

October 5, 1964  
REPORT TO  
GOVERNOR JOHN B. CONNALLY OF TEXAS  
FROM  
ATTORNEY GENERAL WAGGONER CARR  
REGARDING THE EVENTS IN DALLAS  
OF NOVEMBER 22, 1963, AND  
SUBSEQUENT THERETO

I deem it appropriate to supplement the report of the Warren Commission with explanatory comments directed primarily to you and my fellow Texans.

Following the funeral of President Kennedy and after a conference with the White House, the conclusion was reached that a Court of Inquiry should be conducted in Texas to develop fully and disclose openly the facts pertaining to the assassination of President Kennedy, the serious wounding of Governor Connally, the murder of Dallas police officer J. D. Tippitt, as well as such other events growing out of these tragedies as called for a development of the facts and as are appropriately the subject of investigation by a Court of Inquiry. There were impelling reasons for such an investigation, among them being the recognition

that the authorities of the state in which these heinous crimes were committed, and whose Governor was one of the victims, were prepared and determined to ferret out the full facts to the best of their abilities, contrary to the baseless conjecture of some newspapers in other parts of the Nation that some effort might be made in our state to suppress the truth. Accordingly, I announced in Washington that a Court of Inquiry would be called upon my return to Texas.

Plans were perfected promptly by me for the coordinating of our efforts with the Federal Bureau of Investigation and other investigative agencies. Mr. Herbert Miller, Chief of the Criminal Division of the Department of Justice, accompanied by United States District Attorney Barefoot Sanders of Dallas, came to Austin to confer with me and my staff on procedural matters which resulted in an agreement that the investigation would be conducted in the following three stages:

- (1) The FBI would make an initial report to the President, and to enable it to do so as comprehensively as possible, the Texas authorities would deliver all data and documentary evidence to the FBI. This was promptly done.

(2) The second phase of the investigation would be conducted by the Texas Court of Inquiry which was to be called as soon as the state could make adequate preparation following the report of the FBI to the President. In this phase, the agencies of the Federal government, including, of course, the FBI, were to cooperate with the Texas authorities by making all evidence in their possession available and by submitting witnesses under their control who resided outside of Texas and were beyond the reach of a Texas subpoena. This would result in all available witnesses being interrogated in detail in an open hearing.

(3) The final phase was to be undertaken by a commission to be appointed by the President. This commission, possessed of all the facts developed by the Federal agencies, as well as the Court of Inquiry, would arrive at its findings and conclusions.

To assist in the discharge of our part in these joint responsibilities, I selected special counsel to assist me. Members of my staff and my special counsel joined me in consideration of the city in which the inquiry would be conducted and

in resolving other questions preliminary to the hearing.

President Johnson then announced the creation of the Presidential Special Commission. In his announcement, the President stated that this Commission should take into consideration all of the facts developed by all investigative agencies, as well as testimony from the Texas Court of Inquiry. Thereupon I was requested by the Department of Justice to come to Washington for further conference on the effective coordination of effort in the pursuit of this investigation. At the conference with Chief Justice Warren, the Chairman of the Commission, the following request was made by him on behalf of the Commission and later delivered to me in writing:

"The President's Commission has asked me to respond to your full and courteous letter of December 5th in which you describe the proposed work of the Texas Court of Inquiry. The Commission greatly appreciates your desire to facilitate its work and to help to insure that an accurate and responsible report with respect to all of the relevant facts be made to the President.

"All of the members of the Commission are aware of the deep interest

of Texas in the tragic event which occurred there and with respect to which all of us are exercising the responsibilities laid upon us. We share your view that it is desirable to have State officials do everything possible to uncover all the facts, and are appreciative of the availability of these facts to the Commission.

"As you know, at this time the Commission is organizing its procedures and we do not yet have available the comprehensive report of the FBI and of other investigative agencies both Federal and State. While we expect to receive this material soon, it will take time to analyze it thoroughly, and I am sure you will agree that there may remain matters which will require further investigation before we feel that we are in possession of all of the relative data upon which to make evaluation and judgment. We are most anxious, as I am sure you are, to take no steps which could impede investigation or which could lead the public to mistaken conclusions based upon partial factual information. In addition, as you point out in your letter, the Commission, as well as the Texas Court of Inquiry, must be ex-

tremely careful not to prejudice in any way the trial in Texas of Jack Ruby.

"The Commission would not wish to interfere in any way with you or other State authorities in the conduct of matters which are your responsibilities, and in which, as you point out, the State of Texas has a proper and important interest. At the same time, it is the view of the Commission, for the reasons stated above, that a public inquiry in Texas at this time might be more harmful than helpful in our mutual search for the truth. Recognizing that the timing of this Inquiry is your responsibility and your decision, we cannot refrain from the suggestion that you consider the wisdom of postponement of this Court.

"It would be the Commission's desire that you and your Special Counsel, or either of you, participate in the Commission's work, and counsel with it, it being the Commission's wish that you as the representative of the State of Texas be fully advised of the progress that is made in the course of the Commission's investigation and advance such suggestions as you consider helpful to the accomplishment of the Commission's assignment. It may develop that

the Commission would deem it advisable that testimony of certain witnesses residing in Texas should be taken before a Texas Court of Inquiry, and in that event we would expect to call on you to render this additional assistance.

"Let me assure you of the desire of the Commission to work most closely with you and of our conviction that in a spirit of close cooperation, we can responsibly meet our independent obligations. The Commission would be glad to discuss further with you as our inquiry proceeds the ways in which we can best work together towards this goal.

Sincerely,  
/S/ EARL WARREN  
Chairman."

It was my conclusion shared by my special counsel that the Commission's request should be honored. It was our conviction that the investigative authority of the Commission, aided by Federal agencies and the officials of Texas, would be intelligently and effectively used; that duplication of effort and expense to the taxpayer should be avoided; and that there were definite investigative advantages to the Texas authorities in working with the Commission in a search for the truth over that

of a separate and independent investigation through the medium of a Court of Inquiry. I therefore announced my conclusion to withhold the Court of Inquiry for the time being and accepted the invitation of the Warren Commission to attend their hearings and assist in the fulfillment of its important responsibilities. I am now pleased to report that subsequent events have vindicated the propriety and advisability of this decision.

From the time that the Warren Commission began its work, my special counsel and I have complied with every request for assistance to the Commission and its staff, including among others the following:

1. Assembling and submitting investigative reports, statements of witnesses, data, etc., gathered under the supervision of city and county officials of Dallas.

2. Serving as liaison between the Commission and the city and county officials of Dallas, arranging for interviews of Dallas witnesses and the taking of their testimony.

In addition, we have attended sessions of the Commission for the taking of testimony and have kept abreast of the progress of the investigation and all material developments. Most re-



cently we completed a careful study and analysis of the Commission's report prior to its final adoption and release. The Commission and its staff have been considerate of, and cooperative with, me and my special counsel and at all times gave full meaning to the agreement of joint effort we had made.

The scope of a Court of Inquiry's investigation would not have been as broad as that which marked the bounds of the Warren Commission's undertakings. Aspects of investigation included within the Commission's report which would not have been considered by the Court of Inquiry are, for example, the adequacy of the protection accorded the President by the Secret Service and the responsibilities of the FBI prior to the President's visit, as well as facts which could be developed only by investigation in other states and foreign countries beyond the authority of this state. Nor would I have undertaken to have a Court of Inquiry find facts on the shooting of Lee Harvey Oswald. The legal guilt or innocence of Jack Ruby has not been established by final judgment. The determination of such a matter should be left to our courts unhampered by public disclosures which conceivably could prejudice either the prosecution or the defense. Because the prosecution in the Ruby case does not contend otherwise, I think it is appropriate for me to say, however, that I concur in the Warren

Commission finding that there was no connection between Lee Harvey Oswald and Jack Ruby in the matter of the assassination.

So far as I have been able to determine, the Warren Commission has explored fully all available avenues of information and has left no stone unturned in an effort to ascertain the full truth. I have been considerably impressed by the resourcefulness and exhaustiveness of its labors. Based on the information gained from the investigation, I have not the slightest hesitancy in concurring in the conclusion of the Warren Commission that

(1) Lee Harvey Oswald was the assassin of President Kennedy and fired the shots that wounded Governor Connally, and killed Officer J. D. Tippitt.

(2) The acts of Lee Harvey Oswald were not pursuant to any conspiracy, domestic or foreign, to assassinate President Kennedy.

It is with much satisfaction that I note the findings of the Warren Commission that Oswald was not subjected to any type of mistreatment while in the custody of Texas officials and that his constitutional right to counsel was fully preserved. The undisputed facts are that Oswald

not only was advised of his right to obtain counsel of his choice on several occasions, but the President of the Dallas Bar Association, Honorable Louis Nichols, called on Oswald and offered to obtain counsel for him, if he so desired.

I take great pride in the assistance that the Dallas officials, including the law enforcement officers, have rendered to the Warren Commission and to me in this undertaking. They responded in the highest tradition of trustworthy and efficient public officials. It should be remembered that these officials, law enforcement officers, and other Dallas citizens, endured many hardships during the dark days immediately following the day of assassination — days filled with abuse and suspicion from many sources. Their responsible acts of leadership and courage in guiding a great city through this crushing experience has gained the respect and admiration of all understanding people. x

Oswald, having spent a considerable amount of his adult years in Russia, espoused the Marxist cause and denounced the American way of life while both in Russia and the United States. He was an enemy of the political philosophy of Texas. The evidence clearly refutes the early insinuations emanating in some quarters that the politi-

cal philosophy of Dallas was responsible for this tragedy.

So far as is known to me or my special counsel there are no untapped sources of information in the assembling of all material facts pertaining to the assassination of President Kennedy. There is no useful purpose therefore in the convening of a Court of Inquiry. Should it develop at any time in the future that further investigation into this matter by a Court of Inquiry is indicated, a Court will be convened.

#### THE RULE OF LAW IN CRISIS

Great crises are a supreme test of the rule of law. History is replete with the collapse of law when grave events occur. World War I was touched off by the assassination of a prince. The Communists came to power in 1917 when law and order failed. Hitler became the master of Germany and Europe and a threat to the peace of the entire world when he suspended constitutional freedoms under the pretext of an emergency. Scores of presidents have been banished, arrested or killed in recent decades, their power often seized by the military.

The assassination of President Kennedy, the grave wounds of Governor Connally and

subsequent events in Dallas caused a severe strain upon the rule of law, both federal and state. But we as a nation and state are grateful that there was an orderly transition within the federal government and a continuity of executive functions in our Texas affairs.

It was a simple but dramatic moment when Vice President Lyndon B. Johnson took the oath of office as President of the United States in the same airplane that brought President Kennedy and him to Dallas, within an hour after President Kennedy had expired in a nearby hospital.

Shortly after the oath was administered by Judge Sarah T. Hughes in the presence of a few friends and officials, including Mrs. Jacqueline Kennedy, still clad in the same blood-stained suit she was wearing when she held her husband in the last few minutes of his life, President Johnson ordered the plane, bearing the body of President Kennedy to Washington. As the mighty jet roared to the Capitol at six hundred miles per hour, the government began to function smoothly and effectively. Thus, the abrupt change of chief executives of a mighty nation epitomized the effective function of the rule of law as prescribed under our Constitution, which has existed longer than the constitution of any other nation.

Since that tragic day, many questions have arisen about the rule of law. What is it? How does it function? Was it deficient in any manner during the crisis? Hence, a brief review of the essential elements of an effective rule of law seems appropriate.

Legal scholars, lawyers and statesmen from democratic nations often glibly use the expression "rule of law," assuming that everybody knows what the expression implies and that everyone recognizes that it is basic to any system of free government. But this phrase, like so many other democratic concepts, is not readily capable of exact definition. The rule of law is made up of many aspects, and it is easier to describe some of these aspects than it is to define in a few cogent words the concept of supremacy of law. The legal profession has the primary obligation of interpreting an effective rule of law to the public.

The late President Griswold of Yale University laid the blame to some extent on the legal profession for its failure, in these words:

"I think that the law in the United States has suffered some retrogression of recent date. . . . The American people do not sufficiently understand the rule of law because it has never been properly explained

to them. The legal profession has not succeeded in explaining it perhaps because it has been too busy with ad hoc issues and winning cases."

Not only should we of the legal profession assume a more active role in educating the people, but the news media, educators and others should join in this effort of helping the public to be properly informed of the operation of the rule of law and should participate actively in the dissemination of its significance.

#### The Right of Fair Trial

One of our most cherished fundamental guarantees under our Bill of Rights is the right of a fair, impartial and prompt trial for all persons charged with crime. The elements of such a fair trial are spelled out in the Fifth and Sixth Amendments of the United States Constitution and in our Texas Constitution. They include the necessity for a Grand Jury indictment for a capital or other wise infamous crime; restrictions against double jeopardy; no compulsion of the accused to testify against himself; guarantee of due process of law; the right of jury trial; information of the nature and cause of accusation; and compulsory attendance of witnesses. Another basic right of the accused is the presumption of innocence and that his

guilt must be established beyond a reasonable doubt before conviction.

Our basic and unalienable rights would be "tinkling cymbals and sounding brass" if every citizen, when in jeopardy, is not afforded adequate protection of his basic rights as guaranteed by the Bill of Rights of our United States and Texas Constitution.

The modern facilities of the news media caused the events in Dallas, in particular the Oswald assassination and the Ruby trial, to become topics of discussion for people throughout the world, from the heads of state to the most isolated individuals.

We are justly proud of the right of a fair and public trial. However, the Founding Fathers who wrote the Bill of Rights obviously never dreamed that science would advance so far as to extend the meaning of the word "public" to "worldwide." They were seeking to prevent, and rightly so, secret trials or "star chamber" proceedings.

#### **Pressures Upon the Rule of Law**

Immediately following the arrest of Lee Harvey Oswald and after the arrest of Jack Ruby, the orderly procedures of the rule of law



were placed under severe strain and unusual demands in three particulars:

1. The news media — radio, television, reporters and special writers — virtually took charge of the entrances, hallways and public rooms of the city jail before Lee Harvey Oswald was placed in jail. By the time the prisoner, Oswald, entered the jail under heavy guard, radio equipment, television cables, special wires, cameras and other auxiliary equipment were being installed by the technicians of the news media. More than a hundred news media personnel had set up temporary facilities and workshops in the hallways. Much of this personnel was from other parts of the Nation and foreign countries and had little, if any, understanding of Texas legal procedure. These conditions continued throughout the time Oswald was confined in jail, until his death on the morning of November 24, and after the confinement of Ruby. The City Manager and Chief of Police concluded that if an attempt had been made to remove the news media and their equipment, hard feelings and chaos would have resulted.

2. While local officials recognize that subsequent events, including the

killings of Oswald by Ruby during an attempted transfer from the City Jail to the County Jail, magnified the deficiency in security measures, they do not accept the full responsibility for such conditions, because of the fact that they had no knowledge whatever of Lee Harvey Oswald and his background until after the assassination on November 22, when they were advised of his presence in Dallas and his past activities by the Federal authorities.

3. Interviews and comments elicited by the news media from police officers and the prosecuting attorneys concerning the facts and legal issues were made public before arraignment or indictment of the suspects. Mass media coverage of the verdict of the jury was allowed, with permission of the Court, in the Ruby trial; and the opportunity was provided for the leading defense counsel to seize the microphones from cooperative news media in the courtroom and, in a vindictive manner, castigate the jury, judiciary, and the City of Dallas with discredit to himself and the legal profession, of which he is a member.

It is recommended that:

1. This report with the exhibits be filed in the Archives of Texas.

2. Representatives of the State Bar of Texas, the news media, and local and state officials take appropriate steps to establish a fair and satisfactory working relationship designed to prevent future disorder and confusion in pre-trial activities, deficiencies in security for prisoners, as well as to improve judicial ethics in criminal trials.

3. Appropriate representatives of the various federal, state, and local law enforcement agencies in Texas conduct a thorough study for the improvement of coordination and exchange of information concerning criminal or subversive suspects and recommend ways and means of improving security measures for the protection of the President, other high officials and distinguished guests while visiting our state.

My Special Counsel, Mr. Leon Jaworski, former President of the State Bar of Texas, Houston; and, Dean Robert G. Storey, former President of the American Bar Association, Dallas, have

prominently participated in the preparation of this report and approve it as herein presented above.

Finally, I wish to say to you that we and all Texans owe a deep debt of gratitude to the two distinguished members of the State Bar who so unselfishly answered my request for assistance as Special Counsel in this investigation. Mr. Leon Jaworski and Dean Robert G. Storey have given many hours of their time. Without their invaluable counsel and assistance, our work could not have been so thorough nor complete.