the Assassination of President Kennedy, official GPO edition) are of the form "WR 999." References to the 26 volumes of Hearings and Exhibits ("Hearings Before the President's Commission . . .") are of the form "26 H 999" (for page 999 of volume 26) or "CE 777" for Commission Exhibits. References of the form "CD 4, p. 999" are to the numbered Commission Documents (mainly FBI and other investigative reports) in the National Archives. When a letter or memo from the files of the Warren Commission at the Archives is fully identified in the text, there may not be a footnote also.

1. WR 21
2. WR 22
3. Edward Jay Epstein, Inquest (Viking Press, 1966)
4. Letter from John Roche in the Times (London) Literary Supplement, Jan. 4, 1968, p. 12; see also NYT (New York Times), Jan. 3, 1968, p. 1811.
- 5C. For the reader who would like me to suggest a few books as background for this one, I will recommend one work in each of several general areas. Such a list runs the risk of offending by omission; there are many other books which have contributed to current knowledge of the case. Of course, each of the listed books covers other areas as well. Various other books are cited in later footnotes. A number of the earlier books now seem dated, but still contain much valuable analysis. Many important findings are available only in magazine articles. I could also list a score of critics of the Warren Report who are experts in various areas and who have generously helped me over the past ten years.

For a critical analysis of the Warren Report, evaluated against the

evidence published in the 26 volumes, I would suggest "Accessories after the Fact," by Sylvia Meagher. (The works of Mark Lane ("Rush to Judgment") and Harold Weisberg ("Whitewash" and "Whitewash II") are also valuable.)

For an attempt to reconstruct the physical facts of the assassination from the viewpoint of the critics, "Six Seconds in Dallas," by Josiah Thompson, is a pioneering effort. Thompson's treatment of the medical evidence, however, is flawed and dated. (For the Dallas Police view of the assassination and the case against Oswald, see "Investigation of a Homicide," by Judy Bonner, and Chief Jesse Curry's "Personal Assassination File.")

For the operations of the Warren Commission, Epstein's "Inquest" is still a good summary and starting point. (Revealing inside views have been given by Gerald Ford ("Portrait of the Assassin") and Assistant Counsel David Belin ("November 22, 1963; You Are the Jury"). Weisberg's "Photographic Whitewash" analyzes a large selection of unpublished Commission records.)

For the activities of Oswald, see "Oswald in New Orleans," by Weisberg. Some of my early research on the topics covered by this manuscript was based on information in Weisberg's book, or provided to me privately by him. Weisberg and I had a helpful exchange of information and ideas on the Commission's investigation of the hypothesis that Oswald was an agent. (For a study based on the hypothesis that Oswald was a serious and dedicated Castroite, see "The Assassination of John F. Kennedy: The Reasons Why," by Albert Newman. Much of the analysis is distorted and implausible, but there are many provocative insights into the evidence. This is perhaps the only serious analysis of the evidence by a defender of the Commission's basic conclusions.)

For an understanding of the way the FBI works, and the Bureau's interactions with "outsiders" from other parts of the government, Victor Navasky's "Kennedy Justice" is invaluable. (Another important new book on the FBI is "Investigating the FBI," edited by Watters and Gillers.)

In my opinion, no book has yet explained the Garrison phenomenon. Among the books worth noting are those by Milton Brener ("The Garrison Case"), Edward Epstein ("Counterplot"), Paris Flammonde ("The Kennedy Conspiracy"), Jim Garrison ("Heritage of Stone"), James Kirkwood ("American Grotesque"), and Rosemary James and Jack Wardlaw ("Plot or Politics").

7. I can't find this reference; it must have been on or shortly before March 20, 1973. It may have just been a radio news report. ⁷
8. NYT, Aug. 29, 1972, p. 114 (indexed edition); San Francisco Chronicle, Aug. 29, 1972, p. 10.

See Chapter 3, and also Chapter 6. Some key documents are in the Appendix.

9X.

- 10X. See Chapter 5.
- 11. WR 482.
- 12. Stern's office files are in Inventory Entry 44 at the National Archives.
- 13. WR 482
- 14. Letters to PLH from Howard P. Willens (June 7, 1973) and Samuel A. Stern (August 31, 1973). In 1965, both Stern and Willens talked with Epstein. (See "Inquest," p. xviii.) I had an informal discussion with Stern on Sep. 7, 1973.
- 15C. See Ch. 4, pp. 13-14, re FBI records on Ruby. Also, a request by Griffin for FBI information on Ralph Eugene Young, a man with a peripheral connection to Ruby, was redrafted to remove a request for "copies of all investigative reports" in connection with an alleged offense by Young. Apparently Willens was responsible for the rewriting. (The original draft was dated May 28, 1964; the letter was retyped on May 30 and sent on June 1.)
- 16X. See Ch. 7, p. 17 (Belmont testimony).
- 17. Gerald R. Ford, "Portrait of the Assassin" (hereafter "Portrait"), Ch. 1.
- 18. 5 H 98 (Hoover testimony); CD 5, p. 3; Ralph de Toledano, "J. Edgar Hoover, The Man in His Time" (hereafter cited as "Hoover", with page references to the paperback edition), p. 327.
- 19. NYT, Nov. 25, 1963, p. 1:7
- 20. 5 H 103
- 21. CD 1
- 22C. The FBI Summary Report was CD 1; similar reports from the State Department and the Secret Service were CD's 2 and 3.
- 23C. Epstein, "Inquest," p. 12. However, no such memo with that date has been found in the Archives. (Letter from Archives to PLH, Aug. 13, 1973.)
- 24. Memorandum to the Staff from J. Lee Rankin, Jan. 13, 1964, pp. 1, 3.
- 24. (Second note with same number!) Op. cit., pp. 2, 3.
- 25. Proceedings of Executive Sessions of the Commission (Entry 1); first executive session (Dec. 5, 1963), pp. 1-2. (These transcripts have been published. [add a reference to the edition put out by Lifton])
- 26. Op. cit. (Executive Session, Dec. 5, 1963), p. 1.
- 27. CD 107; the cover letter (from Hoover to Rankin) is dated Jan. 13, 1964.
- 28. CD 108-218; the cover letter is dated Jan. 13, 1964.
- 29. Executive Session, Jan. 21, p. 16.
- 30. Goulden's article is reproduced in the Appendix.
- 31. Hudkins' article is reproduced in the Appendix.
- 32. "The Nation," Jan. 27, 1964, pp. 86-89. (Article by Harold Feldman, "Oswald and the FBI.") (See also the report by Jack Langguth, NYT, Jan. 26, 1964, p. 58.)

- 33. Undated memorandum for the files by Rankin, "Subject: Rumors that Oswald was an undercover agent." Page 1.
- 34. Undated Rankin memo (Footnote 33), p. 2.
- 35. Ford, "Portrait," p. 14. (Page references are to the hardbound edition.)
- 36. Letter from Ward & Paul (shorthand reporters) to the Commission, Mar. 10, 1964.
- 37. Letter from the Archives to PLH, Nov. 27, 1973.
- 38. Undated Rankin memo (note 33), pp. 3-5.
- 39. Newsweek, Oct. 22, 1973, p. 38.
- 40. Ford, "portrait," pp. 20-21.
- 41. Ford, "portrait," p. 25.
- 42. WR 325-327
- 43C. See the Commission's Incoming Mail Log (Entry 3), p. 18. [I don't have the cover letter itself yet.] A report on the Ruby aspect was part of CD 86, which reached the Commission on Jan. 10, 1964. (Entry 3, p. 14.)
- 44C. Hoover letter to Rankin, Feb. 11, 1964. The FBI uses underlining, rather than '(sic)', to indicate errors in spelling, etc.
- 45. Hoover letter to Rankin, Feb. 13, 1964.
- 46C. The agent's report of the interview, submitted later (CD 463), does not indicate that Goulden was told of Hudkins' statement.
- 47. CD 86, p. 56
- 48C. For example, it specified that he had been a reporter for three years for the Dallas Morning News, covering the Sheriff's Office and the Police Department; the Oswald report said only that "He said that as a result of having worked for the newspaper in Dallas, he had many contacts in law enforcement...." (CD 226, p. 2)
- 49. CD 106, p. 4
- 50. Randomly chosen examples of reports with two file categories indicated on the same page are CD 85, p. 457 and CD 105, p. 48. An example of a report retyped without changes is CD 30, p. 8 and CD 6, p. 440. CD 1524 includes many pairs or reports on the same interview, one with the Ruby file number and one with the Oswald number, with different texts.
- 51. WR 222
- 52. 12 H 206 ff. (Cutchshaw); 12 H 271 ff. (Lowery)
- 53. Rankin letter to Hoover, Feb. 21, 1964.
- 54X. See Ch. 5.
- 55. CD 87, SS 767 [that is, the report with Secret Service Control No. 767]
- 56. Undated Rankin memo (note 33), p. 6.
- 57. Look Magazine, July 12, 1966. See also Mark Lane, "A Citizen's Dissent," pp. 175-176.

- 58X. See Ch. __, P. __ (Hudkins on George Butler)
- 59. Undated Rankin memo (note 33), p. 6.
- 60. CD 385, p. 106
- 61. Feidman article; see note 32 supra.
- 62. Turner article; Saga, March 1964.
- 63. Justice Department letter of Jan. 28, 1964 (?) to Joe Tonahill [On order].
See also Joachim Joesten, "Oswald; Assassin or Fall Guy," p. 134-135.
- 64. Hoover letter to Rankin, Jan. 14, 1964.
- 65X. See Ch. __, P. __. (Possible DeBruveys contact with Oswald)
- 66X. See Ch. 5, p. 3.
- 67X. See Ch. __, P. __. (Alexander hostility to the FBI) (See CD 1295, pp. 74, 85.)
- 68. CE 835 (See also Ch. 3, p. 24,)
- 69. CE 835 cover letter (Hoover to Rankin, Feb. 6, 1964) (17 H 814)
- 70C. I have found no memo by Rankin on this conversation.
- 71. Hoover letter to Rankin, Feb. 10, 1964.
- 72. CD 1555
- 73X. See Ch. 4, pp. 2-5.
- 74. Justice Department letter to PLH, Sep. 28, 1973
- 75. Epstein, "Inquest," p. 209, note 32; see 10H33 ff. (Bringuiet testimony)
- 76X. See Ch. __, P. __. (DeBruveys)
- 77. CE 826 (Kaack report)
- 78. CD 897, FBI Exhibit D-118. See also Ch. __, P. __.
- 79C. See, e.g., NY, Sep. 30, 1964, p. 33. Kaack reportedly resigned rather than accept a transfer. He later worked in New Orleans as a private investigator for Joseph Oster, a former associate of Guy Banister. (See Ch. __, P. __.)
- 80. 5 H 114 (Hoover testimony); there is a similar formulation in CE 835 (17 H 816).
- 81. CE 825
- 82. Hubert memo to Rankin, Feb. 19/24, 1964.
- 83. Willens memo (routing slip) to Rankin, Feb. 26, 1964.
- 84. Executive session, Feb. 24, 1964, pp. 1598-1599.
- 85X. See Ch. 5.
- 86. Willens memo (routing slip) to Stern, no date (approx. Feb. 26, 1964)
- 87. The Hoover letter to Rankin, dated Jan. 27, 1964, is in the Appendix.
- 88. Rankin letter to John McCone, Apr. 30, 1964 (Drafted by Stern, Apr. 29)
- 89. 4 H 429 (Fain); 4 H 440 (Quigley); 4 H 469 (Hosty)
- 90. 5 H 15-16
- 91. Executive session, Apr. 30, 1964, p. 5851 and pp. 5885-6.
- 92. 5 H 98
- 93. 5 H 108-109

- 94. See Ch. 4, pp. 2-5.
- 95. 5 H 114
- 96. See the Texas Supplemental Report on the Assassination (CD 1536), and an article by Sylvia Meagher in "The Minority of One," July-Aug. 1968, p. 73. The files of the Texas inquiry are available on microfilm. ("Files of Evidence Connected with the Investigation of the Assassination of President John F. Kennedy," Microcard Editions, 1967)
- 97. Jaworski letter to Rankin, May 8, 1964.
- 98. Epstein, "Inquest," p. 39.
- 99. Jaworski letter to Rankin, May 8, 1964.
- 100. Ford, "Portrait," p. 289.
- 101. 5 H 242
- 102. 5 H 243
- 103. 5 H 242-3
- 104. 5 H 253
- 105. See note 117 infra.
- 106. Liebeler memo to Stern, May 21, 1964.
- 107. Epstein, "Inquest," p. 209 (his note 47).
- 108C. WR 325-7; see Ch. 3, pp. 10-11 supra. Only one other section of the Report has a heading in the form of a complete sentence. Apparently the section heading in a draft, "Was Oswald an Informant for a Government Agency?", was not emphatic and unambiguous enough. (Undated draft of Ch. 8, p. 67.)
- 109. Undated draft of Ch. 8. (See Ch. 7, p. 29 infra.) Ford memo and covering letter to Rankin, Aug. 12, 1964.
- 110. Undated draft of Ch. 8, pp. 68-69.
- 111. Ford memo and letter to Rankin, Aug. 12, 1964, p. 3.
- 112. WR 327
- 113. "Investigating the FBI" (edited by Pat Watters and Stephen Gillers), p. 339. (Page references are to the hardbound edition.)
- 114. CD 1052 (Hoover letter to Rankin, June 9, 1964)
- 115. CD 732 (Hoover letter to Rankin, Apr. 7, 1964)
- 116C. Oswald told the FBI after his return from Russia that he would tell the FBI if he was contacted by Soviet intelligence. (CE 823, p. 13; CE 824, p. 6) By the FBI's definition (see 5 H 14, Belmont's testimony), such willingness to cooperate in those hypothetical circumstances, although helpful to the FBI, would not make Oswald an informant. In this case I am inclined to agree. "MIN" magazine, March 1972 (hereafter cited as "Media files (MIN edition)"), p. 6c 11. (Memo of SA Jamieson, 10/9/70) (Many of the items in the Media files have also been published in a book. [Get reference])

- 118. CE 835
- 119. Turner letter to PLH, July 19, 1971.
- 120. "Investigating the FBI," p. 354-5.
- 121. Media files (WIN edition), p. 52 (memo of 2/26/68)
- 122. Media files (WIN edition), p. 28 ("New Left Notes - Philadelphia," 9/16/70)
- 123. Belmont mentioned the domestic intelligence division, 5 H 2. [Add reference to confirm, if possible, that this is Division 5.]
- 124. See, for example, the agents' affidavits, CE 825, specifically 17 H 742, 743, 750.
- 125. Turner letter (note 119 supra)
- 126C. Turner's recollection that "137" is the category covering security informants appears to be in error. A document in the Commission's files does have the file classification "137-New," but that appears to designate a new kidnapping case. (CD 1121, pp. 59-66)
- 5 H 14
- 127. Turner letter, note 119 supra.
- 128. See Sylvia Meagher, "Accessories After the Fact" (hereafter cited as "Accessories"), pp. 428-9. Ruby may also have been in the Dallas Police headquarters earlier on November 22 and on November 23.
- 129C. See, for example, Peter Dale Scott, "From Dallas to Watergate," in "Ramparts," Nov. 1973, p. 12.
- 130. Meagher, "Accessories," p. 423
- 131. CE 1353
- 132. Meagher, "Accessories," p. 436; 13 H 183-4, 186. Apparently the cases in which Ruby helped the Dallas Police are not the same as those which the FBI records on Ruby relate to.
- 133C. WR 369, 802; see also Mark Lane, "Rush to Judgment," Chapters 23-24.
- 134. See Ch. ___, pp. ___. (Anti-Castro assassination attempts)
- 135X. Hubert and Griffin memo to Rankin, May 14, 1964, "Subject: Adequacy of Ruby Investigation."
- 136. CE 1442, CE 1443. See also the memo of March 20, 1964, from Hubert and Griffin to members of the Commission, "Possible Cuban Associations of Jack Ruby." Hubert and Griffin noted these facts, and noted (p. 2) that Ruby "has not explained this [Sept. 12-13, 1959] trip, unless it is the trip to which Ruby admits." The Commission seems to have concluded (or assumed) that there was only one trip.
- 137C. WR 793
- 138. WR 790
- 139. Chicago Daily News, Nov. 25, 1963, p. 4.
- 140. CD 104, p. 23
- 141. CE 2585, question #26

- 142. Letter from the FBI to PLH, Sep. 18, 1973; denial affirmed by the Attorney General, letter to PLH, Nov. 27, 1973.
- 143. CD 84, pp. 91-92
- 144. CD 302, p. 16
- 144½. CD 302, p. 30
- 145X. See Ch. ___, p. ___ (discussion of FBI appendices)
- 146. CD 302, p. 3
- 147. WR 801, their note 393. Alfred Goldberg's memo of Nov. 19, 1964, to the files, is a record of where the CE's in volumes 22-26 of the Hearings are cited in the Report.
- 148. Page 287 of CD 86 was omitted from CE 1750. A few deletions were made from the testimony, according to suggestions in memos of June 18 and July 17, 1964, from Stuart Pollak to Rankin.
- 149. CD 85, pp. 14A-B
- 150C. Meagher, "Accessories," pp. 437-8; 15 H 91 (Kantor). Made admitted to the FBI that he had seen Ruby (CD 4, p. 32).
- 151. 20 H 417
- 151½. Meagher, "Accessories," p. 392; CE's 1513, 1515, 1517.
- 152. CE 1528
- 153. [Cite source for PDS claim that White was an assistant D.A. in 1949.]
- 153½. CD 223, p. 120.
- 153¾. 19 H 73
- 154C. 20 H 420-1. White's reported law partner turned up in 1964 as one of Marina Oswald's lawyers; White was a witness to one of their contracts. (1 H 265)
- 155. Hubert and Griffin memo to Willens, Feb. 17, 1964.
- 156C. "Siedbend" is Sidney Seidband; see WR 801, CE 1693.
- 156¾. Hoover letter to Rankin, Feb. 27, 1964. This letter was brought to my attention by Harold Weisberg, after having been noted in the Archives by Gary Schoener and Hal Verb.
- 157. CD 732 (Some items are published; CE's 1693, 1760-1, 1764)
- 158C. The phrase was actually "known Dallas area criminal."
- 159. CE 1764 (which is CD 732, Item 8); CD 4, p. 157.
- 160. CD 104, p. 154
- 161. 5 H 181 ff. (That is, there is no reference to SA Flynn in the Vol. 15 index.)
- 162X. Cf. Ch. 5, p. 10 (note 185 infra).
- 163. 16 H 64 (CE 18)
- 164. WR 327
- 165. Meagher, "Accessories," pp. 210-219.
- 166. CE 2585, question #26

167. Undated Rankin memo (note 33), pp. 4-5
168. Hoover letter to Rankin, Jan. 27, 1964 (reproduced in the Appendix), pp. 2-3
169. Willens memorandum for the record, Feb. 12, 1964
170. Hoover letter to Rankin, Feb. 27, 1964. I have removed some blank space on both pages.
- 171C. The FBI Supplemental Report (CD 107) was a supplement to CD 1, the Summary Report.
- 172C. The FBI must have given the Commission the original notebook before February 3, when Marina Oswald was asked to identify it (and was asked questions relevant to the Hosty entry). The Secret Service sent a copy (which they had evidently gotten from the FBI) to the Commission around January 31 (CD 348). The Secret Service was asking Marina Oswald about parts of the notebook as early as December 6 (CE 1790). Also, as we have noted, Joe Tonahill and the Texas officials mentioned the Hosty entry in January.
- 173X. See Ch. 5, pp. 4, 11.
174. CD 385, p. 279
175. CD 205, p. 685
176. CD 205, p. 700; cf. 16 H 68.
177. CD 385, p. 279 (first item), p. 282 (other 3 items)
178. CD 385, p. 279; cf. 16 H 38 and CD 205, pp. 672-3. One "Oswald" is unclear, and may be another word. A better example is "Elsbeth," which appears three times in the notebook and once in each listing.
- 179C. "Hemphill to Page" (CD 385, p. 279), previously "to Hemphill" (CD 205, p. 673). The Russian material on pp. 24-26 of the notebook was described but not listed in CD 385 (p. 281); it had already been briefly described in CD 205 (p. 681).
180. CD 205, pp. 674, 674, 692 respectively
- 181C. 5 H 112; my emphasis. The use of "et cetera" suggests that Hoover was reading from or paraphrasing a prepared statement, and thus that the use of "circumstances" was not a slip.
- 182X. This part of Hudkins' article was included in the letter of January 9 from Tonahill, which apparently aroused no interest in Hudkins' story. See Ch. 3, p. 19.
183. Ruth D. Shirley memo to Willens, Feb. 21, 1964, "Subject: Handling of two specific correspondence." [sic]
184. Willens memo (routing slip) to Rankin, Feb. 26, 1964.
185. Melvin A. Eisenberg memo to the files, Feb. 13, 1964, "Subject: Second Staff Conference (January 24, 1964)"
- 186X. See Ch. 3, p. 20. (Hoover letter to Rankin, Feb. 17, 1964, re Jan. 25 interview of Bill Alexander)

187. 5 H 112
188. Gemberling affidavit (Feb. 25, 1964) (reproduced in the Appendix), pp. 2-3
189. CD 1546, p. 61 (listing of Ballas FBI employees as of September 1964); "gmf" is not listed.
- 190C. I have not found any differences in type face between page 25 and pages 7-8, 13-24, and 26-30.
- 191C. My first attempt at an innocent explanation was that perhaps SA Kesler spilled coffee on the original while he was checking it over, but I now know that until L. Patrick Gray loosened the rules, Special Agents were not allowed to have coffee at their desks. (Time, Mar. 26, 1973, p. 25)
192. Roche statement: see note 4 supra.
- 193X. See Ch. 7, p. 15.
194. 5 H 112.
- 195X. See Ch. 6, p. 8.
- 196X. See Ch. 5, p. 9.
197. 24 H 350, 24 H 347
198. 24 H 347; CD 205, p. 672
199. WR 434-440
200. 5 H 103 (Hoover); see Ch. 3, p. 2.
201. Katzenbach letter to Warren, Dec. 9, 1963, pp. 1-2
202. NYT, Dec. 10, 1963, p. 1:3 (Cf. Executive Session, Jan. 16, 1964, p. 11.)
203. Vincent Salandria, in "The Minority of One," April 1966, p. 13; Epstein, "Inquest," Appendix A; Harold Weisberg, "Whitewash," pp. 192-5.
204. CD 1, p. 22a
- 205X. CE 834, Item 69 (See Appendix); also see Ch. — p. — (Source in Soviet embassy)
206. CD 1, p. 64
- 206X. See Ch. — (544 Camp Street) ← 2 notes with the same number
207. Rankin letter to Hoover, Dec. 17, 1963
208. Hoover letter to Rankin, Dec. 23, 1963.
- 209C. The files contain several pairs of carbon copies of identical letters, dated December 24 and approximately January 10, making this routine request from various agencies. There are inconclusive indications that the originals of the December 24 letters were simply lost when they were sent for signature to Warren, who was in San Francisco at the time.
210. Warren letter to Katzenbach, Jan. 10, 1964
- 211C. Undated list of agency liaison personnel and dates of initial requests, in Willens' office file in Entry 44. Rankin's memorandum to the staff, Jan. 13, 1964, indicates (p. 4) that "It is necessary for the Commission to obtain all material currently in the possession of Government agencies relevant to the assassination of

- 212. President Kennedy. To this end, we have written to the ten major Executive Departments, fifteen commissions or agencies, and four Congressional committees, soliciting such information.
- 213. Epstein, "Inquest," p. 14
- 214. Cf. CD 319, CD 222.
- 215. Victor Navasky, "Kennedy Justice," pp. 412-3; see also p. 368.
- 216. Note by Rankin on copy of Shaffer memo to Willens, Jan. 11, 1964, "Subject: Information Failure" (See also note 216 infra.)
- 217. Willens memo to Rankin, Jan. 15, 1964, "Subject: Conversation with Mr. Malley"
- 218. See Ch. 1, p. 1. (Swamping problem)
- 219. Stern letter to Warren, Nov. 30, 1963.
- 220. Stern letter to Rankin, Dec. 24, 1963.
- 221. Undated Rankin memo (note 33), p. 5
- 222. PC 1-2 file, Funds, Petty Cash - Reports (Entry 20)
- 223. Incoming Mail Log (Entry 3), p. 29 (The letter is discussed above: Ch. 3, pp. 17-18.)
- 224. NYT, Feb. 5, 1964, p. 19:1. Warren did not actually say there was any such material, although many records were and still are withheld. He said "I am not referring to anything especially, but there may be some things that would involve security." [Fix this!]
- 225. 2 H 34 (Warren remarks). See, for example, Rankin letter to Sen. Jacob Javits, Mar. 11, 1964.
- 226. Stern memo to Rankin, Feb. 10, 1964 (reproduced in the Appendix)
- 227. Undated Rankin memo (note 33), pp. 4-5 (See Ch. 3, p. 8.)
- 228. For example, Stern did not mention that Oswald's notebook had FBI agent Hosty's name in it.
- 229. See the Hudkins article (in the Appendix); also, Ch. 3, p. 5.
- 230. Stern memo to Rankin, Feb. 10, 1964, p. 3.
- 231. As far as I can tell, this was the first letter which Stern drafted for Rankin.
- 232. Rankin letter (drafted by Stern) to Hoover, Feb. 10, 1964.
- 233. Willens memorandum for the record, Feb. 12, 1964 (See note 169 supra.)
- 234. See Ch. 5, p. 4.
- 235. Willens memo to Rankin, Feb. 20, 1964. I have quoted parts of this memo out of order for logical clarity.
- 236. See Ch. 6, p. 8.
- 237. It is not clear what the third FBI "report" referred to is. If it is indeed dated after October 25, 1963 (and not the Kaack report, previously submitted as CD 12), it is not in the listed Headquarters file (See Appendix, CE 834).
- 238. However, there are two FBI letters to the State Department, dated June 3, 1963 and Feb. 27, 1961, which as far as I know had not previously been given to the Commission.

- 237. The May 12, 1960 report was later introduced into evidence as CE 821.
- 238. CE 834 (reproduced in the Appendix), Question 13
- 239. CE 826
- 240. See Ch. 1 (Debrueys)
- 241. See Ch. 3, pp. 27-28.
- 242. Respectively CD 1, CD's 8-12, and CD 75, pp. 137-8 (CE 1809)
- 243. See Ch. 1 (apparent purging of FBI Headquarters file)
- 244. Stern memo to Rankin, Apr. 21, 1964, "Subject: Further Work to be Done in my Areas"; See Ch. 7, p. 3.
- 245. CE 833, Questions 6, 15, 27. (The entire CE is in the Appendix). For a description of FBI agents' logs, see William Turner, in "Investigating the FBI," p. 93.
- 246. See Ch. 1, pp. 1-2 (FBI posture of non-evaluation)
- 247. 4 H 435 (Quigley), 5 H 10 (Belmont) [Hoover was not asked.]
- 248. Sylvia Neagher, unpublished memo
- 249. See Ch. 1 (544 Camp Street)
- 250. Apparently after the request was trimmed down, this material became part of CD 1085.
- 251. 4 H 444-5 (Hosty)
- 252. The FBI appendix on the FPCC (CE 826, p. 13) refers to a 1961 investigation by the Senate Internal Security Subcommittee. [Add more references.]
- 253. After this was written, it was revealed that the FBI also had a "disruption program" in effect against the Socialist Workers Party from 1961 to 1969. (See Ch. 1, pp. 1-2 (Oswald's contacts with the SWP).) The various Counter-Intelligence Programs were first revealed by Carl Stern on NBC-TV News, Dec. 6, 1973.
- 254. CE 824
- 255. CE 823, p. 12.
- 256. CE 986 (18 H 484-5 and 489-90). If the letter dated August 15 was really not sent before then, it could not have prompted the reinterview, since the FBI was looking for Oswald on August 14.
- 257. CE 833, Question 15
- 258. CD 897 (Cf. Note 78 supra.)
- 259. Ch. 1, pp. 1-2. (August 21 radio program)
- 260. CE 833, Question 22
- 261. See Ch. 1, pp. 1-2. (Letter intercepted and maybe copied)
- 262. Neagher, "Accessories," p. 227.
- 263. CE 1783. Also 4 H 470 (Hosty), 7 H 355-6 (Sorrels), CE 833, Question 29.
- 264. See Ch. 5, pp. 14-16.

Gemberling emphasized the apparently innocent reason for the omission: "I had no discussion with Special Agent Kesler concerning the inclusion or exclusion of the data pertaining to Special Agent Hosty in Oswald's address book, but Special Agent Kesler was merely following my instructions to extract information which was lead material."

Kesler's brief affidavit merely confirmed Gemberling's account of his role. The two affidavits were signed on February 25 in different counties. (Kesler was a Houston agent who had been on special assignment in Dallas.) However, the wording indicates common authorship. For example, both affidavits say that "In connection with this review" Kesler "prepared a thirty page memorandum on multilith, the first page of which was on office memorandum form." This sign that Gemberling and Kesler had coordinated their explanations should have alerted the Commission to the need for a careful analysis.

Gemberling's affidavit noted, without explanation, that the previously unreported contents of the address book, including no "lead information", were put in his report of February 11. He also argued that the FBI was not hiding the fact of Hosty's contact with Oswald's associates. He mentioned that Hosty's contact with Ruth Paine on November 1 was set forth in one early report, and that the text of Oswald's letter of November 9 to the Soviet Embassy, in which he referred to Hosty's visit, was in another report. Finally, he mentioned that the Hosty entry itself was widely known. Here is the conclusion of his affidavit:

"At no time during the course of the preparation of my reports and the coordinating of the investigation in this matter did I intentionally exclude any material from any report. As explained above, the fact that Special Agent Hosty had conducted investigation at the Paine residence on November 1 had been previously reported, his name, office telephone number and license number of his vehicle were not lead information, newspapers and other news media had given much publicity to the fact that Special Agent Hosty's name and office telephone number were in Oswald's address book, and the fact that it was not included in my report of December 23, 1963, was solely because it was not lead material and had not been included in the memorandum prepared by Special Agent John T. Kesler for that reason."

Let us turn to the two FBI reports which listed the contents of the notebook. The first was Gemberling's report of December 23, which did not

include the Hosty entry. It was sent to the Commission on January 13, as was the FBI's Supplemental Report on the assassination.¹⁷⁵ This report was one of 111 on which the Supplemental Report was said to be based; it was given the identification CD 205. The second, CD 385, was Gemberling's report of February 11, containing the Hosty entry; it was dated well after the information reached the Commission from other sources.^{172C} It was received on February 20, the same day a letter asking for an explanation of the omission was sent to the FBI.^{173X}

According to Hoover's letter, the FBI "never purported" that CD 205 "contained the complete listing" of the address book, and he told Rankin that "as you know, additional items ... not previously reported" were in CD 385. Hoover was reacting to Rankin's letter, which said that CD 205 "purports to set forth the names, addresses, and/or phone numbers contained in Oswald's address book." Page 672 of CD 205 does, indeed, not quite say that the listing is complete, only that "The following names, addresses, and/or phone numbers were obtained from the aforementioned address book." The inference of completeness was reasonable. The synopsis of CD 205 says simply "contents of Oswald's address book reflected." There is no statement that only "lead information" was included. There is also no reference to "lead information" in CD 385, which says only that "the following are names, addresses, notations and data that have not been previously reported."¹⁷⁴

In fact, the two listings can not be distinguished as "lead" versus "non-lead" information. The first one contained many items which were not even "names, addresses, and/or phone numbers," such as the isolated number "1503"¹⁷⁵ and "Book 1984 - Orwell" (recorded as "Oswald")¹⁷⁶ The supplemental listing consists almost entirely of numerical calculations, crossed-out material, and the like. From the general lack of accuracy in the transcriptions, it seems likely that the few substantive entries in CD 385 (such as "N. 715," "Gandy or Gandy," "OBMD," and "RIMMA"¹⁷⁷) were simply omitted by mistake from the original

listing. In fact, some of the "new" listings in CD 385 are items that had appeared twice on the same page and been listed once before ("Oswald"¹⁷⁸), or had been listed inaccurately or incompletely the first time.^{179C} Although it was supposedly "non-lead" information, the Hosty entry was the only material from the notebook important enough to be mentioned in the synopsis for CD 385. In summary, it appears that the Hosty entry is the only legible and clearly nontrivial entry which was intentionally omitted from CD 205.

If, nonetheless, the lead versus non-lead distinction was a real one when the original listing was prepared, why was the Hosty entry considered non-lead? Both Gemberling and Kesler said that it was because the "identity" of SA Hosty was known. Gemberling said he had told Kesler to "extract all names and telephone numbers, the identities of which were unknown, together with any other lead information." But this explanation simply does not make sense. Besides the fact that this was the only full name omitted, many of the entries which were properly recognized as leads involved people whose identities must have been known: for example, John B. Connally, Mrs. M. Oswald, and Ruth Paine.¹⁸⁰ When Hoover testified to the Commission on this matter, he substantially changed the claimed reason for the omission to something more logical; he said that the listing was not included "as the circumstances under which Hosty's name, et cetera, appeared in Oswald's notebook were fully known to the FBI."^{181C} As we have seen, this was not only not true when the listing was compiled, but the Commission (and thus, presumably, the FBI) never learned those circumstances fully.

There is also a clear-cut contradiction on the question of who decided to omit that information. Kesler said that it was because Hosty's identity was known to him; both Kesler and Gemberling said they had not discussed the exclusion or inclusion of this item. However, Gemberling also said that it was not included "inasmuch as the identity of Special Agent Hosty was known to both Special Agent Kesler and myself." (Emphasis added.) This may have been a careless

slip rather than a hint of an imperfectly put-together story - that is, Gemberling may just have intended to point out that he too knew who Hosty was.

Although Gemberling insisted that CD 205 did not have the Hosty entry only because Kesler had omitted it, his affidavit included a rather defensive section to the effect that the information about Hosty's November 1 visit had been previously reported to the Commission. He claimed, without providing documentation, that "newspapers and other news media had given much publicity to the fact" of the notebook entry. The first mention I know of is Hudkins' article of January 1 in the Houston Post; it is, presumably, just a coincidence that Hudkins' contacts with Ruth Paine and with the FBI around January 1 were reported in CD 385, which also included the Hosty entry. My impression is that it was reported when it became clear that it would become widely known.^{182X}

The timing of CD 385 apparently was suspicious to the Commission. It arrived at the Commission's offices by courier service at 3:15 p.m. on February 20, about five hours after the letter requesting an explanation for the omission from Hoover was mailed. Howard Willens was given CD 385, presumably noticed the Hosty entry promptly, and asked the mail-room secretary to prepare a memo detailing the dates and times the relevant material was sent out and received.¹⁸³ In transmitting that memo to Rankin with a suggestion that it be made part of the file, Willens did not indicate why he thought the timing was important.¹⁸⁴ He may well have wanted to head off criticism by Hoover that the Commission had already received the supplemental listing when it made its request for a full explanation. (On January 24, Rankin had specifically cautioned the staff against requesting information they already had.¹⁸⁵) Willens may also have suspected that the FBI had provided the second listing because Hoover knew he was being challenged on the omission.

In fact, the question of timing remained unresolved. The date the letter was sent to Hoover may not be that relevant, since it was drafted on February 13. (In any case, Hoover knew on January 25 that the Commission knew of the Hosty

entry.^{186x}) This raises interesting questions about Hoover's knowledge of what the Commission was doing; were it not for Willens' strong position in this particular controversy, one would wonder whether as liaison with the Justice Department he might have informed the FBI of the staff meeting on February 11 at which the question of an approach to the FBI was debated. In any case, this was never cleared up. Hoover had the last word in his testimony, as he responded to the suspicion that was never explicitly voiced: "Both the above-mentioned reports were furnished to the Commission prior to any inquiry concerning this matter by the President's Commission."¹⁸⁷

To recapitulate, the internal files of the Commission show great concern about the fact of the Hosty entry, followed by concern about the FBI's attempt to cover up that fact. The FBI's explanation, submitted upon demand, was obviously inadequate. I am confident that a lawyer of Willens' caliber would have immediately noticed the inadequacies which we have discussed. Consciously or not, the failure of the Commission to follow up by asking for clarification of the "explanation" meant that they had gotten Hoover's message. The cover letter for the Gemberling and Kesler affidavits was emphatic, and Hoover's irritation at being questioned even this much was showing: "I want you to know that I feel our reporting procedures in this matter are completely logical and sound.... This Bureau from the beginning of this investigation has developed and reported all available and relevant facts and it will continue to do so. I trust that this letter and the enclosures thereto will satisfy the requirements of the Commission." He said "I trust," not "I hope"; there was not even a pro forma offer to provide any further information which might be requested. Hoover's trust was not misplaced.

We have seen that the affidavits are contradictory in themselves, and that they inadequately describe the material included in CD 205 as "lead" items. There is one more fact about that report which apparently escaped the attention of the Commission; at least, they apparently never asked for an explanation. It

is, in my opinion, prima facie evidence that the Hosty entry was removed from Kesler's memo and that perjury was committed. There is evidence that the relevant page of the Kesler memo was retyped to remove the Hosty entry.

A colleague (Jim Schmitt) and I discovered this while checking out an apparently minor, but peculiarly detailed, section of Gemberling's affidavit,¹⁸⁸

"In connection with the preparation of my report dated December 23, 1963 [CD 205], it was my decision to have page one of Special Agent Kesler's memorandum retyped on plain multilith in order that the retyped page one and the subsequent 29 pages of his memorandum could be used as an insert in my report. This was done solely to avoid necessity for retyping the contents of the entire memorandum for a report...."

"In this connection it should be noted that pages 672 through 701 of my report of December 23, 1963, contain the contents of Special Agent Kesler's memorandum and that pages 673 through 701 bear the typewritten page numbers of Special Agent Kesler's original memorandum."

Sure enough, page 672 of CD 205 has, in the upper left hand corner,

1
DL 100-10461
JTK:gmf:mam

("DL 100-10461" is the file number; "gmf" and "mam" are presumably the initials of the typists, the latter being Martha Ann McBride,¹⁸⁹ The relevant pages from CD 205 are reproduced in the Appendix.) Each subsequent page has the same file number in the upper left corner. Each has the page number, 2 through 30, corresponding to Kesler's original memo. That page number is at the bottom of each page, set off by hyphens (e.g., " - 6 - "), with just one exception. On page 25, the number appears at the upper left, just like the one page (page 1) which Gemberling admittedly had retyped. Page 25 is the one on which the Hosty entry would have appeared if it had been originally included!

Of course, there are explanations which allow the true believer to avoid the conclusion that this page too was retyped. It is clear (from the "4" and the "n") that page 25 was not done on the same machine as the retyped page 1. There were apparently two typists, and an examination of the type styles shows that at least two typewriters were used for the noncontroversial pages, 190C. The format does suggest that pages 1 and 25 were typed by the same person,

but the upper-left numbering seems to be usual for multi-page FBI reports. The Warren Commission should, of course, have questioned the secretaries about this, and not through their superiors. They should also have asked Kesler if he typed his memo himself, which would be reasonable given the nature of the job and might explain the page numbers being at the bottom. It is also conceivable that the page was retyped, but for reasons not connected with the Hosty entry. 191C

There is enough room at the bottom of page 25 for the Hosty entry, which would add 5 lines of text to the other listings for page 74 of the notebook. In fact, this page has a larger bottom margin than the others. The other 29 pages have bottom margins from about 3/4 inch to 2 1/2 inches, typically about 2 inches; this one page has a margin of 3 inches. A minor point, perhaps, but it supports the hypothesis of retyping.

This, then, is the hidden significance of the Gemberling affidavit: the evidence strongly suggests that, contrary to his story, this page was retyped. The natural suspicion is that it was retyped to remove this entry. It is plausible that the Commission lawyers did not notice this. Perhaps you really have to be a "marginal paranoid" (as the Commission's critics have been described¹⁹²) to find significance in the page numbers and blank space of an FBI report.

We can only speculate what Willens and his associates would have done if they had come to the conclusion that the FBI not only withheld this information from the Commission, but that they also lied about it. But even without this observation about the page numbering, the Gemberling explanation called for further questioning. As far as I know, however, the subject came up again only twice. As we shall now see, the Commission's behavior confirmed my interpretation of this whole episode: the FBI let it be known that they had provided their explanation, and Hoover "trusted" that it was sufficient.

Sam Stern did take note of this issue, apparently after he had drafted his

letter asking Hoover to send over all the files. With his draft (dated March 10) in the files was an additional question for the FBI, in handwriting. (A note, apparently from Stern's secretary to the one who was to type up the final set of questions, indicates that it was an afterthought.) That question indicates that Stern, at least, was suspicious of the motivation and timing of CD 385. Hoover's answer was, in fact, no answer at all. The exchange appears in CE 833 (reprinted in the Appendix); it and Hoover's testimony are the only indications in the Warren Report and the 26 volumes of the omission of this entry and the controversy over it.

"30. QUESTION: When and for what reason were pages 279 through 283 of the report of SA Gemberling of February 11, 1964 [CD 385] prepared (setting forth the entries in Oswald's address book which had not been included in the report of SA Gemberling of December 23, 1963 [CD 205])?"

ANSWER: Pages 279 through 283 of the report of SA Gemberling dated February 11, 1964, were prepared at the time such report was being typed by the Dallas Office during the few-day period immediately preceding submission of such report to FBI Headquarters by the Dallas Office. In this connection, your attention is also directed to this Bureau's letter to the Commission dated February 27, 1964, enclosing an affidavit executed by SA Robert P. Gemberling explaining in detail his handling and reporting of data in Lee Harvey Oswald's address book. You will note that in his affidavit, SA Gemberling explains why certain data in Oswald's address book was reported in his December 23, 1963, report, whereas the remaining data in Oswald's address book was reported in SA Gemberling's February 11, 1964, report."

Is it possible that Hoover simply did not know, and could not find out, when the pages were prepared? Certainly he could at least have given the date when the report was submitted to Headquarters. His implication, of course, is that the report was completed by February 11 and not changed later, but under the circumstances not even that can be assumed. As for the reason, both Hoover's cover letter and Gemberling's affidavit note that the missing entries were in CD 385, but there is not one word about why that supplemental list was prepared.

Presumably Stern could recognize that this answer was inadequate. As we shall see, he wanted to discuss the whole series of questions and answers when Hoover's assistant, Alan Belmont, testified, but he was not allowed to do so. 193X He may have wanted to go into this question. He may also have recognized that

Hoover was being ostentatiously hostile; he could have responded that the pages were prepared some unknown time before February 11 (or whenever CD 385 was sent to Headquarters), and that the full listing was prepared so that there would be a full listing. That would have been equally uninformative but would have looked a bit more like a real response. The inaccurate implication of "we have explained that already" was totally uncalled for.

Whatever Stern thought of this answer, he did not get to confront Hoover with it. When Hoover testified on May 14, neither Stern nor Willens was present; Rankin did the questioning. He mentioned at the outset four specific issues Hoover would be asked about; this was one of them. Hoover brought up the subject himself, obviously having prepared a careful statement. Since his statement was not challenged, I will interject some of the obvious questions.¹⁹⁴

"Incidentally [17], those items in Oswald's notebook requiring investigative attention were first set out in an investigative report of our Dallas Office dated December 23, 1963. This report was not prepared for the Commission but rather for investigative purposes of the FBI

This claim had not previously been part of the explanation of the omission; in fact, on December 17 Rankin had written Hoover asking for all raw material on which reports given to the Commission had been or would be based, and Hoover had responded on December 20 by sending over 4 large reports, comparable to the Gemberling report of December 23.^{195X} Continuing Hoover's sentence and, therefore, the information concerning Hosty's name, telephone number, and license number was not included in the report as the circumstances under which Hosty's name, et cetera, appeared in Oswald's notebook were fully known to the FBI."

As noted earlier, Gemberling and Kesler had not indicated that the circumstances were known.^{196X}

"After our investigative report of December 23, 1963, was furnished to the Commission, we noted that Agent Hosty's name did not appear in the report."

Who noticed this, when and how? Did it have anything to do with the Commission's interest in the entry? Why should Hosty's name have appeared, if the FBI's explanation for the omission was authentic?

"In order that there would be a complete reporting of all items in Oswald's notebook,

A complete reporting for whom? The FBI already had the notebook, and the Commission already knew about the Hosty entry (and Hoover knew that they knew). Can Hoover have had any purpose other than the appearance of complete reporting?

"this information was incorporated in another investigative report of our Dallas Office, dated February 11, 1964. Both of the above-mentioned reports were furnished to the Commission prior to any inquiry concerning this matter by the President's Commission."

And that was it. Rankin may have been reasonably aware of the evidence his subordinates had studied, he may have shared some of their suspicions, and the absence of Stern and Willens may not have been intended to preclude cross-examination by the most knowledgeable persons. But not a single question was asked - Hoover got away unscathed with this totally inadequate explanation. There had been a direct conflict between the FBI and the Commission on an issue of recognized importance. The message must have been clear to Stern and Willens, as well as to Hoover: the FBI had resisted the Commission with success.

We still do not know why the FBI did not tell the Commission about the Hosty entry, much less why it was in Oswald's notebook in the first place. Perhaps the FBI's internal records (such as communications between Dallas and Headquarters) can still shed some light on the first question. Gemberling and Kesler are not likely to talk. (Of course, the Commission should have questioned them.) If this issue had been settled, the FBI might have been in a position to discuss freely the significance of the entry itself. It may, in fact, be less damaging to the FBI than the coverup.

I would like to know, for example, if any FBI agent ever questioned the authenticity of the entry. The circumstances under which the FBI got the notebook are provocative; it was found by the Dallas Police in Oswald's room at 1026 North Beckley on November 22,¹⁹⁷ on November 27 it was given to the FBI by Captain Fritz, along with some other important evidence.¹⁹⁸ Was it just

a coincidence that Hosty was the agent who picked up this material? Did Fritz say anything about the appearance of Hosty's name?

The entry appears to be in Oswald's handwriting, but it is not above suspicion. It strikes me as odd that it included the date of Hosty's first visit to the Paine home, since from the rest of the notebook it appears that Oswald was not in the habit of recording the dates of things that happened to him. It is the only complete date (month, day, year) in the notebook, other than those connected with passports and other documents.

If Oswald really did record this information, why? As noted earlier, it is quite plausible that he was going to visit the FBI and complain about Hosty's "harassment"; otherwise why look up the address? And why record the license number? Might the entire entry, comparable to the listing of E. Howard Hunt's phone number and White House connection found on one of the Watergate burglars, have been some kind of insurance, designed by Oswald to guarantee that his connection with the FBI could not be suppressed?

Ironically, if the FBI had been willing to discuss this whole matter frankly, they might have been able to argue against the Warren Commission's suspicion that this entry indicated an informant relationship, or at least one involving Hosty. (A198) Would it have been standard procedure for an informant to know the true name of his contact, or any other FBI agent he talked to? Were there not safeguards to prevent an informant from learning and recording such things?

None of these factual questions were dealt with directly. The confrontation which did take place - would the Commission press Hoover when he did not want to be pressed for an explanation - may have been less dramatic, but it did confirm the limitations of the investigation, and guaranteed that clashes on sensitive facts were to be avoided, even at considerable cost to the integrity of the investigation.

Chapter 6. The Problem of the FBI Files

We have examined the interaction between the Warren Commission and the FBI in several cases where narrowly defined issues were involved: reports that Oswald was an FBI informant, the nature and extent of the FBI's 1959 recruitment of Jack Ruby as a potential informant, and the FBI's suppression of the listing of FBI agent Hosty's name in Oswald's notebook. These specific issues have shown the validity and necessity of a close critical reading of the files, especially Hoover's letters. In each case we could uncover a rather straightforward contradiction in the explanations provided, or a refusal to cooperate. We can now return to the broader question of the FBI's contacts with Oswald before the assassination - more specifically, the extent and contents of the Bureau's files.

We will look chronologically at the Commission's growing awareness that there were real problems in connection with what the FBI had on Oswald. We will look closely for evasiveness and worse on Hoover's part, signs of his dissatisfaction at the Commission's probing, and other pressures on the staff. The high point of this process was the decision not to send Stern's letter asking the FBI to turn over everything they had on Oswald. The problem then faded away without a satisfactory resolution.

The Commission did recognize an obligation to examine the FBI's investigation of Oswald. For background, here is the final summary from the Warren Report of the information known to the FBI at the time of the assassination.¹⁹⁹

From defection to return to Fort Worth.—The FBI opened a file on Oswald in October 1960²⁰⁰ when news reports appeared of his defection to the Soviet Union.²⁰¹ The file was opened "for the purpose of correlating information inasmuch as he was considered a possible security risk in the event he returned to this country."²⁰² Oswald's defection was also the occasion for the opening of files by the Department of State, CIA, and the Office of Naval Intelligence. Until April 1960, FBI activity consisted of placing in Oswald's file information regarding his relations with the U.S. Embassy in Moscow and background data relating largely to his prior military service, provided by other agencies. In April 1960, Mrs. Marguerite Oswald and Robert Oswald were interviewed in the course of a routine FBI investigation of transfers of small sums of money from Mrs. Oswald to her son in Russia.²⁰³

During the next 2 years the FBI continued to accumulate information, and kept itself informed on Oswald's status by periodic reviews of State Department and Office of Naval Intelligence files. In this way, it learned that when Oswald had arrived in the Soviet Union he had attempted to renounce his U.S. citizenship and applied for Soviet citizenship, had described himself as a Marxist, had said he would give the Soviet Union any useful information he had acquired as a marine radar technician and had displayed an arrogant and aggressive attitude at the U.S. Embassy; it learned also that Oswald had been discharged from the Marine Corps Reserve as undesirable in August 1960.⁵¹ In June 1962, the Bureau was advised by the Department of State of Oswald's plan to return to the United States. The Bureau made arrangements to be advised by immigration authorities of his return, and instructed the Dallas office to interview him when he got back to determine whether he had been recruited by a Soviet intelligence service.⁵² Oswald's file at the Department of State Passport Office was reviewed in June 1962. It revealed his letter of January 30, 1962, to Secretary of the Navy Connally, in which he protested his discharge and declared that he would use "all means" to correct it. The file reflected the Department's determination that Oswald had not expatriated himself.⁵³

From return to Fort Worth to move to New Orleans.—Oswald was first interviewed by FBI Agents John W. Fain and B. Tom Carter on June 26, 1962, in Fort Worth.⁵⁴ Agent Fain reported to headquarters that Oswald was impatient and arrogant, and unwilling to answer questions regarding his motive for going to the Soviet Union. Oswald "denied that he had ever denounced his U.S. citizenship, and . . . that he had ever applied for Soviet citizenship specifically."⁵⁵ Oswald was, however, willing to discuss his contacts with Soviet authorities. He denied having any involvement with Soviet intelligence agencies and promised to advise the FBI if he heard from them.⁵⁶

Agent Fain was not satisfied by this interview and arranged to see Oswald again on August 16, 1962.⁵⁷ According to Fain's contemporaneous memorandum and his present recollection, while Oswald remained somewhat evasive at this interview, he was not antagonistic and seemed generally to be settling down.⁵⁸ (Marina Oswald, however, recalled that her husband was upset by this interview.)⁵⁹ Oswald again agreed to advise the FBI if he were approached under suspicious circumstances; however, he deprecated the possibility of this happening, particularly since his employment did not involve any sensitive information.⁶⁰ Having concluded that Oswald was not a security risk or potentially dangerous or violent, Fain determined that nothing further remained to be done at that time and recommended that the case be placed in a closed status.⁶¹ This is an administrative classification indicating that no further work has been scheduled. It does not preclude the agent in charge of the case from reopening it if he feels that further work should be done.⁶²

From August 1962 until March 1963, the FBI continued to accumulate information regarding Oswald but engaged in no active investigation. Agent Fain retired from the FBI in October 1962, and the closed Oswald case was not reassigned.⁶³ However, pursuant to a regular Bureau practice of interviewing certain immigrants from Iron Curtain countries, Fain had been assigned to see Marina Oswald at an appropriate time.⁶⁴ This assignment was given to Agent James P. Hosley, Jr. of the Dallas office upon Fain's retirement. In March 1963, while attempting to locate Marina Oswald, Agent Hosley was told by Mrs. M. F. Tobias, a former landlady of the Oswalds at 602 Elisheth Street in Dallas, that other tenants had complained because Oswald was drinking to excess and beating his wife.⁶⁵ This informa-

tion led Hosley to review Oswald's file, from which he learned that Oswald had become a subscriber to the Worker, a Communist Party publication. Hosley decided that the Lee Harvey Oswald case should be reopened because of the alleged personal difficulties and the contact with the Worker, and his recommendation was accepted.⁶⁶ He decided, however, not to interview Marina Oswald at that time, and merely determined that the Oswalds were living at 214 Neely Street in Dallas.⁶⁷

On April 21, 1963, the FBI field office in New York was advised that Oswald was in contact with the Fair Play for Cuba Committee in New York, and that he had written to the committee stating that he had distributed its pamphlets on the streets of Dallas.⁶⁸ This information did not reach Agent Hosley in Dallas until June.⁶⁹ Hosley considered the information to be "stale" by that time, and did not attempt to verify Oswald's reported statement.⁷⁰ Under a general Bureau request to be on the alert for activities of the Fair Play for Cuba Committee, Hosley had inquired earlier and found no evidence that it was functioning in the Dallas area.⁷¹

In New Orleans.—In the middle of May of 1963, Agent Hosley checked Oswald's last known residence and found that he had moved.⁷² Oswald was tentatively located in New Orleans in June, and Hosley asked the New Orleans FBI office to determine Oswald's address and what he was doing.⁷³ The New Orleans office investigated and located Oswald, learning his address and former place of employment on August 5, 1963.⁷⁴ A confidential informant advised the FBI that Oswald was not known to be engaged in Communist Party activities in New Orleans.⁷⁵

On June 24, Oswald applied in New Orleans for a passport, stating that he planned to depart by ship for an extended tour of Western European countries, the Soviet Union, Finland, and Poland. The Passport Office of the Department of State in Washington had no listing for Oswald requiring special treatment, and his application was approved on the following day.⁷⁶ The FBI had not asked to be informed of any effort by Oswald to obtain a passport, as it might have under existing procedures, and did not know of his application.⁷⁷ According to the Bureau,

We did not request the State Department to include Oswald on a list which would have resulted in advising us of any application for a passport inasmuch as the facts relating to Oswald's activities at that time did not warrant such action. Our investigation of Oswald had disclosed no evidence that Oswald was acting under the instructions or on behalf of any foreign government or instrumentality thereof.⁷⁸

On August 9, 1963, Oswald was arrested and jailed by the New Orleans Police Department for disturbing the peace, in connection with a street fight which broke out when he was accosted by anti-Castro Cubans while distributing leaflets on behalf of the Fair Play for Cuba Committee. On the next day, he asked the New Orleans police to arrange for him to be interviewed by the FBI. The police called the local FBI office and an agent, John L. Quigley, was sent to the police station.⁷⁹ Agent Quigley did not know of Oswald's prior FBI record when he interviewed him, inasmuch as the police had not given Oswald's name to the Bureau when they called the office.⁸⁰

Quigley recalled that Oswald was receptive when questioned about his general background but less than completely truthful or cooperative when interrogated about the Fair Play for Cuba Committee. Quigley testified:

When I began asking him specific details with respect to his activities in the Fair Play for Cuba Committee in New Orleans as to where meetings were held, who was involved, what occurred, he was reticent to furnish information, reluctant and actually as far as I was concerned, was completely evasive on them."

In Quigley's judgment, Oswald "was probably making a self-serving statement in attempting to explain to me why he was distributing this literature, and for no other reason, and when I got to questioning him further then he felt that his purpose had been served and he wouldn't say anything further."

During the interview Quigley obtained background information from Oswald which was inconsistent with information already in the Bureau's possession. When Quigley returned to his office, he learned that another Bureau agent, Milton R. Kanack, had been conducting a background investigation of Oswald at the request of Agent Hosty in Dallas. Quigley advised Kanack of his interview and gave him a detailed memorandum. Kanack was aware of the facts known to the FBI and recognized Oswald's false statements. For example, Oswald claimed that his wife's maiden name was Prossa and that they had been married in Fort Worth and lived there until coming to New Orleans. He had told the New Orleans arresting officers that he had been born in Cuba.

Several days later, the Bureau received additional evidence that Oswald had lied to Agent Quigley. On August 22, it learned that Oswald had appeared on a radio discussion program on August 21. William Suckey, who had appeared on the radio program with Oswald, told the Bureau on August 30 that Oswald had told him that he had worked and been married in the Soviet Union. Neither these discrepancies nor the fact that Oswald had initiated the FBI interview was considered sufficiently unusual to necessitate another interview. Alan H. Belmont, Assistant to the Director of the FBI, stated the Bureau's reasoning in this way:

Our interest in this man at this point was to determine whether his activities constituted a threat to the internal security of the country. It was apparent that he had made a self-serving statement to Agent Quigley. It became a matter of record in our files as a part of the case, and if we determined that the course of the investigation required us to clarify or face him down with this information, we would do it at the appropriate time.

In other words, he committed no violation of the law by telling us something that wasn't true, and unless this required further investigation at that time, we would handle it in due course, in accord with the whole context of the investigation."

On August 21, 1963, Bureau headquarters instructed the New Orleans and Dallas field offices to conduct an additional investigation of Oswald in view of the activities which had led to his arrest. FBI informants in the New Orleans area, familiar with pro-Castro or Communist Party activity there, advised the Bureau that Oswald was unknown in such circles.

In Dallas.—In early September 1963 the FBI transferred the principal responsibility for the Oswald case from the Dallas office to the New Orleans office. Soon after, on October 1, 1963, the FBI was advised by the rental agent for the Oswalds' apartment in New Orleans that they had moved again. According to the information received by the Bureau they had vacated their apartment, and Marina Oswald had departed with their child in a station wagon with Texas registration. On October 3, Hosty reopened the case in Dallas to assist the

New Orleans office. He checked in Oswald's old neighborhood and throughout the Dallas-Fort Worth area but was unable to locate Oswald."

The next word about Oswald's location was a communication from the CIA to the FBI on October 10, advising that an individual tentatively identified as Oswald had been in touch with the Soviet Embassy in Mexico City in early October of 1963. The Bureau had had no earlier information suggesting that Oswald had left the United States. The possible contact with the Soviet Embassy in Mexico intensified the FBI's interest in learning Oswald's whereabouts. The FBI representative in Mexico City arranged to follow up this information with the CIA and to verify Oswald's entry into Mexico. The CIA message was sent also to the Department of State where it was reviewed by personnel of the Passport Office, who knew from Oswald's file that he had sought and obtained a passport on June 25, 1963. The Department of State did not advise either the CIA or the FBI of these facts.

On October 25, the New Orleans office of the FBI learned that in September Oswald had given a forwarding address of 2515 West Fifth Street, Irving, Tex. After receiving this information on October 20, Agent Hosty attempted to locate Oswald. On the same day Hosty interviewed neighbors on Fifth Street and learned that the address was that of Mrs. Ruth Paine. He conducted a limited background investigation of the Paines, intending to interview Mrs. Paine and ask her particularly about Oswald's whereabouts.

Having determined that Mrs. Paine was a responsible and reliable citizen, Hosty interviewed her on November 1. The interview lasted about 20-25 minutes. In response to Hosty's inquiries, Mrs. Paine

readily admitted that Mrs. Marina Oswald and Lee Oswald's two children were staying with her. She said that Lee Oswald was living somewhere in Dallas. She didn't know where. She said it was in the Oak Cliff area but she didn't have his address.

I asked her if she knew where he worked. After a moment's hesitation, she told me that he worked at the Texas School Book Depository near the downtown area of Dallas. She didn't have the exact address, and it is my recollection that we went to the phone book and looked it up, found it to be 411 Elm Street."

Mrs. Paine told Hosty also that Oswald was living alone in Dallas because she did not want him staying at her house, although she was willing to let Oswald visit his wife and children. According to Hosty, Mrs. Paine indicated that she thought she could find out where Oswald was living and would let him know. At this point in the interview, Hosty gave Mrs. Paine his name and office telephone number on a piece of paper. At the end of the interview, Marina Oswald came into the room. When he observed that she seemed "quite alarmed" about the visit, Hosty assured her, through Mrs. Paine as interpreter, that the FBI would not harm or harass her.

On November 4, Hosty telephoned the Texas School Book Depository and learned that Oswald was working there and that he had given as his address Mrs. Paine's residence in Irving. Hosty took the necessary steps to have the Dallas office of the FBI, rather than the New Orleans office, re-established as the office with principal responsibility. On November 5, Hosty was traveling near Mrs. Paine's home and took the occasion to stop by to ask whether she had any further information. Mrs. Paine had nothing to add to what

she had already told him, except that during a visit that past weekend, Oswald had said that he was a "Trotskyite Communist," and that she found this and similar statements illogical and somewhat amusing.¹⁹ On this occasion Hosty was at the Paine residence for only a few minutes.²⁰

During neither interview did Hosty learn Oswald's address or telephone number in Dallas. Mrs. Paine testified that she learned Oswald's telephone number at the Beckley Street roominghouse in the middle of October shortly after Oswald rented the room on October 14. As discussed in chapter VI, she failed to report this to Agent Hosty because she thought the FBI was in possession of a great deal of information and certainly would find it very easy to learn where Oswald was living.²¹

Hosty did nothing further in connection with the Oswald case until after the assassination. On November 1, 1963, he had received a copy of the report of the New Orleans office which contained Agent Quigley's memorandum of the interview in the New Orleans jail on August 10,²² and realized immediately that Oswald had given false biographic information.²³ Hosty knew that he would eventually have to investigate this, and "was quite interested in determining the nature of his contact with the Soviet Embassy in Mexico City."²⁴ When asked what his next step would have been, Hosty replied:

Well, as I had previously stated, I have between 25 and 40 cases assigned to me at any one time. I had other matters to take care of. I had now established that Lee Oswald was not employed in a sensitive industry. I can now afford to wait until New Orleans forwarded the necessary papers to me to show me I now had all the information. It was then my plan to interview Marina Oswald in detail concerning both herself and her husband's background.

Q. Had you planned any steps beyond that point?

A. No. I would have to wait until I had talked to Marina to see what I could determine, and from there I could make my plans.

Q. Did you take any action on this case between November 5 and November 23?

A. No, sir.²⁵

The official Bureau files confirm Hosty's statement that from November 5 until the assassination, no active investigation was conducted.²⁶ On November 18 the FBI learned that Oswald recently had been in communication with the Soviet Embassy in Washington and so advised the Dallas office in the ordinary course of business. Hosty received this information on the afternoon of November 22, 1963.²⁷

The FBI's Summary Report of December 9, 1963 (CD 1) gives us the FBI's

"public" position on its past contacts with Oswald. This document was apparently

written for public release, as President Johnson had indicated.²⁰⁰ A request

not to make it public came from Warren.²⁰¹ Its major conclusions were

promptly leaked to the press,²⁰² but it was officially released only in

1966.²⁰³ The reason for its suppression was probably the major conflicts,

still not satisfactorily explained, with the Warren Report's version of the

medical evidence.

According to the preface of CD 1,

"The first [section of Part III] sets forth what the FBI knew about Oswald prior to the assassination; and the second section sets forth the results of our investigation of Oswald's background, activities, associates, et cetera, subsequent to the assassination."

This does not quite say that everything the FBI had known about Oswald is set forth, but it gives that impression. The 19 pages of this section start with the FBI's explanation of its knowledge of Oswald;²⁰⁴

"Prior to the assassination of President John F. Kennedy on November 22, 1963, the FBI had investigated Lee Harvey Oswald to determine if, as a result of his residence in the Soviet Union, he had been recruited by Soviet intelligence and to ascertain the nature of his activities in connection with the pro-Castro Fair Play for Cuba Committee. Oswald was interviewed by the FBI concerning these matters on three separate occasions. The investigation, of which these interviews were a part, developed the following information concerning Oswald prior to November 22, 1963:"

In fact, CD 1 is not complete, even with regard to the Headquarters file which was later listed for the Commission. For example, Hoover did not choose to mention in this "public" report that on November 18, 1963, the FBI in Washington learned of (in fact, may have copied) a letter which Oswald had recently written to the Soviet Embassy.^{205X} Understandably, the source of

this information must have been considered sensitive. A more suspicious deception comes from the placement of the following sentence in the section of CD 1 dealing with information obtained after the assassination:²⁰⁶

"Also at the time of his August, 1963, arrest, Oswald had been passing out publications bearing the stamp 'FPCC, 544 Camp Street, New Orleans, La.'"

Not only did the FBI know this before the assassination, they successfully hid that fact from the Commission - one of the consequences of the suppression of files other than the Headquarters file. The significance of the FBI's failure to follow up this lead about an FPCC office at that time therefore was never examined. (The story of how I got the proof of the FBI's knowledge is in a later chapter.^{206X})

The Commission realized, in principle, that they could not base their investigation on summary reports. They wrote dozens of Government agencies

to find out what they had that would be relevant. On December 17, Rankin sent Hoover the text of a resolution the Commission had adopted the previous day.²⁰⁷

"RESOLVED, that the Commission request promptly from all investigative agencies and Departments of the Government the raw materials upon which any reports given to the Commission are based, together with all raw materials and reports relating to the work of the Commission since the date of any and all earlier reports."

Rankin's letter was a straightforward request to a friend ("Dear Edgar"; this informality was soon dropped), and, despite the touches of legalese ("any and all") it was quite unspecific. But it was clearly a request for "raw materials": "Will you kindly arrange to have such, or all materials and additional reports, furnished to the Commission as promptly as possible."

Hoover's response was precise and narrow. Without indicating that there had been any discussions about what raw materials were to be included, his reply shows that he seems to have decided that no FBI files on Oswald were called for. On December 20, he wrote (to "Dear Lee") that, based on the Commission's resolution, "the following reports prepared by this Bureau are being furnished for your assistance." Those four reports, CD 4-7, are the massive post-assassination reports that were the "raw material" for part of the Summary Report, CD 1.

Apparently Rankin let it be known that he wanted some of the pre-assassination "raw material" too. Hoover's letter of December 23 is consistent with a specific request for these pre-assassination reports, but it is nicely phrased to deemphasize the implication that they should have been handed over earlier.²⁰⁸

"In accordance with your request I have instructed that an additional copy (of CD's 4-7) be delivered for your assistance. In addition to these copies I am also having delivered two copies of each of the 68 reports listed on the attached page, among which are included five reports on Lee Harvey Oswald prepared prior to the assassination of President Kennedy on November 22, 1963."

This does not explicitly say that all the pre-assassination reports on Oswald are included, but it certainly does not say the opposite (i.e., "five of the reports...") either. The Commission staff soon found out what had been omitted.

The Commission made another request that appears to cover the FBI's pre-assassination files on Oswald. A copy of a routine request which was sent to many agencies was directed to Deputy Attorney General Katzenbach by Warren. The letter was prepared for Warren's signature and dated December 24; a copy was filed but it apparently was not sent then, due to an administrative mixup. A retyped but otherwise unchanged copy, dated January 10, was sent.^{209C} Warren's letter is really quite strong and reasonable:²¹⁰

"As you know, one of our first needs is to obtain all relevant information from Government files regarding the assassination and the principals implicated in the assassination."

(Presumably "principals implicated in the assassination" is supposed to mean Oswald and Ruby.) After asking explicitly for two copies of the file of the Immigration and Naturalization Service on the Oswalds, Warren wrote "In order that our efforts in this regard are complete, I would also like to be advised of any additional information currently in Department of Justice files" relating to Oswald or Ruby.

Perhaps this request is not relevant to our discussion; on the other hand, perhaps the FBI really is a part of the Justice Department. In any case, one can infer from Katzenbach's reply of January 27 that the FBI files were not considered covered by the request. Katzenbach may have known even then that they were being treated as something special:

"It is my understanding that such information as is now in the Department files relating either to Lee Harvey Oswald or Jack L. Ruby has been made available or is in the process of being made available to the Commission."

We can not be sure if either Warren or Katzenbach thought that this exchange covered FBI records. It does appear that this routine request was never sent separately to the FBI.^{211C} Between the date of Warren's original letter (December 24) and Katzenbach's reply (January 27), a lot happened relating to the FBI problem. As we have seen, the allegation that Oswald was an FBI

informant was forcefully brought to the Commission's attention; and, in an unrelated development, the Commission was running into serious problems

concerning its access to FBI material.

This problem was the subject of a blunt memo entitled "Information Failure," directed to Howard Willens by Charles Shaffer on January 11. Shaffer, like Willens, had been serving with the Criminal Division of the Justice Department. After Willens joined the Commission staff as liaison with the Justice Department and executive assistant to Rankin, he reportedly brought Shaffer (and Stuart Pollak, another Criminal Division attorney) with him to help with the clerical and administrative work.²¹² On January 11, Shaffer received two FBI letterhead memos from Assistant Attorney General H. J. Miller, which he had received routinely from the Bureau. Shaffer called them "Obviously ... pertinent to the work of this Commission."

Shaffer said that "at the moment we are in no position to finally evaluate the content of either [memo]." I have not been able to identify the specific memos, cited only by date in Shaffer's memo, but I am fairly sure they relate to an allegation by Lloyd John Wilson that he had met with Oswald in September 1963 and paid him money.²¹³ In retrospect, this story is not much different from the dozens of fairly wild allegations that naturally came up in such a major investigation; Wilson's story finally turned out to have no apparent factual basis. But at the time, Shaffer was quite upset to learn about this only indirectly:

"I am morally certain that neither of the above [memos] have been transmitted to Mr. Rankin as they properly should have been. Accordingly, I am disturbed that the Bureau is conducting investigation and not furnishing us with the results."

"Knowing the Bureau as we do, I suggest the matter be informally discussed with their representative in contact with the Commission. In this way, the matter can be corrected with the least amount of friction."

Shaffer's recommendation reflected his own experiences with the Bureau, when he had been a member of the Justice Department's "Get Hoffa" squad. He told Victor Navasky that he had run into problems with "the unwritten rule -- that nobody ever competed with the FBI.... the Bureau would never help us. We'd request stuff and it wouldn't come."²¹⁴

Rankin talked on January 14 with FBI Inspector James R. Malley, who was serving as liaison with the Commission.²¹⁵ Malley explained that the report in question was not as important as it might at first appear.²¹⁶ This particular problem was settled informally; Malley obviously preferred not to have the Commission put its distress in writing. (As we shall see, it was settled in a way that led to thousands of pages of such marginal reports swamping the Commission - but at the Commission's request.^{217X})

After this early crisis of Commission-FBI cooperation, Samuel A. Stern began work on the Commission's staff. He was soon to become the lawyer most directly affected by the FBI's reluctance to be forthcoming with the Commission. Stern, like all the other junior counsel, was a young attorney with an outstanding academic record. On November 30, 1963, he wrote a "Dear Chief" letter to Warren, whom he had served as a clerk in 1955-56, offering to "drop everything" to help the Commission in its "sad but vital task."²¹⁸ This letter was given to Rankin; Stern talked to Willens, and on December 24 he submitted a formal application.²¹⁹ His resume was impressive: Harvard Law (Law Review editor); clerkship under the Chief Justice; partner in Wilmer, Cutler & Pickering, the prominent Washington law firm which Willens later joined after he left the Justice Department. Stern's references included the Chief Justice, the Chief Judges of two Courts of Appeals circuits, Nicholas Katzenbach, and two Assistant Attorneys General.

This background does not suggest the kind of cynicism and skepticism about "the system" and its police agencies which we can now recognize as necessary to uncover facts which people with power wanted hidden. Stern's practice was apparently dominated by matters such as contract disputes and antitrust litigation; as experience in the preparation and examination of witnesses, he cited only his volunteer work as defense counsel in court-martial cases during his two years in the Air Force.

Stern was assigned to an area where experience in examining hostile witnesses would not be as important as skill in handling delicate issues. He was nominally

Junior Counsel in Area 6, Presidential Protection; Rankin was nominally Senior Counsel in this area as well as General Counsel. It was no doubt realized early in the investigation that even if there were no difficulties in putting together the case against Oswald, and even if there was no evidence of conspiracy, this one area would be particularly sensitive, since the Commission would be expected to make recommendations and to evaluate the question of fault in letting the assassination happen. As we have seen, the allegation that Oswald was an FBI informant was handled as part of this area. There were two reasons: logically, it would be relevant to the evaluation of FBI-Secret Service liaison (although it could as logically go into the conspiracy area); second, Rankin was dealing with it personally in his capacity as General Counsel.

I was able to talk with Stern informally in September 1973. He pointed out that he approached the question of what the FBI had on Oswald in part from his viewpoint as a civil libertarian. That is, he may not have been in a position to accept the extent of the FBI's coverage of Oswald as routine, and to then ask - given the perspective of a police agency with little concern for civil liberties - whether its actions reflected any informant or other special relationship. He told me that Watergate had made him much more suspicious than he had been ten years earlier.

Stern reported for duty on January 15, 1964. I do not know whether he got involved in the events of January 22-27, as the Commission learned of and discussed the report that Oswald had been working for the FBI. Apparently Rankin himself took charge of the staff work on this matter. His memo on those Oswald rumors does mention assistance from an unspecified member of his staff,²²⁰ but I have seen nothing in the files to indicate that Stern was even kept informed. We do know that on January 30, he bought a copy of the issue of Saga magazine with Turner's article suggesting that the FBI had failed in its responsibility to notify the Secret Service about Oswald. (Stern's expense voucher is in the Commission's administrative files.²²¹) Hoover's letter of January 27, discussing Turner's

article and forwarding a copy, was received by the Commission on January 29, 222 but apparently Stern did not get to see it that day.

On February 4, Warren gave a public indication of what must have been great tension at the Commission concerning these (and maybe other) sensitive matters. He told the press that certain material involving "security" would eventually be made public, "but it might not be in your lifetime."²²³ This statement drew immense negative public reaction; Warren had to issue a public clarification which did not say what he had been referring to but provided assurances that everything that had transpired before the Commission would be made available at the "appropriate" time.²²⁴

On February 10, Stern wrote a three-page memo to Rankin, discussing the kind of further investigation he considered important. As far as I know, this was Stern's first formal presentation of his view of his task. This memo reflects a strong desire to investigate the FBI's relationship with Oswald, and, in my opinion, a careful effort to justify such an investigation in the context of Stern's assigned area, evaluation of the protection of the President. Stern's opening paragraph makes his concerns clear:²²⁵

"In the course of analyzing the materials already available to the Commission, which bear upon the questions of the effectiveness of the Secret Service's Protective Research Section in its preventative intelligence operations, and the adequacy of liaison arrangements between the Secret Service and other federal intelligence agencies, it has become apparent that the record, as presently constituted, is significantly incomplete. A great deal of additional information must be obtained from each of the intelligence agencies before the Commission will be able to make reasoned judgments in this area. It is the purpose of this memorandum to suggest, in summary fashion, the kinds of further inquiry of all investigative agencies involved that appear to be necessary, using the Secret Service and the FBI as illustrations."

Stern's comments on the Secret Service dealt with their own procedures in general. He commented that the summary already provided of PRS activities "tells us almost nothing about the qualitative standards used for determining when information warrants being placed in PRS files, the extent to which original investigations are instituted to develop preventative intelligence information, the data storage and retrieval systems used, including the degree of automation or other modern data processing techniques employed, etc." Stern suggested correspondence with the Secret Service, interviews by the staff,

and perhaps testimony before the Commission.

Turning to the FBI, Stern first commented on the need for more information on "its processes and operations in the area of Presidential security." The remainder of his memo suggests that he wanted to discuss the FBI as more than just an example of the kind of inquiry that was necessary:

"The information already available to the Commission regarding the FBI's investigation of Oswald from 1960 until the assassination, raises a number of specific questions. The FBI knew a great deal about Oswald and his activities before the assassination...."

Stern included an eight-point summary of what the FBI knew about Oswald.

(The entire memo is reproduced in the Appendix.) There was some overlap between these points and the eight which Rankin said were stressed at the meeting with the Texas officials on January 24, but the overlap is small enough to suggest that Stern had not seen Rankin's memo 226 and did not know what had been discussed. 227C Stern's assessment was strongly stated:

"The historical record compiled by the Commission would obviously be incomplete if the FBI were not to be given an opportunity to explain the many questions raised by the record now before the Commission. On the facts now available, the Commission cannot begin to understand the true degree of concern in which the FBI held Oswald immediately preceding the assassination, why the FBI apparently did not consider that his conduct merited advice to the Secret Service, particularly in the liaison activities immediately preceding the President's trip, and why the FBI was not more actively pursuing Oswald in connection with its own direct responsibilities."

This last question, with its reference to the FBI's "direct responsibilities" in the Oswald case, is crucial. It seems to be an attempt to precisely formulate the question for which a possible answer had already been tossed around - that Oswald had been an FBI informant. (It seems here that Stern was not aware of the decision already made by the Commission to press the FBI on this.) As we have noted, it was generally accepted that if that charge had been true, it would have explained the breakdown of the security procedures which Stern was charged with evaluating in general. As a Texas official allegedly said, "you just wouldn't think to check out one of your own stoolies."^{228X} Beneath this scenario remained the generally unspoken and unexamined idea that Oswald's actions may somehow have been a direct consequence of his relationship with the

FBI. For that hypothesis, the narrow question of an informant relationship was only one aspect of the problem.

As we shall see, one can readily agree with the FBI's position that there was nothing in Oswald's past to suggest that he might be a threat to the President. But the Commission's investigation of that question tended to obscure a line of inquiry that would have been more fruitful in uncovering Oswald's special relationship with the FBI. That is, without worrying about the FBI evaluation of Oswald as not a threat to the President, how did they look at him as a former resident of Russia, a potential Russian spy, a pro-Castro leftist, and a possible visitor to Cuba - in Stern's words, in connection with the FBI's "own direct responsibilities"? Evidently Stern was interested in pursuing this problem beyond its implications in the area of Presidential protection.

Stern's proposed actions show that he had already formulated the idea of making a thorough request for all FBI records relating to Oswald:²²⁹

"Initially, this information may best be obtained by putting to the FBI a series of specific questions concerning its investigation of Oswald. It seems probable that it will be necessary to follow these questions by requesting from the FBI all internal memoranda, internal surveillance and mail cover reports, and logs of the activities of those agents who had any contact with his case."

If Stern believed that those internal records would produce new bombshells, he did not want to anticipate them. He concluded by simply suggesting that "The next stage might be staff interviews with FBI personnel, and the Commission may ultimately desire to memorialize this information by taking the testimony of particular agents."

I do not know how Rankin responded to these suggestions from his junior counsel. On the same day he wrote this memo, Stern started to pursue his investigation in a letter to Hoover which he drafted for Rankin's signature. 230C He acknowledged Hoover's letter and affidavit of February 6, and confirmed a verbal request to Inspector Malley that the affidavits of the agents who had been in contact with Oswald be made available to the Commission. Stern indicated his intention to pursue the Oswald-FBI allegations.²³¹

"After the Commission has reviewed these additional affidavits, I will undoubtedly be writing to you again to request information supplemental to your affidavit and the affidavits of the agents, to make certain, by any standard, that the historical record on this matter will be complete and unassailable."

On February 11, there was a staff meeting "called by Mr. Rankin to put before the staff the question of the proper handling of the allegations of Lee Harvey Oswald as an undercover agent of the Federal Bureau of Investigation or other federal investigative agency."²³² As we have seen, this meeting focused on the Hosty notebook entry which had been kept from the Commission by the FBI.^{233X} There was evidently much concern with these allegations over the next week or so; the letter asking for a full explanation was sent to Hoover on February 20. Before the inadequate answer came back to the Commission, Stern discovered something else the FBI had not turned over - some important FBI reports. Stern evidently brought this to the attention of Willens, who straightened the problem out informally with Inspector Malley. Willens' memo to Rankin about Stern's discovery shows that the FBI really got away with this quite easily; they were not asked either exactly why these reports had not been turned over, or about the significance of their contents.

Willens' memo, dated February 20, deserves a close reading.^{234C} It begins: "Attached are some investigative materials which Mr. Stern states he found in the file submitted to the Commission by the State Department. [CD 294] They include three (3) FBI reports and Oswald's application for review of his discharge before the Navy Discharge Review Board....

"The first two FBI reports, i.e., those dated May 12, 1960 and October 25, 1963, were never submitted to the Commission."

Recall that Hoover's letter of December 23 did not specifically say that all the pre-assassination FBI reports were being sent over;^{235X} evidently Stern had drawn the obvious inference and was surprised to find the other reports.^{236C}

Willens reported his action to Rankin:

"I discussed this informally today with Mr. Malley of the FBI. Mr. Malley confirmed that these reports probably were not made available because of the different headings carried by these reports."

It is true that the five reports which had been submitted were captioned

"Lee Harvey Oswald - Internal Security." The May 12, 1960 report is entitled

"Funds Transmitted to Residents of Russia";²³⁷ the DeBruyres Report is entitled "Fair Play for Cuba Committee, New Orleans Division," Oswald being the only subject (except for the apparently nonexistent A. J. Hidell). Are we to believe that the FBI did not index these reports so that even the most casual check of the Oswald file would indicate their existence? One item in the Oswald file does have the "Funds Transmitted ..." caption; that should have been enough to cause an examination of files with that caption.²³⁸ The FBI was not asked about their cross-indexing procedures.

Willens and Malley evidently agreed that there was no need to have the FBI make an embarrassing supplemental submission to the Commission:

"I told Mr. Malley that we would consider the matter further, but that in the absence of a request there was no need for the Bureau to transmit officially these two reports which are already in the possession of the Commission."

Malley had offered to submit these reports formally, but in the context of an erroneous statement about their contents:

"Mr. Malley took down the headings of these reports and said that he would check back with me.

"Mr. Malley called later and stated that he was informed that the information set forth in these reports had been supplied the Commission in other reports. He stated that the Bureau would be glad to send these reports officially if we so desired. He stated that he believed that no other reports carrying such titles did exist which had not been supplied the Commission." (emphasis added.)

One wonders why Willens accepted Malley's belief that no other reports existed, since he knew that whoever had "informed" Malley that these reports had no new information was wrong. Earlier in the memo, presumably passing on Stern's analysis, he had written:

"Most of the information contained in the 1963 report, dealing with Oswald's Cuban activity in New Orleans was supplied in other FBI reports. Some, but not all, of the information contained in the May 12, 1960 report was also summarized in other FBI reports which have been submitted to the Commission." (Emphasis added.)

Willens was primarily concerned with the earlier report:

"I suggested to him [Malley] that the May 12, 1960 report appeared particularly significant in that it suggested that the initial FBI investigative activities were precipitated by the information that Marguerite Oswald purchased a check in January of 1960 in order to send \$25 to her son in Moscow."

In fact, the interesting question here is how the FBI had learned that Mrs. Oswald was sending money to Moscow; this was never explained. Malley gave an adequate answer to the question Willens did ask:

"As a matter of information, he also stated that the FBI opened a file on Oswald as a result of the newspaper publicity following Oswald's defection to Russia. He suggested that this was evidence contrary to my suggestion earlier that the April, 1960 interview marked the first investigative effort by the FBI regarding Oswald. He did state, however, that so far as he knew there were no investigative reports prepared on Lee Harvey Oswald prior to the report of May 12, 1960, nor was there any other investigation conducted prior to April of 1960."

For us, the DeBruveys Report of October 25, 1963 is more interesting. Its discovery was presumably the first time that the name of Special Agent Warren C. DeBruveys of the New Orleans Internal Security Squad came to the attention of the Commission. This report should have raised the question of whether he had been in a position to be "cognizant of" any attempt to develop Oswald as an informant and thus should have been asked to prepare an affidavit. In fact, the DeBruveys Report is quite similar to the report of SA Milton Kaack, entitled "Lee Harvey Oswald - Internal Security - R - Cuba," dated six days later.²³⁹ However, only the DeBruveys Report mentions Oswald's public FCCC activities of August 16, 1963, and that demonstration is described in a way which suggests that DeBruveys was there himself.^{240X}

This problem in obtaining reports from the FBI was apparently not considered important enough to be brought to the attention of the Commissioners themselves. They held a meeting on February 24; the fourth item on the agenda was a status report on the allegations that Oswald was a Federal undercover agent. Rankin provided each Commissioner with the FBI affidavits, some interview reports, and a very inadequate summary of the investigation of the Hudkins story; he noted that he had written to the FBI about the Hosty entry omission but had not yet gotten a reply.^{241X} The inadequacy of this presentation, and the lack of response to it, confirm the validity of our emphasis on looking at what was happening on the working level - Stern, Willens, Malley - to understand how the Commission's investigation never got off the ground.

When Stern discovered the FBI reports in the State Department file, he was presumably in the process of analysing the FBI material he did have and preparing questions to be checked out. Some time in February - evidently before that discovery - he prepared a chronology of what the FBI knew about Oswald before the assassination. (That chronology was based on the FBI Summary Report, the five pre-assassination reports which had been submitted, and a summary of some of Hosty's investigation in October and November 1963 which was inconspicuously given to the Commission as part of a large post-assassination report.)²⁴² Strangely, I have seen that chronology only in the office files of two Commission staff members at the Archives; the whole report of which it is identified as Part C has not yet been found anywhere, and no part of it is in Stern's office files. This is not the only indication that the Commission's files have been "sanitized."^{243X}

By March 10, Stern had completed a list of questions for the FBI, and the draft letter asking for the FBI files which was reproduced and discussed in Chapter 2. To recapitulate, we are not sure why the letter was not sent; perhaps Willens persuaded Stern to ask his questions first and hold the request for the files in reserve. It is obvious from what had already happened between the Commission and the FBI that, whenever it was made, that request would certainly be met with resistance.

Whatever happened, a revised cover letter was sent to Hoover on March 26, with Stern's original questions. Hoover's 15-page reply (CE 833, reprinted in the Appendix) was dated April 6. Stern later described the answers as "rather circumspect," obviously a discreet understatement.²⁴⁴ He will return to the substance of some of the questions and answers in Part III; many of them were of course answered adequately. In some cases, Hoover used information from secondary FBI files (such as agents' logs) to provide additional details which were not in the primary FBI reports.²⁴⁵ Here we will just discuss some of the answers to show just how Hoover was being "circumspect," also known as "evasive."

Commission lawyers, getting evaluations was like pulling teeth; nobody would admit to more of a judgment of this August interview than that it was "self-serving."²⁴⁷

One possible reason the FBI did not want to go into evaluations may have been that they were based on facts known to the Bureau other than those given to the Commission. For example, some critics have suggested that Oswald's request to see an FBI agent after he had been arrested for causing a disturbance suggested that he was an informant. Sylvia Meagher has pointed out that only the authorities claim that Oswald made this unusual request, and that the interview may have been asked for by the New Orleans police or the FBI, using as a cover the story that Oswald had asked for it himself.²⁴⁸

In reporting other evaluations, Hoover emphasized that Oswald did not appear belligerent or violent. This was obviously relevant to the problem of liaison with the Secret Service, but in the context of the FBI's investigation it would not have been a major factor. What we would like to know is, for example, whether the agents involved were struck by the possibility that Oswald was an informant for some other agency, and, in general, whether the FBI took Oswald to be a serious leftist. (There is some persuasive evidence that they did not.^{249X})

For example, Stern asked:

"20. QUESTION: What was the FBI evaluation of Oswald as a result of the August 10, 1963 interview? What was the FBI evaluation of the Fair Play for Cuba Committee during the summer of 1963, and of Oswald's work for it?"

ANSWER: During the interview of Lee Harvey Oswald on August 10, 1963, he appeared to be responsive in furnishing general background information concerning himself and some information concerning the FPCC. However, his attitude changed when he was pressed for details regarding meetings and identities of other FPCC members in New Orleans and he obviously was evasive and uncooperative.... At no time during the ... interview ... did Oswald give any indication he was potentially dangerous or might engage in an act of physical violence."

Obviously Hoover preferred to talk about his retrospective evaluation of that interview than about the FBI's reaction at the time. He was also reluctant to evaluate the FPCC, saying little more than that in New Orleans the only FPCC activities were those of Oswald, and that detailed data on the FPCC elsewhere

Most of Stern's questions dealt with such things as how the FBI had learned of certain actions by Oswald, why they took certain steps, and what their evaluation of Oswald was. Some questions dealt with sources which were not clearly identified in the FBI's reports, and some dealt with apparent inconsistencies in various FBI reports covering the same time periods.

Hoover's cover letter emphasized that the FBI did not have information indicating that Oswald was a potential threat to the President or that the Secret Service should have been notified about him. Hoover summarized the investigation the FBI had carried out, from 1959 through 1963.

Stern got the least satisfactory answers when he asked for evaluations. Of course, the FBI has pretended for many years that it only gathers facts, and does not evaluate them.^{246X} As we shall see, an agent has many ways of putting an evaluation in a report - obviously the very selection of questions to ask follows from an evaluation - and Hoover was a master at getting his own evaluations on the record discreetly. But when Hoover was asked by Stern for evaluations, he gave the minimum possible answers. For example,

"19. QUESTION: How did the FBI evaluate Oswald's voluntary request to be interviewed by the FBI in New Orleans, particularly in view of the [allegedly hostile and arrogant] attitude he displayed at earlier interviews?"

ANSWER: As is customary with the FBI, when an individual requests an interview, we accommodate him and make a record of the interview.... It was apparent from the interview with Oswald on August 10, 1963, that he was making a self-serving statement in an attempt to explain his activities in connection with his distributing leaflets for the FPCC."

"Self-serving" is a term often used by lawyers. It can be used to discredit a statement if the author's self-interest is hidden, but it doesn't say much about specific motivation. Here it means nothing.

If the FBI was not going to report on the evaluation that must have been made, although perhaps not in writing, only a series of specific factual questions could have elicited the information. For example, how often did left-wing subjects ask for an interview? How many times had that happened in New Orleans in 1963? Even when FBI witnesses were questioned in person by Stern and other

was, as requested, being furnished.²⁵⁰ In fact, Stern already knew that the FBI did not think too highly of the FPCC, since several of the FBI reports on Oswald which he had included an FBI appendix which claimed that the FPCC had received funds from the Cuban government. Stern later found out that all FBI offices had been told to be on the alert for FPCC chapters.²⁵¹ In fact, in 1963 the FPCC was one of the most prominent left organizations in the country, having drawn the wrath of several Congressional investigating committees.²⁵² It would seem that Oswald should have been as great an object of FBI interest and concern in 1963 as a Black Panther or Weatherman would have been in 1968-71 (when Hoover had a program of disruptive counterintelligence in effect against the New Left).^{253X} From the dry and minimal evaluation of the FPCC given by Hoover here, however, Oswald might just as well have been a member of the Girl Scouts.

Stern's questions also tried to get to the bottom of a number of specific inconsistencies and apparent contradictions. Many of them were no doubt trivial, but Hoover typically provided as little information as possible. For example, "6. QUESTION: Why was Oswald interviewed so soon thereafter [i.e., after the June 26, 1962 interview] on August 14, 1962?..."

ANSWER: ... This interview [actually on August 16, as Hoover pointed out] was in the nature of a follow-up interview to determine Oswald's employment, to again alert him to our interest should he be recontacted by the Soviets and to further evaluate whether or not he represented a security risk to the internal security of the United States...."

That is not much of an answer; Hoover implied that after the June interview a follow-up interview after a specified interval was planned, but he did not say so. He may have been circumventing a reason which Stern may have picked up from the report of the later interview; if Stern was trying to be discreet by not making a specific accusation, he certainly found out that Hoover was not volunteering much. This possible reason is evident from the synopsis of the interview report, which begins²⁵⁴

"LEE HARVEY OSWALD reinterviewed by Bureau Agents on 8/16/62, and stated contact made with Soviet Embassy, Washington, D.C., for purpose of notifying Embassy as to wife's current address."

On June 26, Oswald had told the FBI that he would contact the Embassy for that purpose "within a few days";²⁵⁵ Stern may have wondered, as I did, if the FBI had intercepted one or both of Marina's letters dated July 1 and August 15 to the Russians, and if that had precipitated the interview.^{256C} On May 5, 1964, SA Fain testified before the Commission that he had in fact set out a lead in writing after the first interview, calling for a reinterview. This, of course, was just the kind of evidence Stern was after and Hoover was not offering.

Stern was clearly wondering if some of the small differences between various FBI reports meant anything. He noted the substantial overlap between the Kaack and DeBruy's Reports of October 1963, and asked (Question 13):

"... Why, however, is Mrs. Oswald described only as 'his wife' in the Hosty and Kaack report entries concerning residence information given by Mrs. Jesse Garner, while the De Bruy's [sic] report identifies her more specifically as 'his wife, Marina Nikolaevna Oswald' in the same reference to Mrs. Garner's statement? Was either SA Quigley or SA Kaack aware of this indication that Mrs. Oswald's maiden name was not 'Prossa'?"

Hoover, evidently irritated, pointed out that all three of the reports accurately set forth the basic information in this instance and in substance all three reports contain the same information with respect to Oswald's employment and residence."

Hoover simply did not answer Stern's last question, which is really about the extent of intra-office communication in New Orleans; he simply pointed out that two of the reports had Mrs. Oswald's maiden name as "Prossa" because that is what Oswald told SA Quigley. Hoover concluded: "SA De Bruy's set forth the full name of Oswald's wife and the other two Agents did not feel it was necessary to do so in the context of their reports."

The obvious next question is whether Hoover had in fact asked these two agents Stern's question, or if he was speculating as to their reasoning.

In another answer concerning a possibly minor point - something that may have been just a typographical error - Hoover was equally circumspect. Stern noted that the Kaack Report said that New Orleans radio station WDSU gave the FBI a transcript of the radio program on which Oswald had appeared on August

22, 1963, the day after it took place; the DeBruveys report instead stated that a confidential informant made the transcript available on September 12. Stern asked why the DeBruveys report had this apparently different information. 257 Hoover "explained" that the source was the same in both cases, and that "the date this transcript was obtained ... should have been reported in SA De Bruveys' report as August 22, 1963." In fact, the FBI got a disc recording of this program on August 22, as a later FBI report revealed. 258 This suggests a degree of interest in this program which the Commission should have asked about. 259X

A subsequent question provides another example of Hoover's unwillingness to provide an explanation. Stern noted 260 that CD 1 stated that

"In October 1963, an investigation was initiated to ascertain the whereabouts of the Oswalds, following advice from a rental agent that they had vacated their apartment and that Mrs. Oswald and their child had departed in a station wagon with Texas registration. What was the reason for this investigation to ascertain Oswald's whereabouts?"

Here is Hoover's answer, in full:

"In view of Oswald's background and activities the FBI had a continuing interest in him. Therefore, when the rental agent advised on October 1, 1963, that the Oswalds had moved, investigation was initiated to determine their current whereabouts."

Translation: you already have all the reason you are going to get.

Here is another mini-evaluation by the FBI:

"28. QUESTION: What was the FBI evaluation of confidential information received on November 18, 1963 regarding Oswald's letter to the Soviet Embassy in Washington?"

"ANSWER: The information received on November 18, 1963, concerning Oswald's contact with the Soviet Embassy tended to confirm his contact with the Soviet Embassy in Mexico City as reported by the Central Intelligence Agency and to indicate the reason for such contact, namely to secure visas to the Soviet Union."

This "confidential information" was contained in Oswald's letter to the Soviet Embassy, which was presumably intercepted (and perhaps copied) because of an FBI mail cover. 261X Hoover's evaluation is simply a summary of the content of the letter, which Stern no doubt already knew. To put this evaluation

in perspective, we can look at the reaction of SA Hosty, who was handling the Oswald case in Dallas. On May 5, 1964, he testified that he had learned on October 25, 1963, that the CIA had reported Oswald's visit to the Soviet

Embassy in Mexico City. The information that the Washington Field Office obtained on November 18 reached Hosty on November 22, shortly after the assassination. Although Hosty did not volunteer to the Dallas Police much of the information he had on Oswald, 262 he thought these contacts with the Russians were important enough to mention them to several Secret Service agents. The report of one Secret Service agent noted that 263

"He stated that Oswald had contacted two known subversive agents about 15 days before the shooting but the entire information was top secret and he could not tell us any more but he felt sure that the file would be turned over to our Chief."

Evidently the agents in the field considered Oswald's contact with the Embassy in Washington to be significant in itself, much more than Hoover's answer to Stern would suggest. The actual contemporaneous FBI evaluation of this information may have been written down; if so, it remains hidden.

Stern's last question concerned the omission of the Hosty entry in Oswald's notebook. We have already seen how Hoover gave no satisfactory answer, either in writing or in his later testimony. 264X

The dimensions of the problem that faced the Commission are now clear.

The FBI was not being frank about its knowledge of Oswald. A request for all the FBI's records had been deferred in favor of a series of specific questions, and the FBI's answers showed that Hoover still had something to hide.

Chapter 7. Hoover Victorious! The End of an Investigation

By the end of March, little had been done to resolve the problems raised by the FBI's lack of candor about their files on Oswald. The Commission staff had established the groundwork for an investigation of the FBI's relationship with Oswald. As we shall see, the writing of a report began to dominate the investigation. But the major internal obstacle to a full study of the FBI files was not the pressure of other work but the attitude of various high-level Commission people, notably Chief Justice Warren himself.

In this chronological survey of Stern's encounters with the Bureau, there have been only incidental references to the other work he had to do in his broad assigned area, Presidential Protection. He also had to deal with the CIA, the Secret Service, and the military intelligence agencies. (In the last case, as with the FBI, he was conspicuously unable to get all their files relating to Oswald. ^{265X}) He was also starting to run into deadline pressure. As early as April 7 - the day after Hoover answered Stern's questions - Rankin directed a memo to all members of the staff, asking (among other things) that summaries be prepared of the depositions of witnesses which had been taken by the staff. ²⁶⁶ The Commissioners, who requested these summaries, evidently did not even have time to read all the depositions of "their" witnesses. Rankin asked each lawyer to assume responsibility for editing the testimony of those witnesses he deposed, and since that resulted in a "somewhat uneven spread of responsibility," he asked Stern to help Joseph Ball and David Bellin. Rankin concluded:

"I regard this entire task of preparing transcripts for the printer as one of extreme importance. It should be done immediately so that we may all turn our attention to drafting the final Report. As we near the end of our assignment, I ask each of you to contribute that extra measure of effort which is needed to complete this job skillfully and expeditiously."

This was written on April 7! The Commission did not actually reach the end of its assignment for months - the Report was not finished until September 24. If any of the lawyers hit the roof when faced with this kind of pressure, and demanded (for example) that more people be hired, at least for the routine tasks, I am not aware of it. ^{267C} In fact, there had been deadline pressure even

earlier in the investigation; outlines were being considered in March; Rankin had suggested on March 24 that the writing of the first drafts should begin by April 10, and that May 10 be established as a target date for a finished first draft. ²⁶⁸ Understandably, this schedule slipped back considerably.

On April 16, Rankin asked the staff when he might "reasonably expect" the writing of the first drafts to begin, and whether the remaining investigation would require more testimony or could be done by the FBI and other agencies. ²⁶⁹ The first point of Rankin's memo was phrased to make clear his concern for getting done quickly:

"List the remaining areas of investigation which remain to be explored in your general area, indicating clearly the reasons why you feel further investigation into those areas is important for the proper completion of your investigative work, and indicating what you expect to accomplish by way of further investigation."

Stern's reply, dated April 21, dealt only in part with the question of the FBI and Oswald - a question whose central importance is quite clear in hindsight, and which was certainly considered important at first. Stern's comments on the FBI problem were just part of his section on Presidential Protection, in which he mentioned having to get more information from the Secret Service, getting an affidavit from the CIA that Oswald was not their agent, and learning about the data-processing techniques of the various agencies. Stern summarized work he was doing with others on assessing the treatment of Oswald by the Dallas Police. He said that he had "not been able to penetrate the literature" for an additional topic, the so-called climate of hatred, and was trying to find an outside expert to consult. ²⁷⁰

By now, perhaps in frustration, Stern was letting it be known that he was not making the decisions as to what should be investigated further. That is, his memo reflected the desire at the higher levels of the Commission to finish up. For example, he said that if the witnesses and written responses from the Secret Service "satisfy the Commission, no further major work will remain."

As Norman Redlich reportedly told Wesley Liebele, in defense of a point in the

Report which he had written to reflect the Commission's conclusion and not necessarily his own, the staff ultimately worked for the Commission. 271

In connection with the FBI problem, however, Stern took a fairly strong stand, making suggestions reflecting his personal opinion:

"On the FBI's involvement with Oswald we have received the FBI's responses to our initial set of questions. I am preparing a draft of follow-up questions which we may want to use."

If Stern did prepare such questions, they seem to have disappeared; no such material is in his office files at the National Archives. He then made one more (and apparently final) attempt to revive his quite proper request which had previously been sidetracked: 272C

"We should also consider asking for all internal FBI documents on Oswald, and I have prepared a draft letter making this request."

Stern did not feel - or did not say - that such a request was absolutely essential for resolving the informant problem; he did not give any specific examples of what might be gained from such a request. One can see how taking a strong stand might have seemed futile at that time.

Evidently Stern still hoped that his questions might be cleared up by the testimony of some FBI agents:

"We have not taken the testimony of FBI agents who had various contacts with Oswald, having postponed this decision until we had the FBI's responses to our questions. In view of the rather circumspect nature of the responses, it appears necessary to take the testimony of the agents. I do not think it will be necessary to make them Commission witnesses, and believe I could take their depositions, in Dallas and New Orleans, in two or three days.... These depositions would be directed primarily at obtaining further information on matters already covered in the FBI reports on Oswald, and secondarily at learning more about the FBI's interest in Oswald and negating the suggestion that he might have been an FBI informant."

It is risky to apply word-by-word literary analysis to a memo which must have been written fairly quickly, but I do find it noteworthy that Stern combined the two clauses under "secondarily," rather than listing three points. This suggests that he was still contemplating the many puzzles of the FBI's pre-assassination knowledge of Oswald in the limiting context of the hypothesis that he was an FBI informant.

Stern said that "we" should consider deposing FBI agents Fain, Carter, Brown,

Hosty, Wilson, Quigley, and Kaack. Fain, Quigley, and Hosty did testify before the Commission. Arnold Brown, Tom Carter, and Gary Wilson, who in fact had little or no contact with Oswald, were not deposed. Quigley was the only New Orleans agent whose testimony was taken, although he had been sent to interview Oswald on August 10, 1963 simply because he was available; he was in no sense responsible for the Oswald case. Kaack, who wrote what Stern referred to as "the New Orleans report," did not testify at all; the author of the other New Orleans report, SA DeBrueys, was not even suggested as a witness (although on March 18 Stern had passed on to Willens the observation by John Hart Ely that DeBrueys was reported to have been at one of the post-assassination interrogation sessions and therefore might be a necessary witness). 273

Stern's closing paragraphs show how many disparate tasks had accumulated for him to do, and how pressing his schedule was:

"I expect to begin working next week on the first draft of the section of my Presidential Protection area dealing with a description of the protective measures taken before and at Dallas. If it is decided that the depositions of the FBI agents named above should be taken, I can break off and hopefully finish this within two or three days. Since [U. S. Attorney] barefoot Sanders will be away from Dallas for the next two weeks, and probably should be in Dallas when I interview the FBI agents, perhaps these depositions should not be scheduled until the week of May 11th. During these two weeks I would also plan to work on data processing techniques with the FBI, Secret Service and CIA. The editing of Commission testimony and staff depositions for which I am responsible will not interfere with this schedule.

"I am, however, concerned that a serious effort to learn the latest accomplishment of sociologists and psychologists in attempting to measure and explain group dynamics, with a view to attempting some examination in the report of such matters, could seriously interfere with this schedule. I will know better after I find a knowledgeable person with whom to discuss this."

This, then, is what had become of the Commission's insistence on getting to the bottom of the FBI problem, and Stern's own knowledge, as one of the lawyers most closely involved with the evidence, of the FBI's uncooperative attitude.

Stern's reference to his work on data-processing techniques is a reminder of the Commission's reliance on the FBI, in this case for help in recommending improvements in the Secret Service's protective measures. On April 21, Stern drafted a letter asking the FBI to provide a briefing on their data processing,

and denied by the FBI, even before the Texas officials got in touch with the Commission on January 22. Joe Tonahill, one of Jack Ruby's attorneys, wrote to the FBI and the Commission on January 9. Tonahill's ostensible purpose was to request access to the Commission and FBI investigation of the shooting of Oswald, and (in a ploy of uncertain purpose) to the Government's evidence about the assassination itself. Tonahill said that to preclude a "murder with malice" conviction it would be necessary for the Ruby defense to prove that Oswald did in fact assassinate the President. Tonahill seemed to be arguing that due process for Ruby was especially important because the press had tried to inflame the public against Ruby.

As the only cited illustration of "the bewildering power of that powerfully slanted press," Tonahill mentioned Hudkins' article about Oswald being an FBI informant. This article, of course, had nothing to do with Ruby. It was quoted at length, accompanied by a disingenuous claim that "we do not at all accept or dignify with any shred of credibility whatsoever" this allegation, and that Hudkins' report was "just simply too fantastic to be accepted by rational minds."

It is not clear from the letter if Tonahill had any logical reason for focusing on the Hudkins article; e.g., if he was making a veiled threat to spread the rumor if the FBI and the Commission did not cooperate with the Ruby defense. Whatever Tonahill's reason was, he made sure that the Hudkins allegation would be widely known: he sent his letter to Warren, President Johnson, and Robert Kennedy, as well as to Hoover and Rankin. The Justice Department handled Tonahill's request for information, reasonably granting access to the Ruby but not the Oswald material.⁶³ Hoover told Tonahill on January 14 that the questions he had raised were within the jurisdiction of the Commission; when he informed Rankin of his reply to Tonahill, Hoover said that the allegation that "Oswald may have been an FBI informant is absolutely false and no attempt was ever made to develop him as an informant."⁶⁴ One must wonder what internal investigation the FBI had done as early as January 14; the formal affidavits from all the agents

involved were not completed until early in February.

As already noted, the Texas officials talked with Rankin and Warren on January 24. On January 27, the same day the Warren Commission met to decide how to approach Hoover, Hoover wrote Rankin in an apparent move to cut off an outside investigation. This important letter is in the Appendix; Hoover made several substantive points which we will re-examine later. He described the circumstances of the three pre-assassination FBI interviews of Oswald: after his return from Russia, on June 26 and August 16, 1962, and on August 10, 1963, after his arrest in New Orleans while distributing literature for the Fair Play for Cuba Committee. These interviews were described (perhaps inaccurately^{65X}) as the "extent of our contacts with Lee Harvey Oswald."

Hoover also volunteered an explanation for the appearance in Oswald's address book of the name of FBI agent James Hosty.^{66X} Hoover also said that Oswald "was never used by this Bureau in an informant capacity."

The subtleties of Hoover's letters are often more revealing than the obvious substantive content. A close reading of this letter tells about both Hoover's relationship with the FBI and the quality of his denial that Oswald was an informant. Here is his opening sentence:

"We have been advised that authorities of the State of Texas, including District Attorney Henry Wade and his assistant, William Alexander, appeared before the Commission concerning the article which appeared in 'The Nation' magazine in which it is alleged that Lee Harvey Oswald was an informant of the FBI."

How did the FBI know about that January 24 meeting? Hoover didn't say. A later letter, however, revealed that the FBI had interviewed Alexander on January 25. We don't know why, or on whose initiative. Alexander described his meeting with the Commission to the FBI, in essence crediting Hudkins and others in the press as the sources for the informant allegation. Since the press reports indicated that Alexander was a primary source, and he later made clear his animosity towards the FBI,^{67X} this casts suspicions on Alexander's role and motives. I do not know why Hoover did not tell the Commission until February 17 that the FBI had interviewed Alexander; but whoever set up this

interview did make it impossible for the Warren Commission to discreetly check out the allegation on the basis of the information which had been given them. That is, it was impossible to pursue one of the courses suggested by the members of the Commission: checking out the allegation first, before notifying the FBI.

Hoover's letter clearly indicated what he thought of such a proposal. For starters, he said that Wade and Alexander had testified about the already-discredited-by-Hoover article in "The Nation," whereas in fact they reported on their own information. Hoover wrote

"We have previously made available to the Commission full information concerning our contacts with Oswald. So that there may be no doubt as to our relations, here are the facts!" (My emphasis)

Hoover's closing sentence pronounced judgment on the idea of an outside investigation, which was being considered that same day in the Commission's executive session:

"In the event you have any further questions concerning the activities of the FBI in this case, we would appreciate being contacted directly."

Hoover's denial that Oswald had been an informant appears categorical, even redundant:

"Lee Harvey Oswald was never used by this Bureau in an informant capacity. He was never paid any sums of money for furnishing information and he most certainly never was an informant of the FBI."

This phrasing raises certain questions the Commission should have asked. Is there a difference between being "used ... in an informant capacity" and being "an informant"? (Perhaps Hoover was just being redundant for emphasis.) Could Oswald have been paid for furnishing information without being "an informant"? Obviously an informant can be rewarded in ways other than cash payments. The broad issue was if there may have been a relationship other than that of an informant which led the FBI to consider Oswald as someone other than a subject of concern because of his known activities. As we shall see, Hoover managed to manipulate the technical definition of informant so as to disguise the FBI's most peculiar relationship with Jack Ruby.

A previous sentence in this letter may relate to the FBI's view of Oswald as a source of information. After setting out the FBI's pre-assassination

contacts with Oswald, Hoover listed the reports of the FBI interviews of him after his arrest on November 22. Hoover explained that

"The purpose of these interviews was to obtain from Oswald any admissions he might make concerning the killing of the President or other data pertinent to the assassination, as well as to obtain any information Oswald might furnish of a security nature."

I remain totally puzzled by the inclusion of that last clause. Superficially, it sounds just like what one would say about what the FBI calls a "potential security informant" (PSI); that is, someone who might be in a position to furnish information about internal security matters and had agreed to do so. There is no need for this added reason unless it refers to information not "pertinent to the assassination." Perhaps it was included in deference to the FBI's lack of jurisdiction in the assassination itself - naturally agents would have the right to interview anyone about security matters. Although someone might have been able to raise that technical objection to the FBI's interviewing Oswald, as far as I know it was never raised, and it certainly could not have been considered a serious problem if the local authorities did not object to FBI participation. As far as I can tell, Hoover included this phrase either to anticipate this legalistic objection (an awkward reading), to hint that Oswald was then (and maybe had earlier been) considered a potential source of "security information" (a most unlikely thing for Hoover to admit, if it was true), or for no reason at all (also most unlikely). We do know that it was not a slip, since almost the same formulation of the reasons for the post-assassination interviews was used in Hoover's affidavit of February 6.⁶⁸ Thus, we have only questions, and no answers, on this point; as far as I know, nobody on the Commission staff even noticed this peculiar reference to Oswald as a possible source of "information ... of a security nature."

This, then, is how the FBI reacted to this allegation before the Commission began investigating it: Hoover covered himself by starting an "investigation" of the reports that Oswald had been an FBI informant, attempting to discredit the sources, and making clear to the Commission that he would prefer, thank you,

to be approached directly in the unlikely event that any questions remained. Now we will see how the Commission and the FBI played out the rest of this charade together. We will go through the details to see the kind of points the Commission picked up, and those they missed, even on this very narrow issue of whether Oswald was an informant. The success of Hoover's first line of defense in rebutting the Commission obscures the question of exactly what was being covered up. We should keep in mind the possibility that Hoover's total strategy involved a purely internal FBI coverup (including, hypothetically, the massive destruction of records) rather than relying exclusively on the relatively open effort to get the Commission to back off in its pursuit of FBI records. The bottom line was that the Commission did what they had promised themselves they would not do: in effect, they accepted Hoover's word that Oswald was not one of his own.

The day after the Commission's secret meeting of January 27, there was a conversation between Rankin and Hoover. According to Hoover, Rankin reported Wade's testimony, and Hoover advised that Oswald had never been an informant and that "FBI headquarters would have all necessary facts concerning the development and control of any and every informant."⁶⁹ (This countered Wade's recollection of his own experience working for the FBI which, according to Rankin, led him to believe that Headquarters would not always know.) We do not know what Rankin asked for during or after this conversation on January 28. 70C

Hoover responded in two ways to Wade's suggestion that Oswald may have been an FBI informant under only loose control. One prong of his counterattack was evidently to get Wade to back down. Wade was interviewed on February 8 by the two top-ranking agents in the Dallas FBI office. According to Hoover, Wade said that he had in fact told the Commission that "an informant's identity was always known in FBI Headquarters."⁷¹

Wade was evidently put in an awkward position; he was being asked, in effect, if he was saying that when he was an FBI agent he did not follow proper

procedures. He evidently did not want to go that far:

"During our interview with Mr. Wade, he reviewed the expense accounts submitted by him while he was on Special Intelligence Service assignment [in Ecuador in 1942] and he stated that all funds expended by him were entirely and accurately accounted for and that he now realized he did get receipts and that the expenditures by him were reported to FBI Headquarters in detail. Mr. Wade also stated he did not handle any informants without the full knowledge of FBI Headquarters.

"Mr. Wade volunteered that he would be talking to you within the next few days and he was going to clarify the fact that he did obtain receipts from informants."

Wade was quite cooperative in helping the FBI off the hook. He "recalled" that at his meeting with the Commission

"there was a limited conversation about the possibility that Lee Harvey Oswald might have been an FBI informant and that there was more speculation that Oswald might have been an informant of the Central Intelligence Agency.... In conclusion, Mr. Wade reiterated that he told the Commission that he had no information to the effect that Lee Harvey Oswald was an informant of the FBI or any Governmental agency."

The other part of Hoover's response was his own four-page affidavit about FBI informant procedures. It was dated February 6, two days before Wade backed down and four days before Hoover wrote Rankin about that interview of Wade. The affidavit was sent to Rankin on February 6 and introduced into evidence (to be published as CE (Commission Exhibit) 835) when Hoover testified later. Hoover described in detail the FBI's records on Wade's informants. (The Wade vouchers themselves, and a second letter of February 10 which forwarded them to the Commission, are still classified and unavailable.⁷²) Hoover swore that he had caused a search of FBI records to be made, that Lee Harvey Oswald had never been an informant, and had never been paid money in any way by the FBI. Hoover provided some information about the FBI's procedures for keeping track of informants, to justify his claim that the denial could be made "authoritatively and without equivocation." As we shall see,^{73X} he left out a lot of information about procedures which would have allowed the Commission to challenge the authoritativeness of the denial.

Hoover's search of Headquarters records was "supplemented" (unnecessarily, if what he said about the completeness of those records was correct) by information from the field offices. Hoover said that:

"FBI headquarters has obtained affidavits from every Special Agent who was in contact with Oswald, as well as affidavits from their respective SACs [Special Agents in Charge]. These affidavits show that none of these FBI agents developed Oswald as an informant."

On February 10, Sam Stern asked for those affidavits; they were submitted to the Commission on February 12, and are published in the Commission's Hearings and Exhibits as CE 825. They are deficient because of one flaw which may indeed be a technicality, because of omissions which may have been intended by the careful definition of which agents were to submit affidavits, and because of their limited scope.

First, one point which should at least have raised some eyebrows among the staff but apparently was not noticed. Hoover said on February 6 that he had obtained the affidavits, but five of the 10 affidavits published are dated after February 6. In response to a request under the Freedom of Information Act for the original affidavits, I was told by the Justice Department that

"Some of these affidavits were returned by Bureau headquarters personnel to the preparer agent for lack of proper notarization and other minor technical wording problems.... No material alteration of the substance of any of these affidavits, however, occurred."

However, the original affidavits are still withheld from the public. Is there any reason to credit the claim that these "wording problems" were corrected with "no material alteration of the substance"? I would suggest that the changes might have involved the removal of details of FBI procedures concerning informants which the FBI did not want made public, but which would have been relevant to the Commission's concerns. The published affidavits say nothing about which files were searched, which personnel were interrogated, and the like. Like all the other records the FBI submitted, they do not define informant clearly, leaving the impression that payment of money was a crucial, if not defining, element.

One omission in these affidavits was noted in Edward Epstein's 1966 book:

"Warren DeBruyeys, the FBI agent who allegedly threatened to send an undercover agent to infiltrate the same small New Orleans anti-Castro organization which Oswald later attempted to infiltrate, did not submit an affidavit."

In fact, DeBruyeys, who was apparently assigned to the New Orleans subversives squad, wrote an entire report on Oswald. Although he may never have personally "contacted" Oswald, and thus was not considered to be one of the class of agents who were required to file affidavits, there is reason to believe that he did witness some of Oswald's FPCC activities, and he was certainly in a position to have recruited Oswald as an informant.^{76X}

The second obvious omission is the other New Orleans agent who wrote a formal report on Oswald, Milton Kaack. His report, unlike DeBruyeys', was published, but he was not called as a witness.⁷⁷ From the available records it is not clear how much personal contact he had with the Oswald investigation. We do know, for example, that he initialed the recording of Oswald's radio debate of August 21, 1963, which the FBI got the following day.⁷⁸ Press reports indicate that Kaack was one of two agents disciplined after the Warren Report was released; Hosty, Kaack's counterpart in Dallas, was apparently the other.^{79C}

The only New Orleans agents who did submit affidavits were John L. Quigley, who interviewed Oswald more or less by chance and was not handling his case, and the Special Agent in Charge, H. G. Maynor. Regardless of the accuracy of Maynor's claim that "I am aware that no effort was made to develop Lee Harvey Oswald as an informant," the affidavits are incomplete. CE 825 does not satisfy Hoover's description of "the affidavits of all agents, who had any contact with him" unless "contact" is given the unreasonably narrow definition of "personal contact with Oswald" rather than "work on the Oswald case."⁸⁰ The cover letter for the affidavits themselves says that they are "executed by personnel of this Bureau who, because of their assignments, would have been responsible for or cognizant of any attempt to develop Lee Harvey Oswald as an informant of the FBI."⁸¹ This is a broader and more appropriate category, which would seem to include DeBruyeys and Kaack, but Hoover's letter only implies, without saying so, that affidavits from all such personnel are enclosed.

Assistant Counsel Leon Hubert noted that there was a problem:

"Aside from what any of us think of the rumor which these documents attempt to refute, the documents do not constitute a complete refutation.... Of course, Mr. Hoover's affidavit of February 6 covers his knowledge, but it can only do that. What about an affidavit of the head of the Security Division at headquarters FBI, Washington? He should know who is or is not an informant; and also who was paid. Besides, let it be noted that payment in money is not the only way to engage [sic; presumably meaning "reward"] an informant."

Evidently Hubert, who as a former U.S. Attorney probably knew about the FBI's sensitivities, was apprehensive about raising even these clearly justified objections. His memo was addressed routinely to Rankin, but it was first submitted to Willens, dated February 19, with a note saying "If you concur, please forward"; it was redated February 24 when sent to Rankin.⁸² Hubert was far from eager to press the issue:

"I do not think there is any chicanery here; but for the sake of a perfect record refuting the rumor, I make these comments. I would think the FBI would be interested in a refutation record, impervious even to my comments."

I would think that Hubert would be interested in an investigative record impervious even to my comments. He did raise the important issue of payments other than money, but the kindest thing that can be said about his aggressiveness here is that he was certainly polite.

Hubert's one specific suggestion - affidavits from additional FBI personnel - got nowhere. Willens sent Rankin a note on February 26, suggesting that "we should hold up re any further affidavits of the FBI until our lawyers assigned to this particular project have an opportunity to meet and consider the whole situation more fully than has been done to date."⁸³ Hubert's memo was sent to Redlich and Stern, but the additional affidavits were never obtained.

In fact, after the agents' affidavits there was little additional evidence gathered on the narrow question of whether Oswald was an FBI informant. Over the next several months, additional denials were received and similar indirect investigation was done in bits and pieces. But when a status report on the allegations was presented to the members of the Commission at a meeting on February 24, the impression was given that the matter was already well in hand. Here is Rankin's oral report in full,⁸⁴

"We have enclosed as part of your exhibits here what we have in regard to the various affidavits of agents, Mr. Hoover personally, and the interviews that were had with the various Dallas officials and newspaper reporters. We checked out Mr. Hudgkins [sic], as you will recall, who sent me the source of the rumor [sic], and we checked out all other sources, and the reports are here, and they all show negative. There wasn't any disclosure by Mr. Hudgkins. He said he had such information, but he refused to disclose his source, and he did not indicate that he had anything more than the number that he said and the claim that there was such a relationship. That is all here in these reports."

This is not only an exaggeration of the scope of the investigation, it is not even an accurate summation of what little had been done; for example, Hudkins had named Sweatt as a source. Rankin then mentioned the specific problem of the Hosty entry in Oswald's notebook.^{85X} Warren asked, "Is there any discussion of that, or any action needed?" Rankin replied "No. We plan to follow up on this whole problem, as the Commission has indicated, of claims about undercover agents, and we are going to report to you."

Although there was no substantive discussion at that meeting, one Commissioner did pursue the issue. In a memo to Rankin dated February 26, former CIA director Allen Dulles said that he had read the papers referred to by Rankin in the above comments (the attachments to the agenda of the meeting) "with great interest." His memo made several somewhat disconnected comments, a request, and a suggestion. He asked for the FBI memoranda on their interviews of Oswald, the purposes of which were not clear to him. Howard Willens, Rankin's assistant, sent the memo to Sam Stern, asking him to get copies of the FBI reports for Dulles.⁸⁶ Stern drafted a brief memo, which Rankin sent to Dulles on March 3, transmitting the FBI reports and a letter from Hoover which described the purposes of the FBI interviews.^{87X} As far as I know, no action was taken on Dulles' specific suggestion that "it may be desirable to try to clear up the confusion as to the existence of the 'law enforcement officer in Dallas' who allegedly claimed that L. H. Oswald had been contacted by the FBI to become an informant." As we have seen, the FBI's presentation of the information provided by Goulden made it difficult for the Commission to put together all he had said about his source. In any case, the "confusion" noted

by Dulles was not cleared up.

Dulles' memo referred to apparent conflict in the "testimony" of Hudkins and Coulden. He was referring to FBI reports, not actual testimony. Of course, these two newsmen should have been asked to testify before the Commission or at least give depositions to the staff, but they never did.

In March, the Commission's attention seems to have turned to the broader problems of the FBI-Oswald relationship. It was on March 10 that Stern drafted his request for the FBI files on Oswald, which was set aside. As of April 30, Stern seems to have concluded that the evidence provided by the FBI did deal adequately with the informant question. Stern drafted a letter to CIA Director John McCone, asking him to prepare an affidavit similar to Hoover's, on the question of Oswald being a CIA informant. Stern noted that Hoover had furnished an affidavit, "supported by the affidavits of other FBI representatives concerned" which was "in sufficient detail to support its ultimate conclusions."⁸⁸

On May 5, Stern took the testimony of three of the FBI field agents who had interviewed Oswald: John W. Fain, John L. Quigley, and James P. Hosty. Among other matters, each was asked to identify and confirm his affidavit, and was given the opportunity to correct or expand on it.⁸⁹ Stern clarified that "informant" covered both paid and unpaid informants, but he got little new information in this area. Specifically, there was no discussion of the circumstances of Oswald's case which might have made him a likely informant. The agents were not asked if they had enough informants in the organizations Oswald was in contact with, or if they were under any pressure to develop new left-wing informants because of the paucity of authentic leftists in Dallas and New Orleans. That is, they were not asked questions to bring out the kind of background information against which a categorical denial that Oswald was an informant could be evaluated. Alan Belmont, Hoover's assistant, testified on May 6; he endorsed the affidavits from Hoover and the agents but added little new information.⁹⁰

At a Commission meeting on April 30, Senator John Sherman Cooper suggested

that Hoover and CIA Director McCone be called to testify about the informant problem.⁹¹ Hoover testified on May 14. He was asked if he wanted to add anything to his affidavit; he did not, and Rankin had no further questions about it.⁹² Ford and Cooper led Hoover into a discussion of the extent of the check of FBI records which formed the basis of the affidavit. Hoover emphasized that he had "the entire control of whether a man shall be an informant" or not, and that all payments by field offices to informants were supported by vouchers.⁹³ (As we shall see, other FBI agents besides Henry Wade have indicated that it was possible to make informal payments not recorded at headquarters.⁹⁴) Hoover explained that he had obtained affidavits from "all agents, who had any contact with him" (Oswald); this claim was not challenged by a question about Kaack or DeBrueys.⁹⁵

One of the people present at the testimony of the three FBI agents was Leon Jaworski, acting as an observer for the state of Texas. Jaworski, who became Special Watergate Prosecutor on November 1, 1973, was then Special Counsel for the Texas Court of Inquiry into the assassination, which had been postponed at the Commission's request.⁹⁶ Jaworski was one of the five Texans who had presented the allegations about Oswald and the FBI to the Commission on January 24. Two days after hearing the agents testify, Jaworski wrote a letter to Rankin from Texas, in effect turning off further inquiry into Hudkins' charges. Jaworski wrote that he had advised Texas Attorney General Kaggoner Carr of his conversation of an unspecified date with Rankin. He said that he had then talked with W. P. Hobby, the executive editor of the paper for which Hudkins had written, "for the purpose of discussing with him the obtaining of an affidavit from Lonnie Hudkins, or in the alternative having him appear before the Commission in line with our discussion."⁹⁷

According to Edward Epstein, Rankin said in an interview that Jaworski was asked to speak informally to Hudkins about the rumor.⁹⁸ "According to Rankin, Jaworski reported back to the Commission that 'there was absolutely nothing to

the story' and that it was 'sheer speculation based on nothing but Hudkins' imagination.'"98 That may be what Jaworski told Rankin informally, or it may just be the impression Rankin got. Jaworski's letter to Rankin, although not quite that definitive, is nonetheless a rather strong putdown of the report, reflecting an attitude that made me very skeptical of the job he would do when he became the Watergate prosecutor. Jaworski had in fact not been able to locate Hudkins. Instead, he reread the newspaper article, and pointed out to Rankin that "Hudkins' story does not say that Oswald was an informant. He simply raises the question based on the speculation of others, including [Assistant Dallas D.A.] Bill Alexander...." He concluded "Inasmuch as you have the testimony of the FBI agents [in fact, only some of them, as Jaworski should have known if he had listened to their testimony carefully] as well as that of Marguerite Oswald, I am wondering if it is really worth your effort to follow up on Hudkins."99

Gerald Ford wrote that the Commission "checked witness upon witness and approached the question raised by Attorney General Carr, Hudkins, Feldman and others with a thoroughness beyond question."100 The writers (Hudkins, Goulden, and Feldman) did not testify before the Commission or the staff, nor did Allan Sweatt, whom Hudkins had named to the Secret Service as his source. Jaworski's letter should have reminded Rankin of the need to call Bill Alexander as a witness; that was not done.

District Attorney Wade testified on various matters on June 8. Rankin questioned him discreetly about the informant allegation, giving no indication of the extraordinary circumstances when Wade and others presented this report to the Commission. Rankin started by asking "Did it come to your attention that there was some claim that Oswald was an agent...?"101 Only Wade mentioned that he had talked about this matter with Rankin and Warren earlier.102 Wade emphasized how little he knew - he mentioned only a supposed "voucher number" (209) in Oswald's address book. He seemed to be suggesting that Alexander was

Hudkins' source.103 He described his own conversation with Hudkins, and put him down as a "wild writer."104

At least one Commission staff member was aware that the investigation called for learning some more details of the FBI's procedures. On May 21, Wesley Liebeler wrote a memo to Stern, reminding him that Sweatt had told Hudkins that Oswald's alleged informant number was "SI72." Liebeler did not indicate that he knew this, but that is close to a known correct form for the designation of a Security Informant, which would be "172-S."105 Liebeler said "While I know this matter has been covered thoroughly [] and while I am in general familiar with the FBI's position on it, I wonder if they have ever been specifically questioned concerning the number 'SI72'."106 According to Epstein, Stern returned this memo to Liebeler with the answer "no."107

The Warren Report has a 2½-page section entitled "Oswald was not an Agent for the U.S. Government," which is reprinted above.108C The Commission concluded that "there was absolutely no type of informant or undercover relationship between any agency of the U.S. Government and Lee Harvey Oswald at any time." With regard to the FBI, this conclusion was based on the testimony and affidavits of Hoover, Belmont, and the FBI agents. Goulden, Hudkins, and Feldman are not mentioned in the entire Report; Alexander and Sweatt appear only in other contexts.

A draft of this section did include references to the meeting with Wade and the Nation article, but they were removed, at least in part at the suggestion of Gerald Ford.109

In this undated draft, the reference to the testimony of FBI personnel was accompanied by the statement that "Further, no individual FBI agent could have recruited Oswald in any such capacity without the knowledge of supervisory personnel in that agent's field office and at FBI Headquarters."110 Gerald Ford pointed out, correctly, that "This could have been done but not reported; this statement assumes required procedures were followed."111 This should have

prompted an inquiry into how well these procedures usually were followed; apparently it did not. The offending sentence is simply absent from the final version of this section.

The Warren Report's conclusion that Oswald was not an informant was bolstered by the claim that "This testimony is corroborated by the Commission's independent review of the Bureau files dealing with the Oswald investigation."¹¹² No such sentence appeared in the draft, which was presumably written by Sam Stern, the most knowledgeable person in this area. In fact, the Commission never reviewed all such files. I do not know who first suggested adding this incorrect claim to the Report.

We have already seen how the Commission's concern started with the informant allegation and developed into Stern's desire to see all the FBI's records on Oswald. In the period after the agents' affidavits were obtained, the Commission's attention was directed to other problems, including writing the report; we have discussed only the part of the subsequent investigation which led to a pseudo-resolution of the informant problem. We will return in Chapters 6 and 7 to the issue of the full extent and contents of the FBI files, and how the Commission never did get to review them all. In later chapters we will turn to the details of the relationship between Oswald and the FBI, and its possible relevance to the assassination. We have already seen how badly the Commission performed the assertedly significant task of settling one of the narrowest questions about that relationship, whether Oswald was an official informant. To finish off that discussion, we will see how the FBI's narrow definitions and semantic evasiveness allowed Hoover to deny an informant relationship in a related significant case; that of Oswald's killer, Jack Ruby.

Chapter 4. Jack L. Ruby, Potential Criminal Informant

"In an article in the Elks Magazine for August 1956, Hoover denounced those who 'indulge in sabotage by semantics - they stigmatize patriotic Americans with the obnoxious term "informant," when such citizens fulfill their obligations of citizenship by reporting known facts of the evil conspiracy to properly constituted authorities'."

(Frank Donner) 113

The allegation that Oswald had an informant relationship with the FBI was forcefully brought to the attention of the Warren Commission, considered most serious, settled by a categorical denial from Hoover, and selectively presented in the Warren Report. The fact that Jack Ruby had an informant relationship with the FBI slipped out, was never considered worthy of serious inquiries as to the facts, was settled by a categorical denial by the FBI, and was not even mentioned in the Warren Report.

That categorical denial consisted of a cautious admission of the facts, and a strained attempt to deny that Ruby was really an informant. The facts were most fully set out in a letter of June 9, 1964, from Hoover to Rankin: 114

"... Jack Ruby was contacted by Special Agent Charles W. Flynn of the Dallas Office on March 11, 1959, in view of his position as a night club operator who might have knowledge of the criminal element in Dallas. The purpose of this contact was to determine whether or not Ruby did have such knowledge, and if so, if he would be willing to furnish information to this Bureau. Ruby was advised of the FBI's jurisdiction in criminal matters, and he expressed a willingness to furnish information. A personal description of Ruby was obtained by Special Agent Flynn on the occasion of this contact on March 11, 1959, but no information or other results were obtained."

In a previous letter, Hoover furnished more details, and an interpretation: 115

"He was subsequently contacted by an Agent on April 28, June 5 and 18, July 7 and 21, August 6 and 31, and October 2, 1959. He did not furnish any information and further contacts with him were discontinued. These contacts were recorded only by date along with notations indicating Ruby had not furnished any information. There is no information recorded that was furnished by Ruby in connection with any of these contacts. Ruby was never paid any money and he was never, at any time, an informant of this Bureau."

We will look at the significance of Ruby's FBI contacts in the context of his other activities, at the history of the revelation to the Warren Commission, and at the many questions raised by Hoover's partial explanation. First, however, let us deal with the narrow question of whether Ruby was an informant.

Hoover managed (putting it charitably) to apply a definition that was so narrow as to exclude Ruby from being an informant despite the presence of what to outsiders seem to be essential factors: willingness to give information, repeated contacts, and possible acceptance of non-monetary rewards. In the case of Oswald, such factors only may have been present. 116C But if they had been, Hoover would have been able to deny that Oswald was an informant.

In fact, it appears that Ruby was listed in the FBI records as a kind of informant - a PCI, or "potential Criminal Informant." Here we must digress and examine some of the details of the FBI's informant system. Naturally, I do not know much about this sensitive topic. One source is FBI documents, mainly those liberated from the Media, Pennsylvania FBI office in March 1971; another is former FBI agents who recall the technical details of the system.

In the pre-assassination period, the FBI had two classes of informants - for security (i.e., "subversive") and criminal matters. Relatively recently, a third category, racial matters, was added. Informants are thus designated as "SI," "CI," or "RI"; when they are referred to individually in the files they are listed by number, such as "237-C" or "172-S" (Oswald's alleged number). 117

There are two levels of informant: a CI (or SI) must first be a PCI (or PSI). PCI means "potential criminal informant," but "potential" does not mean that he has not provided any information or been rewarded. It does mean that he has not been recorded at Headquarters as a full-fledged "reliable" symbol number informant. Despite the FBI's original intentions, the distinction seems to be largely administrative, not substantive.

J. Edgar Hoover and Alan Belmont testified about the FBI's informant procedures (but not about their actual practices - a quite different problem which the Commission never got into). Hoover's affidavit clearly indicates that he had in mind the distinction between PCI/PSI and CI/SI, although he did not use those names: 118

"FBI field offices cannot proceed to develop anyone as a security informant

without authorization from FBI headquarters. An informant is assigned a permanent symbol number and code name to afford him security.... Every symbol number and code name is indexed at FBI headquarters."

"If the services of an informant warrant payment on a regular basis, the field offices must also obtain authorization from FBI headquarters to make such payments." (Emphasis added.)

On the touchy issue of a locally controlled informant, Hoover focused on the issue of cash payments:

"Special Agents in Charge (SACs) of FBI field offices are authorized to make payments to individuals not utilized on a regular basis as informants, but here too FBI headquarters controls this by limiting the amount an SAC can pay to any one individual in this category."

Vouchers and receipts for such informants (evidently PCI/PSI's) are sent to Headquarters monthly; Hoover said that no payment was ever made to Oswald in that fashion.

According to former FBI agent William Turner, "there are minimal requirements for a PCI (or PSI) to become a full-fledged CI (or SI). To become a CI, the PCI must have furnished information of value in (if memory serves me) three FBI cases, or two FBI and one police, and combinations of this sort. The field office writes to Seat of Government (SOG) requesting that the PCI be approved as a CI. If approved, a symbol number is issued." 119

Hoover swore that no such request was ever made for Oswald; he was not asked about Ruby. But his above-quoted denial seems to be only that Ruby was not a full-fledged CI and that he was not on record as having been paid.

In fact, according to Turner, most informants, full or potential, are not paid, or are paid only upon delivery of information. As we can see, a PCI may have provided less than the minimum amount of information needed to qualify him as a CI. Turner told me that although there is considerable pressure to develop informants - an ability which is taken into account in an agent's regular performance ratings - an agent may have a PCI who is providing information on a continuing basis, but may not want to "cut in" the Bureau, and presumably lose flexibility, by asking to have him made a CI. If the Headquarters approval is anything more than a formality, perhaps a

particularly unsavory but still valuable informant might reflect unfavorably on the agent who submitted his record for elevation to CI status.

Former FBI Agent Robert Wall has confirmed that informants can be engaged, used, and paid without permission from or notification to Headquarters. 120

His description specifically applies to racial informants as of 1970, but appears consistent with what we know about 1963 procedures for criminal and security informants. His account indicates that Headquarters may be told of an informant while he is still "potential"; in the case Wall described, the factor that determined when Headquarters was notified is money. There was, he said, \$400 that could be given to a racial informant (\$200 to a security informant) without any permission from outside the field office. If more money was needed, the agent would write a letter to Headquarters, providing background information, and facts about what information had been provided, and asking for regular payments. Wall's account said that later "you write another letter to the Bureau saying this guy has performed so well for so long that we are removing the 'p' from him...." Contrary to Turner, Wall suggests that length of service rather than amount of information provided would be the main factor in determining when a PCI becomes a CI.

Presumably the official FBI Handbook, issued to all agents, would be the most valuable source of FBI procedures relating to informants. I do not think the Warren Commission even thought of using such a source; I doubt that I could get a copy of this Handbook. A 1968 memo in the Media files refers to pages in the Handbook in connection with a drive to get many new racial informants; the memo indicates that the Handbook contains detail about administrative requirements which would be useful in connection with the Ruby and Oswald cases; necessary background information, four-month progress letters, contact every two weeks, a form FD-209 to be submitted at the end of each month, and the like. 121

Another document from the Media files confirms that as of late 1970 (after the Huston Plan) payments to informants were not always authorized at the highest

levels of the Bureau, 122

"In payments to informants, if the total of services and expenses to an informant is less than \$300 in a lump sum payment or per month, our request for such payment is handled within division 5. If the lump sum payment or monthly authorization is \$300 or more, it must be approached on a much higher level."

The distinction made here appears to be administrative rather than regional.

The FBI has ten divisions; I believe that Division 5 is the Domestic Intelligence Division. 123 Thus, the intended distinction may be between approval by Division

5 at FBI Headquarters and by another division there. However, the next sentence shows that "division" also had a geographical meaning: "Note: if an informant is to travel outside our division...." Similarly, in the Commission's records, various FBI personnel used (e.g.) "Dallas Division" and "Dallas Field Office" more or less interchangeably. 124 This memo is therefore consistent with Wall's

statement that Headquarters does not always know about payments to informants.

After I learned of the PCI/CI distinction, I concluded that Ruby had probably been a PCI. Former FBI agent Turner gave me his opinion of Hoover's "denial": 125

"It indicates that Ruby had been a PCI, then discontinued. The only requirement for PCI is that the person be in a position to furnish information of value. Bartenders and night club owners are, and it is logical that Ruby would have been approached."

"A person can be designated a PCI right away, without Bureau approval. All the agent does is write a memorandum saying that so-and-so has been interviewed and seems to be in a position to furnish information. A case file (137 classification [see note 126C7]) is opened. The agent must thereafter maintain periodic contact. If after a number of contacts the person is unwilling or unable to supply information, the case can be closed by so stating in a memorandum."

So, finally, does the record on Ruby justify a conclusion that he was never an informant? Hoover's denial rests on the claims that he was never paid, and that he never furnished any information. Hoover's assistant, Alan Belmont, did not make that distinction in his testimony about Oswald: "An informant in this sense is an individual who has agreed to cooperate with the FBI and to furnish information to the FBI either for or without payment." 127 I asked Turner if he would ordinarily say that a PCI was not an informant. He

said that he would not make that denial, and that the FBI was being disingenuous in saying that Ruby was never an informant, since he "was most certainly a PCI." 128

Now we know when an informant is not an informant - most interesting in analogy to Oswald's case. Regardless of Oswald's informant status, it would have been a great embarrassment to the FBI if Ruby had been identified on November 24, 1963 as an FBI informant. But was Ruby's 1959 contact with the FBI significantly connected to his actions four years later? Perhaps not, but it was more than Ruby's reputation as a police buff (given to buying drinks and sandwiches for his friends) that led to Ruby's ready access to Oswald on November 24 (and to the Police Department for a press conference by Oswald late on November 22, to Assistant D.A. Alexander on November 21, and to D.A. Wade on November 22). 129C In fact, Ruby had been an informant for the Dallas Police as well as for the FBI. He apparently was much more than a typical night-club owner; his links with organized-crime figures were substantial and well hidden in the Warren Report.

Ruby's sinister background is too complex to be dealt with fully here. In brief, the Warren Report's attempt to portray his various activities and acquaintances as insignificant flies in the face of much of the evidence in the Commission's own files. The Commission was unable to get much past Ruby's own claim that he shot Oswald out of sympathy for the Kennedy family, without premeditation or outside influences. In fact, Ruby seems to have touched the mysterious and sometimes overlapping underworlds of "organized crime" and government intelligence operations. 130

Ruby's relationship with the police was a difficult problem for the Warren Commission. Naturally, after Ruby shot Oswald many officials in the DPD were anxious to play down his closeness with the force. As Sylvia Neagher has pointed out, the Commission gave more weight to the unsubstantiated denials that Ruby knew many policemen than to the evidence scattered in their files (and apparently never tabulated) that most of the police on duty when Oswald

was shot knew Ruby at least casually.¹³¹

When questioned individually, many police told of contacts with Ruby over the years. Many of them were not necessarily significant: for example, Ruby hired men for police duty at his night club through the Police Department (apparently a common practice),¹³² and bought drinks and perhaps did other favors for his friends. Perhaps such evidence is interesting largely because of the way it was downgraded by the Commission. However, some of the Ruby-police links were particularly suggestive, especially in light of his willingness to work for the FBI. Detective Gus Eberhardt told the Commission that "he regarded Ruby as a source of information in connection with his investigatory activities." He discussed two specific cases, involving narcotics and white-slavery charges, where Ruby had been helpful.^{133c}

On the other side of the fence, Ruby appears to have been involved in various suspicious activities himself. He had some contacts with organized crime figures, which were naturally played down. He dealt with gambling figures who had interests in Cuba, and was reported to have been involved in the sale of jeeps and arms to Cubans.¹³⁴

The ways in which the efforts of gambling (and other organized-crime) interests, political activists, and Federal intelligence agencies have overlapped (such as in various attempts to assassinate Fidel Castro^{135k}) have been widely publicized only rather recently. It is perhaps understandable that the Warren Commission did not actively pursue such a hypothesis involving Ruby; a scenario which seems quite plausible now might have appeared extreme in 1964. Nonetheless, some of the Commission staff were aware of some of the patterns in Ruby's background. In a memo dated May 14, 1964, Leon Hubert and Burt Griffin pointed out that certain areas had not yet been adequately investigated. They noted that "Ruby has long been close to persons pursuing illegal activities." After summarizing the reports of Ruby's Cuban interests, they said "We believe that a reasonable possibility exists that Ruby has

maintained a close interest in Cuban affairs to the extent necessary to participate in gun sales or smuggling." "In short," Hubert and Griffin concluded, "we believe that the possibility exists, based on evidence already available, that Ruby was involved in illegal dealings with Cuban elements who might have had contact with Oswald." (Of course, they knew that even if there was no Ruby-Oswald link, Ruby might have killed Oswald at the suggestion of some other person.) "The existence of such dealings can only be surmised since the present investigation has not focused on that area."¹³⁶

Ruby admitted making a trip to Cuba for ten days in 1959, reportedly for social reasons. There is strong evidence that he made one more, for just one day - on September 12-13, 1959, while he was on the FBI's books as a potential informant.^{137c} An agent contacted him twice a month in June, July, and August, but not again until October 2. One would like to know if the matter about which Ruby had agreed to provide information might have had anything to do with Cuba, and if the FBI knew in advance that he was going there.

Ruby's activities as an informant may have directly touched on Mafia activities. In 1946-47, he may have been involved in the efforts of the Chicago syndicate to extend its operations to Dallas.¹³⁸ The Commission concluded that "Ruby was unquestionably familiar, if not friendly, with some Chicago criminals, but there is no evidence that he ever participated in organized criminal activity."¹³⁹ After the assassination, a Chicago newspaper reported that Luis Kutner, a prominent attorney, had arranged a meeting in 1950 between Ruby and the Kefauver Senate Committee investigating organized crime.¹⁴⁰ The implication was that Ruby intended to act as an informant. Unfortunately, we know even less about this charge than usual, and this time it is less the fault of the Warren Commission than usual. Kutner was immediately interviewed by the FBI, but that interview was not reported to the Commission; they got only a followup report saying that Kutner had no additional information (but not indicating what his original information was).¹⁴¹ The FBI has told me that the

original report is not available to the public.¹⁴²

Another Ruby-Mafia link was suppressed in a most peculiar way. A former employee of Joe Civello, alleged Mafia boss of Dallas, told the FBI that Ruby was a "frequent visitor and associate of Civello." (The name was transcribed as "Cirello" in this report.) Bobby Gene Moore volunteered this story to the FBI. He first said that Ruby was a frequent visitor to a bookie joint near his (Moore's) home where much gambling took place. Moore then told the FBI that at that time (around 1951) he was working for the Cirello and LaMonte Italian Importing Company. The FBI reported, deadpan:¹⁴³

"Moore suspected that his employers, Joseph Cirello and Frank LaMonte, were engaged in racket activities because on occasion they would not allow him to open certain cartons containing cheese imported from Italy, although that was his alleged job. It was his opinion, based on this, that they might be importing narcotics. He had no additional information to substantiate this."

Moore, who worked periodically at Ruby's club from 1952 to 1956, added that "Ruby was also a frequent visitor and associate of Cirello and LaMonte." The FBI reported Moore's conclusion, based on Ruby's associations, that "he was connected with the underworld in Dallas."

The FBI did its job and checked this out - by interviewing Civello and LaMonte. Civello admitted that he had known Ruby for about ten years, but claimed to have seen him only four or five times.¹⁴⁴ LaMonte similarly admitted an old and "limited" association with Ruby.^{144½} This was evidently enough of an investigation for the FBI.

What made the FBI's performance a real whitewash was how they passed this investigation on to the Warren Commission. The Moore interview was part of CD 84, a large report containing a number of "miscellaneous" allegations; it made up 2 pages out of a 119-page section described in the table of contents as "Friends, Associates and Acquaintances." The significance of this report was that Civello was indeed a well known and powerful Dallas Mafia figure. The FBI reported Moore's suspicions but gave no indication in the report that he was correct. That was not a universal practice; the Commission's files show

that if the FBI wanted the Commission to know that the subject of an allegation was associated with a leftist group, they did so - usually by attaching a long and irrelevant "appendix" describing the organization in question. I have never seen an appendix on the Mafia.^{145X}

The FBI interviews of Civello and LaMonte identified them only by address. They were sent to the Commission as part of an alphabetically arranged collection of statements by alleged Ruby acquaintances in CD 302. The Commission lawyers reading that CD would not only not know who Civello was, they would not know what the original allegation was (unless they remembered, or checked) and would have no hint of its importance. One Commission staff member, probably Burt Griffin, complained in a handwritten note on an earlier page of that CD about the FBI's reporting practices: "... Why doesn't this report refer to the rumor, give its source & have this denial attached thereto. The episode could then be closed out."¹⁴⁶

Perhaps the Commission staff never put together these reports and realized the possible importance of the Ruby-Civello link. If they did, what was then done was a very crude coverup. The Civello part of the FBI's report of the Moore interview was simply deleted before its publication as CE 1536. A note on the file copy of that CE (in handwriting I do not recognize) says "omit everything after ¶ 2." The published exhibit has this deletion, with no indication that it was done - that is, the remaining two paragraphs are presented as a complete report. I am inclined to believe that the deletion was not consciously sinister, since the report could easily have been omitted entirely: the only place it is cited in the Warren Report is as one of ten references for the statement that Ruby "enjoyed card playing!"¹⁴⁷ On the other hand, the deletion of derogatory allegations or information in the material published by the Commission was exceptional, although this case was not unique.¹⁴⁸ It may well be that whoever ordered the deletion did know who Civello was.

As we shall see, this is only a typical example of how the FBI's reporting

techniques encouraged the Warren Commission to miss important clues. In the matter of Ruby's background, the FBI was not the only investigative agency to put such barriers in the Commission's path. The Dallas Police were of course prime suspects in connection with a possible conspiracy to kill Oswald. When the FBI interviewed Police Chief Jesse Curry shortly after November 24 about the breakdown in security, he was first warned of his rights to remain silent, just as any suspect would be.¹⁴⁹ (The FBI had jurisdiction under the assumption that the killing of Oswald was a violation of his civil rights.) Naturally the many policemen who had known Ruby had no interest in emphasizing their contacts. Reporter Seth Kantor, a friend of Ruby's, noted that D.A. Henry Wade apparently tried to pretend that he had not recognized Ruby when he encountered him in the Police Headquarters on the night of November 22.^{150C} Kantor said that "in fact, starting with Sunday afternoon [November 24] you no longer could find a policeman in town who said that he knew Ruby or, if he knew Ruby, that he liked Ruby."¹⁵¹

Sylvia Meagher has noted that "attempts by the victims" of Ruby's frequent physical attacks "to prosecute Ruby for assault were coldly discouraged by the Dallas Police Department, where Ruby had protectors and friends."^{151 1/2} The record shows that Ruby was arrested by the Dallas Police on eight occasions, but was never convicted; twice he was arrested for "investigation of carrying concealed weapon" but no charges were filed.¹⁵² This record of light punishment suggests but does not prove that Ruby was treated with favoritism by the police.

Beneath these straightforward signs of Ruby's position in Dallas were less direct links which seem to have escaped the attention of all the Commission staff. For example, Pate White, the attorney who got Ruby out of a jam in 1954 on a pistol-carrying charge, was a former Assistant District Attorney.¹⁵³ He admitted that he ran into Ruby on November 22.^{153 1/2} White's name appeared in the notebook of Ruby's assistant Larry Crafard at the time of the assassination.^{153 1/2} He was a friend of FBI agent Vince Drain, as well as of Ruby's friend Seth Kantor.^{154C}

It certainly seems, in short, that Ruby was well known in Dallas law-enforcement circles. The FBI also had considerable knowledge of Ruby. His name had been indexed at least ten times; one of the items in the FBI file was in connection with his service as an informant.

The information about Ruby as a PCI came to the Commission's attention through a careful reading of the massive first report on Ruby submitted by the FBI, CD 4. Four pages of miscellaneous old information appeared without explanation, prefaced only by "The following is information concerning Jack Ruby, also known as Jack Rubenstein." This report was received on December 20, 1963, but the followup on this point did not begin until February 17, 1964. On that date Leon Hubert and Burt Griffin, the staff lawyers in charge of the Ruby investigation, wrote a brief memo to Howard Willens, commenting on these pages of CD 4:¹⁵⁵

"This tabulation indicates that the FBI must have had a file on Jack Ruby prior to November 22, 1963. For example, it is stated that on July 9, 1959, the Dallas police 'advised' concerning the fact that Jack Ruby's name and telephone number had been found among the papers of a certain Siebbend, a Dallas gambler who had been arrested.... [See note 156C] Another example is that on November 13, 1962, a certain Sue Brown had advised the FBI that Eva Grant [Ruby's sister] operated the Vegas Club and had been formerly connected with the Al Capone gang in Chicago.... "I [sic] have not seen any special report on Ruby antedating November 22, 1963, and if such does exist I think we should have it. It may be, of course, that all of the information contained in such a FBI folder on Ruby has been put into the reports received by the Commission from the FBI but I suggest that in any case this should be clarified."

Charles Shafter, a Justice Department lawyer who was serving on the staff of the Commission, drafted a letter which Rankin sent to Hoover on February 25.

It said that "The Commission would appreciate receiving a report on the information relating to Ruby which may have been in your possession prior to November 22, 1963." Hoover's reply, dated February 27, revealed that the tabulation in CD 4 "was obtained through a search of all files in the Dallas Office wherein references to Jack L. Ruby appeared. All available information concerning Jack Ruby contained in the Dallas files is set forth in the report."^{156 1/2} In the very next sentence, Hoover set forth some "available" information

which had not been in CD 4. Hoover may have sensed that this information would have to come out as soon as the Commission looked in detail at CD 4: a description of Ruby given there, with no explanation of its source, was in fact obtained when Ruby was first contacted as an informant. "For your information," Hoover wrote, "Ruby was contacted by an Agent of the Dallas Office on March 11, 1959, in view of his position as a night club operator who might have knowledge of the criminal element in Dallas." Hoover continued with a slightly less detailed description of Ruby's FCI career than that quoted at the start of this chapter, concluding in the same way: "Ruby was never paid any money, and he was never at any time an informant of this Bureau."

If the staff had any questions about this intriguing revelation, they held them back. Rankin's next letter, dated March 3 and drafted by Hubert, asked only for copies of all interview reports (not even all records) in which Ruby was interviewed or mentioned. Hubert specified that his request was not limited to the Dallas files, but he did not ask specifically for records which might shed light on the informant matter.

Hoover replied on April 7, sending over ten items going back to 1956. In this letter Hoover revealed for the first time that Item 10, which had appeared in CD 4 with no explanation, was obtained in connection with the recruitment of Ruby as a potential informant. Item 10 was described here as "The description of Jack L. Ruby which was obtained when he was contacted by Special Agent Charles W. Flynn on March 11, 1959." That was, as Hoover had previously mentioned, the date when Ruby was first contacted and expressed a willingness to furnish information. Apparently to head off a request for the original records relating to these contacts, Hoover said that they "were recorded only by date along with notations indicating Ruby had not furnished any information."

Contrary to Rankin's request, Hoover did not provide exact copies of the

ten items, but "verbatim copies of the original source material with the exception of those instances wherein it was necessary to conceal the identity of a confidential source." But there was other information which was not included in those copies: namely the file numbers. This is most significant in connection with Item 10, the description of Ruby - if it bore an "informant" file number, it would be nearly impossible to sustain the claim that Ruby should not be considered an informant.

In a letter dated June 1, drafted by Burt Griffin, Rankin finally asked for the full story of the informant contact. He noted that the description in Item 10 included the phrase "known Dallas criminal."^{158C} He wrote: "Please advise us as to the purpose and other results of Agent Flynn's contact on that date and request Agent Flynn to indicate whether his comment about Ruby's criminal reputation was based on conversations with local law enforcement officers or any other information not then in your files."

Hoover's reply, dated June 9, was (as far as I can tell) the last word on this matter. Characteristically, his answer was partly evasive - an obvious non-responsive reply - and partly in contradiction with previous statements, in a possibly minor but certainly provocative way. The Commission's question about the purpose of the contact called for a discussion of the specific cases or problems involved. Hoover's answer, however, consisted of an almost verbatim repetition of his original "explanation," with parts rephrased to appear to answer (at least in form) the questions. The new sentences are underlined:

"As you were advised by my letter of February 27, 1964, Jack Ruby was contacted by Special Agent Charles W. Flynn of the Dallas Office on March 11, 1959, in view of his position as a night club operator who might have knowledge of the criminal element in Dallas. The purpose of this contact was to determine whether or not Ruby did have such knowledge, and if so, if he would be willing to furnish information to this Bureau. Ruby was advised of the FBI's jurisdiction in criminal matters, and he expressed a willingness to furnish information. A personal description of Ruby was obtained by Special Agent Flynn on the occasion of this contact on March 11, 1959, but no information of other results were obtained...."

Thus Hoover added nothing about the purpose of the contact. He managed to indicate his dissatisfaction with the Commission's inquisitiveness by

spelling out the fact that he had already given his explanation once.

Hoover's explanation of the "known Dallas area criminal" entry disagreed with his previous representations. He said that "this remark was added to the description by Special Agent Louis M. Kelley at the time when he was assisting in the preparation of" CD 4 after the assassination. Hoover sent the Commission an affidavit by Kelley, which he described as "setting forth his basis for adding the remark." In fact, Kelley's affidavit does not confirm Hoover's claim; it says only that he "possibly included" that remark "based on the fact I had before me Ruby's identification record from the Dallas Police Department, which listed several arrests in the Dallas area. This would have been the only thing on which such an observation [i.e., by Kelley] could have been based."

But Kelley did not say that he had in fact added the remark. In fact, Hoover's own letter of April 7 had said that Item 10, the description, was a verbatim copy (except for some material which had been excluded), and the remark "known Dallas area criminal" does appear there. This is in flat disagreement with Hoover's letter of June 9, which stated that "The personal description of Ruby as obtained by Special Agent Flynn on March 11, 1959, did not in itself contain the remark 'known Dallas criminal.'"

There may, in fact, be a relatively innocent explanation for this remark: it may not refer to Ruby at all. It appears after three items about an associate of Ruby. Both page 158 of CD 4 and Item 10 in CD 732 have the following format:

Associates	James Robert Todd
FBI Number	1805883
Dallas FD Number	22255
Remarks	Known Dallas area criminal
Residence	4650 Hawthorn Street ...

The FBI and Dallas numbers do refer to Todd, according to a report of information obtained in 1953 that Ruby was an associate of Todd. In that report, Todd is described as a "well known Dallas safecracker."¹⁵⁹ Thus, the "remarks" line may have referred to Todd, as did the previous two lines

(without clearly so indicating), or it may have referred to Ruby, as did the next line ("Residence" followed by Ruby's address).

Since this is the only material from the earlier FBI records on Ruby which is mentioned in this "description," one can speculate that the decision to recruit Ruby as an informant had something to do with James Todd. (A159½) After the assassination, the FBI interviewed Todd, not because of this old report of an association with Ruby but because his phone number was allegedly found in Ruby's car. Todd admitted only a "very limited acquaintance" with Ruby, not extending beyond "casual conversation."¹⁶⁰ The possibility of a significant Todd-Ruby link was apparently not investigated; Todd is not mentioned in the Warren Report or in the published testimony.

Thus the Commission was faced with a flat contradiction between two of the FBI's statements about the "known Dallas area criminal" remark. As far as I know, nobody - not even Griffin, whose analysis was typically quite thorough - caught this. He may have decided not to pursue it, on the grounds that whichever set of facts was correct (i.e., whether Flynn or Kelley introduced that remark) it was insignificant - after all, Ruby was a known Dallas criminal. Perhaps Griffin's original inquiry on this point had been intended to elicit more information about what Flynn had known about Ruby in 1959, and once he saw that Hoover was not going to tell, he decided not to press for a resolution of that relatively minor contradiction.

The available facts about Ruby's short career as a Potential Criminal Informant for the FBI leave us with more questions unanswered than answered:

* Why was Ruby contacted for the first time in March 1959? Why not earlier? How many other night-club operators were contacted for the same reason?

* Did this contact have anything to do with what the FBI already knew about Ruby, in particular his association with Jack Todd?

* What was Agent Flynn's area of responsibility?

- * Did he expect Ruby's help in any particular case?
 - * What kind of "criminal matters" did the FBI "advise" Ruby they had jurisdiction over? Didn't he already know?
 - * Is it customary to record a physical description of a new informant, even if he is just a night-club operator?
 - * What is behind a phrase like "Ruby expressed a willingness to provide information"? Just what did he agree to do?
 - * Exactly what did Flynn record? What file number was assigned to his interview with Ruby?
 - * Was Ruby in fact on the books as a PCI, at Headquarters or in Dallas?
 - * Why did the FBI recontact Ruby eight times, if he was providing no information? (Perhaps he was able to tell the agent something of value - e.g. that he had not seen a specific person or had not heard that he was in town - which might still be recorded as "no information.")
 - * Did any agents other than Flynn handle the later contacts?
 - * Did the FBI know about Ruby's trip to Cuba at the time?
 - * Why were the contacts discontinued?
 - * Might Ruby have provided information that was not "recorded"?
 - * Why did not CD 4 explain where the description of Ruby had come from?
 - * Why did not Hoover comply with the Commission's request for exact copies of the old Ruby reports?
 - * Why did Hoover especially request confidentiality for the ten items in CD 732, which have now all been released?
 - * Why did Hoover apparently fail to ask Flynn about his contact with Ruby, as the Commission had requested?
 - * What did Ruby think about his contacts with the FBI? (He was not asked when he was interviewed on June 7, 1964.)¹⁶¹
- It reflects especially badly on the Commission that the lawyers who were working on the Ruby area, and left so many questions unanswered, were perhaps

the best organized of all the staff. Hubert and Griffin nearly mastered the art of getting information from the FBI by asking precise and detailed questions. After seeing their office files, it is hard for me to sustain a belief that they did not originally intend to do a serious and thorough investigation. But they did not do it. In this particular case, if Griffin had questions like these, he failed to be specific enough. Hoover got away with saying nothing new, and even tried to make Griffin look foolish for asking when he already had the answers. 162X

Part of the problem was that the entire staff was overworked. (This did not produce an inadequate investigation, but was rather a side effect of various less abstract causes.) This problem was particularly obvious in the case of Hubert and Griffin, since they had to deal not only with the evidence on the shooting itself (such as Ruby's entry to the basement) but with a possible conspiracy tied to Ruby's complex past and shady background, and his mental state and motivation. We can sympathize, if not agree, with a decision not to expend the time and good will (or at least tolerance) of the FBI on an issue which may after all have been irrelevant to the shooting of Oswald. There is, of course, no excuse for the omission of this part of Ruby's past from the Warren Report.

In summary, we have seen how Hoover dealt with an embarrassing connection between the FBI and Jack Ruby. He volunteered information only when necessary, tried to define the informant relationship out of existence, declined to answer substantive questions about the basis of the relationship, and presented flatly contradictory explanations to the Warren Commission without flinching. In the next chapter we will see similar behavior by both Hoover and the Commission in connection with a more dramatic factual issue, directly related to the allegation that Oswald himself was an FBI informant.

Chapter 5. The Suppressed Hosty Notebook Entry

When the Warren Commission first heard the allegations that Lee Harvey Oswald had been an FBI informant, a key piece of evidence brought to their attention was an entry in Oswald's address book. It read¹⁶³

Oct Nov 1, 1963
FBI agent (RI-11211)
James P. Hosty
MU 8605
1114 Commerce St
Dallas

James Hosty is the FBI agent who interviewed Marina Oswald and Ruth Paine at the Paine residence on November 1, 1963, in an attempt to locate Oswald. He testified that he never saw Oswald himself until after the assassination. Why would Oswald have recorded his name, office address and phone number, and car license number? That remains a puzzle; even if Oswald was an informant there is no evident reason for him to have recorded that information. But it is certainly provocative.

The Commission's primary concern was to see if the recorded information was available to Oswald, assuming that his contacts with the FBI had been fully described to the Commission. It concluded that it was¹⁶⁴

"The Commission also investigated the circumstances which led to the presence in Oswald's address book of the name of Agent Hosty together with his office address, telephone number, and license number. Hosty and Mrs. Paine testified that on November 1, 1963, Hosty left his name and phone number with Mrs. Paine so that she could advise Hosty when she learned where Oswald was living in Dallas. Mrs. Paine and Marina Oswald have testified that Mrs. Paine handed Oswald the slip of paper on which Hosty had written this information. In accordance with prior instructions from Oswald, Marina Oswald noted Hosty's license number which she gave to her husband. The address of the Dallas office of the FBI could have been obtained from many public sources."

The inadequacies of this explanation have been carefully analyzed by Sylvia Meagher.¹⁶⁵ Despite Marina's testimony, on-site inspection showed that it was unlikely she could have seen the license number either when Hosty parked some distance down the street on November 1, or on his subsequent visit (on November 5). Meagher noted that Oswald's strong hostility to Hosty after the assassination cast doubt on the claim that they had never met.

Hosty testified that he did not give the Dallas FBI address to Mrs. Paine. There would have been no reason for him to do so. However, the FBI apparently had some reason for believing that Hosty did give Mrs. Paine the office address; that explanation was given in a memo responding to allegations in a book by Thomas Buchanan, even though Hosty had testified to the contrary earlier.¹⁶⁶ Why might Oswald have gone to the trouble to copy this address from some public source into his notebook? He did tell Marina that he was angered by the FBI visits to the Paine home, and that he had visited their office (at some unspecified time). Marina did not believe that, but (as Meagher noted) it would have been in character for Oswald to have made such a visit. Apparently the records of the Dallas FBI office, which might have revealed such a visit, were never checked for the Commission.

In summary, Oswald's source for all this information, and his reasons for recording it, remain somewhat mysterious. What is quite clear, although suppressed from the Warren Report, is the extent of the Commission's concern about this evidence. In particular, there was concern about the omission of this entry from a list of the contents of Oswald's notebook which the FBI prepared.

In the material published by the Commission (the Report and the 26 volumes of Hearings and Exhibits), the only explanation of this omission is in Hoover's testimony, unchallenged. Internal memoranda, and the Commission's correspondence with the FBI, show that the Commission was most suspicious of the FBI's treatment of this evidence. After considerable agonizing, a demand was made for an explanation. An explanation was provided which was so inadequate that it appears designed to be a defiant non-response: "this isn't much of an explanation but we trust it will be good enough." Apparently Assistant Counsel Sam Stern recognized this as a challenge, for he tried to get a clarification of one aspect - and failed. Apparently Stern did not notice some of the facts we will present here, which turn an evasive answer into a prima facie case of

perjury.

This story proves that even in a matter which the Commission considered of great importance, the FBI could get away with not providing a viable explanation. If they could do that here, they could do so with any sensitive question in the whole case. So, we will go through the story in detail, first presenting the evidence chronologically as the Commission saw and reacted to it, and then examining it more than the Commission did.

The Posty entry was brought to the Commission's attention by the Texas officials at the extraordinary meeting held on January 24, 1964. (See Chapter 3.) Wade and Carr passed on the allegation that Oswald was a \$200-a-month informant for the FBI. Rankin wrote that at the meeting¹⁶⁷

"There was a general discussion regarding other information disclosed in the investigative reports which lend some degree of credibility to these allegations. Among other matters discussed at the meeting, the following were stressed: ... (6) Oswald had Special Agent Hosty's car license and telephone numbers in his notebook; (7)...."

This particular fact had been circulating for some time. It was mentioned in the Houston Post by Lonnie Hudkins on January 1; Wade mentioned that Hudkins was one of the sources of the allegations he was passing on. It was also presented in an article by Harold Feldman in the Nation of January 27.

On January 27, Hoover wrote Rankin, reporting that "we have been advised" that Wade and Alexander had appeared before the Commission concerning the Nation article. Hoover said that "we have previously made available to the Commission full information concerning our contacts with Oswald," which was something of an exaggeration. After describing the three pre-assassination interviews of Oswald, but none of the related investigation, Hoover noted,¹⁶⁸

"In regard to the data in 'The Nation' article which alleges that Oswald had Agent Hosty's home phone and office phone numbers and car license number in his possession, you are advised that Special Agent James P. Hosty's name, office telephone number and automobile license number, one digit off, appeared in Oswald's address book."

Revealing that this matter had already been investigated, he added:

"For your information, Special Agent Hosty furnished his name and office telephone number to Mrs. Ruth Paine when Agent Hosty interviewed her concerning the whereabouts of Lee Harvey Oswald on November 1 and 5, 1963.

Agent Hosty did not give Mrs. Paine the license number of his automobile and presumably Mrs. Paine may have jotted such number down on her own initiative unknown to Agent Hosty."

I do not know what the immediate reaction to this letter was, or who went back to check what the FBI had previously told the Commission about this notebook. The matter came to a head at a staff meeting on February 11.

As reported by Howard Willens,¹⁶⁹

"This staff meeting was called by Mr. Rankin to put before the staff the question of the proper handling of the allegations of Lee Harvey Oswald as an undercover agent of the Federal Bureau of Investigation or other federal investigative agency.

"Mr. Rankin reviewed for the members of the staff some of the salient facts regarding these allegations. He reported to the staff on the Commission meeting at which this matter was discussed with Texas officials Carr, Wade, Alexander, Jaworski and Storey. He also brought before the meeting the fact that the FBI in the Gemberling report of December 23, 1963 had omitted information to the effect that the name, address, telephone number, and license number of Special Agent James P. Hosty, Jr. of the Dallas office of the FBI was contained in Oswald's address book. To complete the factual picture he pointed out to the staff that the Commission had received the letter of the FBI dated January 27, 1964 in which the fact that some of this information was contained in Oswald's address book was officially communicated to the Commission by the Bureau. Mr. Rankin indicated that this matter was an extremely difficult one which had concerned him and members of the Commission during the past few weeks."

Most but not all the staff thought this was important. The sensitivity of the issue was recognized:

"There was discussion as to the possibility of the adverse effect on the relationship with the FBI if this matter were brought to its attention. The thought was expressed that pointing this omission out to the FBI might in fact produce more accurate reports by the FBI in the future."

The majority of the staff did not agree with Willens' suggestion that an inquiry be made right away. Nonetheless, to his credit, Willens drafted a letter to the FBI and passed it on to Rankin on February 13. The letter, sent on February 20, was mild enough, expressing thanks for Hoover's affidavits denying that Oswald was an agent and for related "important contributions to the Commission's work." Rankin's letter noted that Hoover's letter of January 27 "supplied information which appears to have been omitted from an earlier report...." The Commission asked "to be informed of the circumstances surrounding this omission," including the names of the agents involved. "Needless to say," Rankin added, "we would like a full explanation."

Hoover's response consisted of two affidavits from agents (reproduced in the Appendix) and a cover letter which summarized the facts and showed his unhappiness over being challenged. Its tone is reason enough to reproduce it in full here: 170

OFFICE OF THE DIRECTOR



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

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WASHINGTON 25, D. C.

February 27, 1964

Dear Mr. Rankin:

Reference is made to your letter of February 20, 1964, wherein you requested to be advised of the circumstances surrounding the omission of Special Agent James P. Hosty's name and related data as appearing in Lee Harvey Oswald's address book in our report of Special Agent Robert P. Gemberling dated December 23, 1963, at Dallas, Texas, in the Oswald case. You indicated it would assist the Commission in appraising the significance of this matter if it knew the names of the Agents, including supervisors, who prepared this portion of the report or made any decision to omit information from the report.

You indicated also that you would like a full explanation.

For your information, I have determined that Special Agent Robert P. Gemberling made the decision as to what information should be included in his report of December 23, 1963. I also determined that Special Agent John T. Kesler had responsibility for reviewing photographic copies of the pages of Lee Harvey Oswald's address book to determine which items needed investigative attention. Such items were set forth as investigative leads to be covered and it was such lead material that was incorporated in Special Agent Gemberling's report of December 23, 1963.

I am enclosing herewith affidavits executed by Special Agents Robert P. Gemberling and John T. Kesler wherein each sets forth his explanation regarding his handling of Lee Harvey Oswald's address book.

Honorable J. Lee Rankin

I want you to know that I feel our reporting procedures in this matter are completely logical and sound. This Bureau never purported that Special Agent Gemberling's report of December 23, 1963, contained the complete listing of Lee Harvey Oswald's address book and, as you know, additional items in Oswald's address book not previously reported were furnished to the Commission in the report of Special Agent Robert P. Gemberling dated February 11, 1964, at Dallas, Texas.

This Bureau from the beginning of this investigation has developed and reported all available and relevant facts and it will continue to do so.

I trust that this letter and the enclosures thereto will satisfy the requirements of the Commission.

Sincerely yours,

Enclosures (2)

Gemberling's affidavit explained that he was acting as a coordinator of the investigation. On or about December 14, he instructed SA John Kesler to review the notebook and extract "all names and telephone numbers, the identities of which were unknown, together with any other lead information," and prepare a memorandum. Gemberling inserted Kesler's memorandum, which did not include the Hosty entry, into the large report dated December 23. The first page was retyped, so as to be on plain paper rather than an office memorandum form; the subsequent pages of Kesler's memorandum were used as an insert in the large report. Gemberling said that he alone was responsible for this use of Kesler's memorandum:

"It was recognized that as a result of setting out of leads based on Special Agent Kesler's memorandum that the results of investigation pertaining to such leads would be forthcoming and it was considered feasible [sic] to have the contents of the address book on which leads were based included in a report in order that when the subsequent results of the leads were reported, such basis would have been previously set forth in a report."

THE OSWALD PAPERS:

THE FBI VERSUS THE WARREN COMMISSION

Preface

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The continuing coverup: my Freedom of Information Act requests

544 Camp Street, New Orleans

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Context: the FBI in other cases; Oswald and other agencies

B. Oswald and the FBI and the Assassination?

(DPD, Davison, Klein's ads, Dodd, Radio Tapes, "D", Revill/Hosty, &c)

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DRAFT

March 1974

Copy # 7

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ALSO PLEASE NOTE: I want to emphasize that this is only a lightly edited first draft (despite the careful typing and the inclusion of an index, etc.). The facts and inferences have not all been checked, and there are many sections I am not satisfied with. Comments of all kinds are welcomed.

PREFACE

Millions of us remember exactly how we first heard the news of the assassination of President John F. Kennedy on November 22, 1963. The release of the Report of the Warren Commission ten months later was a relatively unmemorable occasion,

in part because the Commission did little more than validate the explanation provided within days of the shooting by the Dallas police: that Lee Harvey Oswald, alone and unaided, had shot the President. The Commission found "no

evidence" of a conspiracy.¹ In particular, it concluded that "All of the evidence before the Commission established that there was nothing to support the speculation that Oswald was an agent, employee, or informant of the FBI, the CIA, or any other governmental agency. It has thoroughly investigated Oswald's relationships prior to the assassination with all agencies of the U.S. Government. All contacts with Oswald by any of these agencies were made in the regular exercise of their different responsibilities."²

If the Commission had done its work just a bit better, the release of its Report would itself have been a memorable event. This is what you might have read: "WASHINGTON - September 31, 1964 - Lee Harvey Oswald was the lone assassin of President John F. Kennedy, according to the report of the Warren Commission, which was released today. Oswald was also named as the killer of Dallas Police Officer J. D. Tippit. The Commission, which was headed by Chief Justice Earl Warren, also reported on the shooting of Oswald as he was paraded before live television cameras by the Dallas Police. The report noted that Jack Ruby had close relationships with many policemen and had been an informant for the FBI, but no firm evidence was found to prove that he had any assistance in shooting Oswald.

"In its most sensational finding, the Commission noted that 'there is a strong case that Oswald had at some time acted as an informant for the FBI or some other agencies. The Commission is unable to reach a conclusion on the validity of this allegation, since the FBI declined to provide all of its files on Oswald. However, we have not concluded that Oswald's relationship with the FBI had any effect on his actions in shooting the President.'

"Former FBI Director J. Edgar Hoover, vacationing in California, could not immediately be reached for comment. Acting FBI Director Robert F. Kennedy, who replaced Hoover after the latter's resignation for reasons of health last May, declined to meet with reporters, but his office issued a prepared statement. 'The Warren Commission was charged with investigating the death of the President and the shooting of Lee Harvey Oswald, and with examining the evidence collected by the FBI. Anything pertinent to the assassination

was made available to the Warren Commission," the Bureau said.

"In Fort Worth, Mrs. Marguerite Oswald told a press conference"

Why did this not happen? Not because the facts about the FBI's relationships with Ruby and Oswald are incorrect. Before Watergate it was rare indeed for one Federal agency to directly and publicly accuse another of deception and the withholding of information. Certainly the Warren Commission was politically and structurally incapable of mounting such a direct challenge to the FBI, regardless of the facts. A major - perhaps primary - function of the Commission was to restore public faith in the institutions of the Government, and to squelch the widespread damaging rumors, such as the one that Oswald was an FBI informant. Of course, bureaucracies naturally tend to soften and smooth over conflicts, especially if the public might become aware of them. We will see why the Commission was not in a position to say that the FBI declined to provide its files on Oswald. The FBI never volunteered them, as it should have, and quite cleverly misled the Commission about the nature and extent of their files, but Hoover found a willing accomplice for his suppression - the Commission never asked for everything the FBI had on Oswald. A letter making this very appropriate request was drafted by Sam Stern, the staff lawyer who was most familiar with the questions raised by those files - but that letter was never sent.

First we will examine that draft, which I found in the Commission's office files at the National Archives. Later we turn to an analysis of the FBI files on Oswald, based on those parts which were given or described to the Commission. There is indeed impressive evidence - in those files and elsewhere - that Oswald did have some sort of special relationship - perhaps that of an informant - with the FBI. Some of that evidence is published here for the first time.

Of course, we do not know how the FBI would have responded to a request for all its files, or to a public charge by the Warren Commission that it had not been properly informed. In 1970, I wrote the Justice Department under the provisions of the Freedom of Information Act, making essentially the same request for the FBI files that the Commission had decided against, using Stern's draft

as my basic text. As of this writing, the Justice Department's only substantive response has been exactly that quoted in the above hypothetical press story: that everything "pertinent" was "made available" to the Commission. We will discuss the inaccuracy of this response, and examine several other requests I have made for relevant evidence that was suppressed from the Warren Commission. A small (but significant) fraction of that material has been made available to me.

The full story of Oswald's relationship with the FBI can not be told as long as the crucial files are secret. We will, nonetheless, study Oswald's activities and the FBI's attention to them, especially his work on behalf of the Fair Play for Cuba Committee in New Orleans in the summer of 1963. Many separate actions, although not individually conclusive, do add up to a picture which makes some sense if Oswald was in fact an FBI informant. Incidentally, it is almost certainly true that Jack Ruby had been a PCI (Potential Criminal Informant) for the FBI in 1959, a fact that would have caused quite a sensation if it had been known on November 24, 1963. Yet the Warren Commission stumbled on it accidentally and took no public notice; FBI Director Hoover went through semantic contortions to make it seem that Ruby was not an FBI informant.

As we consider the substantive content of the FBI's Oswald files, and the evidence relevant to the allegations about Oswald, we will also study the workings of the Commission, and its relationship with the FBI. Our intent will be to understand how a matter which the Commission immediately considered to be of paramount importance was never investigated properly. Our conclusions about how the Commission worked are not particularly original - many of them were suggested in one of the first books on the Warren Report.³ Here they are supported by the Commission's own internal papers, rather than by interviews or a study of the Report itself (which has been thoroughly demolished by my fellow critics).

The first part of this study, focusing on the specific question of Oswald and the FBI, should establish the need for any future investigation of the assassination to have full access to all existing evidence. It is not possible

for an amateur investigator to do a proper job on the hundreds of investigative leads that have come up over the past ten years. If, as many have urged, a Congressional Committee with subpoena power and respect for the work of the private critics takes up the matter, the truth may come out. In Part III, we present a number of specific matters that a new investigation must consider. In that section I draw heavily from the work of other students of the assassination, as well as from my own work.

The assassination and its investigation also raise a number of broader questions for historians - for example, the exemption of police and security agencies from "law and order" (which did not begin with Watergate), the consequences of the Kennedy administration's support for covert action against Cuba, the ways in which historical truth is established (by the Commission and by its critics, including New Orleans District Attorney Jim Garrison), and the effect of the assassination on the Kennedy myth. We can cast some light on some issues that were of great public interest during the height of the furor about the assassination in 1966-67. One such speculative question was alluded to in the news story I composed for the beginning of this preface: why did Robert Kennedy react as he did? Did not his approval really confirm that the Warren Report was correct? In a similar vein, what conclusions can be drawn from the alleged investigative integrity of Chief Justice Warren, and from President Johnson's alleged self-interest in the nature of the investigation?

Finally, there is a question that must be considered by any student of the assassination writing a decade after the fact - does it matter any more? Should students of the Warren Commission be classified with railroad and flying saucer buffs, or as "marginal paranoids" (in the words of an advisor to President Johnson)?⁴ It can be argued that the assassination was a defining event for a generation of Americans, and that the events of November 1963 marked the start of a new perception of American society. Certainly the Presidency of Lyndon Johnson remained under the shadow of the assassination, to a significant degree because of the widespread distrust that plagued Johnson, generated in part by the suspicion

that the Warren Report was a fraud. Less abstractly, if any of the killers of John F. Kennedy (or Malcolm X, or Martin Luther King, or Robert Kennedy) are still at large (as are the killers of Fred Hampton and Medgar Evers), it obviously does matter a lot for the future course of this country's political life.

Chapter 1. The Unanswered Questions

This book rests on a foundation built by dozens of my fellow critics over the past ten years. I could not summarize, or properly credit, all that work here. I must, however, give my opinion on the status of the case, in part as background for the general reader - although a few years ago it seemed as if millions of people were familiar with the details of the case. (If you know nothing about such matters as Oswald's defection to the Soviet Union, the Mannlicher-Carcano, and the "magic bullet" theory, read the summary chapter of the Warren Report first.) Also, I must present the context in which I believe that the theses of this work are relevant.

It is barely possible that the facts of the assassination itself were as the Warren Commission concluded: that one bullet fired from the 6th floor of the Texas School Book Depository building (TSD) struck President Kennedy in the back of the neck, passed through his body, wounded Governor Connally, and ended up essentially intact on a stretcher in Parkland Hospital; and that a second bullet from the same source hit Kennedy in the head, fatally wounding him. It has been well established that the Commission's chain of events is weak at many crucial points - e.g., the timing of the shots, the trajectory through both victims, and the condition of the nearly intact bullet. For the Commission's conclusion to be correct, much evidence must be rejected. From my training as a physicist, which involved frequent exposure to experiments which were contradictory for subtle or unknown reasons, I find it difficult to rule out the Commission's reconstruction unequivocally. Although I feel that the Commission was probably wrong, I know of no counter-hypothesis that readily accounts for all the evidence in detail.

The evidence (largely from eyewitnesses) that Oswald fired the rifle is inconclusive. Even though it was not subjected to critical cross-examination, the Warren Commission's case is weak. There is no doubt in my mind that a competent lawyer, using the facts that are already available, would be able to

produce a verdict of "not guilty."

I think that the possibility of Oswald's involvement in an assassination plot is still an open question. At the very least, his earlier activities are relevant to what happened on November 22. The minimum hypothesis is that after the assassination, his past made him a perfect suspect and explains why he was so quickly decreed the lone assassin. I strongly suspect that he was set up before the assassination, by people who knew that his background made him the perfect patsy.

On its face, the behavior of certain Dallas police authorities is evidence for a frameup. The chief of the Homicide Division, Captain Will Fritz, testified that he intended to pick up Oswald on the basis of a report that he was missing from his job at the TSD, although there were (naturally) several other absent employees, and the Dallas Police Department allegedly had no prior knowledge of Oswald's "subversive" past. During the interrogation of Oswald, neither the FBI nor the Dallas Police made tape recordings or stenographic notes. Oswald was shot to death in the basement of the DPD headquarters, while handcuffed to a police officer. It is possible that despite all this (and much more), there was no frameup of Oswald. It is also possible that there is an Easter Bunny.

Despite this prima facie evidence of a frameup, the Warren Commission was from the start inclined to the lone-assassin-Oswald hypothesis. This is not to say that the Commission ignored all evidence of a conspiracy, but there never was an effort to start from scratch and treat Oswald as merely one suspect.

The Warren Report itself has been demolished. At best it is a prosecutors' brief which does not even fairly summarize the Commission's own evidence.

Despite considerable progress in evaluating the evidence, the critics have not solved the case, however. Even giving Jim Garrison credit for good intentions, the "case" he built against Clay Shaw was ludicrous. Garrison's analysis of the political context of the assassination was eloquent, as was his plea for justice; the scenarios he adopted to describe a conspiracy against Kennedy often made a

Kleindienst that the original Watergate investigation/coverup was the most thorough and extensive investigation since the Warren Commission.⁸ This book also contains new information on some of the major questions to concern the Warren Commission and its earliest critics: Oswald's relationships with the FBI. The most conservative reading of the evidence is that the FBI did have a special relationship with Oswald, which the Bureau tried to conceal from the Commission. The most generous evaluation of the FBI's motive is that it, rather than the Commission, decided this information was not relevant to the assassination. At the very least, the consequence was that evidence suggesting a conspiracy having little to do with the Oswald-FBI relationship was not properly pursued.

So far, my attempts to get all the FBI's files on Oswald released have been unsuccessful. But the evidence still exists (presumably), unstudied; and when it is released it could well provide the impetus, and the leads, for a successful solution of the case.

lot of sense; but he couldn't investigate his way out of a heavy brown paper bag. He did apparently persuade much of the American public that there was a politically motivated conspiracy against Kennedy which the Warren Commission had concealed; objectively, however, his actions - accompanied by the willingness of many of the Commission's critics, myself included, to give him the benefit of the doubt for too long - have done more to resurrect the Warren Report than any other developments.^{6C}

At the end of 1966, the time was ripe for an official reopening of the case. Garrison appeared to be the person to do it, but he failed, and he is a hard act to follow. It would be very difficult for a Congressional Committee to reopen the case now and avoid the albatross of Garrison. But that reopening is just as necessary now as it was before Garrison. As this chapter was first written, just before the Watergate case broke wide open, it was reported that the Judiciary Committee was using Watergate as a lever for a study of basic questions about FBI operations.⁷ The sensational disclosures of the last year - of which the details about the FBI's Counter-Intelligence Programs are only the latest - make it even more important to expose the FBI's improper activities. Congress and the nation are much more receptive now to hypotheses involving a conspiracy followed by a coverup. As we shall see, the Warren Commission investigation provides more information about some of the questionable practices of the FBI than any other public record. Any agency which has to deal with the FBI - and any citizen who is concerned about coming under its scrutiny - should know how the FBI collects and manipulates information.

These broader questions are perhaps the best justification for this book at this time. Still, there remains (most probably) an unsolved assassination. I can not solve the case - that would take, I am convinced, subpoena power and an investigative staff at least as big as that of the Warren Commission. I can provide an analysis of the Commission's workings, based primarily on a close reading of its own files, which provides some perspective on the claim by Richard

Chapter 2. Hoover Under Investigation

When Lee Harvey Oswald became "the suspect" within hours of the Kennedy assassination, every detail of his prior life and political career became a matter of prime concern to the authorities. That was inevitable whether Oswald had actually shot at the President, or (as seems more likely) he was a prearranged patsy. It soon became clear that he was well known to various agencies, and questions were raised about the chance that his treatment by those agencies had somehow let him get in a position to shoot Kennedy. The State Department, for example, was in the awkward position of having taken apparently unusual measures to discourage Oswald from giving up his American citizenship in 1959, and to help him return from Russia in 1962. One of the thickest and most sensitive files on Oswald was that of the FBI. Thus it was inevitable that any investigation by the Federal Government of Oswald's background would be in part an investigation of itself.

The course of the Warren Commission's investigation is epitomized by a letter which I found in the National Archives. It was drafted on March 10, 1964, by Samuel A. Stern (the Commission's junior counsel in the area of evaluation of Presidential protection), who was responsible for the investigation of the relationship between Lee Harvey Oswald and the FBI. The key paragraph of this draft is straightforward enough: a request for everything the FBI had on Oswald before the assassination. This letter is reproduced on the following pages; as you can see, the key paragraph (which is on page 2) was emphatically deleted.

J. Edgar Hoover, Director
Federal Bureau of Investigation
United States Department of Justice
Washington 25, D.C.

Dear Mr. Hoover:

As you know, one of the most important matters being considered by this Commission is the extent to which various Federal law enforcement agencies knew of the activities of Lee Harvey Oswald before the assassination of President Kennedy.

In the course of its inquiry in this regard, the Commission has obtained from each of the agencies concerned a great deal of information, and, in the case of the Central Intelligence Agency, the Department of State, the Office of Naval Intelligence, and the Immigration & Naturalization Service, the Commission has been furnished the entire contents of any files maintained by each of these agencies on Oswald prior to November 22, 1963.

The FBI has been most cooperative in furnishing its formal reports on Oswald, and in responding by letter or memorandum to certain questions that have arisen from time to time.

The Commission has a number of specific questions regarding these FBI materials; for convenience, the questions are set forth in an attachment to this letter. Although some of the questions are, in form, susceptible of a simple affirmative or negative response, the Commission would appreciate instead a reasoned response to each question, in reasonable detail, and with such substantiating materials as seem appropriate.

So that the data available to the Commission in this area with respect to the FBI is as comprehensive as that which has already been furnished to the Commission by the other federal agencies concerned, the Commission would appreciate being furnished two copies of all FBI files on Oswald, whether maintained at headquarters or at any field office. This should include all material in FBI files dealing with Oswald in any way which has not already been furnished to the Commission, including internal memoranda, teletypes, and other instructions or communications between FBI activities, internal surveillance reports ~~and~~ any surveillance conducted involving Oswald, internal mail cover reports on Oswald, and the like. To the extent feasible, the Commission would also appreciate being furnished two copies of any other data on Oswald not contained in his files, as, for example, extracts from the ⁶²⁻⁴⁴ files of the daily activities of those agents who had any contact with Oswald if such entries are not a part of the Oswald files.

I recognize that the information requested in this letter requires the most careful and secure treatment. The Commission would be pleased to discuss any suggestions you may have as to security precautions you would want to observe in making the data available to the Commission.

On behalf of the Commission I wish to thank you and your representatives for your continued assistance to the work of the Commission.

Sincerely,

Chairman

Enclosure

When this letter was sent out on March 26, all that remained was some "stroking" introductory material and a list of specific questions based on the FBI records Stern had already seen. Also deleted from the draft were three general questions which lay at the core of the Commission's concern about the FBI and Oswald:

* * *

In view of all the information known to the FBI about Oswald before the assassination, furnish a comprehensive explanation of:

- a. What was the true degree of concern in which the FBI held Oswald?
- b. Why did the FBI apparently consider that Oswald's conduct did not merit advice to the Secret Service, particularly in the liaison activities immediately preceding the President's trip to Texas?
- c. Why was the FBI inquiry into Oswald's activities not more active in connection with its own direct responsibilities?

Stern's original draft was effectively a subpoena, to be served on a reluctant FBI. Sending that letter would have confirmed that the FBI itself was under investigation by the Commission. The decision not to send it meant that the Commission drew back at the moment of truth.

In this book we will consider the questions raised and symbolized by this letter:

- * Why was the letter drafted? That is, what were the issues in the investigation it represents and why was that investigation appropriate?
- * Why was it not sent - how was the investigation of which it was a part aborted?
- * What is in those FBI files, and what would they have told the Commission about Oswald?

word or do an independent investigation - and despite their expressed intentions they ended up taking the FBI's word. Within this question was another which the Commission took very seriously; when the FBI listed the contents of Oswald's notebook, they omitted the listing of the name, phone number, and car license of FBI agent James Hosty. The Commission recognized funny business here. They carried on what appeared on the surface to be a thorough investigation; as we shall see, the FBI's explanation was blatantly unsatisfactory on small but crucial details of fact.^{10X} The Commission's assessment of the importance of these questions means that if they did not get to the bottom of them, they had no chance of solving other problems which they considered less sensitive if the FBI did not want them to have the answers. In other words, if the FBI could make less than a full disclosure on these issues, they could get away with anything. We will see that they got away with lots. (10A)

The specific occasion for the drafting of this unsent letter seems to have been the questions about the FBI's pre-assassination investigation of Oswald which Stern had accumulated during his analysis of the fragmentary FBI records which the Commission had obtained. Stern may have recognized that previous indications that the FBI was not volunteering accurate information meant that the FBI's answers would have to be checked independently against the files. By early March, as Stern noted in the introduction to his letter, the Commission had already received files on Oswald from various other agencies. Stern had noticed material relating to the FBI in these other files which had not previously been made available to the Commission. At that time he was also involved in an unsuccessful attempt to get all the Oswald files of the Defense Department. Thus, his request for all the FBI files was appropriate both as part of a general effort to build a complete record, and as a means of assuring adequate answers to specific questions.

Evidently, the decision not to ask the FBI for their Oswald files at that time was made by Stern's superiors, including Assistant Counsel Howard P. Millens,

* What can the files now tell us about the FBI?
* Why are they still being suppressed?
As background for understanding Stern's letter, we will establish the context by a chronological survey of the important Commission-FBI correspondence in the early stages of the investigation.^{9X} We will see the issues emerge essentially as the Commission did, even though their perspective now seems distorted. At this point we will simply try to understand Stern's own position when he wrote the unsent draft.

A major element of Stern's position was that his official interest in Oswald and the FBI was from the point of view of Presidential Protection - that is, given what the FBI knew about Oswald, should they have notified the Secret Service that he was a potential threat to the President? This seems to have been more a formal constraint than a real one, since Stern, more than anyone else on the Commission staff, got into the question of the FBI's true relationship with Oswald. I have the impression that Stern wanted to pursue many of the implications of that relationship (which overlapped with the investigative responsibilities of other staff members, such as the possibility of a conspiracy), but that he had to formulate his investigative intentions in the more acceptable context of Presidential Protection.

The other fact that shaped the early investigation by Stern and his colleagues was that certain questions struck the members of the Commission as very important. One was the allegation that Oswald was an informant for the FBI. We shall discuss what this might have meant if true, and whether another irregular relationship would have been equally important to the Commission's concerns. (That is, the FBI might have treated Oswald other than as an ordinary subject of their investigation even if he was not an informant.) The Commission, however, initially framed the issue in very definite terms: was Oswald on the FBI's records as an informant with a symbol number, who had been or could have been paid? The Commissioners clearly saw their alternatives - accept the FBI's

who served as an assistant to General Counsel J. Lee Rankin. The only record I know of is the initials on the letters. Stern's draft, typed by Anne Welsh, ¹¹ is marked "DRAFT-Stern/av/10Mar64." Evidently copies were made and revisions (mainly minor corrections) made by hand on at least two different generations. The letter is not in the obviously incomplete "office files" of the other staff members; the only copy I know of is in the Stern file labeled "FBI."¹² Apparently he considered this record of his attempt and intentions worth keeping. The letter as sent on March 26 bears the notations "JLR:SAS:HPM:al" and "3/25/64 ret."¹³ (retyped; in this case the typist was Adele Lippard.)¹³ Both Rankin and Willens initialed the revised letter. Ordinarily, letters to the FBI were drafted by a staff member for Rankin's signature; if Rankin had signed a draft by Stern it would have had initials such as "JLR:SAS:al." Willens' initials indicate that he personally was involved in the revision of the letter; Rankin himself may or may not have been. Of course, unnamed members of the Commission or the staff may have participated in the discussion. Since Stern's draft was prepared for Warren's signature and the revised letter was sent under Rankin's name, Warren himself may have participated in the discussion.

I can only speculate as to the reasons for the deletion. Stern told me that he had only a hazy recollection of this specific matter and that he did not think it was appropriate for members of the Commission staff to comment on the work of the Commission. Willens, now in private practice in Washington in the same firm as Stern, told me that he is not in a position to comment on this specific point and has a general policy of not discussing the Commission or its work.¹⁴

In 1964, Willens was acting as liaison for the Commission with the Justice Department, having been Second Assistant in the Criminal Division. (AL4) Thus he was in a position to know from experience how the FBI would react to such a request. The staff was of course concerned with maintaining good relations with the FBI, which was doing most of the investigative work. The most likely

specific reason given was that the FBI files contained internal records about FBI procedures which as a matter of policy are not made available outside the FBI.¹⁵ Such an objection might have been phrased in terms of "security matters," as the FBI later described some of the contents of its Oswald files.¹⁶ It may have simply been pointed out that such a request would have involved an excessive amount of work. (I was later led to believe that all these records have never been compiled, and that it would have cost me many thousand dollars to have the FBI's files searched for all the material specified in Stern's draft, even if the Bureau had been willing to do so for me.) Money should have been no obstacle for the Commission, but the loss of the FBI's good will was. (AL6)

Whatever happened between Stern, Willens, and Rankin, the record looks favorable to the FBI. Hoover did not refuse any request; he did not even discourage it on the record. As we shall see, this kind of bureaucratic cleverness is typical.

Stern may have been persuaded that his broad request should be deferred until the FBI's answers to his specific questions could be studied. But, arguably as a consequence of the decision not to back up the questions with the inclusive request, the questions were not all adequately answered or supported by documentation. In his later investigation, Stern consistently had difficulty getting past the limited record he did have into the FBI's actual evaluation of the Oswald case. The Commission concentrated on the FBI's headquarters file entitled "Lee Harvey Oswald," which the FBI misled the Commission to think contained all their information of Oswald. Warren himself insisted that the staff - meaning Stern, who surely knew that he should have had access to all the FBI's Oswald records - should not be allowed to examine even this one file. For their permanent records, the Commission settled for a list of that file, consisting of inadequate descriptions; even that one file may have been purged of particularly sensitive items.

We will see how the investigation of Oswald and the FBI really went downhill

from the time this letter was set aside. Stern was clearly not happy with the obstacles to a complete investigation, but he did not - or could not - do very much about it. In a letter to me dated August 31, 1973, in response to my inquiry about this draft request and another area of the investigation where he personally had played an important role, he chose not to say that he was satisfied with the way the investigation had gone. He told me that he was confident that "these matters were ultimately worked out entirely to the satisfaction of the Commission."

I had the opportunity to chat informally with Stern in September 1973. He clearly did not want to discuss the details of conflicts between him and his superiors on the Commission. This is a perfectly understandable position; I do not know if it is due in part to any personal friendship with Chief Justice Warren, for whom he had earlier clerked. Stern suggested to me that the procedural limitations of the investigation should be weighed against the substantive results. That is, for example, if there was in fact an innocent explanation for Oswald having the name and phone number of an FBI agent in his address book, the FBI's apparent attempt to conceal that fact is not as important as it would be if there was really something incriminating being hidden. The Commission's failure to make an issue of procedural non-cooperation should be tolerated, from this viewpoint, or at least understood sympathetically, if there was no substantive deception. I can sympathize with this view; certainly the staff had to weigh such factors at the time. However, I think it is now clear that there was more substantive non-cooperation by the FBI than even the Commission staff was aware of. I hope this book will persuade the Commission staff, and other supporters of the Report, that the investigation was not just restricted by the usual compromises of intra-governmental work, but that significant and relevant facts were kept from the investigators.

In the following chapters we will use Stern's unsent draft as a starting point for analysis in two directions: the Warren Commission investigation and

the FBI files. In each direction, there are questions which are an important part of the assassination controversy, and issues which are still important in a broader context after a decade. Oswald's relationship with the FBI was considered by the Warren Commission itself to be a key issue. In Section III we will study the FBI files on Oswald for facts we consider important, most of which were unnoticed by the Commission, and discuss my requests for this material using the Freedom of Information Act. Those files also reveal FBI operations and procedures, including improper ones, which are probably still used. Before doing that, we will confirm the need for going beyond the Commission by looking at its procedures and interactions with the FBI. From additional internal Commission documents, we will see how the FBI resisted an investigation of its own dirty linen and how it consistently manipulated the Commission's access to evidence. In this case we have the rare opportunity of seeing the details and documentation of the FBI's refined manipulative techniques.

First we will follow the Commission's concept of what questions needed to be asked about the FBI and Oswald. We will closely examine the answers the Commission settled for, and demonstrate a pattern of FBI challenge and Commission response. In several areas which the Commission recognized as sensitive, the FBI said, in effect, "this non-answer is our response to your question; do you want to do something about it?" The Commission's typical response to these challenges was to let the issues drop. To some degree the FBI's statements were recognized as inadequate; we shall dig further than the Commission did to see that they were even worse.

Chapter 3. Was Lee Harvey Oswald an FBI Informant?

There is much more to the question of Oswald's relationship with the FBI than the single charge which most concerned the Commission: was he an FBI informant? Subsequent chapters will go into those other questions. But the Commission pledged itself to get to the bottom of the informant allegation, and not just to accept a denial by J. Edgar Hoover. So, this is a test case defined by the Commissioners themselves: if they did not investigate this issue, if they yielded to opposition here, we can be sure that they can not be counted on in any other sensitive area. In fact, as we shall see, not only did they accept an FBI denial, but it was not even a convincing denial on its face.

The Commission first met to discuss this allegation on January 22, 1964. This meeting was provoked by a contact initiated by Texas officials. In the book by Commissioner Gerald R. Ford, this meeting was the dramatic high point. For the other Commissioners as well, that day was presumably when (as Ford put it) the Commission got "its first shock."¹⁷ We will follow chronologically the Commission's response after January 22; prior to that, however, the issue was building up in various ways. We will look separately at the origin and dissemination of the allegation, and two factors which influenced the Commission's response; how it had structured itself, and saw its work; and the relationship that had been established with the FBI as the investigative reports piled up.

Here we will look at the Commission's behavior on its own terms: what it said it would do, what it did, and the FBI's response to the charges. We will see how the Commission evaluated and reacted to the FBI's position. We will digress to discuss some rather important leads relating to this particular question which the Commission missed. First, we summarize the pattern of the Commission/FBI investigation, as it was being established in the two months after the assassination.

The FBI investigation preceded the Commission. On the day of the assassination, President Johnson asked Hoover to "pick up" the investigation.¹⁸ An FBI investigation

of the shooting of Oswald was promptly announced by President Johnson.¹⁹ To head off investigations by Congressional Committees and Texas authorities, Johnson announced on November 29, 1963 the setting up of a special Presidential Commission. (The seven members were Chief Justice Earl Warren, Senators Richard Russell and John Sherman Cooper, Representatives Hale Boggs and Gerald Ford, former CIA Director Allen Dulles, and John McCloy.)

The Commission first met on December 5 and 6, to arrange for staff and to discuss its overall role. At that time, the FBI investigation was going full steam. Hoover later testified that the original intention was to produce an FBI report for public release.²⁰ As early as November 27, Assistant Attorney General H. Jack Miller submitted to Deputy Attorney General Nicholas Katzenbach a tentative outline of the proposed report.

The atmosphere was one of preparing a report to prove that the investigation had been completed, rather than looking for leads which had not been pursued. Reassuring the public was important; the contents of the FBI report were leaked to the press (much to the consternation of the Commission at its first meeting). On December 9, Katzenbach sent the finished FBI Summary Report to Chief Justice Warren, Chairman of the Commission. The report, in the words of its preface, "sets forth the evidence conclusively showing that Oswald did assassinate the President."²¹ The FBI did note that new leads were still coming in and that the investigation would continue. Although President Johnson had announced that the FBI report would be made public, Warren did not want that done. In fact, it was not released until 1966; in February 1965 the FBI told me that "it is not expected" that the report will be made public.

On December 16, 1963, the Commission decided to ask the FBI and other agencies to provide the "raw materials upon which any reports given to the Commission are based." In response, the FBI on December 20 sent over 4 large reports on the Oswald and Ruby cases. (Those reports were designated CD 4 through CD 7; CD means "Commission Document."^{22C}) Sixty-eight more FBI investigative reports, most

only a few pages long, and including 5 pre-assassination reports on Oswald, were transmitted on December 23.

Over the next couple of weeks, major steps in organizing the Commission were taken. At that time, the staff was still being put together. (For example, Sam Stern, who had written Warren and talked with Willens earlier, submitted his resume on December 24, (A22)) Howard Willens had come over from the Justice Department, where he was an assistant to Jack Miller, to assist J. Lee Rankin, whom the Commission had chosen as General Counsel. Reportedly based on a memo by Willens, 23C the Commission's work was divided into six areas. This arrangement was passed on to the staff by Rankin in a memo dated January 13, 1964. That organizational memo is worth quoting at some length here: 24

"This memorandum constitutes my official welcome to each of you as a member of the Commission staff. We have an important job to do and I know you share my desire to accomplish it with thoroughness, imagination and speed....

"Attached for your information is a tentative outline dividing the substance of the Commission's work into six areas. The areas are as follows: (1) Assassination of President Kennedy on November 22, 1963; (2) Lee Harvey Oswald as the Assassin of President Kennedy; (3) Lee Harvey Oswald: Background and Possible Motive; (4) Oswald's Foreign Activity (Military Excluded); (5) Murder of Lee Harvey Oswald by Jack L. Ruby; and (6) Security Precautions to protect the President. Any such division of the work at this point, of course, must necessarily be tentative and I am sure that this outline will undergo substantial revision over the next few weeks.

"Each of the first five areas will be assigned to a team of two lawyers, one senior staff member and one junior staff member. I would like the assignments of senior lawyers to be as follows: (1) Mr. Adams, (2) Mr. Ball, (3) Mr. Jenner, (4) Mr. Coleman, and (5) Mr. Hubert. I will retain immediate responsibility for the area of security precautions. Assignments of junior staff lawyers will be made this week...."

Thus, right away the working staff was faced with evaluating the FBI's Summary Report, as well as what Rankin described as "the bulky underlying materials" submitted by the FBI. Each team of lawyers was asked to prepare a summary of the available facts, problems raised, recommended further investigation and testimony, and (optionally) a revised outline. 24

Obviously, the definition of the Commission's tasks, especially Area 2, was influenced by the FBI's earlier conclusions. Assignment of such a small staff to such large questions meant that the essential job was seen to be evaluation of the evidence, not production of new evidence.

At the first Commission meeting, Warren indicated a very narrow idea of what his job was. He was outvoted on many points, but at first he suggested no staff of investigators, no subpoena power, and no public hearings. 25 In his introductory comments to the Commission, he proposed a minimum role: 26

"Now I think our job here is essentially one for the evaluation of evidence as distinguished from being one of gathering evidence, and I believe that at the outset at least we can start with the premise that we can rely upon the reports of the various agencies that have been engaged in investigating the matter, the F.B.I., the Secret Service, and others that I may not know about at the present time."

The staff learned fairly quickly that they could not just rely on the FBI reports as accurate; the members of the Commission, who had the ultimate policy-making power, apparently never learned.

An FBI Supplemental Report on the assassination, bearing the same date as Rankin's organizational memo, was given to the Commission the next day (January 14). 27 It was accompanied by 111 FBI reports, including one of about 800 pages, on which it was purportedly based. 28 When the Commission met on January 21, their reaction to the scope of this material was clear: 29

"Mr. Dulles. I wonder if we couldn't ask our staff to take out of this tremendous mass ... it is just perfectly tremendous But if the staff could pick out what they think is essential, I should think we could rely on them pretty largely, I mean, because it is tremendous. It is as high as this room now, the raw reports that have been collected together here."

While the Warren Commission was trying to cope with the mass of material that had been provided to back up a report that had already concluded Oswald was the lone assassin, the Oswald-informant allegation was building up. It is perhaps not surprising that the preoccupied Commission did not take notice until it was forcefully brought to their attention, since (naturally) the FBI's reports did not emphasize the issue. (A29) But it had been in the press. The

issue was tied to the question of liaison between the FBI and other agencies, namely the Secret Service and the Dallas Police. As Oswald's political background, and the FBI's knowledge of it, came out, one question was naturally asked: why didn't the FBI warn the SS that Oswald was in Dallas, working in a building on the Presidential motorcade route? As we shall see, the Dallas authorities may have had special reasons for emphasizing that if they had known

of Oswald, they would have kept an eye on him. Such questions made Area 6, Presidential Protection, a sensitive one for the Commission. Of course, if Oswald had been a trusted FBI informant, that would explain a lack of concern. The Commission eventually accepted the FBI's explanation that it had no reason to consider Oswald a threat against the President. (A29½) I consider the FBI's position credible on that point; they knew things about Oswald they did not tell anyone else, but that was not one of them.

There were three specific press reports that figured prominently in the Warren Commission's consideration of this issue; those of Joseph Goulden, Lonnie Hudkins, and Harold Feldman. The first of these articles to appear was by Joseph Goulden in the Philadelphia Inquirer on December 8, 1963. Based on information from "an informed law enforcement source," Goulden reported that the FBI "tried to recruit Oswald as an undercover informant in Castro groups" in September 1963. "The source said he did not know if the FBI succeeded in hiring Oswald; and the federal agency would not discuss the matter."³⁰ In the Houston Post of January 1, 1964, Lonnie Hudkins had an article entitled "Oswald Rumored as Informant for U.S." Hudkins focused on the extent of the FBI's reported knowledge of Oswald, and the failure to warn local authorities. One law enforcement officer summed up the speculation bluntly: "you just wouldn't think to check out one of your own stoolies." Hudkins said that DA Henry Wade "does not discount the possibility that Oswald may have been an informant. 'It may be true,' he said, 'but I don't think it will ever be made public if it is.'"³¹ A major article by Harold Feldman appeared in the Nation of January 27, 1964; it cited the Goulden and Hudkins reports and discussed Oswald's financial record, calling it "entirely inexplicable" unless some hypothesis such as Oswald having been an informant is invoked.³² This issue of the Nation was already on the newsstands when the Texas officials came to Washington with their story on January 24.

On January 22, Waggoner Carr, the Attorney General of Texas, talked to

General Counsel Rankin by phone. According to Rankin, Carr said³³

"that he had received on a confidential basis an allegation to the effect that Lee Harvey Oswald was an undercover agent for the Federal Bureau of Investigation since September of 1962 and that he had been paid \$200.00 a month from an account designated as No. 179. Mr. Carr indicated that this allegation was in the hands of the press and defense counsel for Ruby and Henry Wade, although he stated that he had not discussed this matter directly with Wade."

At Warren's request, Wade and his assistant DA, Bill Alexander, were asked to come to Washington.

That same afternoon, the Commission met. Our sources about that meeting are limited. A memo written some days later by Rankin makes it clear that the Commission at least saw the necessity of appearing to carry out a proper investigation:³⁴

"This specific allegation was discussed in detail by the Commission. It was recognized by all members of the Commission that, although this allegation was probably not accurate, this matter had to be regarded seriously by the Commission. It was agreed that the Commission would have to take whatever action necessary to pursue this matter to final conclusion."

Rankin's characteristically dry prose contrasts with the impression cultivated by Commissioner Gerald Ford, who wrote that he could not "recall attending a meeting more tense and hushed." When the allegations were reported to the Commissioners, "they looked at one another in amazement."³⁵ Interestingly, Ford's book does not indicate that the Commission made any decision about the truth of the allegations at that time, only that they agreed to ask the Texas officials to come up. Apparently the Commission recognized the sensitivity of their discussions, for the court reporter's stenotype notes were "confiscated."³⁶ The packet of notes remains in the National Archives, still sealed and untranscribed, and withheld from the public on the grounds (among others) that it has a 'national security' classification.³⁷

No transcript was even recorded on January 24, when the Texans appeared. (The group included two attorneys who were assisting Carr as Special Counsel for the Texas Court of Inquiry on the assassination, Leon Jaworski and Robert Storey.) Our best source is Rankin's undated memorandum for the record:³⁸

On Friday, January 24, 1964, the Chairman of the Commission and I met with Attorney General Carr, District Attorney Wade, Assistant District Attorney Alexander, Mr. Javorski and Dean Storey. We reviewed the situation to date. District Attorney Wade and others of the Texas representatives stated that the rumors to the effect that Oswald was an undercover agent were widely held among representatives of the press in Dallas. They stated also that Mr. Belli, attorney for Jack L. Ruby, was familiar with these allegations. Wade stated he was also aware of an allegation to the effect that Oswald was an informant for the CIA and carried Number 110669.

District Attorney Wade and Alexander stated that the sources for these allegations or rumors were several reporters, including Houston Post reporter Hudkins. They did not pinpoint Hudkins as being the source of this information, but they did not name any other individual reporters. They both indicated that they would not vouch for the integrity or accuracy of these reporters. They did inform us that this information was not disclosed in chambers during the bail hearing on Monday, January 20, 1964. District Attorney Wade stated that, based on his experience as an FBI agent during the years 1939-43, he did not think that the number would be either a payroll or voucher number carried on the Bureau records. He suggested that the records are not kept that way and would not show the name of the informer, who would probably be paid by the FBI

agent in cash. He further stated that in his experience it was customary for the agent to carry the informer on his books as a number.

There was a general discussion regarding other information disclosed in the investigative reports which lend some degree of credibility to these allegations. Among other matters discussed at the meeting, the following were stressed: (1) the use by Oswald of Post Office boxes; (2) use by Oswald of aliases; (3) the lengthy 2-hour interview conducted by the

FBI of Oswald in August of 1962; (4) interviews conducted by Special Agent Hosty in Dallas regarding Oswald's whereabouts and the failure to notify Secret Service of this information; (5) the comment after the assassination of Special Agent Hosty that Oswald had contacted two known subversive agents about 15 days before the assassination; (6) Oswald had Special Agent Hosty's car license and telephone numbers in his notebook; (7) Oswald's mother has stated that her son was an agent for the FBI or some other federal agency; (8) Special Agent Hosty was transferred from Dallas two weeks after the assassination.

The Chief Justice decided to present the results of this meeting to the entire Commission on Monday, January 27, 1964 and decided to propose tentatively that necessary inquiries be made concerning these allegations and that this memorandum be prepared for the record.

The transcript of the crucial meeting of January 27 was presumably classified "Top Secret," like other such transcripts. It remains unavailable at the National Archives, despite the fact that parts of it were published in Gerald Ford's book. (Ford reportedly "disobeyed Warren's orders" not to use the transcripts.³⁹) Ford confirmed that the Commission was more concerned with showing convincingly that the allegation had been checked out than with seeing if it might be true. Apparently the allegation was so sensational that there was no consideration of the possibility that it may have been true but not relevant to the assassination, or that it may have been planted to discredit the FBI for self-serving reasons.

It is a sign of how much has changed since Watergate that in 1965 Gerald Ford could write this about the Commission's "dilemma":⁴⁰

"For more than thirty years the FBI had been one of the most highly respected agencies of the United States Government. Not that the members of the Commission would be awed by the prestige of the bureau or of its almost legendary director, J. Edgar Hoover, but certainly it would not be justified in plunging into the matter in some irresponsible manner that might jeopardize the effectiveness of an important agency's future operations."

And it is a measure of Ford's disassociation from the details of the investigation that he could, with a straight face, report what the Commission decided to do, and then conclude that "never has a crime been so thoroughly investigated," when in fact the Commission ended up doing what they knew was not adequate: taking the FBI's word that Oswald was not an informant.⁴¹ Hudkins, Goulden, and Feldman did not testify before the Commission; the Texas officials were not asked to repeat the allegations in formal testimony. (Alexander did not even testify at all.)

As if they saw too late that they had not done the investigation which they had promised themselves, the Commission eventually concealed the seriousness with which they had taken these allegations, leaving the Warren Report to suggest that the most prominent source was Oswald's mother. The dramatic contacts with the Texans are not even mentioned. Here is the Report's discussion of the investigation into the informant problem:⁴²

Oswald Was Not an Agent for the U.S. Government

From the time of his release from the Marine Corps until the assassination, Lee Harvey Oswald dealt in various transactions with several agencies of the U.S. Government. Before departing the United States for the Soviet Union in 1959, he obtained an American passport, which he returned to the Embassy in Moscow in October 1959 when he attempted to renounce his U.S. citizenship. Thereafter, while in the Soviet Union, Oswald had numerous contacts with the American Embassy, both in person and through correspondence. Two years later, he applied for the return and renewal of his passport, which was granted him. His application concerning the aittance of his wife to this country was passed upon by the Immigration and Naturalization Service of the Department of Justice in addition to the State Department. And before returning to this country, he

secured a loan from the State Department to help cover his transportation costs from Moscow to New York. These dealings with the Department of State and the Immigration and Naturalization Service have been reviewed earlier in this chapter and are considered in detail in appendix XV. After his return, Oswald was interviewed on three occasions by agents of the FBI, and Mrs. Paine was also questioned by the FBI about Oswald's activities. Oswald obtained a second passport in June of 1963. And both the FBI and the CIA took note of his Fair Play for Cuba Committee activities in New Orleans and his appearance at the Soviet consulate in Mexico City. For reasons which will be discussed fully in chapter VIII, Oswald's name was never given to the U.S. Secret Service.

These dealings have given rise to numerous rumors and allegations that Oswald may have been a paid informant or some type of undercover agent for a Federal agency, usually the FBI or the CIA. The Commission has fully explored whether Oswald had any official or unofficial relationship with any Federal agency beyond that already described.

Oswald's mother, Mrs. Marguerite Oswald, testified before the Commission that she believes her son went to Russia and returned as an undercover agent for the U.S. Government.⁴³ Mrs. Oswald mentioned the belief that her son was an agent to a State Department representative whom she visited in January 1961, when she was trying to locate her son.⁴⁴ She had been interviewed earlier by FBI Agent John W. Fain, within some 6 months of Oswald's departure for Russia, and did not at that time suggest such an explanation for Oswald's departure.⁴⁵ Though provided the opportunity to present any material she considered pertinent, Mrs. Oswald was not able to give the Commission any reasonable basis for her speculation.⁴⁶ As discussed later in this chapter, the Commission has investigated Marguerite Oswald's claim that an FBI agent showed her a picture of Jack Ruby after the assassination but before Lee Harvey Oswald had been killed; this allegation was inaccurate, since the picture was not of Ruby.

After the assassination it was reported that in 1962 Oswald had told Paulino Bates, a public stenographer in Fort Worth, Tex., that he had become a "secret agent" of the U.S. Government and that he was soon going back to Russia "for Washington."⁴⁷ Mrs. Bates in her sworn testimony denied that Oswald ever told her anything to that effect.⁴⁸ She testified that she had stated "that when he first said that he went to Russia and had gotten a visa that I thought--it was just a thought--that maybe he was going over under the auspices of the State Department--as a student or something."⁴⁹

In order to evaluate the nature of Oswald's dealings with the Department of State and the Immigration and Naturalization Service, the Commission has obtained the complete files of both the Department and the Service pertaining to Lee Harvey Oswald. Officials who were directly involved in dealing with the Oswald case on these matters have testified before the Commission. A critical evaluation of the manner in which they were handled by these organizations is set forth

in appendix XV. The record establishes that Oswald received no preferential treatment and that his case involved no impropriety on the part of any Government official.

Director John A. McCone and Deputy Director Richard Ichms of the Central Intelligence Agency testified before the Commission that no one connected with the CIA had ever interviewed Oswald or communicated with him in any way.¹⁸ In his supplementing affidavit, Director McCone stated unequivocally that Oswald was not an agent, employee, or informant of the CIA, that the Agency never communicated with him in any manner or furnished him any compensation, and that Oswald was never directly or indirectly associated with the CIA.¹⁹ The Commission has had access to the full CIA file on Oswald which is entirely consistent with Director McCone's statements.

The Director of the FBI, J. Edgar Hoover, Assistant to the Director Alan H. Belmont, FBI Agents John W. Fain and John L. Quigley, who interviewed Oswald, and FBI Agent James P. Hosty, Jr., who was in charge of his case at the time of the assassination, have also testified before the Commission. All declared, in substance, that Oswald was not an informant or agent of the FBI, that he did not act in any other capacity for the FBI, and that no attempt was made to recruit him in any capacity.²⁰ Director Hoover and each Bureau agent, who according to the FBI would have been responsible for or aware of any attempt to recruit Oswald as an informant, have also provided the Commission with sworn affidavits to this effect.²¹ Director Hoover has sworn that he caused a search to be made of the records of the Bureau, and that the search discloses that Oswald "was never an informant of the FBI, and never assigned a symbol number in that capacity, and was never paid any amount of money by the FBI in any regard."²² This testimony is corroborated by the Commission's independent review of the Bureau files dealing with the Oswald investigation.

The Commission also investigated the circumstances which led to the presence in Oswald's address book of the name of Agent Hosty together with his office address, telephone number, and license number.²³ Hosty and Mrs. Paine testified that on November 1, 1963, Hosty left his name and phone number with Mrs. Paine so that she could advise Hosty when she learned where Oswald was living in Dallas.²⁴ Mrs. Paine and Marina Oswald have testified that Mrs. Paine handed Oswald the slip of paper on which Hosty had written this information.²⁵ In accordance with prior instructions from Oswald,²⁶ Marina Oswald noted Hosty's license number which she gave to her husband.²⁷ The address of the Dallas office of the FBI could have been obtained from many public sources.

Thus, close scrutiny of the records of the Federal agencies involved and the testimony of the responsible officials of the U.S. Government establish that there was absolutely no type of informant or undercover relationship between an agency of the U.S. Government and Lee Harvey Oswald at any time.

Certainly the Commission had no serious desire to see if the truth of the allegation could be established. But why did the Commissioners leave the clear appearance that they had relied on the FBI's word and covered up the gravity of the charges, especially after having agreed that the appearance of a proper investigation was necessary? It seems odd that they did not even go through the motions.

The Commission was fully responsible for not doing the job properly, but it was not operating in a vacuum. From the FBI's investigation of the reports that reached the Commission, we can see that Hoover was himself building a record of an investigation, undercutting the Commission. After all, why should the Commission call a reporter as a witness after he had refused to divulge his source to the FBI? In fact, of course, someone might not want to talk to the FBI about an allegation against that agency, but Hoover's efforts to put together the appearance of an investigation made it even harder for the Commission to tell him "we have to do it ourselves." As we shall now see, Hoover let the Commission know how little serious attention he thought the allegations deserved.

Joe Goulden was interviewed by the FBI on December 9, the day after his article appeared. The report of the part of this interview dealing with the Oswald-FBI allegation was evidently treated routinely by the FBI, which means that it reached the Commission as CD (Commission Document) 226 along with 53 others on January 15.^{43C} Apparently this CD did not reach Rankin, since there does not seem to have been any awareness at the Commission meeting of January 27 that Goulden had already been talked to.

Apparently Rankin first found out about the FBI's investigation of Goulden in a letter from Hoover dated February 11. Evidently Rankin had asked the FBI to interview Hudkins, who named Goulden as a secondary source for his information. Hudkins refused to name his primary source, "a Government official," but he did give the FBI a way of pretending to get to the bottom of half of his story;^{44C}

"According to Mr. Hudkins, the only other information he had heard that Oswald might be a symbol number informant was from Joe Goulden.... In connection with Mr. Hudkins' reference to Joe Goulden, please be advised that we have interviewed Mr. Joseph Goulden, a reporter for the 'Philadelphia Inquirer,' in connection with an article Mr. Goulden reported ... wherein he alleged that Lee Harvey Oswald at one time had been contacted by the FBI to become an informant. He said he had obtained this information from a law enforcement officer in Dallas whom he declined to identify. We reinterviewed Joseph Goulden on December 16, 1963, in an attempt to pin down the source of his allegation, but Mr. Goulden declined to identify the law enforcement officer after allegedly [which I guess means the FBI was not listening in] having talked to him on the telephone. He did say, however, that the officer told him that the matter was being 'handled through proper channels.'" "For your added information," Hoover told Rankin, the FBI had checked at the

DPD (Dallas Police Department) and found that no allegation that Oswald had been an FBI informant had been made a "matter of record."

On the same day that this letter was sent, Goulden was reinterviewed again. Hoover wrote Rankin about this interview on February 13.⁴⁵ He said that Goulden was told that Hudkins had alleged that "he had received information from Mr. Goulden to the effect that Oswald might be a symbol number informant."^{46c} Goulden discussed his contacts with Hudkins, and "stated that he did not recall any conversation with Hudkins regarding the possibility that Lee Harvey Oswald was an FBI informant." Thus, if he was correct in his recollection, Goulden could not have been Hudkins' source, except by way of his published article (which Hudkins had cited). Quite possibly Hudkins chose to emphasize Goulden to distract the FBI from his other sources. But Hoover's first reinterview of Goulden (reported in the letter of February 11) left the impression that Goulden had been one of Hudkins' sources and that the story could not be traced back any further through him.

The February 11 letter closed with "The foregoing is furnished for your information in this matter." Were Hoover not so diplomatic, he would instead have said "that takes care of Goulden's allegations, doesn't it?" Of course, it doesn't. Goulden may have been willing to tell the Commission more than he told the FBI. Apparently the FBI did not ask for any relevant unpublished facts, just for the identity of the source. And the Commission could at least have

asked a selection of DPD officials if they had talked to Goulden.

The FBI's reporting of the Goulden interviews substantially and needlessly complicated the problem of discovering his source. Information was concealed by reporting related parts of single interviews in different places. Hoover's letter of February 11, discussing the FBI interviews of December 8 and 16, mentioned only the informant allegation. In CD 226, the one-page report of the December 8 interview mentions only allegations involving Oswald - the informant charge, and a claim that Oswald had been seen in the TSBP 15 minutes before the shooting, which Goulden attributed to an unnamed person in the Dallas Sheriff's Office. This report, naturally, bears a file number relating to the Oswald case. However, there is another report of the same interview, bearing a Ruby file number, and buried in a 600-page report on the Ruby case.⁴⁷ That report has the background information on Goulden in similar but not identical form.^{48c} It deals with a report that Ruby had told a source of Goulden's that he had gotten into the Dallas Police building to shoot Oswald by carrying TV equipment for a crew from station WBAP.

From a comparison of these two reports of the Goulden interview, it seems likely but not certain that the source was the same for both allegations. (In each case Goulden told the FBI that he had not been able to contact the officer on December 9.) Goulden's reinterview of December 16 was also written up twice. In the one on Ruby, which became part of another large report, the Oswald allegation is not mentioned.⁴⁹ The second writeup, with the same dictation date and also with a Ruby file number, became CD 391 by itself; here, however, both the Ruby and Oswald allegations are mentioned, and it is explicitly stated that a single officer was the source of both.

Hoover's letter of February 13, commenting on the reinterview which was made "in an attempt to pin down the source" of the informant allegation, does not mention this fact. I can understand how the Commission staff, hampered by inadequate indexes, may never have noticed this clue, after CD 391 was received

(along with 37 other reports and memos) on February 20. The omission in Hoover's letter, and the double writeups, may conceivably have been innocent. I have seen some FBI reports which were entirely retyped to be given a different file number, some with no changes and some with changes which do not seem required by the different nominal subjects of the files. On many other occasions a single typed report was given several file numbers, a more straightforward procedure.⁵⁰ It may be that an agent gains some statistical credit by dictating two reports rather than one; the FBI's attention to statistics which show how hard the agents are working is well known. It may be, of course, that the FBI did not want to point out in a letter to the Commission all the information it had about Goulden's source.

Goulden's information could have led the Commission to his source. Much testimony was taken about Ruby's entrance to the Police basement; the Warren Report deals with and refutes an allegation that he had accompanied the WRAP news team.⁵¹ This story is attributed to two Dallas detectives (both of whom had known Ruby; incidentally); neither said he had heard the story from Ruby, however, as Goulden's source has told him. Of course, neither detective was asked about the Oswald-informant allegation.⁵² As far as I know, nobody told the Commission or the FBI that he had heard this version of the entrance to the basement from Ruby himself. In any case, the two detectives (Cutchshaw and Lowery) would have been in a good position to identify Goulden's source, even if it had not been either of them. They should be added to the already long list of people the Commission should have talked to if they really wanted to pin down the sources of the Goulden-Hudkins allegations. (A52½)

As far as I know, the only response to Hoover's letter of February 13 was a routine thank-you. Perhaps a substantive response was considered, since the reply was not drafted by Willens until February 20. As sent the following day, however, the substance of the letter was simply a statement by Rankin that "I appreciate your continuing effort to investigate this allegation fully."⁵³

The FBI did an even more thorough job of discrediting Hudkins while appearing to investigate his charges. The letter of February 11 from Hoover about Hudkins and Goulden was the result of a conversation between Rankin and Inspector James R. Malley of the FBI on February 7, concerning Hudkins. He was interviewed the next day. He said that the rumors that Oswald was an informant were based on information he got from Bill Alexander that FBI agent Hosty's name and related information were in Oswald's notebook⁵⁴, and that Oswald's mother had said that Oswald "was doing important subversive work for the Government." (Cleverly, Hoover was emphasizing the most unreliable of Hudkins' sources.) (A54½) Hoover clearly indicated that he thought - or hoped - that the Hudkins investigation had reached a dead end:

"Mr. Hudkins was questioned at length in an attempt to ascertain his source... but Mr. Hudkins refused to divulge his source or to furnish a signed statement.... At the conclusion of our interview with Mr. Hudkins, he stated [spontaneously?] that even if he were called to appear before the President's Commission, he would decline to furnish the source of his information."

So much for Hudkins.

In fact, Hudkins had been interviewed by the Secret Service on December 17. He told them that he had talked to Allen Sweatt in the Dallas Sheriff's Office, and that Sweatt had told him that "it was his opinion" that Oswald was being paid \$200 a month by the FBI as informant SI72.⁵⁵ This Secret Service report reached Rankin on January 23, after he heard of the allegations being made by the Texas officials, and he asked that Sweatt be interviewed. Sweatt said that he had gotten the allegation from Bill Alexander, and "also mentioned ... Hudkins as a source of this information."⁵⁶ (In 1966, Fletcher Knebel reported that Sweatt denied making such a statement to Hudkins, and that Hudkins said he had not been interviewed about this by the Secret Service.)⁵⁷ The circumstantial evidence that the Dallas authorities originated and spread this allegation, using various reporters for their own ends, was considerable, but as far as I know the Warren Commission never checked out that hypothesis. As we should by now expect, neither Hudkins, Alexander, nor Sweatt was a Commission witness.

Hudkins told the Secret Service various other stories, some implausible and demonstrably false, others quite plausible and fascinating. 58X A Secret Service agent's opinion of his unreliability was passed on to the Warren Commission.⁵⁹ Before Hudkins' article was published, the FBI had also recorded an apparently derogatory admission. On December 31, he talked to the Houston FBI office about other matters (relating to Mrs. Ruth Paine); the FBI went to the trouble of recording an informal comment he allegedly made, and passed it on to the Dallas office and the Commission. According to the FBI report, "Hudkins concluded by stating that he was on a 'fishing expedition' and was attempting to determine if Lee Harvey Oswald had been a 'stool pigeon' for some government agency such as the CIA or the FBI."⁶⁰ This report reached the Commission on February 20, as part of an "investigation" of the third crucial article about Oswald and the FBI, whose author, Harold Feldman, had quoted Hudkins. 61

It is interesting to compare the Commission's evaluation of the Feldman article with the FBI's. Gerald Ford discussed his "hard-to-answer" questions with respect, and expressed relief that "fortunately, the public did not know how serious the matter appeared to be" to the Commission at the time. In a memo of February 11, Assistant Counsel Norman Redlich analyzed the article. He presented ten paragraphs of "erroneous statements in article," some of which were merely unsubstantiated or contradicted by the FBI's investigation. Redlich listed five "facts which are sufficiently accurate to warrant further consideration." (See Appendix.) He concluded that "in general it is wise to study articles such as this one rather than dismiss them because of their inevitable factual inaccuracies. They may contain the germ of an idea which we might otherwise overlook." A very reasonable, albeit over-cautious, assessment.

But Hoover had already made clear what he thought of the Feldman article. He wrote Rankin on January 27, sending over three unrelated articles "which purport to be exposes of the assassination." Hoover was evidently trying to

discredit the Feldman article by putting it in the same class as two others, one by an extreme rightist group and the second by a former FBI agent. Hoover departed from his usual pose of objectivity in commenting on these two articles. The material in "The Thunderbolt" (disseminated by the National States Rights Party, accurately described as anti-Semitic and anti-Negro) was called "a contrived mixture designed to point an accusing finger at their favorite target, the so-called 'Jewish-communist conspiracy' which is supposedly seeking to subvert the United States." Bill Turner, author of an article in "Saga," is a former FBI agent fired for, among other reasons, "a poor attitude toward the FBI and its Director." Hoover said that the article "is filled with provocative adjectives and specious reasoning in an attempt to support his conclusion that the FBI is solely responsible for the death of the President." In fact, the article deserves a better review than that; it stopped far short of accusing the FBI of sole responsibility. It does contain a number of adjectives, but I did not find them exceptionally provocative. 62

Naturally saving his weakest case for last, Hoover described the Feldman article as

"a muddled attempt to link Lee Harvey Oswald with the FBI as an informant. Using public source material with no selectivity, Feldman tried to make it appear that this Bureau is suppressing the fact that the assassin was actually one of its 'employees.'"

"All three articles are irresponsible, and each is a good example of personal bias [in fact, Hoover had not said anything at all about a personal bias on Feldman's part]; however, I thought you would be interested in seeing them."

It is clear that Hoover was not going to take "public source material" used without "selectivity" very seriously (although that is a reasonably good description of much of the FBI's files), and that he hoped the Warren Commission would not take it seriously either. As already noted, both Ford and Redlich did. In fact, Hoover knew that the allegations were serious; we shall next see how he responded to them, in effect (and apparently deliberately) anticipating and undercutting the Commission's own independent investigation.

The allegation that Oswald had been an informant had in fact been raised,