

Introduction

The three documents published in this book will be of great interest to students of the assassination of President Kennedy, particularly those who have followed the evolution of the controversy over the conclusions of the Warren Report. When the Report was released in September, 1964, it was generally conceded that the findings of such a prestigious investigative body would bear a stamp of authority that would insure their immediate, widespread, and long lasting acceptance. Undoubtedly authoritative, the Warren Report has been less than successful when judged by the standard of credibility, rather than the credentials of its authors. In view of the controversy surrounding the conclusions of the Commission, it is a matter of considerable interest as to exactly how the seven members of the Commission approached the task of investigating the murder of former President of the United States, John F. Kennedy.

Shortly after the creation of the Commission by President Lyndon Johnson, the seven members met in private executive session to discuss the problem of internal organization, and a large number of details of the investigation. These details ranged from important policy questions such as how to deal with the autopsy x-rays and photos of President Kennedy to more lighthearted matters such as who might be responsible for various news leaks about their work which appeared from time to time. Subsequent executive sessions were held throughout the tenure of the Commission, and a transcript was kept of these proceedings and deposited with the U.S. National Archives after the Commission disbanded. The transcripts of the sessions in which the Commission heard the testimony of witnesses was published in the 26 volumes of Hearings and Exhibits in November, 1964, about two months after the publication of the Warren Report. In contrast, the executive session transcript was only recently declassified from "Top Secret" in February, 1968. It is published here for the first time, and it is one of the three documents that appear in this book.

The executive session transcript is a most unique historical document. Here we have recorded the conversations, frequently on a first name basis, between Chief Justice Earl Warren; Allen Dulles, former head of the CIA; Senator Cooper, Senator Russell, Representative Boggs, Representative Ford and John McCloy. The close perspective of the Commission at work that is afforded by this transcript is revealing. For example, members of the Commission later denied the charge, leveled by its critics, that the attitude with which the Commissioners approached their work mitigated against their finding evidence of conspiracy. Specifically, it has been charged that the Commission's primary purpose was to reassure the nation and to prove that the assassination of President Kennedy was the non-political, non-conspiratorial act of one lone deranged man.

The transcript reveals numerous conversations which can be cited to support this charge. At the very first meeting of the Commission on December 5, 1963, John McCloy, truncating a commonly used expression, said: "This Commission is set up to lay the dust, dust not only in the United States but all over the world...everybody is looking for it to come forward promptly, unfortunately, with an objective, comprehensive report which will lay all the dust..." (p. 39). As soon as the Commission members took their oath of office during their meeting of December 16, 1963, Allen Dulles handed out paperback copies of a book about previous assassinations. Said Dulles: "It's a book written about ten years ago giving the background of seven attempts on the lives of the President...It's a fascinating book, but you'll find a pattern running through here that I think we'll find in this present case. I hate to give you a paperback, but that's all there is." (Emphasis added) Said Chairman Warren: "Paperback is good enough. Thank you very much." (pp. 89-90) When Dulles again brought up the subject, stating that except for the Truman assassination attempt, "these other cases are all habitual, going back to the attack on Jackson in 1835," McCloy cited the Lincoln assassination and retorted: "The Lincoln assassination was a plot." Replied Dulles: "Yes, but one man was so dominant that it almost wasn't a plot." (p. 90) During the meeting of January 21, 1964, Dulles suggested that a member of the Commission's staff be assigned "the question of studying previous cases of assassination attempts against the head of state particularly in the United States...There is a pattern that runs through that, you know. It is rather interesting, I have been studying that a good bit myself..." (p. 110, Emphasis added)

Dulles was not alone in looking to the past for precedent. At the December 16 meeting, Chairman Warren made these remarks: "Gentlemen, this came to mind a day or so ago, and that is this, in England whenever they have a crisis they have a Royal Commission appointed, and they have had some great reports made up. I thought it might be wise for us to ask the Library of Congress to get us a set of all these Royal Commissions reports, back a good many years, including the most recent one, the Lord Denning report." McCloy then said: "It's very interesting the way he handled that." And Warren continued: "They have served a great purpose in satisfying the public and I thought we might learn something by getting them. Lee (J. Lee Rankin, the Commission's chief counsel), maybe you can start working on that. You can have the Library of Congress begin putting those together for us." (pp. 90-91, Emphasis added)

The anecdotes just cited partially indicate the extent of the Commission's initial predispositions. It is impossible in this brief introduction to do justice to the entire transcript and the attitudes that it reveals which guided the investigation. It is perfectly clear that from the start, the Commission did not take seriously the notion that a conspiracy might have been responsible for the death of President Kennedy, and never even considered the possibility of a conspiracy to deceive and mislead the Commission itself. It did not design its investigation so as to discover the former, if it existed, or to avoid the pitfalls of the latter, if it existed.

Consider the fact that in the very first meeting, on December 5, 1963, the Chairman of the President's Commission, Chief Justice Earl Warren, made the following statements and suggestions in his opening remarks: 1) "...I am sure that there is not one of us but would rather be doing almost anything else that he can think of than to be on a commission of this kind...the very thought of reviewing these details day by day is really sickening to me." 2) "Now I think our job here is essentially one for the evaluation of evidence as distinguished from being one of gathering evidence, and I believe that at the outset at least we can start with the premise that we can rely upon the reports of the various agencies that have been engaged in investigating the matter, the F.B.I., the Secret Service, and others ...If we can't rely on them I couldn't think of any investigators we can get to do it anyway." 3) "...at the present time I do not feel that it would be necessary for us to have any staff of investigators." 4) "I am of the opinion also that it is not necessary for us to bring witnesses before us." 5) "Having that view, I do not believe that it is necessary for us to have the power of subpoena..." 6) "So I would hope we could hold our meetings and take any evidence or any statements that we want in camera, and eventually make our report without any great fanfare throughout the country." (pp. 3-5)

It is true that the Commission eventually called witnesses and did arm itself with the power of subpoena. But the point is that from the very beginning the man who headed this investigation viewed these forensic tools as superfluous to the purpose of the Commission and the scope of its investigation.

The second document reproduced in this book is filed in the U.S. National Archives as Commission Document 344. This document is a transcript of a tape recorded interrogation of Marina Oswald by agents of the U.S. Secret Service on Sunday evening, November 24, 1963, only hours after she was widowed when her husband was shot by Jack Ruby in the basement of the Dallas police station. By the time Marina Oswald made her appearance before the Warren Commission as its first witness on February 3, 1964, she had already been questioned approximately 40 times by government agents.

Once she appeared before the Warren Commission, it became apparent that Marina Oswald was not a reliable witness. On a host of important matters, Marina kept changing her story. The situation became so serious that one staff attorney, Mr. Coleman, threatened to resign if the Commission would not permit Marina Oswald to be examined in a more rigorous fashion by them. In a memorandum dated February 24, 1964, Norman Redlich, Rankin's assistant, remarked: "Marina Oswald has lied to the Secret Service, the FBI, and this Commission repeatedly on matters which are of vital concern to the people of this country and the world." (Inquest, by Edward J. Epstein; Viking)

Despite the question of her credibility, Marina Oswald was a crucial witness to the accused assassin's behavior in the months before the assassination, as well as to his activities in Russia and New Orleans. Her testimony was of utmost importance to the Commission on such matters as Oswald's personality and character, which bore on the question of motive, his whereabouts and associations, which bore on the question of conspiracy, and such simple but important details such as whether or not he possessed a rifle.

To assess the testimony of Marina Oswald on any specific point, it is necessary to start with the earliest questioning in which she furnishes information or makes an allegation about her dead husband, and follow its evolution through subsequent government interviews, and finally in the testimony she gave in her several appearances before the Commission.

Commission Document 344 is of paramount legal importance, because it represents Marina Oswald's earliest recorded recollections on a host of vital matters. Furthermore, unlike the narrative, non-verbatim reports filed by government agents of the other interviews with Marina Oswald in the months preceding her appearance before the Commission, this very early interrogation by the Secret Service is the only one---as far as is known--- in which a tape recording was made and a transcript created and given to the Commission.

Until its publication in this form, Commission Document 344 has been available only at the National Archives. Of the remaining interviews of Marina Oswald, a large number were admitted in evidence and therefore appear in the 26 volumes of the Commission. (For a complete list of where these are located, see page 63 of Subject Index to the Warren Report, by Sylvia Meagher; Scarecrow Press; 1966). Unpublished interviews between government agencies and Marina Oswald simply remain on file at the National Archives.

Analyses of Marina Oswald's testimony also appear in most of the books that have been published about the Warren Report: Rush to Judgment, Chapter 25, by Mark Lane; Accessories after the Fact, Chapter II, by Sylvia Meagher; The Oswald Affair, Chapters 9-12, by Leo Sauvage; Whitewash, last section of Chapter 10, by Harold Weisberg; Whitewash II, Chapter 1, by Harold Weisberg.

The last reference includes a discussion of Commission Document 344, with examples of the types of contradictions that emerge when the transcript of this interrogation is used in conjunction with Marina Oswald's published testimony. Surely among the most important contradictions is that when she was shown the gun allegedly found on the sixth floor of the Texas School Book Depository Building just two days earlier, she failed to identify it as the one her husband owned. In fact, she proceeded to point out certain differences between this weapon and the one her husband owned, including the fact

that her husband's rifle did not have a scope. At that time, she also stated that she had no knowledge that her husband possessed a pistol of any type. Later, before the Commission, Marina readily identified the rifle shown her as the one her husband owned, and identified pictures of Oswald wearing his pistol and holding the rifle in one hand and left-wing newspapers in another, as pictures she took in their back yard the previous spring.

The third document printed in this book is a memorandum written by Wesley J. Liebeler, an attorney on the staff of the Warren Commission, a few weeks before the Warren Report went to press, and while it was still in galley proof form. The document is a critique of Chapter 4 of the Warren Report, entitled "The Assassin." Whereas Chapter 3 of the Report argues that there were only three shots fired at the Presidential motorcade, and that they were fired from the sixth floor window of the Texas School Book Depository, Chapter 4 tries to establish that the assassin was in fact Lee Harvey Oswald. Chapter 4 contains many of the elements of the prosecution case that would have been made at Oswald's trial, had he lived: placing Oswald at the scene of the crime at the time it was committed; proving that the gun that was found there was his gun; and presenting eyewitness and scientific evidence that he in fact used the gun to murder President Kennedy. Chapter 4 also deals with the Tippit murder.

The memorandum is severely critical of Chapter 4 of the Report for its biased selection of facts from the underlying record in order to support conclusions. As Liebeler remarked: "To put it bluntly, that sort of selection from the record could seriously affect the integrity and credibility of the entire Report." Liebeler's memorandum should be read side by side with Chapter 4 of the Report to get the full flavor of the type of criticism to which the authors of the Report were exposed weeks before the Report even was published. Since few changes were made in the galley proofs of that chapter, most of the criticisms still apply to the published version. Section by section, the memorandum punches holes of varying sizes in the arguments and techniques employed in the chapter to make what appears to be a persuasive case against Oswald as the assassin.

Many of these same criticisms were echoed in the books that were subsequently written by authors arguing Oswald's innocence. However, this memo is not to be misunderstood as the anguished cry of conscience by a member of the staff who was concerned that the fundamental conclusions of the Commission's Report might be wrong, and that Oswald might be innocent. To the contrary, Liebeler has been one of the most adamant defenders of the Report, and has frequently explained that the memo was merely critical of the manner in which the Report was written, and not with any of its conclusions.

Because of this attitude, Liebeler's memorandum is not even a devil's advocate's brief, but rather a warning to fellow staff attorneys that the manner in which Chapter 4 was written would not bear close scrutiny. Criticizing an argument in Chapter 4 regarding Oswald's rifle capability, Liebeler remarked that it was "simply dishonest," and ended his criticisms of that section by stating: "These conclusions will never be accepted by critical persons anyway." Liebeler's motivation in writing the memo can be seen near the end of the memo, where he reminds his fellow staff members that, implications in Chapter 4 to the contrary, there was really only one eyewitness to the Tippit killing. Liebeler stated: "I forgot to mention that some question might be raised when the public discovers that there was only one eyewitness to the Tippit killing, i.e., one person who saw Oswald kill him. All the rest only saw subsequent events. Mrs. Markham is nicely buried there, but I predict not for long."

Each of the documents published in this book is important in making a more informed judgment of the work of the Warren Commission. Until now, they have been unavailable unless one made the effort to order them from the U.S. National Archives. That process takes several months and, due to the combined length of the documents, costs almost as much (for a xerox copy) as the entire 26 volumes of the Warren Commission. It is hoped that the publication of these documents in this format will be a small but useful addition to the growing library of critical materials about the Warren Report.

David S. Lifton
Los Angeles, California
July 31, 1968

OUT

DESCRIPTION OF ITEMS CHARGED (Subject, file number or title, type of document, and date, security classification, number of items, etc.)	OFFICE AND PERSON TO WHOM CHARGED	DATE OF CHARGE AND BY WHOM CHARGED
<i>The Transcript of the Commission meeting of January 27, 1964, is withheld from release under the terms of 5 U.S.C. 552 and Executive Order 11652.</i>		
Editor's Note:		

Despite the fact that the January 27, 1964 meeting of the Commission remains classified, there is published information by one of the participants about the proceedings. In Chapter 1 of his book, Portrait of the Assassin, former member of the Warren Commission Gerald Ford published portions of the classified transcript of this meeting. He describes how the Commission convened on that occasion to discuss the allegations made in secret by Texas Attorney General Waggoner Carr and Dallas District Attorney Henry Wade that Lee Harvey Oswald was a paid informant of the FBI designated by number 179 and receiving \$200 per month for his services. (See Chapter 1, Portrait of the Assassin, Ford & Stiles, Simon and Schuster). A critical discussion of this matter is contained in Chapter 20 of Accessories after the Fact, by Sylvia Meagher, and Chapter 2 of Inquest by Edward J. Epstein.

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U. S. Secret Service

Chief, Attn: SAIC Bouck, PRS

December 1, 1963

Inspector Kelley

Assassination of the President

Regarding your memorandum of November 23, 1963, furnishing copy of tape recording.

The following corrections should be made on original:

1. Page 6 - Answer to fourth question should be co-worker, not coal worker.
2. Throughout the translation "Payne" should be spelled "Paine".

TJK:amr

Editor's Note

The tape recorded interview whose transcript is contained in Commission Document 344 was made on Sunday evening, November 24, 1963, at the Inn of the Six Flags Motel at Arlington, Texas. The Oswald family was taken to that location by two Secret Service agents, Charles Kunkel and Mike Howard. Charles Kunkel conducted the interview of Marina Oswald through an interpreter who was an acquaintance of the Oswalds, Mr. Peter Paul Gregory. The tape recording of the interview was immediately sent to the chief of the Secret Service in Washington, D.C. The foregoing information plus more detail is contained in the Secret Service investigative report of Charles Kunkel dated December 3, 1963. This report is filed in the National Archives as Commission Document 87, Secret Service Control Number 533.

This first page of Document 344 is a brief memorandum to the head of the Protective Research Section (PRS) of the Secret Service, Special Agent in Charge (SAIC) Robert Bouck, from Secret Service Inspector Kelley. It contains two minor corrections that should be made to the transcript.