

Trust Lost, New J.F.K. Probe Is Needed

LA Times 11/9/88
By ALAN M. DERSHOWITZ

It has now been 25 years since that dreadful Friday in Dallas when so many dreams were shattered by the assassination of President John Fitzgerald Kennedy. The anniversary brings back sad memories, but it also raises some lingering doubts over whether we know the whole truth.

I was a law clerk on the Supreme Court 25 years ago. It fell on me to inform my boss, Justice Arthur Goldberg, that his dear friend had been shot. The chief justice, Earl Warren, sent the justices home, fearing that the attack in Dallas might be part of a more general assassination plot against high government officials.

I was with Goldberg when we later heard the report of Lee Harvey Oswald's assassination by Jack Ruby. We wondered what was going on, but I trusted what my government was telling me. My trust seemed vindicated when President Lyndon B. Johnson appointed Chief Justice Earl Warren, a symbol of probity and integrity, to head up a national commission of inquiry. Several of the young lawyers who were appointed to staff the commission were friends of mine, and I knew that their honesty was above reproach.

When the Warren Commission released its report, concluding that both Oswald and Ruby were disturbed loners and that there was no conspiracy, I had little reason to doubt its conclusions. After all, the commission staff—my friends and contemporaries—had questioned all possible witnesses, reviewed all CIA and FBI files and investigated all plausible leads.

This was happening during an age of trust in government, which had brought us the civil-rights movement, the War against Poverty and the Great Society. Our innocence had not yet been taken away by lies about Vietnam, the Watergate cover-up and the Iran-Contra scandals.

It has been a long quarter-century since

those innocent times. Now I trust almost nobody in government. I have learned that many in positions of authority believe that it is part of their job to lie in the national interest. I suspect everything that the Warren Commission was told, or shown, by the CIA and FBI and other intelligence agencies. I believe only what my own senses tell me, only what is demonstrably true, only what cannot be faked in sophisticated laboratories, only what was testified to by people with proven track records of credibility.

Nor am I alone in my conversion from naive trust to cynical distrust. My closest friend on the staff of the Warren Commission, John Hart Ely, who clerked for Warren and then became a law professor and the dean of Stanford Law School, experienced a similar conversion.

Ely makes the powerful point that the Warren Commission lacked independent investigative resources and thus was compelled to rely on "the government's existing investigative agencies"—the FBI, CIA and military intelligence. He points out that in 1964 "one had to be a genuine radical" to believe that these agencies might be "withholding significant information from the Warren Commission." Today, however, "it would take a person of unusual naivete to ignore that possibility."

Ely still believes that the Warren Commission's conclusions were probably correct. But he is not as confident as he was back in 1964. Nor am I. If one discounts the information provided by government intelligence agencies and relies only on independently confirmable facts, the case for the Warren Commission's conclusions is little more compelling than it is for some kind of conspiracy theory. There are so many unexplained facts, like recent acoustical and ballistics evidence that is consistent with a second assassin, as well as the deaths—mostly by assassination and "accident"—of so many witnesses.

Jack Anderson believes that the evidence now points most convincingly to the following scenario: Cuban dictator Fidel Castro, convinced that President Kennedy had ordered his assassination, took preemptive action and arranged for a team of organized-crime hit men to kill our President. The CIA advised President Johnson of this a few days after the assassination. Johnson feared that if the American public learned of Castro's involvement it would demand retaliation against Cuba. Any such retaliation would necessarily require the Soviet Union to come to Castro's assistance, especially after Nikita S. Khrushchev's humiliation during the Cuban missile crisis. Johnson resolved, therefore, to persuade the American public that Oswald had acted alone. He appointed a commission composed of loyal and distinguished Americans who would not second-guess what the CIA would show and tell them. The commissioners came to the only conclusion that they could possibly reach on the basis of the evidence that was available. That conclusion was wrong, but it was the "safest" one for world peace.

That scenario sounds a bit farfetched, even when viewed through the prism of recent deceptions. But the underlying skepticism is well founded: We simply cannot credit what the CIA told the Warren Commission back in those good old "trust your government" days.

That is why a new investigation of the old evidence, and whatever new evidence may have survived 25 years of tampering and decay, is warranted. It may do no pragmatic good to open old and painful wounds. But history and truth have their claims. We the people are entitled to know what really happened on that tragic Friday in Dallas.

Alan M. Dershowitz teaches at Harvard Law School and writes a syndicated column.