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THE HISTORY OF AN ASSASSIN

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No less an authority on public matters than Mr. Murray Kempton has laid it down as "our duty to cast the coldest eye we can upon a version of the life of Lee Oswald and the death of John F. Kennedy that has been produced by men who have sifted through the memories of 552 witnesses." He was not consoled to read in the Report "page after page of ratiocination on the source of Lee Oswald's interior quarrel, and then to look in the appendix and discover that the Commission hired for its staff two Army historians and no psychiatrists." On that basis and because it had heard "only two witnesses who were psychiatrists, one of whom saw Oswald last when he was 13 and the other of whom saw only Jack Ruby," Mr. Kempton concluded that the Commission had "acted faithful to the great tradition of a nation of persons who practice psychiatry without a license...."[1]

Another author, who was quite critical of the number of lawyers among "those who were important enough to get their names in the Report," suggested that the Commission should have traded four law clerks that it had on its staff for one psychiatrist. This suggestion, with its rather peculiar concept of relative values, was based on the notion that there was "plenty of lay analysis practiced [in the Report]...including a suggestion that Marina's rejection of...[Oswald] as a husband the night before the assassination might have been an immediate motive...."[2]

These critics at least suggest that the Commission did something that might be called the practice of psychiatry, something which they do not think it should have done without having had some psychiatrists on its staff. They might have had a point if the Commission had done anything that could fairly be characterized

as the practice of psychiatry. Most fair minded readers of the Report would probably agree that it did not. The psychiatrists consulted by the Commission agreed that it did not do so.[3]

The critics also seem to suggest that it would have been appropriate for the Commission to have reached psychiatric conclusions concerning Oswald if only those conclusions had been based on the printed testimony of licensed psychiatrists. One suspects, however, that their criticism would have been much more severe if the Commission had in fact done anything like that. For any such conclusions, even though buttressed by the opinion of professionals, would have had to have been based largely on hearsay testimony given after an event that must have greatly affected the attitude of the witnesses. They would have had to have been reached without the indispensable examination of the subject himself. There would have been a real point to criticism of such procedures.

There would also have been a point to criticism if the Commission had not consulted psychiatrists on the question of Oswald's possible personal motivation, regardless of whether or not it reached any psychiatric conclusions in that regard. In fairness to the critics it should be noted that the fact that the Commission did have the help of psychiatric experts is not specifically mentioned in the Report and has not been generally known up to this time. The use which the Commission made of psychiatric consultants is best seen through a brief review of the way in which it approached the problem of Oswald's possible personal motivation.

The Commission divided its investigation into six different areas. One of them, for which Mr. Albert E. Jenner, Jr., of Chicago, and I were responsible, dealt with the activities and

associations of Lee Harvey Oswald, the person to whom the evidence most strongly pointed as the guilty party, from the time of his birth to the night before the assassination, except for the time that he was in the Soviet Union and in Mexico. That area of the investigation included the question of possible personal motive and a considerable part of the question of a possible conspiracy. Mr. Jenner worked primarily on the question of conspiracy. I took the basic responsibility for the question of Oswald's possible personal motive, which was eventually treated in Chapter VII of the Report.

The Commission planned from the beginning to make some use of psychiatric experts. As a result the staff took particular note of all material which it thought might, in addition to the more general facts of Oswald's background, be of interest to the psychiatrists who would eventually be consulted.

Early in May of 1964 the Commission sent to Dr. Dale Cameron, Superintendent of St. Elizabeth's Hospital, and to Dr. Robert H. Felix, then Director of the National Institute of Mental Health, transcripts of the testimony of the psychiatrist who had examined Oswald during his confinement in Youth House in New York in 1953, and of Oswald's probation officer during part of that time. It also forwarded a social worker's reports of interviews of Oswald and his mother conducted at that time and transcripts of the testimony before the Commission of Marguerite and Robert Oswald, Lee Harvey's mother and brother.

Shortly thereafter copies of that material were sent to Dr. Howard Rome of the Mayo Clinic. They were later supplied to Dr. David A. Rothstein, staff psychiatrist with the United States Medical Center for Federal Prisoners. At a still later date Dr.

Rome was supplied with copies of most of Oswald's writings for use in an analysis of Oswald's possible language disability.

It was then decided that the staff would produce a draft of the motive chapter before consulting with the psychiatrists. That decision, of course, reflected the lawyer's conviction that no one is qualified to deal with a mass of unorganized material and to weld it into something that has at least a semblance of structure, quite so well as a lawyer.

More seriously it reflected a fear that the presence of psychiatrists before a draft had been prepared by the lawyers would result in too great an emphasis on psychiatric concepts, perhaps couched in the usual inimitable argot. It was thought that the result might be the subject of considerable dispute amongst the members of the medical profession, if not immediately at least at some point in the future.

It was also a reflection of the Commission's awareness that it would be extremely difficult if not impossible to come to any definitive psychiatric conclusions about the motivation of a dead man, and that it would be a serious mistake to try to do so. If there were to be no attempt to reach such conclusions and if the Commission were to keep largely to a presentation of the relevant facts, there appeared to be no good reason why the first draft could not be prepared by a lawyer without the assistance of a psychiatrist.

A conference with the psychiatrists was scheduled for July 9, 1964. Drs. Cameron, Rome and Rothstein were present with Commissioners Dulles and McCloy and several members of the staff. Even though a draft of most of the chapter on personal motive had been completed, it was not provided to the psychiatrists at that time. It had not yet been approved by the Commission. There was also a considerable difference of opinion amongst the staff on the approach taken by that particular draft.

Everyone present was given a comprehensive outline of the facts of Oswald's life. That outline was covered in detail during the course of the meeting. The psychiatrists were asked to raise any questions that they regarded as significant to their approach to the problem. They suggested various tentative formulations tending to explain some of Oswald's behavior, most of which were entirely consistent with the material set forth in the draft that had already been prepared.

The psychiatrists all thought, however, that the discussion was highly conjectural and speculative and entirely inappropriate for use as the basis of any definitive conclusions as to Oswald's motive. They thought that the discussion was useful primarily on a staff level to help clarify the approach to the relevant facts. There appeared to be general agreement that the Commission should confine itself to setting forth those facts and that they should

not be couched in anything that could be interpreted as psychiatric terms.

On September 4, 1964 copies of the then current draft, which included many changes resulting from the July 9 meeting, together with requests for comment, were sent to all of the psychiatrists who had been consulted by the Commission. All of them commented favorably. Some suggested additions and changes, almost all of which were incorporated into the final product.

It is significant that the only psychiatric material on Oswald included in the Report, other than material relating to his early stay in Youth House, is Dr. Ramo's analysis of Oswald's writings which led to his conclusion that Oswald suffered from a specific language disability. The most compelling reason for such a limited inclusion of psychiatric material was suggested by

Dr. Rome himself when he stated that "In contrast to a first hand examination which is indispensable for a psychiatric evaluation, one can establish a diagnosis of a specific language disability from written productions."[4]

With the role of the psychiatrists necessarily limited for reasons which were apparent perhaps most of all to themselves, it seems appropriate to ask what kinds of problems confronted the lawyers who had to deal with the question of Oswald's possible personal motive. The most obvious one is what kind of questions should be asked. More precisely, whether or not they were able to elicit all of the psychiatrically relevant material that they would have been able to elicit if there had been some full time psychiatrists on the staff. While the answer to that question will appear more fully after students of human behavior have had more of an opportunity to study the record of the Commission's

proceedings, I suggest that the record is about as complete as it could reasonably be expected to be. A great deal of material of interest to psychiatrists was in fact developed. In some cases such material was obviously not available because of problems of recollection. In still others the appropriateness of the kind of question that might have been necessary to elicit relevant material might have been doubtful given the nature of some of the witnesses and the content of the inquiry. Those factors together with the use which the Commission made of its part time psychiatric consultants make it doubtful that much relevant material was lost simply because of the lack of a full time psychiatrist on the staff.

Also to be faced was the problem of evaluating the testimony. While that is a *problem* familiar to most lawyers, the problems here were more difficult because of the nature of the act of which Oswald had been accused. It was not just the examination of any

President, the occurrence of which would not doubt affect one's attitude toward the accused. It was the assassination of a President who, regardless of what one thought about his political views or the success of his administration, became of some indefinable quality, seemed to occupy a special place with so many people. It seems likely that Oswald's apparent guilt of such an act influenced many witnesses to remember him derogatorily.[5] While he does not appear in fact to have been a very attractive person, it may be doubted that there was quite such a consensus on that issue prior to the assassination.

An almost classic example of the way in which the memorial process operates at time, probably influenced by the factor just mentioned, is seen in the testimony of Dr. Renatus Hartogs, the psychiatrist who examined Oswald while he was confined in Youth House in 1953. Life magazine reported shortly after the assassination

that Dr. Hartogs had found that Oswald had been a potential assassin, potentially dangerous, that "his outlook on life had strongly paranoid overtones," and that he should be institutionalized.[6]

Dr. Hartogs' testimony was generally consistent with the story set forth in Life magazine.[7] He testified that he was able to recall the Oswald case by reconstructing in his mind a seminar which he had given on it to the Youth House staff shortly after Oswald had been confined in that institution.[8]

Prior to his testimony Dr. Hartogs had not reviewed the actual report that he had made in the Oswald case.[9] Contrary to his recollection that report recommended that Oswald be placed on probation, on condition that he seek help and guidance through a child guidance clinic. It stated that placement "could be resorted to at a later date" if the outpatient program did not succeed.[10]

While the report set forth a diagnosis of "personality pattern disturbance with schizoid features and passive-agressive tendencies," and mentioned that Oswald had a "vivid fantasy life, turning around the topics of omnipotence and power," it did not otherwise indicate that Oswald was a potential assassin, potentially dangerous or that his outlook on life had paranoid overtones. 11/

The failure of accurate memory in this case, as to the entire good faith of which there can be no doubt, is so striking because there was a contemporaneous written document available for comparison. In most cases no such document was available.

Many times, almost always in private cases, the good faith of certain recollections or of a failure of recollection may be questionable because of some apparent interest of the witness. That problem made proper evaluation of Marina Oswald's testimony particularly difficult, because so much of it concerned relations

between Oswald and herself as to which there was no other evidence available. An example of this occurred in Marina's testimony concerning Oswald's involvement in the attack on General Walker.

Oswald had outlined his plans for that attack in a notebook.[12] When he went to shoot the general he left the notebook at home, together with the note in which he gave instructions for Marina to follow in the event of his capture or death.[13] In her first appearance before the Commission Marina testified that after his attack Oswald had become concerned that "what he had written in the book might be proof against him, and he destroyed it." He did not, however, ask his wife to return the note, even though she testified that she had told him that she would go to the police with it if he should repeat his performance.[14]

It might be inferred from the leaving behind of the notebook and the note as well as from other aspects of his behavior

that Oswald had an unconscious desire to be caught or to have his involvement made clear if he was in fact apprehended. Marina herself suggested at a later time that she thought that might have been the case.[15]

That inference, however, appears to be inconsistent with a subsequent deep concern about the incriminating nature of the notebook. Acting on this apparent inconsistency, Commission Counsel reexamined Marina Oswald in Dallas. She finally admitted that it was in fact her own idea to destroy the notebook. She testified that she had suggested that to her husband shortly after his attempt to kill General Walker.[16]

In this instance an hypothesis concerning Oswald's character withstood at least one contact with reality. In fact it provided the incentive for a closer questioning of a key witness that led to a better approximation of what had actually happened.

It was not always so, however, and it would be vain indeed to suppose that witnesses provided the only material for interesting observation during the work of the Commission. One of the problems that counsel had to face resulted primarily from the fact that while the chapter on personal motive was being drafted I read a highly imaginative and speculative article by a graduate student in psychology that appeared in the University of Texas student newspaper. The article took the position that Oswald was a paranoid schizophrenic. It set forth what the author regarded as examples of fantasies in which Oswald had engaged. Among those alleged fantasies was a series of events which Oswald had recounted in his letters to Mr. V. T. Lee, then national director of the Fair Play for Cuba Committee.[17/]

Even though the article was highly fanciful parts of it struck a responsive chord. For Marina Oswald had already testified

that she thought that her husband was different from other people in "At least his imagination, his fantasy, which was quite unfounded, as to the fact that he was an outstanding man."[18/] Marina testified that Oswald had claimed that after twenty years he would be the prime minister.[19/] Other witnesses had indicated that they had seen in Oswald signs of something akin to paranoiax.[20/] His mother had given certain indications of paranoid views which, if they had existed during Oswald's early years, might have affected him.[21/] In spite of the obvious difficulties here was an interesting idea whichcalled for further exploration.

There are many shifts in emphasis throughout the many drafts of the chapter on personal motive that taken together would show the development and eventual abandonment of what might be called the fantasy theory. This is most strikingly seen, however, in the context of Oswald's letters to Mr. Lee. There is no doubt that they

contain many exaggerations and some outright falsehoods. The Report recognizes that they may suggest that Oswald had a need to present himself to others as well as to himself in a light more favorable than that justified by reality. It also recognizes that they may have been part of a shrewd political operation on Oswald's part in which he single handedly created considerable publicity for himself and for his cause.[22/]

In the initial development of the eventually abandoned fantasy thesis there were at least two statements that Oswald had made in his letters to Mr. Lee that appeared to be outright fabrications and thus, perhaps, some evidence of a faulty view of the world on Oswald's part. He had written that he had picketed the fleet and that he had rented an office for his Fair Play for Cuba activities in New Orleans. Of these the more significant was his assertion that he had picketed the fleet. For while it would certainly be possible

to rent an office and be evicted three days later, as Oswald had claimed he had been, without the FBI or any other authorities knowing about it, it is less likely that a picketing of the fleet would have gone similarly unnoted.

The notion that Oswald had actually picketed the fleet at first appeared to me to be absurd, on the same level as his fantastical creation of a Fair Play for Cuba organization in New Orleans. But even though I was not dealing with traditional legal material and even though I suspect that to a certain extent I wanted to establish some basis for accepting the so-called fantasy theory, the lawyer's instinct or training to turn over all the stones prevailed. On the same day that the staff met with the psychiatrists the FBI was requested to determine whether or not Oswald had ever picketed the fleet as he had claimed.

In due course the FBI advised that the records of the New

Orleans Harbor Police indicated that on June 16, 1963 a person answering Oswald's description had distributed leaflets to persons visiting an aircraft carrier which was then docked in New Orleans.[23] One of the pamphlets included in the police records was identical to those which Oswald had had printed and which he distributed in August at the time of his arrest by the New Orleans Police Department.[24] It was clear beyond any doubt that Oswald had in fact picketed the fleet.

In addition to the problems suggested by the examples mentioned, the Commission and its staff also had to organize the material they had developed and put it into something resembling readable English. Opinion on the degree of success achieved will no doubt vary. It will suffice here to note the dangers of incorporating some unarticulated psychological theory into any selection and organization of "facts" dealing with the question of motive. Obviously that must occur to some extent no matter what

precautions are taken to guard against it. Problems of human behavior cannot be considered at all except in the context of some basic notions about the nature of human psychology.

The organization of Chapter VII of the Report is largely chronological. It sets forth facts about Oswald's background that seemed relevant to the Commission, a large number of the staff and to the Commission's psychiatric consultants. To the extent that fewer people than that made an initial selection of facts from the mass of raw material at hand, any errors were almost certainly on the side of inclusion, not exclusion.

The chronological organization is modified in certain respects to reflect the basic pattern of rejection and failure that characterized Oswald's life. That pattern appeared so consistently and over so long a period that there can be very little doubt as to

its significance. The effects of the early death of his father and subsequent dearth of family life already were apparent when Oswald was examined by Dr. Hartogs.[25] Oswald's subsequent ventures in the broader world met a similar fate. He felt that he had not been sufficiently recognized in the Marine Corps.[26] He felt that he had been rejected by the Soviet Union[27] and there can be little doubt that his failure to find there that for which he sought adversely affected his later attitude in a significant manner. His experiences after his return were not much better. He was apparently rejected by most of the people that he met and by most of his employers.[28] His political activities were largely a failure.[29] He was resoundingly rejected in his attempt to get to Cuba in late September of 1963.[30] He seemed to think that he was rejected by his wife and in some ways, perhaps justifiably, there can be no doubt that he was.[31]

In this connection it is interesting to note that Rothstein predicted the course of the relations between Oswald and his wife during the period immediately preceeding the assassination, in the sense that he did not learn the facts of these relations until after his work had led him to consider their possible importance.[32] His study of presidential threatenors had indicated the significance of rejection by a female as a precipitating event which mobilized the underlying rage at women which he found in these persons.[33]

I am not qualified to comment on Rothstein's rage-at-women thesis. Parenthetically, however, I think that his work is based on facts which have been rather clearly established, and which are largely free of the disabilities on which I have previously commented. It should be noted, however, that Oswald's undesirable discharge resulted from his defection and not from any service connected crime as was the case with many of the threatenors

which Rothstein studied.[34] Furthermore, there is little if any direct evidence of homosexual tendencies on Oswald's part, although perhaps their existence could be inferred indirectly. Nor does he assimilate to the assassination Oswald's attack on General Walker, two events which seem to be related.[34a] It could also be that Oswald's defection deserves closer attention, for in an act such as that done at the age of twenty may lie the key to the difference between a threatener and an assassin.

In the face of those parenthetical remarks, I certainly agree that Oswald's relations with his wife during the period preceding the assassination were significant indeed. I think that it is clear from the Report that the Commission thought so too.[35]

I did not suspect the existence of those unhappy relations before I read Marina Oswald's testimony. At that time I was generally aware of the pattern of rejection and failure that had

plagued Oswald in the past. I was particularly aware of the hammer blows that he had received so shortly before the assassination when he had attempted to realize his cherished ambition to go to Cuba.[36] That rejection was of interest if for no other reason than that it seemed to be the last one that had occurred prior to the assassination. Against that pattern of rejection I finally came to the passage of Marina Oswald's testimony that is set forth at pages 420-21 of the Report in which she described in an almost Dostoevskian manner the events of the night before the assassination.

I cannot describe the force with which that testimony thrust itself upon me. There is an absurdity so profound in the thought that the President might not have died in the unsuspecting Marina had agreed to go to Dallas to live with her husband or if he had had enough money to buy her a washing machine, that it tends to sweep all before it. One must constantly

remind oneself that Oswald had clearly come to Irving that night to get his rifle.[33] But it cannot be forgotten that Marina had asked Oswald not to come to Irving on the preceding weekend, had become angry with him when she discovered on the preceding Monday that he was using an alias at the roominghouse and had refused to talk with him on the telephone even though she said he had called several times.[34] While these events may well have had a profound effect on Oswald it is clear that the shoddy quarrel that he had with his wife the night before the assassination could not possibly have been the factor that initially led him to consider the assassination. At the most Marina might possibly have had a veto power on the night before. And of that no one can ever be sure.

FOOTNOTES

1. The New Republic, October 10, 1964 at p. 13.

2. Dwight Macdonald, A Critique of the Warren Report, Esquire, March 1965 at pp. 77, 127.

3. See Rothstein, D., Presidential Assassination Syndrome II.

4. Commission Exhibit 3134.

5. See 8 Hearings 15 (Wulf); 8 Hearings 84 (Conway).

6. "Oswald: Evolution of an Assassin", Life, Feb. 21, 1964 at p. 72.

7. See 8 Hearings 214-24 (Hartogs).

8. Id. at 217.

9. Id. at 220.

10. Id. at 224; Hartogs Deposition Exhibit 1.

11. Ibid.

12. Report of President's Commission on the Assassination of President Kennedy ("Report"), at pp. 404-05.

13. Ibid.

14. 1 Hearings 17-18 (Marina Oswald).

15. Report, at p. 406.

16. 11 Hearings 292-94 (Marina Oswald).

17. Report, at pp. 407-08.

18. Report, at p. 418.

19. 1 Hearings 22 (Marina Oswald).

20. See 11 Hearings 100 (Kerry Thornley); 11 Hearings 402 (Michael R. Paine).

21. See 1 Hearings 257-63 (Marguerite Oswald).

22. Report, at p. 407.

23. Commission Exhibit 1412.

24. Ibid.; Report, at p. 407; cf. Commission Exhibits 2966A, 2966B.

25. 8 Hearings 223-24 (Hartogs); Hartogs Deposition Exhibit 1; Report, at p. 380.

26. See 8 Hearings 295 (Donahue); Report, at p. 383.

27. See Commission Exhibit 24, pp. 1-2; Report, at pp. 392-95.

28. Report, at pp. 400-04.

29. Report, at pp. 406-12.

30. Report, at p. 413.

31. See 1 Hearings 65-66 (Marina Oswald); Report, at pp. 416-21.

32. See Rothstein, D., Presidential Assassination Syndrome II, at pp. 5-6.

33. Id., at 6.

34. Report, at pp. 386-87; cf. Rothstein, D., Presidential Assassination Syndrome, II Archives of General Psychiatry 245 et. seq (Sept. 1964).

34a. If the assassination and the attempt on General Walker are relatable one would expect to find a rejection by a female occurring shortly before the latter as it in fact occurred before the former. While no such rejection appears from the record at first glance, it may be of interest to note that Oswald was dismissed from his job as a photographic trainee shortly before his attack on Walker. It should also be noted, however, that he had ordered the rifle before he had been fired from his job and had apparently been planning the attack on General Walker for a considerable period of time before his dismissal. Report, at pp. 403-404.

35. Report, at pp. 416-21.

36. Report, at pp. 412-414.

37. Report, at pp. 129-34.

38. Report, at p. 420.