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Commission analysis defended by staffer

By John Hart Ely

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I served on the staff of the Warren Commission. And although it is vogueish to say otherwise, I think we wrote a good report. I continue to be amazed at how many "new" discoveries that appear in critical literature were discussed in the report and at how many people are prepared to dismiss the report without having bothered to read it.

Attention-getting criticism has proved easy; we knew it would be when we published, in 26 volumes, the great variety of testimony, other evidence, speculation and rumor that had come before us.

Recently, however, another set of issues has begun to surface—having to do not with the way the Commission analyzed the information to which it had access, but rather with the way the commission obtained, or, more accurately, the way it was provided its information.

The Commission lacked real investigative resources of its own and was therefore heavily dependent, at least for leads, on the government's existing investigative agencies. To the extent that we could, we checked the information we were furnished against other information we had from the same or other sources, but such cross-checking was obviously of limited value.

Naturally we were troubled by this investigative dependence to an extent, but there did not seem to be any plausible alternative way of proceeding. With a staff comprised almost entirely of lawyers, we were not structured as an investigative agency; analysis, asking the right questions, and evaluating the alternative answers to them was what we were obviously suited to.

How could anyone, no matter how inexperienced in matters of investigative politics, have been so oblivious to the risks of reliance on the existing agencies for information in a matter like this?

The explanation, I think, is that this was 1964, not 1975. We were all more innocent a decade ago.

Since that time we have learned, contrary to what once seemed common sense, that persons in high places will, at substantial risk to themselves, cover up for the misdeeds of subordinates who seem of little consequence.

We have learned that investigative agencies are not the monoliths we once thought they were; that schemes of substantial moment are planned and sometimes executed at relatively low levels.

I confess I personally am only partly reconstructed: I still cannot take seriously the notion that government agencies were involved in President Kennedy's assassination. I suspect that the facts, even assuming they could all be learned, would disclose a suppression of nothing more sinister than evidence of inadequate vigilance on the part of the agency or agencies concerned.

But however that may be, it is important to distinguish the issue of how the Warren Commission analyzed the information it had from the issue of what information others decided it was and was not to get. It seems to me unlikely that the data we had before us would be analyzed any better a second time than it was the first. Nor does a second analysis seem likely to attain any broader credibility. That is why I have always resisted suggestions that the investigation be "re-opened."

But an investigation of how the commission got its information, of what it was and was not provided, would not be a reexamination, for the simple reason that it went unexamined at the time.

Certainly I can imagine no reason why those of us who worked on the report should resist efforts to investigate the mechanisms by which the commission was provided (or not provided) information.

John Hart Ely, who is general counsel of the U.S. Department of Transportation, wrote this article in his capacity as a private citizen.