

spected member of the White House press corps, the Commission chose to believe Ruby and decided that Kantor was mistaken. As already mentioned, it relied on Marina Oswald and Helen Markham, both of whom became flagrantly ensnared in self-contradiction if not outright fabrication. By contrast, the Commission set out to impeach the character of a number of witnesses who were disinterested and whose testimony was corroborated by others, apparently for the sole reason that their testimony came into conflict with a theory which was not subject to change regardless of the evidence.

Moreover, it is arresting that off-the-record discussion took place well over two hundred times during the examination of witnesses, on occasion at crucial points in the testimony and as frequently as seven or eight times per witness. Some of those off-the-record passages undoubtedly were innocuous; in many instances, this discussion was placed on the record immediately afterward. However, one witness who was deposed by counsel subsequently appeared before the Commission at his own request to report that during an off-the-record interruption, counsel had accused him of perjury and had threatened him with the loss of his job. If the witness had not placed those facts on the record himself, they would have remained completely concealed from public knowledge. We are therefore entitled to regard the constant resort to off-the-record discussion as an unsatisfactory if not a suspicious practice.

Of the 489 witnesses who gave testimony, less than one-fourth appeared before the Commission itself. Even in those cases, the seven members of the full Commission were never present as a body or throughout an entire session. The Chairman was in attendance at least part of the time for all 94 witnesses who came before the Commission, but his colleagues heard only the following estimated numbers of witnesses:

Representative Ford	70	Mr. McCloy	35
Mr. Dulles	60	Representative Boggs	20
Senator Cooper	50	Senator Russell	6

Some of the difficulties encountered by the members in finding time to spare from other duties for the Commission's needs were almost comical, as may be seen in the following colloquy.

Chairman: Senator Cooper, at this time I am obliged to leave for our all-day conference on Friday at the Supreme Court, and I may be back later in the day, but if I don't, you continue, of course.

Cooper: I will this morning. If I can't be here this afternoon whom do you want to preside?

Chairman: Congressman Ford, would you be here this afternoon at all? Ford: Unfortunately, Mr. McCloy and I have to go to a conference out of town.

Chairman: You are both going out of town, aren't you?

Cooper: I can go and come back if it is necessary.

Chairman: I will try to be here myself. Will Mr. Dulles be here? McCloy: He is out of town.

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But if attendance was irregular, at least some members of the Commission heard some of the testimony of some of the 94 witnesses who came before the panel. None of the members heard any of the witnesses (well over 350) who testified by deposition; they included such important witnesses as Forrest V. Sorrell, Billy Lovelady, Seymour Weitzman, Earlene Roberts, Sheriff Bill Decker, Abraham Zapruder, Harry Holmes, Domingo Benavides, Nelson Delgado, George De Mohrenschildt, George Bonhe, Jean Lollis Hill, James Tague, Albert Guy Bogard, Dial Ryder, Sylvia Odio, Carlos Bringer, Gertrude Hunter, Edith Whitworth, George Senator, Harry Olen, Karen Carlin, and Curtis (Larry) Crawford. A number of witnesses who should have been examined with particular care are represented in the Hearings only by an affidavit. Most appalling of all are the numbers of persons whose names are found nowhere in the list of the Commission's witnesses, from whom no testimony in any form was taken despite indications that they possessed important or crucial information. The failure to examine or, in some instances, to locate such witnesses—including those who gave an account of the Tippitt shooting wholly different from the official one—is one of the most serious defects in the Commission's work, and suggests, at the very least, a high degree of negligence.

The Commission's housekeeping is another area in which its performance was inept and undeserving of public confidence. Because of the Commission's inability to maintain control over its internal records, disclosures flowed steadily to the press, including the complete transcript of the examination of Jack Ruby. The Chairman and other spokesmen made a series of ill-advised public statements; the former made an unwarranted attack on the character of a witness and never retracted it, even when the witness exonerated himself from suspicion and requested a retraction. The Chairman also made the shocking statement, still unexplained, that the whole truth might never be known in our lifetime. At least one Commission member capitalized commercially on his experience by publishing an article⁶ and later a book⁷ purporting to provide a "portrait of the assassin." Apparently the same Commission member is unwilling or unable to explain ambiguities in the Report, including those revealed in his own book, to the taxpayer.

The Commission's failures manifest a contempt for the citizens whom this body pretended to serve—a contempt not for their rights alone but for their intelligence. It must be said, without apology to the authors and advocates of the Warren Report, that it resembles a tale told for fools, full of sophistry and leech, signifying capitulation to compromise and the degradation of justice by its most eminent guardians.

In June 1966 publication of Edward Jay Epstein's book *Inquest*,⁸ sparked a long overdue national debate on the Warren Report. *Inquest* was followed almost immediately by the private editions *Whitewash* by Harold Weisberg

⁶ Representative Gerald R. Ford, "Pricing Together the Evidence," *Life*, October 2, 1964, 42-50B.
⁷ Representative Gerald R. Ford, *Portrait of the Assassin* (New York: Simon and Schuster, 1965).
⁸ *Inquest* (New York: Viking Press, 1966).

(issued later by Dell as a paperback),⁹ and *Forgive My Grief* by Penn Jones, Jr.,¹⁰ and by *Rush to Judgment* by Mark Lane,¹¹ *The Oswald Affair* by Leo Sauvage,¹² and *The Second Oswald* by Richard Popkin.¹³ *The Oswald Affair* had appeared in the original French edition (Éditions Minuit, Paris) early in 1965, the first full-length book to assess the official findings on the basis of both the Warren Report and the 26 volumes of Hearings and Exhibits. Unfortunately, it did not become available to American readers until a year and a half after publication in France.

The writers of these books began to be heard on radio and television; news stories and editorials began to appear in respected newspapers, reflecting serious concern about the validity of the Warren Report and suggesting—or demanding, in some cases—that the Commission answer the charges against its Report or that a new investigation be carried out. As this is written, a long list of prominent names are on record as favoring one or another form of new inquiry: Representative Theodore R. Kupferman (R., N.Y.) has presented a joint resolution in the Congress calling for a reappraisal of the Warren Report and, if need be, a new investigation. Former Assistant Counsel Wesley J. Liebeler, embarrassed by his acknowledged contributions to *Inquest*—the book without which no public controversy might now be raging—has launched an attempt to rehabilitate himself. He has organized a new investigation with the stated purpose of reinstating the discredited findings of the Warren Commission, perhaps by re-interpreting the evidence or finding new information. Liebeler is conducting this new investigation with the assistance of 20 law students at the University of California. (*New York Times*, Oct. 23, 1966, p. 66; News broadcast, WINS (N.Y.C.) radio, Oct. 22, 1966.) That a spokesman for the Commission cannot defend the Report as it stands but is seeking a means by which to restore its respectability is in itself a total default to the opposition. Liebeler seems unaware of that.

The critical books and articles that began to appear in June 1966 (and those published earlier that had been ignored before the new wave of skepticism) served as catalytic agents for several major events. One was the sudden announcement early in November 1966 that the notorious autopsy photographs and X rays had been deposited in the National Archives by the Kennedy family, at the request of the Justice Department (admittedly made as a result of the mounting criticism and questions about the Warren Report). But the terms of the transfer of this evidence to the Archives were such that the photographs and X rays will not be made available to any individual or organization except a new governmental investigatory body, if one is appointed to further investigate the assassination.¹⁴

On the third anniversary of President Kennedy's death, *Life*,¹⁵ *Ramparts*,¹⁶ and other influential publications called editorially for further investigation and openly questioned the evidence and the findings of the Warren Commission. The silent principals suddenly spoke up: Governor Connally, Senator Russell, Commander Boswell, and J. Edgar Hoover, among others, tripped over each other in their haste to issue public statements, which, deliberately or inadvertently—and in some instances, unintentionally contravening the purpose of the statement—created new doubt and mystery. The gambit of "producing" the missing autopsy photographs and X rays, if it was a gambit, in no way stilled the controversy.

We now have a climate in which the news media and public opinion acknowledge what was formerly unthinkable: that the Warren Commission may have erred, or worse. This healthier climate perhaps signifies recovery of the skepticism, independence of mind, and sense of justice to which Americans as a people lay claim as national attributes. Too often, and especially in the Oswald case, the public has been apathetic, ready to accept government "truth," callously indifferent to injustice.

If closed minds continue to open, to receive and evaluate objectively the facts which are on the record, we may yet proceed to pursue the truth to its ultimate reaches—regardless of attendant dangers and doubts—so that history will know with certainty what happened in Dallas, and why.

To that end, investigation into the assassination and the related murders should be reopened, entrusted to an uncompromisingly independent, competent, and impartial body—a body committed to the use of adversary procedure, the rules of evidence, and total respect for justice, in both the letter and the spirit, in other words, a body different from the Warren Commission.

Whether or not that comes to pass in the immediate future, the country owes profound gratitude to the critics and researchers whose work, published or unpublished, has helped to destroy the myth of the Warren Report. Because of their courage, intelligence, and integrity, "it is the majestic Warren Commission itself that is in the dock today, rather than the lonely Oswald," as Anthony Lewis wrote in the *London Observer* on August 7, 1966.¹⁷ The Commission must receive justice—that justice which was denied to Oswald in death as in life—but nothing less than justice.

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9. *Whitewash* (Hyattsville, Maryland: Weisberg, 1966); and *Whitewash: The Report on the Warren Report* (New York: Dell Publishing Co., Inc., 1966).

10. *Forgive My Grief* (The Midlothian (Tex.) Mirror, 1966).

11. *Rush to Judgment* (New York: Holt, Rinehart, & Winston, 1966).

12. *The Oswald Affair* (New York: World Publishing Co., 1966).

13. *The Second Oswald* (New York: Avon Books/The New York Review of Books, 1966).

14. *The Reporter*, December 15, 1966, p. 46.

¹⁵ *Life*, November 25, 1966, pp. 38-48.

¹⁶ *Ramparts*, November 1966, p. 3.

¹⁷ *The Clamour Rises for Kennedy X Rays*, "The London Observer", August 7, 1966, p. 10.