

THE OPEN MIND

WNBC TELEVISION

"THE WARREN REPORT: AN AMERICAN CONTROVERSY"

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WNBC-TV Public Affairs Department

**THE OPEN MIND****WNBC TELEVISION**

**MODERATOR:** Eric F. Goldman

**GUESTS:** Edward Jay Epstein  
Mark Lane  
Wesley J. Liebeler  
Burt W. Griffin  
Richard Rovere

**THE ANNOUNCER:** The Open Mind - free to examine, to question, to disagree, with moderator Eric Goldman, Professor of History at Princeton University. The subject of today's discussion: "The Warren Report: An American Controversy." To introduce the participants in this discussion, Mr. Goldman.

**MR. GOLDMAN:** Hello, ladies and gentlemen.

Having finished its inquiry into the assassination of President Kennedy, the Warren Commission concluded: "The shots which killed President Kennedy and wounded Governor Connally were fired by Lee Harvey Oswald. On the basis of the evidence before the commission, it concludes that Oswald acted alone."

Now, that for most Americans settled the matter. A number of European critics were unsatisfied, but their remarks were generally taken as another outburst of anti-Americanism, particularly since they tended to make the assassination a result of white wing fanaticism. Recently, however, in America, by Americans, the discussion has been reopened in important ways, most notably by the publication of two books, whose authors

are here tonight. Did it adequately establish that Oswald did the assassina-

tion? And Our total panel: To my far left, Mr. Mark Lane, the attorney who was asked by Mrs. Marguerite Oswald to represent her son's interests before the Warren Commission, and who is now the author of "Rush to Judgment," a critique of the Warren Commission's inquiry.

Here to my immediate left, Mr. Wesley J. Liebeler, one of the Assistant Counsel of the Warren Commission, who is now Professor of Law at the University of California in Los Angeles.

To my immediate right, Mr. Edward Jay Epstein, a B. A. and M. A. from Cornell, who is now taking his Ph. D. in Government at Harvard. It was as an M. A. student at Cornell that Mr. Epstein began his inquiry into the Warren Commission, which has now resulted in the publication of the volume, "Inquest, The Warren Commission and the Establishment of Truth."

Next to Mr. Epstein, Mr. Richard Rovere, author of the regular "Letter from Washington" of The New Yorker Magazine, and one of America's most respected political commentators.

And to my far right, Mr. Burt W. Griffin, another of the Assistant Counsel of the Warren Commission, and at present Director of the Legal Aid Society of Cleveland.

Now, gentlemen, in reading these two books of Mr. Epstein and of Mr. Lane, it seemed to me that together they raised three questions.

1. Did the Warren Commission do an adequately thorough job?

2. Did it adequately establish that Oswald did the assassination? And

3. If he did do it, did it adequately establish that he did it alone?

Those, it seems to me, are the three questions not raised by both books, but by the two books combined, and on my right, Mr. Epstein and Mr. Lane, and their interpretation, will begin us.

MR. EPSTEIN: I think those are the three main questions. I think there is another question, and that is the difference in appearance and reality in a government operation, government commission. I mean, what appeared to the public to be the truth -- that is, that seven men, the seven Commissioners, prepared a report and wrote the report, and it was an exhaustive investigation, and what in fact is reality, with a group of staff working hard and under severe pressure perhaps not able to complete their task, with loose ends remaining.

MR. GOLDMAN: Well, isn't that an expanded and more subtle form of the question, was this investigation adequate? Was it thorough? Was it good enough?

MR. EPSTEIN: Yes. Well, there is something more to it, that was it represented to the American people as being exhaustive and was it in fact? I think it is a slightly different question.

MR. GOLDMAN: Mr. Lane, would you give us your comment on the statement of the issues that are raised in the two books?

MR. LANE: Yes. I think you summarized them very well.

I think those are the three basic questions asked by the two books together.

**MR. GOLDMAN:** All right. Well, let's jump then into this first one, this question of was the investigation adequate, just to use that word. Would you comment on it to begin us, Mr. Griffin? You were involved in it deeply.

**MR. GRIFFIN:** Sure, I would be happy to, Mr. Goldman. I think that the Warren Commission had as its primary objective to establish the question of who killed President Kennedy, and was there a conspiracy involved? And then three or four further questions dealing with police protection and others measured in the activities of Jack Ruby.

I am confident from having discussed this many, many times since before this evening, that on those issues the Commission did a thorough job.

There is a second level of inquiry which I think that these two gentlemen here, Mr. Lane and Mr. Epstein, directed themselves toward, and that had to do with whether or not various loose ends on the periphery of the central questions were fairly tied up, and I think that in that respect both of these gentlemen have done a worthwhile job pointing out a number of loose ends, which I don't think are central or germane to the basic questions which the Commission had to investigate.

**MR. GOLDMAN:** Mr. Liebeler, do you agree with that, and, if so, what are these loose ends?

**MR. LIEBELER:** Well, I do agree with that. I would go on a bit beyond that, if I might, before I get to the question of the loose ends,

which I think Mr. Lane would be more than happy to enlighten us about in a moment. I think we have to distinguish between the question of whether or not the investigation itself was thorough and the way in which the report was written, and the way it reflected the evidence that was in the underlying record that resulted from the investigation that was conducted.

I think that most of the points that Mr. Epstein and Mr. Lane have made relate to language that was used in the report. Sometimes the report perhaps didn't take into consideration all of the evidence that was in the record, didn't reflect all of it, but that doesn't affect the thoroughness and the detail that went on in the underlying investigation, and I do agree with Mr. Griffin in that regard, that as far as the basic conclusions of the report were concerned, that Oswald killed the President and there was not a conspiracy involved and he did it alone, I am absolutely convinced of that after having gone through both of these gentlemen's works with a good deal of care.

**MR. GOLDMAN:** Mr. Lane, you have been designated our authority on loose ends, so?

**MR. LANE:** Well, I will be happy to talk about loose ends, but I think the problem is a bit more severe than that. I think that those ends are so loose that the whole fabric unravels and there is nothing but a hodgepodge rushed together which has no reality to the evidence. I think that the 1-volume Warren Commission report bears no serious relationship to the 26 volumes of evidence showing what it is the investigators for the Commission uncovered.

I wonder if I might use this photograph (indicating) for a moment. This is a picture of the Dealey Plaza area, and the limousine came here on Main up Houston and down Elm, and was about here (indicating) when the first shot was fired, and was about here (indicating) when the last was fired. The Commission said all of the shots were fired from Oswald who was here (indicating), said the Commission, on the sixth floor of the Book Depository Building. The Commission went further and said that "No credible evidence suggests the shots were fired from anywhere else."

What is the other evidence which the Commission holds now to be credible? Almost two thirds of those in the Dealey Plaza area who were asked where the shots came from said the shots came from behind this wooden fence high up on this rising hill (indicating). That includes seven men who were on the railroad bridge, who said they looked over behind the fence when the shots were fired because they thought the shots came from there, who said they saw a puff or puffs of white smoke. It includes Lee Bowers, who was here in the railroad tower, who looked down at the fence when the shots were fired.

And I think the question of the way the Commission handled the investigation can best be illustrated, or can be illustrated by a discussion of Bowers himself in the tower. Bowers said, "When the shots were fired, something attracted my attention to the fence which I cannot divine specifically, something that" -- I think that's almost an exact quote, if not a very close paraphrase. After the word "that," the Commission put a dash, and then it appeared that the Commission attorney who was questioning

Bowers broke in to interrupt him before he finished the sentence, and he never was taken back to the question of what attracted his attention to the fence when the shots were fired. But when I conducted a filmed and tape-recorded interview with Mr. Bowers in March of this year, I told him for about a year or so I was very interested to know how he might have finished the sentence if permitted, and he said in essence, "The Commission lawyer did interrupt me. Evidently they did not want to hear the facts, but what I would have told them if they wanted me to finish my sentence is that that which attracted my attention to the fence when the shots were fired was a puff of smoke or a flash of light at the fence."

And this I think is an indication, and just a small one -- there are many others -- of the lack of thoroughness, but a pattern is portrayed, for the fact is that the majority of the witnesses who testified before the Commission who were confronted with FBI reports of what they allegedly told agents of the FBI -- in a majority of cases where they were confronted with those reports, the witness said the report was inaccurate in at least one respect -- it was almost always a major respect -- and there was a pattern which emerged from the FBI changing what the witness said he told them, and that is that in every case where there was a change -- in almost every case -- the FBI report was consistent with Oswald's guilt as the lone assassin, but what the witness said was inconsistent.

And if I can just add one live --

MR. ROVERE: I'm wondering what you mean by "a pattern."  
I mean, you've said this twice, "a pattern has emerged,"



MR. LANE: I would be happy to discuss that, of course. For example, there was a picture taken by a man named Major Phillip Willis of the Book Depository Building five minutes after the shots were fired. He gave his picture, that one and eleven others, to the Commission, and on one of the photographs -- there was the one taken of the Depository Building -- there's a man who appears in the picture, at the right-hand portion of the picture. You can see his entire face and a portion of his body down to about his waist level, and he looks very much like Jack Ruby, and I was on a Dallas television program --

MR. ROVERE: Excuse me, but is this a pattern that is being described?

MR. LANE: If you'll allow me to finish, I'll be happy to.

MR. LIEBELER: Before you get to the pattern, this is one of the problems and the kind of thing that happens all the time. Mr. Lane had started off and makes some remarks about the testimony that Mr. Bowers gave to Joseph A. Ball, who is one of the most outstanding trial lawyers on the west coast of this country, and he has indicated that Mr. Ball cut Mr. Bowers off before Mr. Bowers had a chance to tell him what attracted his attention up there.

MR. LANE: Mr. Bowers said that himself. That's his own statement.

MR. LIEBELER: Yes, that's right, and that's what it says here on Page 32 of your book.

MR. LANE: Yes, that's what he says.

MR. LIEBELER: You fail to point out, Mr. Lane -- whether Mr. Bowers said it or not, I don't know. I know I went back and read Mr. Bowers' testimony yesterday, and the fact of the matter is that Mr. Ball had asked this same question twice before Mr. Lane picks up the quote here, and in both cases Mr. Bowers tried to answer the question, and he said specifically, as a matter of fact, that he was unable to tell Mr. Ball exactly what it was, but that it was a sort of a milling around, and he didn't say anything about a puff of white smoke when he testified to Mr. Ball, and Mr. Ball cut him off on the third time around, Mr. Lane, not the first time around, so why don't we start there?

MR. LANE: Yes, let's start here, and if there's any doubt in your mind as to what Mr. Bowers said, we have just completed a film which will be released probably next month -- we haven't done the opticals on it yet -- and in it there is Mr. Bowers being interviewed --

MR. GRIFFIN: That's not going to show what Bowers said to Ball, is it?

MR. LANE: It is going to show what Bowers said --

MR. GRIFFIN: To you.

MR. LANE: What he said happened.

MR. GOLDMAN: Excuse me, gentlemen. Mr. Rovere has not finished his questioning here.

MR. ROVERE: Well, whenever somebody begins by saying "a pattern is emerging," I want to know what it means. I don't want to know what Bowers said to you or what somebody else said, but a pattern

suggests something with meaning and consistency.

MR. LANE: Precisely, yes. I was giving you an example of this.

MR. ROVERE: I don't want an example. I want to know what the pattern is.

MR. LANE: Well, perhaps you don't want an example, but I would like to answer the question which you posed the way that I think I must answer it.

MR. ROVERE: That isn't the question though.

MR. GOLDMAN: He wants to know what the pattern is, Mr. Lane.

MR. LANE: The pattern is quite simple --

MR. ROVERE: The pattern is what?

MR. LANE: I have explained that. I said that. If you want illustrations, I'll be happy to give it to you, If you just want me to say it again, I will.

When the FBI questioned the witnesses who then testified before the Commission and when the witnesses were confronted with that FBI report, in a majority of cases the witness said, "The FBI report is not accurate. That's not what I told the agents of the FBI."

MR. GOLDMAN: Then the pattern, as you stated it, is that the FBI has distorted what the witnesses have said?

MR. LANE: According to the witnesses themselves.

MR. ROVERE: A pattern of distortion then.

MR. LIEBELER: And the Commission has set this up, I presume, because it was the Commission who asked them.

MR. LANE: Now we get to that, yes. Yes, in some cases the witness was then able to point out what had taken place, but since the FBI conducted 25,000 interviews and re-interviews which the Commission said it relied upon, and the Commission itself only questioned 94 witnesses and counsel questioned, including those 94, a total of 552 --

MR. GRIFFIN: Only?

MR. LANE: Yes, only, out of 25,000, because you relied upon a lot of those 25,000 --

MR. LIEBELER: Mr. Lane --

MR. GOLDMAN: Excuse me, Mr. Liebeler and Mr. Lane; may I interrupt for a moment? We're trying to establish what the opinions are on this subject of the adequacy or inadequacy of the Commission. You have stated it is inadequate because it distorted, the FBI and others. Do you agree with that, Mr. Epstein?

MR. EPSTEIN: I think that in dealing with the question of whether there was one or more assassins, the basic question is whether the shots came from behind the President, because if the shots came from behind the President, then it's really not relevant where witnesses thought the shots came from, and the autopsy and the autopsy photographs would show exactly where the shots came from, and what bothers me is that the Commission didn't look at this very basic evidence, the place where everything starts from. They never saw the photographs of the autopsy and there

was a major contradiction, and this bothers me more than what witnesses said.

MR. LANE: And I would add to that also the fact that I would think the Commission should not publish pictures of the President's body. Obviously, I think the Commission members should have seen them.

MR. EPSTEIN: They should have seen it.

MR. LANE: Yes, I agree with you, but I think the Commission should have published the X-rays, because there's nothing gory or in bad taste obviously about an X-ray.

MR. EPSTEIN: I can't understand it. Maybe you can explain this to me, Mr. Griffin. Why didn't the Commission look at this basic evidence?

MR. GRIFFIN: Well, they had before them, Mr. Epstein, the expert witnesses, the doctors who examined all of this evidence, and they all --

MR. LANE: There are doctors who said they never saw the photographs.

MR. GOLDMAN: Excuse me. Mr. Griffin, yes?

MR. GRIFFIN: In each case, and you know this is true, Mr. Lane. Where an expert testified as to a particular matter, he examined all the matters which would have been relevant to his expert testimony.

MR. EPSTEIN: But there was a contradiction among the witnesses.

MR. GRIFFIN: I've read your book on that. I don't see --

MR. EPSTEIN: You don't believe that there is a contradic-

tion?

MR. GRIFFIN: I don't believe that there is a contradiction. What contradiction do you see?

MR. EPSTEIN: There are three FBI reports. Each of the FBI reports states that the bullet entered below the shoulder and did not pass through the body entirely.

MR. GRIFFIN: You're talking about the December 9th report.

MR. EPSTEIN: December 9th, the January 13th and the November 28th, those three reports. By "contradiction," I mean that if these FBI reports are accurate, then the Commission's autopsy reports are not accurate, and in any sense of the word that is a contradiction, isn't it?

MR. GRIFFIN: No, no. Let me explain.

MR. GOLDMAN: Mr. Griffin, yes.

MR. GRIFFIN: The object of the Commission, as in every investigation, is to get the best evidence, and the best evidence in this case, in the comparison between what you suggest we should have used, the hearsay FBI reports --

MR. EPSTEIN: No. I'm suggesting that you use the autopsy photographs.

MR. GRIFFIN: No. You're talking about the contradictions.

MR. LANE: Mr. Epstein says that the FBI report raises the question of the contradictions. There's no question but what it does.

MR. GRIFFIN: It doesn't raise the contradiction. Let me

explain. This is a common problem on programs like this.

MR. EPSTEIN: We all suffer from that same problem.

MR. GRIFFIN: The FBI agents who wrote these reports themselves never saw the X-rays, never saw the photographs, only overheard some conversations of the doctors. Those FBI reports were used -- now, let me finish -- those FBI reports were used, as is clearly set forth in the report, to provide the Commission with a summary background. We felt that we could not rely in any case upon what the FBI produced, and I think, Mr. Lane, you would agree that we should not have done that.

MR. LANE: Is that a question to me, sir?

MR. GOLDMAN: Answer it later.

MR. GRIFFIN: So we went to the experts who the FBI overheard, and those experts were called to testify, and that's the evidence that we relied on, and these FBI reports are summaries of hearsay written by people, FBI agents who were not competent even to evaluate what was said effectively, who didn't have all the information available to them.

MR. EPSTEIN: You don't think they were competent?

MR. GRIFFIN: Certainly they are. They are not doctors in this case.

MR. LANE: But the FBI reports, to paraphrase Dr. Humes who conducted the autopsy, if I may read from Page 285 of the report by Siefert and O'Neill, two FBI agents, Dr. Humes said that the pattern was clear that the one bullet had entered the President's back and worked its way out of the body during external cardiac massage, and the FBI agents go on

to state that Dr. Humes said that the bullet had not exited forward, that further probing determined that the distance travelled by this missile, the bullet in the back, was a short distance inasmuch as the end of the opening could be felt with the finger.

MR. GRIFFIN: Now, Humes said all of that without having the additional evidence that should have been available to him of what happened down in Parkland Hospital; isn't that right?

MR. LANE: Yes, I think so.

MR. GRIFFIN: And the doctors finally gave their final testimony after they had all of the evidence before them.

MR. LANE: Yes, but, Mister --

MR. GRIFFIN: The name is Griffin. But what you have done in your book, and what you have done in your book; Mr. Epstein, is to take strictly secondary evidence, in some cases tertiary evidence, if we can dignify it with the word "evidence."

MR. EPSTEIN: It's an FBI report to the President.

MR. LANE: And you relied on some 25,000 of them, but not this one. And, if I may say, what you did do, you say that this is hearsay and the photographs and the X-rays are not basic. We have the result of Dr. Humes, but what you did accept, of course --

MR. GRIFFIN: FBI reports are never relied on in critical matters of this sort, and you have read all the testimony and know that.

MR. LANE: Let me say this: What you did accept though and solemnly marked in evidence, instead of photographs, instead of X-rays,



are three drawings by an artist based upon Dr. Humes' verbal description of what his notes showed and what he recalled had happened months before. Is that the best evidence?

MR. LIEBELER: Plus the autopsy report itself, plus the testimony of the autopsy surgeons that drafted the report at the time. That was also referred to.

There's no question whatsoever when you look at the autopsy report and you can take the trouble to measure 14 centimeters from the right mastoid process down, and I think, Mr. Epstein, and I went through this on another television program the other day, it is quite clear that the evidence, the hole in the shirt, is entirely consistent with what the report finally concluded.

And you say, of course, that the bullet entered in the back at a point lower than the point it exited in the front. Did you ever take the trouble to measure 14 centimeters down from your right mastoid process? Of course not. You don't trouble to answer the question either.

MR. LANE: Of course I have, but what I have done --

MR. GRIFFIN: Where does it come? Where does it come?

MR. LANE: It comes insofar as this autopsy.

MR. GRIFFIN: No, but where does it come when you make the actual measurement?

MR. LIEBELER: Show us where 15 centimeters comes.

MR. LANE: Of course.

MR. LIEBELER: Than it's all right.

MR. LANE: No, it's not all right, because I don't like --

MR. LIEBELER: Then it's an inaccurate diagram.

MR. LANE: Now, one second. Gentlemen, please, will you permit me, since the question was asked, it doesn't have to be "Yes" or "No."

MR. GRIFFIN: But I want an answer.

MR. LANE: You'll have an answer. Now, here (indicating) is what Dr. Humes himself drew. It is called the "Autopsy Descriptive Sheet," prepared by Commander J. J. Humes. It is Commission Exhibit 397, and here is the dot. It's not on the neck at all. It's on the back, just where the FBI said Dr. Humes said that it was.

MR. GOLDMAN: Gentlemen, all of you, we're getting into a very detailed examination about this subject, which I think is going beyond the comprehension of the audience, because they don't know the subject as well as you do.

Could I get a more general commentary on this first question? It has been said that this investigation of the Commission was not adequate. It wasn't good enough. It wasn't exhaustive enough. It was not satisfactory in some sense or another.

Now, Mr. Rovere, you wrote an introduction to Mr. Epstein's book, in which you said you started reading his manuscript, like most of the rest of us feeling the Warren Commission had settled the matter, and you ended up unsettled in your mind to some extent. Is the unsettlement on this issue, or was the investigation good enough?

MR. ROVERE: Yes, absolutely, and it grows all the time, and I'm intrigued when Mr. Griffin who, for all I know, may have all the facts on his side in this argument -- I'm no authority on them -- but the Federal Bureau of Investigation is, after all, the Federal Bureau of Investigation, and if it is incompetent in medical matters, why is it paid to draw up a report?

MR. LIEBELER: They are not paid in that area.

MR. ROVERE: No, but men are working on it and somebody has asked for a report. I don't -- I don't want to get into the facts of evidence here because I'm not competent to, except as regards the workings of the Commission, but basically what seems to me at issue here is, for me at least, I want as an American citizen to be able to put some confidence in what my government says, and the usefulness to me of the kind of inquiry Mr. Epstein and a number of other people have conducted is in that field, and it seems to me we can't settle this in a few minutes with Mr. Lane holding up some pictures and pointing to them.

These seem to be the fundamental questions in a discussion of this kind.

MR. GOLDMAN: Mr. Griffin?

MR. GRIFFIN: I think that's right, and what I think is fundamental here, Mr. Goldman, is the process, and if the readers understand or listeners, viewers, understand the process, I think they will understand a little bit more what our argument has been about.

Our process was to take volumes of FBI reports, to read them, to digest them, to try to understand what the FBI seemed to think

and the other agencies seemed to think was found, and then not to rely on those FBI agents, not to rely on those hearsay reports, but to get the actual witness that the FBI talked to and take his testimony, and those 552 witnesses whose testimony were taken represented the witnesses whose testimony was central to the issues which we laid out to begin with.

MR. GOLDMAN: Mr. Epstein?

MR. EPSTEIN: Mr. Griffin, what happens when you found that a witness was saying something contrary to his FBI report? Now, it would seem to me that a lawyer should be able to then tell the witness that his statement is inconsistent with his FBI report, but I believe when you did this, you were I don't think reprimanded too strong, but you were told that the lawyers on the Warren Commission -- you were told this by the Chief Justice -- that the lawyers on the Warren Commission should not do this, and in fact, as I understand it, you were asked not to press the witnesses too hard, and asked not to go to Dallas.

MR. GRIFFIN: No, I was never told that by the Chief Justice. The Chief Justice told --

MR. GOLDMAN: By counsel, you mean the counsel in general?

MR. EPSTEIN: It was in the testimony. It was in Volume 5.

MR. GRIFFIN: I was never told that by the Chief Justice. What the Chief Justice said to Sergeant Dean who made the allegation that I called him a liar, and he made that to the President, but before the Commission, if you remember his testimony, he said I did not tell him that no

Commission counsel had the right to make those kinds of allegations, I think --

MR. EPSTEIN: To quote him specifically, he said, "No Commission counsel has a right to judge a witness's testimony and tell him that he is wrong."

MR. GRIFFIN: That was the function of the Commission.

MR. EPSTEIN: Then how did you evaluate the FBI reports?

MR. GRIFFIN: How did I evaluate the reports?

MR. EPSTEIN: Yes. You said you sat down and you evaluated the FBI reports.

MR. GOLDMAN: Mr. Lane?

MR. LANE: Yes. I would like to raise, if we might, a somewhat different question, on the question of the thoroughness and whether we can have faith in the investigation.

This (indicating) is Commission Exhibit 197. It is a cable from the American Embassy in Moscow, which was sent to the FBI, the State Department, the CIA and the Commander of the Marine Corps on the 3rd day of November, 1959 relative to Oswald, and it makes reference to a request for citizenship by Lee Harvey Oswald, former Marine, and -- and then 41 letters are deleted. "Oswald stated he was a radar operator in the Marine Corps and has offered to furnish Soviets info that he possesses on U.S. radar," and it makes reference to a request for citizenship by Lee Harvey Oswald, former Marine.

Well, if he really did, perhaps he should have been arrested

when he came back, but instead he got his passport in 24 hours. It took me about eight days, which is the normal period, I think.

But I'm intrigued by this description of Oswald, "Lee Harvey Oswald, former Marine," and 41 letters deleted. I wonder if that was "star of stage, screen and radio," or what else was in here. And Mr. Jenner, of course, as the attorney for the Commission, the senior counsel, given the responsibility of investigating the area of Oswald's background, the question of conspiracy, Oswald's motive, et cetera -- I was on a radio program with him quite recently, and I asked Mr. Jenner what those 41 letters were because this is right in his field, and he said, "I don't know. This material was deleted before I saw it."

I said, "Well, don't you have an abiding curiosity to know how Oswald was described? Was it as a government agent, or what was the description? Have you any idea?"

And he said, "I have faith in whoever deleted it, because he must know what he is doing."

I said, "Who deleted it?"

He said, "I don't know."

Now, if we are asked to vest our faith in the Commission, I think that the Commission is asking us to do too much, and we find that men like Mr. Jenner, who I think is a very important kid, and there are many instances, of course, but men like Mr. Jenner and perhaps others are vesting their faith in others, and we don't even know who they are.

MR. GOLDMAN: Mr. Liebeler?

MR. LIEBELER: That's an inaccurate description of Mr. Jenner's position with the Commission -- that's Point 1 -- because this very obviously falls into the question of Oswald's contacts outside the country and that was not Mr. Jenner's responsibility.

MR. LANE: He said it was on the radio program.

MR. LIEBELER: Well, I don't know what he said on the radio program, but I'm telling you that it wasn't. I'll tell you whose responsibility it was. It was the responsibility of William Coleman of Philadelphia and W. David Slawson, formerly a member of a law firm in Denver.

Now, on the question of whether or not there was any investigation made as to what letters were deleted there, I don't know the answer to that question offhand and I'm not -- I don't know whether there is any response in the 26 volumes to this question.

MR. LANE: Are you curious though?

MR. LIEBELER: Yes, I'm curious about it, and there may very well be an answer to it somewhere. I'm not prepared to say that the question wasn't investigated at the time. I don't know about it. I'm quite sure that Jenner doesn't know about it, and there's no reason to expect Jenner to know anything about it because in fact this was not in his area.

MR. LANE: He said it was.

MR. LIEBELER: Well, I'm telling you it wasn't, and it wasn't.

MR. LANE: He was wrong about that?

MR. LIEBELER: That's right, he was.

MR. GOLDMAN: Mr. Rovere, you wanted to comment before.

MR. ROVERE: Well, I just wanted to get back to this question of the FBI, though we are a long way from it. The Commission early on, as I understand, made a decision not to employ its own investigators because it had this marvelous FBI.

MR. GRIFFIN: Although it did do that in some instances.

MR. ROVERE: Well, maybe so, but this seems to me the kind of thing that's central to this kind of inquiry now. We may be forever beyond the truth in this matter, but something similar may happen again, and it seems to me that there are lessons to be learned from this, and for somebody who has represented the Commission or is defending its point of view to make this cavalier dismissal of the FBI I think is probably right, but it does raise fundamental questions about the FBI and about the processes that Mr. Epstein investigated.

MR. GRIFFIN: You see, the issue here is what the Commission did and what it relied upon. Personally, I don't know how you would have gone about investigating, how you would have investigated 25,000 witnesses by hiring "private eyes."

MR. LANE: Sam Spade, or somebody like that.

MR. EPSTEIN: Other government investigators.

MR. GRIFFIN: Other government investigators. Mr. Rovere suggested that they investigate.

MR. LIEBELER: To investigate a crime?



down or you? MR. ROVERE: No, no. Excuse me; this is not quite what I suggested. I said that techniques might have been borrowed from others.

can public. MR. GRIFFIN: Excuse me; let me say something. What we did do, you should know that we did use the Secret Service extensively, we did use the Post Office Department, we did use State Department investigators, we did use CIA investigators.

didn't get to MR. EPSTEIN: Did they work directly for you, or did you have to write a letter to the department requesting them to investigate a certain matter? You said you used them.

this is a gre. MR. GRIFFIN: In some cases they worked directly for us. In the case of the Internal Revenue Service they were on our staff. In the case of the Secret Service agents, I would say they worked directly for us in the sense that they were not on our payroll, but in the sense that I could go to Dallas, and did this on a number of occasions. I was there three times.

point than to MR. EPSTEIN: Did you do this with the FBI?

alone or not. MR. GRIFFIN: We did not do this with the FBI. What we did with the Secret Service -- let me say with the Secret Service we worked directly with them. They took instructions from us. They went out and investigated at our request, and in some cases were left alone.

have emerged. MR. ROVERE: Mr. Griffin, a distinguished member of the Government a few days after the assassination, when the Warren Commission was in the process of formation, wrote a memorandum predicting situations like the one we are at now two or three years from now and books like Mr. Epstein's, and said, "Take it easy. Take a long time at this. Nail it

down or you'll be in just the kind of situation" we're in now. This is what concerns me, and this seems to me to be the general concern of the American public.

**MR. GOLDMAN:** Gentlemen, we have obviously not said enough about this question of the general quality of the Warren Commission's work, but the time is racing on. We would be remiss in our duty if we didn't get to some of these other questions.

Another one is, did the Warren Commission adequately establish that if Oswald did do this, he did it alone? Now, your book concerns this to a great extent, although yours has a different emphasis.

So, what to your mind is the most damaging point about the lack of quality in the Commission's establishment of that point?

**MR. EPSTEIN:** Well, I think it is exactly what you said. I am more concerned with how the Commission went about establishing that point than trying to determine that point. I don't know whether Oswald acted alone or not. I think there were improbabilities on both sides. I think it is very improbable that Oswald was able to fire the shots in the amount of time that the Commission determined took place, but also I think it is very improbable that if there had been a conspiracy, that no trace of it would have emerged.

**MR. GOLDMAN:** Mr. Liebeler, would you comment on this point?

**MR. LIEBELER:** Well, what Mr. Epstein is saying, as I understand it, is that you are just unsatisfied.

MR. EPSTEIN: Well, I just didn't try and get into weighing these improbabilities. I just tried to point it out that the Commission did not -- by reading the report itself, and I think Mr. Liebeler at times, when we discussed this, has gone further than the report in trying to, as he says, refine the report and add new evidence, but on the evidence in the report I don't think you can come to the conclusion that Oswald acted alone.

MR. GRIFFIN: Well, I think that perhaps the strongest evidence on that -- once again, we keep coming back to the problems or the alleged problems involved in the medical testimony, in the medical evidence prior to the autopsy. I think that if the autopsy report is correct, and I have no doubt that it is, it indicates that all of the shots that struck any of the occupants of the automobile came from above and behind the President.

And this is obviously important, because if there were any evidence, for example, that a shot had been fired from anywhere else, obviously the question would have been raised as to whether or not anyone else was involved, and this would raise a strong inference that there might have been a conspiracy involved, so then that becomes crucial in terms of the discussion that was going on a minute ago, and you suggested that we expand it a little bit so that we can really understand what we are talking about.

Mr. Epstein has basically raised the point in his book that it is possible that the bullet that first struck the President struck too low in his back so that it couldn't have come out of his throat, as the Commission concluded it did, and gone on to strike Governor Connally. Now, if this is so, then it is clear that Oswald could not have fired the shots as rapidly as

was required by the evidence of the motion picture camera that took pictures of the motorcade as it went down, because Governor Connally was hit so soon after the President was hit that Oswald couldn't have fired the rifle twice in that time span.

So, once again you get back to this problem of the medical testimony. Mr. Epstein and I discussed this, and there is no question in my mind at this point that the medical evidence does establish that all the shots came from above and behind.

Now, as far as development of evidence of a conspiracy on any other level, a lot of time, a lot of effort and a lot of investigation was put into this question, and I think the only thing you can conclude is if there was any substantial kind of conspiracy here, some kind of indication would have come out at someplace along the line.

It's beyond the power of man to know the answer to every question, Mr. Rovere, and I'm sure you well know that.

MR. ROVERE: Oh, absolutely, but --

MR. GOLDMAN: Excuse me. Mr. Lane has been waiting over here.

MR. LANE: I think that there is some other basic evidence which the Commission did not handle properly on this question and perhaps did not even see. The Zapruder film is essential, I think we all agree, to the Commission's findings. It's called "The Zapruder film." It's a motion picture, 8 millimeter film, taken by an amateur photographer who was to the front and to the right of the limousine as he took the pictures, and it is

relied on to a large extent by the Commission with other documents and other photographs, but primarily that one, to establish where the limousine was when the shots were fired, et cetera.

I believe, and correct me if I'm wrong on this, Mr. Liebeler, that you agree that the Commission evidently never saw the whole Zapruder film.

MR. LIEBELER: No, I don't agree with that.

MR. LANE: You don't?

MR. LIEBELER: Of course not, because they did see the whole film. I saw it myself.

MR. LANE: No, no. One second. Published frames -- you did not publish frames of the whole film; is that correct?

MR. LIEBELER: Yes, that's correct.

MR. LANE: That you omitted -- not you, whoever made this determination omitted for the Commission those frames between 207 and 21. That's at 208 --

MR. LIEBELER: Now, Mr. Lane -- now, wait, wait.

MR. LANE: I haven't finished yet.

MR. LIEBELER: No, they didn't put them in the volumes of evidence. Now, that doesn't say that the Commission -- that they omitted it before the Commission, you see. Omitted on behalf of the Commission? I misunderstand you.

MR. GOLDMAN: I think it's necessary to go into that. You are stating that these were not published for the public?

MR. LANE: 208, 209 and 211 are not published, and 212 which is published, which is the next published one after 207 in this sequence, although 210 is elsewhere. Frame 212 is a spliced picture. Would you agree to that, sir?

MR. LIEBELER: That appears to be so, yes.

MR. GOLDMAN: And you will agree that there were several not published for public --

MR. LIEBELER: Yes, there were three, or were there five left out altogether?

MR. LANE: Well, 8, 9 and 11, and --

MR. LIEBELER: And 10 is elsewhere.

MR. LANE: Now, I think this raises, as you know because you have talked with one of our investigators on the west coast, Mr. Liebler, some questions, because it does seem that when you see Frame 212, that it is possible that a sign which blocks a portion of that picture has been struck by a bullet, and, if so, of course we have too many bullets and the case against Oswald --

MR. EPSTEIN: How could you see?

MR. LANE: Because -- you cannot see where the hole might be, because the very frames which have not been published by --

MR. EPSTEIN: You can see the sign though.

MR. LANE: No. Mr. Epstein, if you will allow me to finish the sentence, perhaps you will get my meaning. You can see the succeeding frames and you can see what physicists in universities on the west

coast have said are lines of strain which may be the result of a bullet hitting the sign. In Frame 212 --

MR. GRIFFIN: It could be a rock too, couldn't it, Mr. Lane?

MR. LANE: Yes, someone might have thrown a rock when the shots were being fired. That's possible.

MR. LIEBELER: And, anyway, that's not a fair statement that physicists have said this, because your investigator, as a matter of fact, never made that claim to me. I rated it as a possibility.

MR. LANE: Well, that was after he spoke with you, but you did, did you not, write a letter, Mr. Liebeler, to Mr. Rankin and you said this is a plausible theory?

MR. LIEBELER: I said it seemed plausible.

MR. LANE: It seemed plausible, and you have asked in fact that Mr. Rankin look into this matter formally with the Federal Bureau of Investigation to find out why the splice was in and the frames were left out, is that not true?

MR. LIEBELER: My more specific request was that the frames should be obtained in public.

MR. LANE: And didn't you ask that there should be some formal inquiry made to the FBI?

MR. LIEBELER: I may have.

MR. LANE: Yes. Now, in addition to this --

MR. GRIFFIN: Let me comment on this a second, because, you see, the underlying premise that Mr. Lane I think is putting forth here

is that somebody has deliberately deleted something, knowing that it would point to a conclusion contrary to the one that the Commission developed. I don't understand this at all, and I think that Mr. Lane knows and Mr. Epstein knows that Mr. Liebeler and I provided a very substantial adversary system within the framework of the Commission.

And I will say, gentlemen, that if I had any inkling that anything like that happened, I would have resigned. I wouldn't be here today. I certainly concur with Mr. Liebeler that when people -- if Mr. Lane raises a doubt like this, if he challenges my integrity, I would be more than happy to have those film strips shown.

But what is the basis for this attack upon our integrity? There are all sorts of reasons --

MR. LANE: Nobody is raising a question about your integrity.

MR. GRIFFIN: There are all sorts of reasons. Now, the most reasonable explanation that I can think of for omitting those is that they were simply cumulative and we had space limitations, and I think you gentlemen all know about space limitations.

MR. LIEBELER: I think that perhaps a more plausible explanation, if I may, is that for some reason or other probably, when the individual slides were being made up, because this film was broken down into individual slides and blown up, that the film was cut and these frames were for some reason or other inadvertently left out.

Now, as Mr. Lane has already pointed out, there is very



little conspiratorial inference that can be drawn from this, because one of the frames was in fact published somewhere else, so there was no reason for leaving 210 out.

Now, as a matter of fact, let me say something else, Mr. Lane. Some other of your investigators right here on the east coast, one Jones Harris by name --

MR. LANE: He has had no relationship with me whatsoever.

MR. LIEBELER: Well, anyway, whether he's a friend of yours or not, that doesn't affect his veracity one way or the other.

MR. LANE: No.

MR. LIEBELER: Has gone to Life Magazine and observed this film in its entirety, as we all did at the time, and Mr. Harris indicated clearly to me and to Mr. Epstein in conversation that there is no such thing as a bullet hole or anything else in that sign.

MR. EPSTEIN: Doesn't this really bring us -- excuse me.

MR. ROVERE: I just want to say that there seems to be a leak between the Warren report, and if there is anything -- if the two assassins theory is possible, then we begin talking about conspiracy. These don't seem to me to be the possible explanations of this at all. I can conceive of a second assassin no more involved in conspiracy than a couple of holdup men.

MR. LANE: That is a conspiracy, two men acting in concert.

MR. ROVERE: It is not what comes to mind when people talk about conspiracy, and you know perfectly well it's not the kind of

conspiracy people have been talking about. My own feeling happens to be that in all probability, the improbable happened and Oswald did it alone. However, if this should turn out not to be the case, it wouldn't necessarily alter the case fundamentally. If I find one nut, I can find two, and nuts often get together.

MR. GOLDMAN: Gentlemen, I wonder if we could move quickly over into that third question. Did Oswald do it, apart from whether there were one or more assassins? We ought to say something about that.

Mr. Lane, that's particularly your territory.

MR. LANE: Yes -- really no more than the other, because I've never said that I believe Oswald did it or did not do it.

MR. GOLDMAN: You have raised doubts.

MR. LANE: Yes, I have doubts about that. I say had Oswald faced trial, he would not have been convicted, and I think one of the Commission lawyers, Alfreda Scobey, has said that in a law review article as well, so I really don't go beyond her, but she did indicate, I think in fairness to her position, that she raised the possibility that, for example, Marina Oswald who did testify before the Commission, and quite properly so, would not have been able to testify.

MR. GOLDMAN: Mr. Epstein, I gather you do not agree with this.

MR. EPSTEIN: Well, I do think that in the Commission report there is enough evidence to show that Oswald did it. I'm not talking --

MR. LIEBELER: You mean alone or with somebody else?

MR. EPSTEIN: -- about whether this evidence would be admitted into trial, but I think that someone has to be satisfied on the basis of this evidence, and it is a chain of evidence from Oswald to rifle and to the time that Oswald kills Tippit. It seems that the case that they present is reasonable and plausible. I didn't investigate whether the evidence was valid. What I was investigating was the process of the Commission, and I really assumed that the Commission did present enough evidence on this point.

MR. GRIFFIN: If I may comment on this --

MR. EPSTEIN: It's not Mr. Lane I disagree with. I agree with the Commission.

MR. LANE: Frame 313 of the Zapruder film, of course, is the film which the Commission states, and I think quite accurately, is the frame which shows the time when the bullet struck the President's head, and I think the next two frames, 314 and 315, in which the President's movement can be observed is most important, if he was driven forward or backward.

I think it is most unfortunate that when the Commission published the frames, they didn't correctly label 314 and 315 and published them backwards, and this of course did give the impression that the President was driven forward when, in fact, he was driven backwards. I think it is unfortunate that the Commission mislabelled these documents and published them out of context. If there is any question about that --

MR. LIEBELER: I don't know whether it happened or not.

MR. LANE: Well, here is a letter from J. Edgar Hoover, dated December 14, 1965:

"You are correct in the observation that frames labelled 314 and 315 of Commission Exhibit A-85 are transposed in Volume 18 as noted in your letter," and Mr. Hoover goes on to say --

MR. GRIFFIN: You're going to rely on the FBI?

MR. LANE: No, I'm not, but I do think when we can prove it even to the satisfaction of Mr. Hoover, which is going very far -- I think when one is dealing with facts even to get Mr. Hoover's concession that he made an error, I think an admission against interest, a concept with which we are all familiar, would indicate that Mr. Hoover may be accurate in this one particular respect.

MR. LIEBELER: So supposing he is?

MR. LANE: Well, then the Commission published the two frames just after the bullet hit the President's head out of sequence and mislabelled, thereby giving the impression that the President was driven forward.

MR. ROVERE: Is this germane to the question Mr. Goldman has us on at the moment?

MR. LANE: Yes, because if the bullet was fired from the right front and since the Commission said Oswald was in the rear, obviously Oswald could not have fired that, you see, and that's the bullet which killed the President.

MR. GRIFFIN: But the evidence is that he was hit in the back of the head, not the front of the head.

MR. LANE: Well, that's what you say, but there is some question about that, because the closest --

MR. GRIFFIN: I don't just say that; all the doctors said that.

MR. LANE: Well, not all the doctors, because eight of the doctors could never find that little hole to which the Commission refers.

MR. GRIFFIN: Because they didn't look, Mr. Lane.

MR. LANE: Well, I don't know if the doctors were not examining the President properly or not.

MR. GRIFFIN: Those doctors at Parkland Hospital had no question that the back of his head was blown off. You know about the hole in the back.

MR. LANE: We know that the back of his head was blown off, but the question is, where did the bullet come? Did it come from the front? Below the back --

MR. GRIFFIN: But these photographs you're talking about had to do with blowing off the back of his head. Are you suggesting that the bullet that blew off the back of his head came from the front?

MR. LANE: Of course that's how the back of his head was blown off, because an exit wound is a large wound. It takes bone material with it, and in fact, as you know, one of the witnesses, the closest spectator perhaps to the limousine, said that he was 15 feet, 20 feet from the limousine and he saw a portion of the President's head, a skull portion, fly

backward and over the rear of the car. He said that on television November 22nd. Yet, for some reason, the Commission never called this man, the closest spectator, as a witness, and none of the attorneys for the Commission questioned him.

But you did, of course, question Professor Oliver -- not you but the Commission -- who said he had no facts whatsoever. He entertained the possibility that the President was killed because he was deciding to leave the Communist conspiracy and turn America --

MR. LIEBELER: What about the material we're talking about here, Mr. Lane? We have been selective --

MR. LANE: Yes, you have.

MR. LIEBELER: Well, I'm glad you raised that question, because you, on Page 58 of your book, go through the testimony of the surgeons and the doctors in Dallas --

MR. LANE: Yes.

MR. LIEBELER: -- whose primary responsibility was at that time to save the President's life, not to determine whether these were entrance wounds or exit wounds or to perform an autopsy, and they specifically stated themselves that they regarded it as far beyond their prerogative to make any such examination of the President. Now, you quote Dr. Clark.

MR. LANE: Yes.

MR. LIEBELER: In the quote, the question you ask is, "Did you observe any hole or wound in the President's head?" Now, the problem here is that there was a large exit wound on the right-hand rear of the head

and a smaller entrance wound right below it, and you quote Dr. Clark as saying, "No, sir, I did not." Now, I would like to know why you didn't go on and quote the sentence that followed that that said, and which Dr. Clark said, "That could easily have been hidden in the blood and hair." And this is just one example of the way you handled your whole book, Mr. Lane.

If you want me to tick off 15 more, I'll be more than happy to.

MR. LANE: I'll tell you what. Let me tick off 50 regarding the Commission's, starting from the beginning.

MR. LIEBELER: But you are criticizing the Commission for being selective. Now, why don't you respond to this?

MR. LANE: I think I'm entitled to respond, and I would like to.

MR. LIEBELER: Just tell me why you left that out.

MR. LANE: Mr. Liebeler, be patient. I'm going to tell you, if you just listen.

MR. LIEBELER: After the program, I presume.

MR. LANE: No, I'm going to tell you. If you're patient and stop talking, I'm going to tell you right now while we're still on the air.

The Commission report was purportedly a fair impartial document. My book is not an objective analysis. I have never said it is. I have a position, and my position is that the Commission selected evidence out of context, the Commission distorted evidence, et cetera, and I say also that the Commission was not adequate in stating that the eight doctors at Parkland who examined the President's head stated they could not find a hole

in the back of the head. They did not see a hole in the back of the head. And I made that point and I listed it, and this is in answer to a prosecution document. In a sense, you might say that the book is a brief for the other side.

MR. GOLDMAN: Gentlemen, I think you both have stated your positions on that very technical point. We have only about five minutes to go. With respect to the area of the whole three problems of the discussion, Mr. Griffin got us into something I think we should say a word about. You raised a question, why this questioning? Why should people assume that perhaps the Warren Commission was hasty, superficial, and so forth and so on.

I take it, Mr. Epstein, your point of view is that they were trying to satisfy a great public need at that time, which was to bring solidity to the situation, a sense of knowing this thing --

MR. EPSTEIN: I think that the specific need was to get the report out at a certain date, and I think that that dominated the entire investigation, and that the lawyers were told time after time to finish their reports on time, and I think that -- I can't say why they needed to get this report out. I could speculate on reasons, and I agree with the reasons that you gave.

MR. GOLDMAN: I didn't give them; I was raising the question. Mr. Griffin, yes?

MR. GRIFFIN: Yes. I think Mr. Epstein, and he is raising this in his book, ignores the timing. There was, no doubt, a good bit of



pressure, but he ignores the timing of this pressure. This pressure came on after all but a handful of witnesses were questioned and at a point when we began -- we had taken the evidence, we had investigated for three and a half months, and let me say that we had, as you know, 26 people working on the staff, not to mention the FBI.

Let me finish. I'm trying to explain why I think this pressure developed. By this time, we had a tremendous amount of evidence, and the Chief Justice of the United States, who had been a prosecutor of Alameda County for 20 years, I think began to wonder when he asked us, "Have you found anything? Have you found anything that shows a conspiracy?" And he had these 26 people who were investigating and couldn't say we found anything at this point.

I think what happened -- this is my own appraisal from having worked with it -- I think this man with his experience looked back and said, "I have never had this many investigators work on a case for so long and come up with nothing more," and he began to say, "Let's get this thing out," and so I think --

MR. EPSTEIN: Has that been your experience? Because in July you were still trying to determine how Jack Ruby got into the basement, which was crucial to your issue.

MR. GRIFFIN: That's right.

MR. EPSTEIN: And that was one month past the deadline.

MR. GRIFFIN: That's right.

MR. EPSTEIN: So I don't think it really inures to the hearing.

MR. GRIFFIN: No, it is because I was trying to close a whole series of loopholes. Let me say that it was the Commission's view that we had sufficiently determined the question of how Jack Ruby got into the basement.

MR. EPSTEIN: They never said so before.

MR. GRIFFIN: They did at that time, because I didn't feel that --

MR. GOLDMAN: Excuse me. Mr. Rovere, do you want to comment on this general point of the atmosphere of the Commission, so to speak?

MR. ROVERE: Well, Mr. Griffin and Mr. Liebeler know far more about that than I do. I think as far as the sources of the pressure, it's quite evident. I don't see how anybody could not have wanted to -- I would have felt there was a need to dispel rumors, particularly if they were false and if they could be dispelled. It was very much in the country's interest in terms of foreign policy, in terms of domestic politics. I don't know that these pressures came out directly in this form. I think they were there, and I don't know what traffic the White House had with the Commission, but one can think of a hundred reasons, all of them valid in one way or another, for wanting to close this thing up in a hurry. People wanted to know and be reassured.

MR. GOLDMAN: Mr. Lane?

MR. LANE: I think that it's almost too easy on the Commission to say that time was a problem. Had Oswald lived to face trial --

MR. ROVERE: Well, the time is always a problem.

MR. LANE: Excuse me, Mr. Rovere.

The time is not always a problem, because in criminal cases a man can be tried for a crime of murder, and it can be a much more complicated case than this one, involving a conspiracy with a number of people, and rarely does the government on the local or federal level take ten months to conduct an investigation. Never does it spend a million dollars, and never does it have the FBI available to it and the Secret Service and the local police. This is a very unique situation, but if the Commission, as I said earlier, was going to call people like Professor Oliver to hear him speak for hours about his theories -- he was in Illinois when the shots were fired and had no evidence to offer, but if the Commission was going to spend a lot of time --

MR. GOLDMAN: I'm sorry, gentlemen. Very unfortunately, I've got to take us off the air.

Thank you very much, Mr. Mark Lane, the author of "Rush to Judgment"; Mr. Wesley J. Liebeler of the Warren Commission; Mr. Edward Jay Epstein, author of "Inquest"; Mr. Richard Rovere of The New Yorker, and Mr. Burt W. Griffin, also an Assistant Counsel to the Warren Commission.

Thank you for being with us, ladies and gentlemen, and goodbye for this week.