

Post Daily Magazine

The Warren Report And the Critics

ARTICLE I

By MICHAEL J. BERLIN

THERE WILL ALWAYS be doubts about the events surrounding the assassination of John F. Kennedy.

Whatever comes of the current New Orleans investigation, or any others that may follow, the doubts will be there because the crime itself and the bizarre events surrounding it were in themselves unthinkable, indigestible.

It was hard to believe that our world had been shaken by a lone madman; harder still to believe that a President's assassin, surrounded by police, had been executed by another lone madman.

On Nov. 29, seven days after the assassination, President Johnson named seven men to digest the indigestible. They seemed the right men.

The nation trusted the President's Commission on the Assassination of President John F. Kennedy, and when, after 10 months, it presented its report, the people wanted to believe that the mysteries were solved. All we needed to read was this:

"The shots which killed President Kennedy and wounded Governor Connally were fired by Lee Harvey Oswald. . . . On the basis of evidence before the Commission it concludes that Oswald acted alone."

A few of us, very few, read the 912-page Report, but hardly anyone looked at the 26 volumes of supporting testimony and documents.

At first, the Report generated little criticism. But critics there were. Some not only challenged the official version, but implied that the Commission consciously had hidden the truth.

It was hard to believe that Oswald did it alone, but for most it was even harder to believe that the Commission, headed by Chief Justice Earl Warren, would hide the truth.

Then, last summer, a 31-year-old Cornell graduate student published his master's thesis on the organization and methods of the Commission. "Inquest," by Edward Jay Epstein, portrayed an investigation that circumstance had deprived of the time, resources and motivation to gather and analyze all the facts objectively.

A number of reasonable and prestigious individuals and publications began to have second thoughts. Americans took a fresh look at the earlier critics who, whatever their motives and excesses, had pointed out specific flaws in the case against Oswald.

Doubting the Commission became respectable, almost fashionable, in some circles—because one could now doubt without believing that the Commission was involved in any conspiracy.

Many began to believe that there were enough legitimate questions left unanswered by the Report to warrant a new investigation.

But what "conspiracy" was there to investigate? No one claimed specific knowledge of any. Until last month.

★ ★ ★

"THERE WERE OTHER PEOPLE BESIDES LEE Harvey Oswald involved," New Orleans District Attorney Jim Garrison told a press conference on Feb. 18. "Arrests will be made . . . convictions will be obtained." By the end of last week, one accused suspect—ex-airline pilot David Ferrie—was dead, and another businessman Clay Shaw, was arrested, although Acting Attorney General Ramsey Clark immediately said Shaw had nothing to do with the assassination. Before that, Warren Commission staffers insisted that the same "plot" rumors had been thoroughly checked in 1964, and dismissed as groundless by the Commission.

Be that as it may, the fact is that increasing numbers of people now appear to feel that the Report left many unanswered questions, as a Louis Harris Survey on Page 4 in this paper confirms today.

Those who support the Commission's work attempt to distinguish the Report from the investigation on which it is based. They say the investigation uncovered all there was to uncover, though it may not all be set forth in the Report.

Harris Poll finds majority doubt Warren Report told the whole story; Page 4.

Critics of the Report—Mark Lane in "Rush to Judgment," Leo Savage in "The Oswald Affair," Harold Weisberg in "White Wash"—charge that it distorts and misrepresents and, by omission and deceptive language, even tries to hide some of its own evidence.

The Report, for example, concludes that Oswald had "ample capability" and faced "an easy shot." The last time his skill was tested—in May, 1959, while he was in the Marines—Oswald scored 191, one point over the minimum requirement for qualification with the rifle. A Marine expert said this indicated a "rather poor shot," and suggested to the Commission that perhaps the day of the test may have been "windy, rainy, dark." Lane points out that the weather records in that area indicated it had been a calm and sunny day.

As for the ease of the shots, Commission supporters say the most amateurish of hunters could have fired those shots and hit with ease; the critics point out that three of the best marksmen in the country,



Chief Justice Warren hands President Johnson a copy of the Report.

who attempted to approximate the range and timing of the shots at the behest of the Commission, did not do as well.

The Report cites conflicting testimony, but reaches no conclusions on how Jack Ruby got into position to kill Oswald in the basement of police headquarters. Yet the Commission's own thorough investigation, as depicted in the 26-volume appendix, had shown that Ruby was a familiar hanger-on at police headquarters, and that it would have been natural (though not proper) for any of the policemen guarding the entrances that day to have waved him on in. Why did the Commission leave this up in the air? One suggestion is that it didn't want to be too harsh on the Dallas police.

★ ★ ★

EVEN SOME SUPPORTERS CONCEDE THAT THE Commission would surely have enhanced its own believability by admitting the contradictions and gaps, explaining why these could not be resolved—and how its conclusions held up anyway.

The story that Epstein tells (and its veracity has been questioned) offers one explanation as to why the Report differs in many ways from the investigation underlying it. He says that the Report, based on drafts submitted by the staff lawyers (who conducted their investigations with a great degree of autonomy),

was almost completely rewritten to fit the requirements of the Commissioners themselves.

And the Commissioners were busy men, able to devote only a portion of their time to the investigation. (On the average, each Commissioner attended about 45 per cent of the 244 hours of hearings.) The Commissioners were able to digest and analyze only a fraction of the evidence the investigation turned up, the critics have charged.

The critics also say the seven Commissioners and their chief counsel, J. Lee Rankin (today the Corporation Counsel for New York City) felt that in addition to establishing the truth, their task was to quiet the rumors of conspiracy that had shaken the nation.

Given this duality of purpose at the top, among the Commissioners, and the numerous examples of inefficiency at the bottom, among the local and federal police, the Commission critics contend that the entire investigation by the staff lawyers in the middle has been invalidated.

★ ★ ★

THESE ARE THE CHARGES, MOST OF THEM made by Epstein, against the staff investigation:

• *The lawyers were reined in on the scope of their investigation by the Commissioners.*

The Commission defenders reply that this was true only in two major areas: Justice Warren's refusal to press for a look at the photos and X-rays of the Kennedy autopsy; and Warren's reluctance to let the lawyers question Marina Oswald more closely to iron out the obvious contradictions in her testimony.

• *There were not enough investigators, and the 17-man staff was rushed by the political necessity of completing the Report before the 1964 campaign.*

The reply is that, except for details with no bearing on the Commission conclusions, there was no time pressure on the investigation—only on the writing of the Report. But in at least one portion of the investigation—the key one, dealing with the basic facts of the assassination, such as the source of the bullets and the nature of the damage they did—not all the evidence was gathered. (Only a limited number of assassination eye-witnesses, for example, were asked for anything more than the depositions they gave to police immediately after the event.)

• *The lawyers didn't check out reports from law officers who might have something to hide (such as the possibility of Dallas police involvement in Oswald's death); they acted as Oswald's prosecutors, seeking a conviction, and didn't press for information that would indicate a conspiracy, or perhaps even clear Oswald.*

The Commission lawyers insist that they were constantly seeking evidence to hurl against the "official" theory. An example: Nancy Ferrin Rich testified to Jack Ruby's involvement with Dallas police and with a projected anti-Castro sortie to Cuba. Commission lawyer, Burt Griffin, who handled that end of the case, says:

"The FBI had simply reported what Mrs. Rich had said, and then stated that she was an admitted prostitute and had once been in a mental institution. They felt that was all that was necessary. We felt there would be merit in what she said. She gave us the names of some people, and we checked them out. She, for example, gave us the name of 'Dave C.' We found out who Dave C. was and we interviewed the guy, and it went nowhere.

"My conclusion about the girl was that she had known Ruby, that she herself may have been involved in some Cuban thing. But she admittedly hated Ruby; she was, in my opinion, delusional even at the time she talked to us. Still, we made a real effort to go much further than the FBI—we went as far as we could on this."

The Commission defenders do not deny that there was insufficient communication among the teams in the seven areas of investigation. This evidence that could have set one team off on an avenue of inquiry may have lain unused in the office of a team working on another area of investigation.

★ ★ ★

WHEN THE INVESTIGATIONS WERE FINISHED, there were contradictions, of course. There were gaps. But the staff lawyers insist that there were no answers to these contradictions, nowhere else to go to fill the gaps. And the totality of evidence indicated to them that Oswald, beyond a probable doubt, had done it—and had done it alone.

(The Commission never claimed to have disproved a conspiracy; it merely said that it had exhausted every avenue without finding any tangible evidence of a conspiracy.)

It is obvious that there will never be a disposition of all aspects of the Kennedy assassination. But both critics and defenders depend basically upon the same sources of evidence in their debate: the Commission's working papers. And the big problem for both sides is that roughly a third of the Warren Commission papers are "classified"—unavailable to the public.

The critics claim these contain evidence that would refute the Commission's conclusions. The defenders claim that these papers would plug most of the Report's big loopholes, and prove that the Commission found the right answers.

Thus the call for an opening of the archives, or for a new investigation, has arisen from both sides.

TOMORROW: The "Single-Bullet" Theory.