

"A Religious Event"

*To whom? Not to
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Although a suspect in the presidential assassination was arrested within ninety minutes of the shooting and the physical evidence seemed overwhelming, Ruby's Sunday murder of Oswald stimulated many suspicions and rumors. In the days following Oswald's death, unfounded but spectacular stories of left-wing and right-wing plots, the complicity of Cuban and Soviet leaders, even speculation about Lyndon Johnson hatching a plan to seize the presidency, swept the country. A Gallup poll taken a week after the assassination showed that only 29 percent of Americans believed that Oswald alone killed JFK.¹

To quell the unchecked speculation, government officials announced public investigations into the assassination. On the first business day after the murder, Monday, November 25, Texas attorney general Waggoner Carr declared that Texas would hold a public court of inquiry. With the help of the FBI, Carr planned to question primarily local witnesses and file his findings with a federal commission.²

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Lyndon Johnson tentatively approved the Texas commission in conversations with Carr. Since the crime had happened in Dallas, the Carr panel was to include only Texans and no federal officials. Johnson had also decided to release the FBI's initial report on the assassination the day it was finished, though it would contain raw and largely unsubstantiated data. Nicholas Katzenbach, acting attorney general while Robert Kennedy mourned

No source and Washington never lost control of the investigation of the T.C. "A Religious Event" • 405

with his family, worked feverishly behind the scenes to change LBJ's mind and return control of the investigation to Washington. *after what day? he date any of this*

The next day, Tuesday, Congress jumped in. Senator Everett Dirksen of Illinois, to widespread bipartisan support, suggested the Senate Judiciary Committee examine the case. By Wednesday, the House vied for the limelight when Congressman Charles Goodell of New York proposed that a joint committee of senators and congressmen investigate the assassination.

Lyndon Johnson silently abandoned his support for the Texas commission and intervened on Friday, November 29, with Executive Order No. 11130, which created a fact-finding panel he hoped would have a "national mandate."³ The implications of the investigation were far-reaching. There was even a possibility of war if either Cuba or the Soviet Union was found to have sponsored JFK's death, and Johnson appointed a seven-man panel of distinguished public servants he thought had unimpeachable credentials. Seventy-two-year-old Earl Warren, chief justice of the U.S. Supreme Court, was chosen as chairman.*

When Katzenbach and solicitor general Archibald Cox first approached Warren to head the federal panel, he refused. Johnson summoned Warren for a private meeting. "He said there had been wild rumors," recalled Warren, "and that there was the international situation to think of. He said he had just talked to Dean Rusk, who was concerned, and he also mentioned the head of the Atomic Energy Commission, who had told him how many millions of people would be killed in an atomic war. The only way to dispel these rumors, he said, was to have an independent and responsible commission, and that there was no one to head it except the highest judicial officer in the country. I told him how I felt. He said that if the public became aroused against Castro and Khrushchev there might be war. *Die Eisen rumors*

"You've been in uniform before," he said, "and if I asked you, you would put on the uniform again for your country."

*The panel's official name was The President's Commission on the Assassination of President John F. Kennedy. However, almost immediately it was referred to as the Warren Commission. *normal*

"I said, 'Of, course.'

"This is more important than that,' he said.

"If you're putting it like that,' I said, 'I can't say no.'"⁴

*Panelled
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Of the six other panelists, two were ranking senators, John Sherman Cooper, a Kentucky Republican, and Richard Russell, a Georgia Democrat. Two were senior House representatives: Congressman Hale Boggs, a Louisiana Democrat and the majority whip, and Gerald Ford, a Michigan Republican. The final members were prominent attorneys—John J. McCloy, former president of the World Bank and high commissioner of Germany after World War II, and Allen Dulles, the CIA's former spymaster. The members and their mandate were so prestigious that other proposed state and federal investigations promptly gave way to the presidential panel.

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The Commission's powers were broad and virtually unprecedented. It had subpoena power, as well as the right to grant immunity to compel testimony otherwise protected under the Fifth Amendment's self-incrimination article. All federal and state agencies were ordered to comply fully with its requests. The Commission's general counsel was former U.S. solicitor general J. Lee Rankin, and fourteen lawyers comprised a legal staff; under his supervision. There were also twelve investigators. The legal staff divided the case into five general subjects: the assassination's basic facts; the identity of the assassin; his background and motives; possible conspiracy; and Oswald's death. The staff attorneys determined the facts and were responsible for draft findings. Major disputes were brought to the attention of the seven commissioners.

at issue not note

The Warren Commission had its first meeting on December 5, 1963, only two weeks after the assassination, and four days later the FBI presented its five-volume report that summarized the Bureau's preliminary findings.⁵ Marina Oswald, the first witness, appeared on February 3, 1964. The Commission and its staff took testimony from 552 witnesses during the next six months.* Warren was so sensitive to possible government abuse

*Only 94 personally appeared before any commissioners. The largest number, 395, were questioned by the legal staff; 61 supplied affidavits; and 2 gave statements (WR, p. xiii).

newstone, too - 27 Jan.

that he established strict rules for the questioning of witnesses, including no private interrogations without a stenographer present and no polygraphs. He later regretted that he agreed to Ruby's insistent pleas for the test, which he referred to as "Big Brother paraphernalia."

The FBI's field investigation was, by itself, enormous. It conducted some 25,000 interviews and submitted over 2,300 investigative reports, totaling more than 25,000 pages.⁶ At the same time, the Secret Service conducted another 1,500 interviews and submitted 800 reports. Though many critics of the Warren Commission acknowledge that a mammoth examination was accomplished in a relatively brief period, they charge the Commission favored witnesses and documents that supported its early conclusion that Oswald alone killed the President. Yet this view underestimates the independence the legal staff had within the Commission's hierarchy. The staff could call any witness it wanted, and none of its more than 400 requests were ever denied by the commissioners.⁷

The original deadline of June 30, 1964, turned out to be impractical. LBJ, fearful that rumors might start that he had political reasons for delaying the report, wanted the work finished before the presidential nominating conventions. Warren told the other members, in a January 21 executive session, that it "would be very bad for the country to have this thing discussed" during the coming campaign.⁸ Tempers often flared during the final months as Warren pushed the probe at a pace that meant fourteen-hour days, seven days a week, for the legal staff. The 888-page final report was released three months late, on September 24, 1964.

Although the Commission had done an extraordinary job of marshaling information and presenting it in a cohesive and organized manner, in only ten months it was not possible to delve into many issues that would later come to the forefront as nagging and persistent problems. Since it was so limited in manpower, the Commission was almost entirely dependent on agencies such as the FBI to conduct the actual investigation. Rankin had referred to "tender spots," potential embarrassments to the FBI or CIA that might hinder the sharing of information. J. Edgar Hoover was convinced within days of the assassination that Oswald alone had killed Kennedy. He knew, of course, that if Os-

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wald was part of a conspiracy, the Bureau's reputation would suffer for not having uncovered the plot prior to JFK's trip to Dallas. Because of his iron-clad control over the Bureau, his feelings on the case colored the work the field agents did. Since Hoover thought the answer to the assassination was straightforward, he believed the Warren Commission could only cause problems by delving into many other areas. The FBI did not treat the Commission as its partner in search of the truth.

"I don't have any doubt that the FBI viewed the Commission the same way they later viewed civilians requesting documents," says James Lesar, the nation's leading attorney in pursuing assassination-related documents under the Freedom of Information Act (FOIA). The FBI even created files on the Commission's staff members.* Richard Helms [former CIA director] later admitted that he only told the Warren Commission something if they asked for it. "I am sure the Bureau had the same attitude," says Lesar. "Basically, any request that comes in from a government commission or a citizen, the Bureau looks at very carefully to see if they can avoid responding. The relationship between the Commission and the Bureau was partly adversarial, because no one wanted to bring that tension out into the open. The Commission gave in to the FBI. In the executive sessions, they said they were going to investigate Hoover, but they knew they wouldn't."⁹

The FBI's early insistence that Oswald was the lone assassin was actually a sore point with the Commission's staff. On January 22, 1964, Lee Rankin complained to the commissioners, "They [the FBI] would have us fold up and quit. . . . They found

*The extent to which the FBI was ready to investigate staff members is apparent in the case of Norman Redlich, a New York University law professor who, after Rankin, was the senior attorney on the legal staff. In February 1964, Redlich was publicly assailed for his membership on a civil-liberties panel and for having co-authored an article with a Communist sympathizer. Actually, Redlich had never worked with the other author, but a magazine had merged their two separate articles together and given them joint credit. Yet the FBI still conducted a full field investigation of Redlich, including interviews with his vacation neighbors in Vermont, the elevator operators in his New York apartment building, and even the obstetrician who had delivered him.

the man [Oswald]. There is nothing more to do. The Commission supports their conclusions, and we can go home and that is the end of it."¹⁰

The FBI, anxious to downplay its contacts with Oswald, withheld information from the Commission, including Agent James Hosty's receipt of a note from Oswald. It also deleted Hosty's name, address, and telephone number, which were in Oswald's address book, when the information was sent to the Commission staff. The CIA withheld information as well, most critically that the Agency and the mafia had embarked on a joint effort to kill Fidel Castro.

"It's a serious point," says former staff lawyer Burt Griffin, now a judge. "I don't know if anyone will ever get the answer. I am not convinced, as I look back on it now, that Lee Rankin did not know about the CIA conspiracies to kill Castro. I don't have any evidence, but as I look back on the failure to bring us together to speculate, he never encouraged us to think speculatively, and the way Rankin operated with his door always closed, maybe he knew something and it was this secret. Only Johnson, obviously, the Chief Justice, Allen Dulles, and Bobby Kennedy knew about the CIA plots against Castro. Its disclosure would have had very important implications. It might have allowed us to say something reasonably definitive about Oswald's motive. It would have put a new dimension on his Cuban activities and opened new areas of exploration. The fact that we could not come up with a motive for Oswald was a great weakness in the report."¹¹

CBS news anchor Walter Cronkite summarized the concern of many when he noted that the FBI and CIA, by withholding information that later became public, "weakened the credibility of the Warren Report."¹² But beyond the problems caused by its tug-of-war with the investigative branches, the Commission created many of its own difficulties. At the time, the Commission wanted to use the autopsy photos and X rays as the best evidence of how the President was shot, but the Kennedy family refused to release them. Warren feared that if the Commission had the photos, they might be leaked to the press, and as a result he was hesitant to pressure Robert Kennedy on the matter. But Howard Willens, a staff attorney, had worked for Robert Kennedy and

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persisted to obtain them. In June 1964, RFK allowed only Warren and Rankin to review them. In his memoirs, Warren wrote, "[T]hey were so horrible that I could not sleep well for nights." None of the other commissioners or staff ever saw the autopsy photographs or X rays, nor did the panel utilize independent forensics experts.* Reproduced in the final report are schematic drawings of the President's neck and head wounds, but both were made by an artist who was unfamiliar with the autopsy and never saw the photographs. The artist's sketches were based upon Drs. Hume and Boswell's original measurements of the wounds.¹³ Those drawings were mistaken in the placement of both entry wounds, and that later developed into a significant issue for the conspiracy press.^{14**}

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In other areas, the Commission's work seemed to stop just short of thoroughness. In replicating the firing of the Carcano, and figuring trajectory angles, the Commission used FBI tests that had a platform at the incorrect height when compared to the sixth floor of the Book Depository. The tests also calculated the minimum firing time and accuracy by shooting at stationary targets as opposed to a moving one such as Oswald had faced.

The single-bullet theory was not the result of positive evidence that clearly established it but an attempt to create a scenario to fit the facts as the Commission determined them. Unless one bullet caused the wounds to both Governor Connally and President Kennedy, the Commission could not figure out how Oswald could have fired the three shots within the approximately five seconds they mistakenly allotted to him. Though advances in neutron activation and photographic and computer techniques now confirm that the theory is correct, the Commission had no way of being

*The Commission did call in outside experts for both ballistics and fingerprints.

**In 1967, former commissioner John McCloy told CBS News, "I think that if there's one thing that I would do over again, I would insist on those photographs and the X rays having been produced before us. In the one respect, and only one respect there, I think we were perhaps a little oversensitive to what we understood as the sensitivities of the Kennedy family against the production of colored photographs of the body" ("The Warren Report," CBS News, Part IV, June 28, 1967).

certain the single bullet was viable. The members were almost evenly split in their feelings about the theory, and Senator Russell threatened not to sign a final report that absolutely concluded the single bullet was correct.¹⁵ They fought over the right adjective to use to describe the probability that the single bullet was right. McCloy suggested "persuasive" evidence, while Russell wanted "credible" evidence, and Ford pushed for "compelling."¹⁶ The Warren Commission Report settled on "There is very persuasive evidence." This type of compromise opened more doors to critics.

Few of the witnesses who contradicted the official version of events testified before the Commission. If they had been examined, their testimony would have been explainable, but because the Commission ignored them, critics had ammunition for future claims of deliberate omission. Also, the Commission underplayed Jack Ruby's underworld associations and did not effectively portray him as the unbalanced and volatile person he was, leaving itself open to criticism that it had failed to pursue the Ruby clues because it feared where those might lead.

Since all the commissioners had full-time careers that entailed substantial responsibilities, they could only spend part of their time at the hearings. Senator Russell had the poorest attendance record, hearing only 6 percent of the testimony. Only three of the seven commissioners heard more than half the testimony.¹⁷

But the most controversial aspect of the Commission's work may be its conclusion about the possibility of any conspiracy. The final report stated, "The Commission has found no evidence that either Lee Harvey Oswald or Jack Ruby was part of any conspiracy, domestic or foreign, to assassinate President Kennedy."¹⁸

"There is no question Oswald was the shooter, and Oswald was the lone shooter," says former staff lawyer Burt Griffin. "We were wrong, in my opinion, in issuing the statement that there was no evidence of a conspiracy. That was the wrong statement. I frankly

*The three commissioners who had the most difficulty with the single-bullet theory, Russell, Cooper, and Boggs, were also the three who had the least contact with the probe, attending on average only 25 percent of the hearings among them.

Sources

witnesses. Sylvia Meagher, an administrator at the World Health Organization, started a clipping file on anything that contradicted the Dallas police's version. Lillian Castellano, a Los Angeles bookkeeper, pursued the government and media with her belief that the President was shot from the front by an assassin hidden in a storm drain near the car. David Lifton, a Los Angeles student, focused on the foliage at Dealey Plaza, who hid in it, and whether it was all real or moved in as part of the plot.

Professor Josiah Thompson said their work was an "obsession" and that "there's a fantastic way in which the assassination becomes a religious event. There are relics, and scriptures, and even a holy scene—the killing ground. People make pilgrimages to it."²⁰ This burgeoning amateur network supplied the original basis for challenging the Warren Report. These researchers not only shared their work with each other but, anxious to gain a public hearing for their findings, provided it freely to journalists and other professionals.

The earliest books focused on apparent contradictions and unanswered questions in the report, such as the misidentification of the rifle found at the Depository as a Mauser instead of a Mannlicher-Carcano, or whether the man photographed standing in the doorway of the Depository during the assassination was Lee Oswald or his co-worker Billy Lovelady. Although the issues raised now seem rudimentary, they were the first to undermine the authority the press had bestowed on the Warren Commission. *Those he does not name did.*

None of the early critics created a cogent alternate account to compare to the one set forth of Oswald acting alone. The books accomplished their goals if they merely raised doubts about the official version. Their view was that a cover-up of key information had taken place, by the FBI, the CIA, or others in the federal government, and the general tenor was that the extreme right had probably hatched the plot. The rumors of Soviet or Cuban complicity were never popular with the critics, since they figured it made no sense for the U.S. government to cover up evidence if it pointed to the guilt of Communist regimes. Many of the books acknowledged they did not have the answers, and called for a new investigation.

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velopment of the post-Warren Commission review of the assassination. On July 4, 1967, Lyndon Johnson signed into law the Freedom of Information and Privacy Act (FOIA). It was revolutionary legislation that allowed private citizens to apply for the release of federal government files, even including those maintained by the FBI, CIA, and other sensitive organizations. The government agencies could only refuse to release the documents if they fell under privacy or security exemptions that were set forth in the law. Since its inception, and a subsequent amendment in 1974, over a million pages of documents have been released about the Kennedy assassination. However, the federal agencies were initially very reluctant to comply with FOIA, and researchers were often forced to resort to lawsuits to win the release of even the simplest documents.

"I think the FBI's attitude was that they hated the Freedom of Information Act from the very beginning," says James Lesar, whose pro bono lawsuits for documents relating to the Kennedy case, many on behalf of Harold Weisberg, have been responsible for prying more sensitive material out of the government than those of anyone else. "The FBI was originally so against the idea of FOIA that it classified early FOIA requestors as a '100 file,' a domestic subversive. They also tried to make the process unpleasant. One of the little things they did at first was to provide you with atrocious copies. They would wait for the copy machine to run low or something, and provide terrible copies. But they eventually wearied of that."

The FBI was repeatedly unmasked for lying to those who filed FOIA requests. "For instance," Lesar recalls, "one ploy was that they said they had to search all their files page by page, because they had no index. And all the while they had a 48,000-card index in the Dallas field office. Technically, FBI headquarters [in Washington] didn't have the index."

"In other instances, they would say there wasn't anything in the field offices that wasn't also kept in headquarters, that the

*Researchers did not discover the existence of the card index until Weisberg sued for the Dallas field office files in 1978, and the index was disclosed in 1980 (Interview with James Lesar, December 1, 1992).

field offices just had duplicates of what was in headquarters. That's been proven false in several cases. The originating field office can maintain as much as four times as many documents as headquarters."

The FBI was not alone in its dislike of FOIA. "The CIA, NSA, military intelligence," says Lesar, "were all very close to the FBI in their distaste for FOIA. However, they have much better tools to fight FOIA requests, because they have national security and the compromise of sensitive sources as strong reasons for withholding information."

The attitude of government agencies toward FOIA prompted suspicion about motives, especially since researchers sometimes had to fight for apparently innocuous documents. "The problem is that the FBI has generally fought everything to the hilt, even if nobody could see any relevancy to it," says James Lesar. "Sometimes, they do it in subjects at which there is nothing at stake."⁴² Harold Weisberg was in litigation with the FBI for over a decade regarding the release of the spectrographic tests conducted on the curbstone at Dealey Plaza that was chipped by a bullet fragment. Although the Warren Commission discussed and relied on the results of the Bureau's spectrographic test in its final report, the FBI steadfastly refused to give Weisberg the underlying data. To many, that obstinacy added to the growing public perception that the government had something to hide in the Kennedy case. But to Lesar it does not necessarily indicate cover-up as much as the bureaucratic mind-set for agencies like the FBI. "The basic overall strategy," says Lesar, "assuming there is one, is that the FBI is trying to drive up the cost of getting information, making it so difficult that you don't want to do it again. I tend to think it's part of their overall litigation strategy. At times, they do it for political reasons, but other times it is part of their effort to resist disclosure, no matter what is being requested. Government officials seem to live in constant terror. In general, the government's only interest in its records occurs when somebody asks for them, and at that point they go into paralysis. They suspect that somewhere there must be something that spells trouble. It's just part of their psychology. It's built into them."

Nevertheless, the Freedom of Information Act gave added im-

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first for a private law firm and then became an assistant district attorney, a post he held until 1958.² He impressed others at the New Orleans DA's office with a quick wit and was even considered the sharpest of more than twenty lawyers. However, he also developed a reputation for making snap judgments and oversimplifying complex issues. And it soon became clear he had an ego that revealed a tendency toward arrogance.³ "Garrison also had a small streak of paranoia, thinking he was up against everyone else, no matter what the case was," says Hubie Badeaux, former chief of the New Orleans police intelligence division. "And when he got into the Kennedy assassination, that trait came to the forefront."⁴

In a town that loved colorful characters, Garrison fit right in. When he left the DA's office in 1958, he again entered private practice. He legally changed his name to Jim and developed a flamboyant reputation for expensive suits and cigars and multi-hour, four-martini lunches at the city's best restaurants. He unsuccessfully campaigned to be a judge of the criminal court during the 1959 election. Two years later he was one of four candidates running against the incumbent district attorney, Richard Dowling. Given virtually no chance of winning, he took the campaign's first television debate by storm and gained enough momentum to win by 6,000 votes. In May 1962, Garrison and his staff were sworn into office. His conduct quickly became a preview of what would happen once he launched his JFK investigation four years later. He often brought sensational charges that garnered headlines, but he seldom prosecuted the cases, much less ever obtained a conviction.

The first warning signs that he might be willing to trample someone's civil liberties in exchange for media ink came soon after he took office. He brought malfeasance indictments against the former district attorney and one of his senior assistants. It was front-page news. But the charges were dismissed for lack of evidence; and "for stating no criminal offense recognizable in law."⁵ Garrison promised to appeal, but never did. Instead, he embarked on a cleanup of vice in the French Quarter, and while his work again resulted in no trials or convictions, he received national press attention for his nightly raiding parties. "The