

Oswald's Arrest in New Orleans

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The Warren Report states that Oswald was interviewed "at his own request, by an agent of the FBI" after his arrest in New Orleans on August 9, 1963 for "disturbing the peace." Oswald and three Cuban exiles had been taken into custody when the Cubans threatened him with bodily harm for distributing handbills on Canal Street advocating fair play for Cuba.

Most critics of the Warren Report seem to accept the allegation that Oswald himself summoned an FBI agent while he was in police custody in New Orleans for infraction of a minor ordinance (a dubious charge, since he was merely exercising the constitutional right of free speech of which three foreigners attempted to deprive him, by physical force, although they were political refugees who had ostensibly fled to that freedom which they claimed did not exist under Castro). They regard the request to see an FBI agent as an indication that Oswald was an FBI undercover functionary, arguing that in giving the FBI agent false details (his wife's name, the place of their marriage) he was signalling his clandestine FBI connection, in accordance with standard operating procedure, so that he could be extricated from police custody without having to blow his cover.

Indeed, it is difficult to understand why Oswald should have asked to see an FBI agent except for such a reason. He considered the FBI his enemy. When he was interviewed by FBI agents on his return to the U.S. from the Soviet Union, he showed them open hostility. He blamed the FBI for his loss of jobs. On the day of the assassination, when FBI agent James Hosty entered the room where Oswald was being interrogated by the Dallas Police, Oswald denounced him and the FBI in vehement terms. But his display of animus toward the FBI could have been an act. If Oswald really requested an audience with the FBI when he was under arrest in New Orleans, I would agree that it suggests a clandestine relationship between the two. The more so, since the curious solicitations of the State Department toward Oswald in connexion with his "repatriation" from the Soviet Union strongly implied that Oswald had "defected" on assignment by a U.S. intelligence agency.^{1/}

^{1/} "Oswald and the State Department," The Minority of One, October 1966.

Moreover, in a secret meeting with the Warren Commission in January 1964, high Dallas officials reported that there was reason to believe that Oswald was on the FBI payroll as an undercover informant^{2/}. There was also the peculiar entry in Oswald's address-book of FBI agent James Hesty's name, phone number, and auto license number, which the FBI first concealed from the Warren Commission and which the Commission later "explained" in what one can only call, to be charitable, an unsatisfactory manner.^{3/}

^{2/} See Inquest by Edward Jay Epstein, Viking Press, 1966; Accessories After the Fact by Sylvia Meagher, Bobbs-Merrill, 1967.

^{3/} See Accessories After the Fact, Chapter 8.

The question is, did Oswald in fact request an FBI interview while he was under arrest in New Orleans? After study of all the relevant evidence, I find it inconclusive and I cannot without lingering misgivings accept this assertion.

The Warren Report, in support of its assertion (WR 407) that Oswald was interviewed by the FBI "at his own request," cites "CE 1413" and "10H 53 (Martello)" (WR 849, footnote 320). * But when these sources are examined, they provide no corroboration whatever for the claim in the Report.

"CE 1413" is a New Orleans Police Department inter-office memorandum dated August 12, 1963, from Sgt. Horace J. Austin and Patn. Warren Roberts to Major Presly J. Trosclair, Jr., on the subject "Interview of four male subjects at the First District Police Station, on Friday, August 9, 1963, after their arrest from Canal Street." The reporting officers then give a detailed account of their interrogation of Oswald and of the information which they obtained from him on his history, his employment and marital status, and his activities as a spokesman for the Fair Play for Cuba Committee (FPGC). The detailed memorandum makes no reference whatever to the FBI and gives not the smallest indication that Oswald asked to have an FBI agent summoned.

The second source cited by the Warren Report, "10H 53," is a page of the transcript of testimony given by Lt. Francis Martello of the New Orleans Police. Nowhere on that page or elsewhere in the transcript is there any mention of a request by Oswald to see an FBI agent.

Martello had interviewed Oswald on August 10, 1963 at 10 a.m. and had made notes of the interview at that time. After the assassination, Martello prepared a memorandum based on those notes, which he gave to the FBI in the course of an interview on November 29, 1963. That memorandum was incorporated into the record when Martello's testimony was taken by Wesley J. Liebeler on behalf of the Warren Commission, on April 7-8, 1964 in New Orleans, and appears in the transcript of Martello's testimony (10H 53-56).

According to the memorandum, Martello questioned Oswald at length about the FPGC, seeking to determine the number and identities of other members in the New Orleans area. Oswald refused to give that information on the ground that "this was a minority group holding unpopular views at this time and it would not be beneficial to them if he gave their names." After further attempts to obtain names, Martello ended the interrogation:

* Citations in this article refer to the Warren Report ("WR" and page number) or the Hearings and Exhibits, testimony (number of Hearings volume and page number) or Commission Exhibits ("CE").

Since he did not appear to be particularly receptive at this time, the interview was concluded and he was returned to the cell block. Prior to entering the cell block, Oswald was again allowed to use the telephone. [Oswald made two phone calls to his cousin Joyce Murret to request that bail be posted for him--S.M.]

Several hours later after Oswald was interviewed by a Special Agent of the Federal Bureau of Investigation, a white female came to the station and identified herself as Mrs. Marat (sic), who stated she was a relative of Oswald...(LOH 55)

The reference to Oswald's use of the telephone is followed abruptly by the statement that he was interviewed "several hours later" by an FBI agent. We know that Oswald did not himself telephone the FBI but made two calls to his aunt, Lillian Murret, seeking bail for his release (8H 145). Lt. Martello does not say that Oswald asked him to call the FBI, or that he did so. One doubts that Martello inadvertently omitted such not-insignificant information from his otherwise careful and richly detailed memorandum; but if he did omit it unintentionally, a lawyer of Mr. Liebeler's unique perceptivity and shrewdness would scarcely have overlooked the need to pin down the facts. Yet Liebeler at no time asked Martello how it was that Oswald was seen by an FBI agent. One might almost think that Liebeler was consciously and carefully avoiding the question.

Another possibility is that Liebeler took it for granted that the FBI agent was summoned on Martello's initiative, not Oswald's, as one might be led to believe by a passage at the outset of his testimony:

Liebeler Did you subsequently interview Oswald?

Martello That is correct, sir.

Liebeler Was this a part of an official investigation conducted by the New Orleans Police Department?

Martello Yes, sir; it was. It was to ascertain primarily that all parties, all of us law enforcement agencies that would be interested would be notified; also to ascertain if the various agencies within our department were notified...(LOH 52) (Italics added)

In his written memorandum, Martello had given much the same impression of taking the initiative himself to notify the FBI of the arrest of a Castro-sympathizer:

Prior to being assigned to the First District, I had worked with the Intelligence Unit for two years and since I was generally familiar with various groups and organizations that demonstrate or picket in the city, I decided I would question this individual to see if I

could develop any information which would be of value and to ascertain if all interested parties had been notified. (LOH 53) (Italics added)

Martello's memorandum and his testimony imply that it was routine for the New Orleans Police Intelligence Unit to notify other law enforcement agencies such as the FBI of incidents or arrests involving political agitation or "subversion" of national policy and doctrine. But the FBI is not supposed to act as a political police force, nor is it supposed to intrude into purely local police business. Although it is common knowledge that the FBI does act as a political police, and perhaps primarily as such, the FBI denies any such role. If a federal agency violated clear restrictions on its jurisdiction and operated as a political monitor, disregarding the right of privacy and using coercion against the individual's freedom of belief and expression, considerable pains might be taken to camouflage such illegitimate and anti-Constitutional activities. Local police might be similarly reluctant to admit for the record that they routinely and systematically notified the FBI of individuals who, like Oswald, were of no legitimate concern to the federal authorities merely because of arrest for a minor misdemeanor.

That is the light in which one should view other testimony and exhibits which, unlike the sources just discussed, do appear to corroborate and sustain the story that it was Oswald who wanted an FBI agent summoned. These sources derive from FBI contemporaneous reports and the testimony of FBI agent Quigley; in each case, they specify that Lt. Martello made contact with the FBI office, and that he did so at the request of the prisoner. Quigley told the Warren Commission that:

Lt. Francis L. Martello, platoon commander at the first district, New Orleans Police Station, called our office and advised that he wished an agent to stop by there since there was a prisoner who desired to speak with an agent. (4H 432)

More significantly, an FBI report dated October 31, 1963 (almost a month before the assassination in Dallas, but more than two months after Oswald's arrest in New Orleans) states that Lt. Martello "advised on August 10, 1963 that Lee Harvey Oswald...was desirous of seeing an Agent of the FBI" (CE 826, Volume XVII, page 757); and Quigley's report dated August 15, 1963 also states that Oswald "was interviewed...at his request" (CE 826, Volume XVII, page 758).

We are left to choose between FBI records and testimony which say flatly that Oswald asked to see an agent and which explicitly name Lt. Martello as the police official who relayed the request; and New Orleans Police documents and testimony which do not confirm Oswald's alleged request or Martello's contact with the FBI. There is no blatant conflict between the two sets of evidence, only a disquieting vagueness on Martello's part and an even more disquieting failure by the Warren Commission to obtain the needed corroboration from the New Orleans Police.

Some other evidence may be helpful to the formation of a judgment on the merit of the official version of Oswald's interview by FBI agent Quigley. A passage from the testimony of Carlos Bringuier, one of the anti-Castro Cubans also arrested on August 9, 1963 has some relevance:

Liebeler Going back briefly to the time at which you and Oswald and your other friends were arrested and taken to the police station here in New Orleans on August 9, 1963, were you interviewed at the police station by any agent of the FBI?

Bringuier Well, there were two plain-clothing agents that identified (themselves) as a member of the FBI, I believe, and they were questioning us on the generalities of Oswald and all, and when I was explaining to them and all, they had some kind of confusion sometime because they didn't know if we were Communists, and I had to explain to them three or four times that we were not the Communists and that Oswald was the one that was doing that in favor of Castro.

Liebeler Do you know whether they interviewed Oswald?

Bringuier I think. I thought that they interviewed Oswald, but not in front of me. They were talking to him in front of me, but when they were ready to interview Oswald, they moved to other place to interview him. (10H 50)

Was Quigley one of the "two plain-clothing agents" who identified themselves as FBI agents to Bringuier? Quigley's report of August 15, 1963 discusses only his interview with Oswald and does not suggest that he questioned the three Cubans. Moreover, Quigley claims that he was alone when he went to the police station (4H 432).

In his testimony before the Warren Commission, Quigley was hard put to explain why the detained Oswald, having asked for an FBI agent, had then been reticent to furnish information on the FPCC—"reluctant and actually as far as I was concerned, was completely evasive on them."

Stern Did he tell you why he had requested the interview?

Quigley No; he did not, sir.

Stern Did you form any impression as to why he had requested the interview?

Quigley Well, he was in police custody at the time, involved in a disturbing of the peace charge, was becoming involved in a fight with three Cubans on the street in the distribution of Fair Play for Cuba literature. I felt that he 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.

Stern Why do you think it might have been important for him to explain to you what he was doing...or to an FBI agent?

Quigley Well, he is in custody--this I cannot answer you. You ask me what I thought, this is what my feeling was on the matter. His actual motive, I really wouldn't have any idea.

Stern Is there any possibility that he was trying to give the New Orleans police the idea that he was working for or with the FBI?

(Note the delicacy with which Stern phrased his question!)

Quigley Not to my knowledge, sir; no.

Stern None of his conduct went in that direction?

Quigley No; he certainly, to my knowledge, never advised the New Orleans police of this. As a matter of fact, he, during the course of the interview with Lt. Martello, made a flat statement that he would like to talk to an FBI agent, which is not an unusual situation. Frequently persons who are in custody of local authorities would like to talk to the FBI. (4H 435)
(Italics added)

This is surprising intelligence and, with all deference to Quigley, one would wish to see some statistics on the frequency of such requests. I would have thought that a pro-Castro demonstrator in 1963 would be as reluctant to solicit FBI attention as an anti-Vietnam war demonstrator in 1970. If Oswald, however implausibly, did seek to be interviewed by an FBI agent, he was then even more implausibly "antagonistic...certainly was not friendly" (4H 437).

Stern Would it be unusual or had it occurred before that someone would ask for an interview and then refuse to respond to your questions? Didn't that seem strange?

Quigley Not necessarily; not necessarily. Frequently people will have a problem and want to talk to an FBI agent

and they want to tell them what their problem is, but then when you start probing into it then they don't want to talk to you. I think that is just human nature. If you are probing too deep it gets a little touchy. (4H 438)

And perhaps that is why the Warren Commission was careful not to be "probing too deep" into this particular matter, or the many others which were left ambiguous or untouched when the "investigation" had hopped to its close.

At the time of his arrest for disturbing the peace, Oswald's FBI dossier was "active" at the FBI New Orleans office. Quigley's superior, Special Agent Milton Kaack, was then handling the Oswald "case." Quigley himself had made inquiries of the Office of Naval Intelligence about Oswald, in April 1961 (4H 438, 444). But Quigley testified that he was not aware, before or during his interview of Oswald on August 10, 1963 that there was already a file on ~~Oswald~~ in the FBI New Orleans office, since he did not know the name of the man who wanted to see an FBI agent until he arrived at the police station and was introduced to Oswald. Even then, the name did not ring a bell, and the interview was conducted without benefit of acquaintance with Oswald's background and history.

Although the FBI was prompt to interview Oswald, whether on his own request or on routine notification by Lt. Martello, it was less energetic on an earlier occasion involving similar circumstances. Cuban exile Carlos Quiroga, a friend of Bringuier's, told the Secret Service on November 30, 1963 that some time before Oswald's arrest, he had notified the FBI office that Oswald was handing out what Quiroga assumed to be "pro-communist literature" in front of the International Trade Mart. The FBI, Quiroga said, "had given him the cold shoulder" (CE 3119, page 21).

Now, however, Quigley spent an hour and a half interviewing Oswald—not very effectively, it would seem, since Quigley failed to elicit information which Oswald had given Lt. Martello. Oswald had told Martello, for example, that meetings of the New Orleans chapter of the FPCC were held "once a month ...on Pine Street" (10H 54). Martello was intrigued to hear this, because he recalled that FPCC literature had been found in the 1000 block of Pine Street, "which was near the residence of Dr. Leonard Reissman, a professor at Tulane University." Martello said, in his memorandum:

I asked Oswald if he knew Dr. Reissman or if he held meetings at Dr. Reissman's house. Oswald did not give me a direct answer to this question, however I gathered from the expression on his face and what appeared to be an immediate nervous reaction that there was possibly a connection between Dr. Reissman and Oswald...I also asked Oswald if he knew a Dr. Forrest E. La Violette, a professor at Tulane University ...because I remembered that La Violette allegedly had possession of Fair Play for Cuba literature during the

year 1962...Oswald became very evasive in his answers and would not divulge any information... (10H 55)

Martello testified that after his interview of Oswald, he had not conducted any further investigation of Dr. Reissman or Dr. La Violette; nor had he made any attempt to verify Oswald's statement that he had work^{ed} for the Jax Brewery about a month and a half before his arrest. Martello's lack of interest in these matters may have been due to an impression, after Oswald was interviewed by FBI agent Quigley (and especially if he had really requested the interview), that Oswald was an FBI informant or secret functionary whose activities did not require investigation. Indeed, when Oswald's cousin Joyce came to the police station in response to Oswald's phonecalls and deplored his activities in defense of Castro, Martello reassured her that "what he was doing wasn't so bad" (8H 145). Joyce still "thought it was terrible"--so terrible that she refused to help Oswald and would not provide bail for his release.

Oswald called her again:

...and the first thing he did was get kind of rude with Joyce. He wanted to know how come she hadn't gotten him out yet, and didn't she have the money, and she said, "No, I didn't have any money"...and he said, "I want you to go out to the apartment and see Marina, because Marina has \$70.00 and you tell Marina to get that money and come and get me out." (8H 145)

Joyce would not do this, either, on the pretext that she could not leave her children. She and her mother:

...talked about it awhile, and then we decided to call this man we knew, and we called him, and he told us what had happened...a little while after that, he called back and said that everything was all right, that Lee was out. (8H 145)

Albert E. Jenner, who took this testimony on behalf of the Warren Commission, showed no interest in the identity of "this man we knew." The Warren Report does not say how Oswald obtained his release from the police, shortly after he was interviewed by FBI agent Quigley. Nor was lawyer Liebeler curious when he heard from Bringuier that:

Oswald didn't put the \$25 bond...Somebody went to the First District and make—I believe you call that an affidavit or something like that, and he will appear in court and he will not have to put the \$25. He didn't put the \$25 bond. That is what I heard. (10H 38)

Although neither the Warren Report nor the transcripts of testimony indicate the identity of the man who interceded for Oswald, it appears from the published documents that Oswald was paroled at 5:20 p.m. on August 10, 1963, "for a Mr. A. Heckman, a Jury Commissioner...New Orleans" (CE 2216). An unpublished document, however, states: "Mr. Emile Bruneaux...made the arrangements through which Oswald was released" (FBI Supplemental Report, dated January 13, 1964, Commission Document 107, page 21, National Archives).

A first draft of this article set forth the following questions which remained to be determined and the answers to which might throw greater light on the crucial and still unresolved mystery of Oswald's relations with the FBI:

1. Did Oswald tell Lt. Martello that he wanted to see an FBI agent?
2. Did Martello call the FBI about Oswald on his own initiative or as a routine notification to be made in all arrests of this type?
3. If it was on Oswald's request, why did Martello fail to mention that in his memorandum and in his testimony?
4. Does Martello still have his contemporaneous notes on Oswald, and if so, do those notes indicate that Oswald asked to see the FBI?
5. Did Martello give Oswald's name to the FBI or did he refer to an unnamed person under arrest?
6. Who were the plainclothes men who identified themselves as FBI agents when they questioned Bringuier and his two Cuban friends?
7. Did Martello believe that Oswald might be an FBI undercover agent?
8. Did Oswald work for the Jax Brewery in June/July 1963, as he said?

Subsequently, an opportunity arose to question Lt. Martello, in a friendly conversation undertaken at my request by a visitor to New Orleans, about Oswald's interview by FBI agent Quigley. Martello emphatically stated that Oswald did indeed request that an FBI agent be summoned to interview him, and he expressed surprise that this fact did not appear explicitly in his memorandum or his testimony before the Warren Commission. This is, of course, no more than hearsay information given to me. It can scarcely suffice in place of the authentic documents and the sworn testimony which are lacking. This matter therefore remains among the multitudinous

evidenciary problems--including conflicts in testimony and evidence and prima facie instances of perjury and collusion which have been described in the critical literature on the Warren Report--which cry for a reopening of the whole investigation into the incredible, tragic events of Dallas November 1963.

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