

The Private Life of the Warren Commission

Sylvia Meagher (302 W 12 St NYC
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(A review of Document Addendum to the Warren Report,
With an introduction by David S. Lifton; Sighttext
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(361 pages)

"We will next go to Item H under Roman Number II, remains of Lee Harvey Oswald, letters received from Nicholas Katzenbach. Now that situation is that this man is buried in a cemetery, and it takes officers around the clock to watch him, watch and see that they don't come in and exhume him and do something that would further injure the country, and so it has been suggested that to save expense they exhume him and then cremate him."

With this introduction by Chief Justice Earl Warren, the Chairman, the Warren Commission at its executive session of January 21, 1964, embarked on a ghoulissh discussion. What to do with the mortal remains of Oswald, to spare the expense of guarding his grave? Even the Chairman balked at the idea of cremating the body: "But the question might arise before this thing as to something on that body now. I don't know what it is. It might be the course of the bullet. It might be something else. But I don't think we would want that disposed of until our report has been made."

Senator Russell suggested another way out. "We might get some mausoleum to take this body, and seal it up and put it in the mausoleum, unknown to anybody else, if they can do that, and no one would know where it was, the wife would consent to it, I think, and the mother hasn't got anything to say about it anyway if the wife consents to it, and I would have that done rather than to dig up or cremate that body. We might get into a great religious controversy."

After further discussion in which the Commission showed its coldblooded indifference to the murdered Oswald and equally to the sensibilities of his

surviving mother, it was agreed that "cremation is out of the question." Whether the body was secretly removed from its grave in Fort Worth, Texas, and placed in a mausoleum, is not entirely clear from the Chairman's closing remarks: "I think the suggestion that has been made is most sensible, and we should try to insist on it."

Between December 5, 1963, and September 18, 1964, the Warren Commission held eleven executive sessions. The transcripts were classified "top secret" until February 1968, when seven of the eleven transcripts were declassified (some in their entirety, and others with sections missing) and made available in the National Archives. David S. Lifton, one of the California first-generation critics, has performed a valuable service ~~to scholars and historians~~ by publishing the declassified transcripts (reproductions of the original pages as they appear in the Archives) in a soft-cover book, Document Addendum to the Warren Report. The volume includes also the transcript of the first interrogation of Marina Oswald by the Secret Service (November 24, 1963); and the complete text of the "Liebeler Memorandum," dated September 6, 1964, in which assistant counsel Wesley J. Liebeler assailed the chapter of the Warren Report which argues that Oswald was the lone assassin, charging that among various deficiencies parts of the chapter were "simply dishonest."

Critics of the Warren Commission had inferred from the Report itself and the Hearings and Exhibits that the investigation was a farce from beginning to end, ^{largely} because the Commission assumed from the outset that Oswald was the assassin and doggedly manipulated and deformed any findings inimical to that conclusion. If corroboration is needed, the transcripts of the executive sessions provide it in rich profusion. Art cannot improve on life, in this instance. The verbatim minutes of the Commission's closed meetings reveal the extent to which it was obsessed with public opinion and relations with the press, with an endless

series of procedural problems, and with its image and credibility, to the almost total eclipse of the assassination itself. Chairman Warren, far more than the other Commission members, was preoccupied with matters of form and image, as exemplified by his startling suggestion at the executive session of April 30, 1964:

The Chairman Well, gentlemen, I had one matter that I thought I would like to discuss with you--because of these rumors and articles, such as Buchanan and Lane and some more that have been written, that it might be a good thing if we were to ask to come down here the president of the Associated Press, and the president of United Press International, and tell them that we would like to have them examine their reports and files on the assassination, to confer with their people who are familiar with it, and then, perhaps assign one of their top people who could come down here to see us and discuss on a confidential basis--not for publication--anything that may be in their minds as to what should be investigated. I think that by doing that we could establish to them that we had investigated everything that they might have in their minds. And if there are any areas that are unexplored, we could explore them, and then at the end, perhaps, we could take the testimony of these two gentlemen and ask them--^vNow, on the basis of all you have heard from your reporters and from your files and from everything that has been said and done, do you believe there is any area here that is unexplored, do you believe that there is any real conflict that should call for further investigation?* And so forth. And I am just of the opinion that we could get a statement from them that would be of a confirmatory nature so far as our report is concerned. And overseas I would think that if those men with the means they have at hand to get these rumors, and to look into them, that if they were satisfied, it would have a lot to do with allaying some of these rumors. (Italics added)

Warren presented his proposal to make silent partners of AP and UPI as if seeking the Commission's consent; but after remarks by John McCloy and Allen Dulles deploring articles which had appeared in Europe and "a deep-seated feeling that there is a deep conspiracy here, there are elements of suppression involved in it all," Warren said: "That is the thing that prompted me to get these men." His[✓] "proposal" may have been a fait accompli, which would help to explain the ~~M~~[#]erculean efforts made by the wire services (and perhaps other mass media were similarly approached) to dignify the tattered remains of the Warren Report in the wake of the critics' assault of 1966-1967. (See for example the AP article "The Lingering Shadow" by Bernard Gavzer and Sid Moody, which was widely syndicated in the press in June 1967 and then published and widely distributed as a reprint, by--no one should be surprised --The Dallas Times-Herald!)

Press leaks received even more attention than press seduction. At the first executive session on December 5, 1963, attended by Deputy Attorney General Nicholas deB. Katzenbach (Jesse Rankin and the other lawyers had not yet been recruited), Senator Russell raised the question of press items "that purport to have come from the F.B.I. as to bits of evidence and things of that kind. How much of their findings does the F.B.I. propose to release to the press before we present the findings of the Commission?"

Mr. Katzenbach: Well Senator, I know the story to which you are referring...And I know that the Director and Mr. Belmont, who is the man in charge of this particular investigation, are utterly furious at the information that got into the press. I talked with both of them on this subject. They say they are confident it could not have come from the F.B.I., and I say with candor to this committee, I can't think of anybody else it could have come from.

This led into a discussion of the fate of the FBI Summary Report of December 9, 1963, which was then nearing completion. Although it had been promised that the FBI Report would be made public, Katzenbach urged otherwise:

We have felt from the outset there, and I was confident that this Commission would feel the same way when it was appointed, that one of the unhappy and difficult jobs is to try to dispel rumors, no matter how wild, to show that they couldn't in fact be true...It seems to me...that probably it would be the desire of this Commission that the report be turned over to it and not made available to the public. The Chief Justice and I discussed this briefly. I am quite sure that would be the F.B.I.'s preference in this. There is the problem. I think it might be desirable perhaps to put out a very short statement at that point to dispel rumors that the report was very different from, for example, the leak that Senator Russell has spoken of. In other words, I would not like the fact that it is not made public and turned over to the Commission to imply that it was because they had discovered a conspiracy.

Katzenbach reiterated his suggestion in a letter which was discussed by the Commission at its December 16, 1963 session. (The same question apparently was discussed at the December 6 session, transcript of which remains classified.) Warren explained that Katzenbach felt that something should be said because "the President himself told the public, the press in particular, that the report of the FBI would be made public." The Commission decided, however, to "advise Mr. Katzenbach that the Commission deemed it advisable not to issue any further release at this time."

The full significance of the Commission's denial of Katzenbach's request does not become clear until the transcript of the session of June 4, 1964, is examined. This meeting started with a blast by Representative Gerald Ford, who made no attempt to conceal his rage about stories which had appeared in the

press to the effect that the Commission had come to the conclusion that the assassination was the act of a lone individual and that there was no evidence that he was working in any way as an agent of a foreign government.

Rep. Ford Any statement that Commission members have come to this or that conclusion is obviously false, because the Commission has not discussed these matters as a Commission to my knowledge...The staff, individually or collectively, have no right to make such implications to the press, nor has any Federal agency, nor has any individual member of the Commission. I regretfully say that if these news stories persist, I possibly have no other alternative than the obligation to express to the press some or all of the views that I have stated here...In my judgment, somebody somewhere is planting or leaking these stories. And I must go back, if I might, to a letter that I think you received on behalf of the Commission early in December where, as I recall, Mr. Katzenbach wrote and asked, among other things, one, if the Commission would release a statement to the effect that there was no foreign involvement, there was no conspiracy, or in the alternative that we as a Commission would authorize the Department of Justice to make such a release.

Ford then recalled that after the Commission had turned Katzenbach down, Both the Associated Press and the United Press, on the same day, with the same dateline, had stories that in effect are the same stories that are now appearing...Any time AP and UP have a story with the same dateline, there is no doubt that it was a leaked story by a government official ...These stories have bothered me, because they are in effect preempting what we may or may not say.

Despite Ford's anger, the Commission apparently did not track down or shut off the source of leaks to the press, sometimes attributed outright to "a spokesman for the Commission." Ford was probably correct in saying that the leaks

served to limit the Commission's freedom to arrive at conclusions other than that of a lone assassin and "no conspiracy."

But the press leaks were only an incidental factor in the predetermination of the Commission's conclusions. Katzenbach, who spoke for the President on certain matters discussed with the Commission, had made it clear "early in December" that the Executive Branch was eager to announce publicly that there was no conspiracy--before the Commission had heard a single witness or undertaken any investigative work. In later meetings, attempts by John McCloy and Senator John Sherman Cooper to come to grips with the evidenciary conflicts and problems were frustrated by the Chairman's insistence on dealing first with procedural questions. This can be seen in the following excerpts from the January 21, 1964 session.

Mr. McCloy Let's find out about those wounds, it is just as confusing now as could be. It left my mind muddy as to what really did happen...Why did the FBI report come out with something which isn't consistent with the autopsy when we finally see the autopsy? That is one phase of the thing...

Sen. Cooper I would like to submit this for the judgment of the Commission: would it be helpful to all of us to have from Mr. Rankin...at least what questions have been raised, if any, about the evidence that has been submitted and then give us a chance to perhaps submit any questions that may have come to our minds? My point is some idea of what the direction of the inquiry is going, not only in what fields but if there are issues which he has discovered or any of us have discovered in reading the testimony, what they are and what we are really trying to find out.

The Chairman Well, John, I thought that this agenda had a number of things on it, and I thought maybe we could go through this agenda, see what is left open after we finish it, and then get to any questions like that...

The Commission proceeded to discuss the target date for completion of its report, the arrangements for hearing its first witness, Marina Oswald, and sundry such housekeeping questions.

Sen. Cooper Yes, I know we have to finish the agenda but I thought after that, even at this point, there have been questions raised in your own mind about--

Mr. McCloy About direction.

Sen. Cooper And in our own mind, I have one or two it might be well to discuss.

McCloy and Russell next tried to determine from Rankin what raw materials were available for examination, in the form of reports and such material items as photographs, the rifle, the original fingerprint evidence, and the original handwriting evidence. Rankin replied that these objects were not at hand but that he would arrange for a special time for the Commission to examine that material. In the course of discussion, Senator Russell raised the question of "having some independent agency or some state agency who is thoroughly trained in fingerprints to review this whole situation to see whether they were in complete agreement with the FBI as to these various fingerprints." Russell was apprehensive that "Apparently there is going to be some contention made somewhere along the line that this isn't the same gun that Oswald had originally, but the FBI fixes his fingerprints on this gun." (No worry about the identity or ownership of the gun or guns, only how to foreclose questions and criticisms.) "And out of an abundance of precaution I thought ...on the more outstanding pieces of evidence that relate to fingerprints and measurements and things of that kind, if we could just have...a report from two agencies instead of one it might preclude questions in the future."

Rep. Ford I share that view, Dick. I don't know whether it ought to be another governmental agency or whether it ought to be an independent non-governmental agency. I don't know—

Rep. Boggs Are there such agencies?

Rep. Ford I don't know.

But J. Lee Rankin, who kept silent, did know. Only six days earlier, he had written a reply to a letter addressed to Warren on December 17, 1963, by an official of the American Academy of Forensic Sciences. Concerned that the Commission's investigation was a case of the government investigating itself, the Academy saw a cogent argument for independent review by autonomous investigators and researchers, and offered its resources to the Commission. Rankin rejected this offer in a letter dated January 15, 1964. (Journal of Forensic Sciences, July 1966, page 264.)

On other questions, Warren's strongly-held views were overruled by the Commission. At the beginning of the first executive session, Warren made a series of general recommendations—that it was not necessary to have any staff of investigators but that the Commission could rely on the FBI and other governmental agencies ("If we can't rely on them I couldn't think of any investigators we can get to do it anyway"); that hearings should not be conducted in public; that it was not necessary to bring witnesses before the Commission; and that it was not necessary to have the power of subpoena.

The Commissioners were not inclined to abjure the power of subpoena. As McCloy pointed out,

There is a potential culpability here on the part of the Secret Service and even the F.B.I., and these reports, after all, human nature being what it is, may have some self-serving aspects in them. And I think that if we didn't have the right to subpoena documents, the right to subpoena witnesses if we needed them, that this Commission's general standing might be somewhat impaired.

Sen. Russell It occurs to me, since Mr. McCloy has mentioned it, it would decrease the use of self-serving conclusions if we had that power. Understand, I'm not looking for anyone, I'm not suspicious of anyone going out to cover up, but people will be writing about this thing.

I told the President the other day, fifty years from today people will be saying he had something to do with it so he could be President...

Mr. McCloy...if we renounce the desire to have this type of power I think it will detract from the prestige of the Commission. And I think newspaper accounts said, naturally they will have that power. We could use it with circumspection...and I don't see, Mr. Chief Justice, that there is any connection between public hearings and this. You have grand juries that have the right to subpoena and they are absolutely secret...

The Chairman If the rest of you want the subpoena power that is perfectly all right with me, but I was thinking this, that if we have subpoena power, people are going to expect us to use it...

In this way, Warren was dragged kicking and screaming into an investigation which, with all its shortcomings, was still more than Warren wanted to undertake.

The Commission's unyielding prejudice against Oswald and the firm assumption of his guilt at the earliest stages of its work leaps from many pages of the transcripts. At the December 16, 1963 meeting, McCloy suggested that the Commission should obtain "the full police report on the Walker assault because there was a bullet involved and it had very much the same aspects, accurate long-distance shot. Although I know at the time they said it was a .30 caliber bullet" (actually, a 30.06 caliber bullet) "the difference between .30 and 6.5 isn't too great and another examination of that bullet may show different, but there must be a laboratory report on that." The evidence had to be tailored to Oswald and, in this case, the Warren Report and the Hearings and Exhibits do not even

display the elementary fairness of mentioning that the contemporaneous identification of the Walker bullet was inconsistent with the 6.5 caliber rifle supposedly owned by Oswald. I had assumed that the Commission had failed to conduct the necessary inquiry into the contemporaneous records and was not aware of the identification of the Walker bullet as a 30.06; it was only on reading the transcript that it became clear that they were perfectly aware of it but concealed the information from the public.

To be fair, as the Commission was not, it must be acknowledged that some members did try to raise questions about various disquieting aspects of the evidence against Oswald. They were scarcely satisfied with the FBI Summary Report, which was discussed at the December 16, 1963 meeting. Boggs said that there were all sorts of questions in his mind. "He was such an expert marksman, for instance. Where did he do his practicing?" McCloy, commenting on the stills from the Zapruder film which had been published in Life magazine, commented that "someone suggested that this sign has now been removed," referring to the Stemmons Freeway road sign which concealed the President from the camera for a crucial sequence during which he was supposedly first hit by a bullet. Not only was there the curious removal of the sign but, McCloy said, "I don't see how he could have been hit in the front from here"—that is, from the sixth-floor window of the Book Depository. When Dulles suggested that certain material should be placed in the hands of the CIA as soon as possible, "to explain the Russian parts," Senator Russell replied, "I think you've got more faith in them than I have. I think they'll doctor anything they hand to us." But always the discussion of specific evidence was diverted into discussion of various niceties. On this occasion, there was a discussion of the need to question Mrs. Jacqueline Kennedy and when and by whom. Warren was reluctant to question her, at least at that time (December 16, 1963):

When you're going to talk to someone like Mrs. Kennedy I think we ought to know exactly what we want to find out from her, exactly what we have to have from her. I just can't see that we

can proceed that way with her because it doesn't seem an honorable way.

Mr. McCloy I think a month is going to go by before you're in that position, and I think that is dangerous...Your mind plays tricks with you. She's got it very definitely in mind now, and I'm told that she's physically in a position where she can do it...She may not be the chief witness as to who did the job. She's the chief witness as to how those bullets hit her husband. She saw both of them... This is looming up as to the most confusing thing we've got.

The Chairman I wonder if the report we get from the Secret Service wouldn't pretty much clear that up. If it doesn't, good Lord, what can they report to us on that will help us. They were there, right at the car, and know exactly what happened.

Rep. Boggs Well, the FBI report doesn't clear it up.

The Chairman It doesn't do anything.

Rep. Boggs It raises a lot of new questions in my mind.

Despite concern that Mrs. Kennedy's recollections should be solicited before they became vague, her testimony was not taken until June 5, 1964; and even so, the transcript (Hearings, Volume V) indicates, "Reference to wounds deleted."

The transcripts throw a harsh light on the Commission and on Chairman Warren in particular. They betray again that the primary and almost exclusive concern of these prestigious men was to allay suspicion and dispel rumor, even at the cost of dignifying the extravagant falsehoods of the star witness, Marina Oswald. (Small wonder that the staff lawyers referred to that octet as Snow White and the Seven Dwarfs.) One would like to give credit to Wesley Liebeler, one of the Commission's lawyers, for his scathing commentary on the evidence as presented in the galley proofs of the Warren Report, in the chapter seeking to nail Oswald as the lone assassin. That is hardly possible, however, since his private appreciation of the frailty and vulnerability of that so-called evidence, in his memorandum of September 6, 1964, was followed by a monumentally cynical and hypocritical effort on his part to sell and salvage the Report. He went so far as to promise, about two years ago, to write a book vindicating the Report and exonerating the conclusion that Oswald was the lone assassin. The promised book is nowhere on the horizon--nor has Liebeler acknowledged that he had set himself an impossible task.

When the Warren Commission held its final executive session to consider the closing of its affairs, on September 18, 1964, it did not spare the time to discuss the Liebeler memorandum, which challenged item after item of the central evidence. There were more momentous matters to discuss:


A motion was made, seconded and carried that there be provided 100 copies of the Report and Hearings bound in buckram for the Commissioners to distribute as they may determine...A motion was made, seconded and carried that leather bound copies of the Report and Hearings with the names of the proposed recipients stamped on them in gold be provided for the President and such persons as he might select, for members of the Kennedy family...and for the Commissioners. A motion was made, seconded and carried that one set of the Report and Hearings with the proposed recipient's name stamped in gold be furnished each of the staff members...

Stamped in gold those names may be, but how that gold has tarnished in the acid of unrefuted criticism. One wonders how those seven illustrious signatories can maintain silent aloofness now, when their Report has been thoroughly discredited. If they signed it in good faith, then they above all others have the urgent duty of demanding that the case be reopened without further delay. They need only look about them to judge whether, in vouching for that Report, they really acted "in the national interest"---or in the national shame.

All roads lead to Dallas. It is high time to determine what really happened

there on November 22, 1963. Only when we do that, perhaps, will we also be enabled to understand what has followed...in Vietnam...Memphis...Los Angeles...and Chicago.

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"THE PRESIDENT IS INSTRUCTING THE SPECIAL
COMMISSION TO SATISFY ITSELF THAT THE TRUTH
IS KNOWN AS FAR AS IT CAN BE DISCOVERED...."
(A portion of the White House Release of Nov.
29, 1963 on the formation of the Warren Com-
mission and its responsibilities)

* * *

Here is an unposed photograph of Chief Jus-
tice Warren examining the evidence and de-
ciding just which truths will be discovered.

(This Daguerrotype is - as Oswald was - suitable for framing)