

The Warren Commission In its Own Words

by Tad Szulc

Exactly 11 years ago—on September 27, 1964—the President's Commission on the Assassination of President John F. Kennedy issued its final report, concluding that Lee Harvey Oswald was the assassin, that he acted alone rather than as part of a conspiracy, and that there never had been any link between him and his killer, Jack Ruby. After nearly 10 months of intense labor, however, the Commission, presided over by the Chief Justice of the United States, Earl Warren, was unable to come up with a motive for the Dallas assassination. Its principal conclusion: "Many factors were undoubtedly involved in Oswald's motivation for the assassination, and the Commission does not believe that it can ascribe to him any one motive or group of motives."

We still really do not know what happened in Dallas on Friday, November 22, 1963. Throughout the past decade, increasing doubts have been raised about the validity of the conclusions reached by the Warren Commission. Innumerable theories have been constructed concerning Oswald, Ruby, their possible relationship, the likelihood of conspiracies, the possibility that the Oswald arrested in Dallas was not the "real" Oswald, that there may have been more than one assassin, and so on. Allegations have been made that the CIA and/or the FBI had participated in or covered up an assassination plot. As recently as last June, the Rockefeller Commission, investigating the CIA's domestic activities, felt obliged to assert that "there was no credible evidence of any CIA involvement."

There are serious reasons to question not only the Warren Commission's conclusions, but, more importantly, the quality and integrity of the entire investigation as it was carried out between December, 1963 and September, 1964, by the seven Commissioners, carefully chosen for political balance and reputation: Chief Justice Warren, Sen. Richard Russell (D, Ga.), Sen. John Sherman Cooper (R, Ky.), Rep. Gerald Ford (R, Mich.), Rep. Hale Boggs (D, La.), former CIA Director Allen W. Dulles, and John J. McCloy, a leading New York corporate attorney. Of the group, four are now dead: Warren, Russell, Boggs and Dulles. Ford is President of the United States. On September 5, a gun was pointed at him.

If the investigation was as inadequate and incompetent as is suggested by the Commission's own internal documents, once Top Secret and now declassified, it is legitimate to question the specific conclusions of the

report.

The transcripts of the Commission's executive sessions, staff memoranda (including the highly revealing transcript of a session with a panel of psychiatrists), and other internal documents reveal the Commissioners to be consumed by doubts and fears; troubled by their own ignorance; suspicious of the investigatory work performed for them by the FBI and the CIA; lacking clear direction; worried about a competing inquiry in Texas; and finally suffering from a stunning lack of confidence in their own ability to produce a report that would be credible to the American people, the world and, for that matter, credible to themselves.

The fear of being disbelieved and of being trapped into endorsing the prefabricated conclusions of the FBI and other intelligence agencies—whose instinct to protect themselves was already apparent—is a constant theme running through the Commission's secret deliberations. Anxiety was their leit-motif, concealed, to be sure, in the final published report. Unable to disprove that there may have been a conspiracy, the Commission supported the FBI conclusion that Oswald was the lone assassin. The book was to close the case and be its official history, or so it was thought.

The Commission, as it turns out, was justified in suspecting the FBI. Only this month FBI Director Clarence Kelley admitted that an important piece of evidence—a hand-delivered letter to the FBI from Oswald 10 days before the assassination threatening to blow up the Dallas police station—had been withheld and then destroyed. What else, one has a right to ask, was withheld and destroyed?

The Commission transcripts and ancillary material do more than paint a vivid portrait of uncertain and confused men. They show that a series of critical facts, decisions and judgments have been kept away from the American people. Here are highlights culled from a study of the 13 transcripts of the Commission's executive sessions:

- Keenly aware of domestic political considerations, Warren was determined to complete the investigation before the onset of the 1964 presidential campaign in which Lyndon Johnson would seek election in his own right. On January 21, 1964 he told the Commission: "I think if this [the work on the report] should go along too far and get into the middle of a campaign year it

would be very bad for the country to have this thing discussed at that particular time." The Commission then decided to set a secret June 1 target date. This alone discredits the claims of the Commission that, indifferent to extraneous pressures, it was interested only in the truth of what happened in Dallas.

- Warren's initial position was that the Commission needed no investigators of its own, no subpoena power, to call witnesses or obtain materials, and no power to grant immunity from prosecution. His concept was that "our job here is essentially one for the evaluation of gathering evidence. . . . We can start with the premise that we can rely upon the reports of the various agencies. . . ." Led by Sen. Russell, however, the Commission overruled Warren on subpoenas. But it never really freed itself from the informational monopoly held by these agencies, and particularly the FBI. The Commission—and Deputy Attorney General Nicholas Katzenbach—were convinced from the outset that the FBI was deliberately leaking information to the press to construct the anti-conspiracy case rapidly and decisively in the public mind; moreover, the Commission privately accused the FBI of attempting to impose its own anti-conspiratorial conclusions on the presidential panel. On January 22, J. Lee Rankin, the Commission's general counsel, exploded in sarcastic anger against the FBI's insistence that there was no conspiracy and that Oswald was the assassin. He said: "They would like to have us fold up and quit. . . . They found the man [Oswald]. There is nothing more to do. The Commission supports their conclusions, and we can go on home and that is the end of it." The Commission's suspicion, of course, was that the FBI, which had failed to inform the Secret Service and the local police of Oswald's presence in Dallas prior to Kennedy's visit, could not tolerate evidence of conspiracy. As a former defector to the Soviet Union and self-proclaimed Marxist and supporter of the Cuban revolution, Oswald, in the Commission's view, should have been placed on the Secret Service list of persons dangerous to the President. Likewise, the evidence shows that the FBI was aware of Oswald's mental condition, having previously interviewed him and his wife.

- The Commission seemed terrified of FBI Director J. Edgar Hoover. After receiving in secret session information from Texas officials that Oswald might have been an FBI undercover informer, the Commission spent four months debating just how to approach Hoover for a denial that would convince the public. A formal statement by Hoover was not deemed sufficient. Paradoxically, the Commission feared that Hoover might feel that *he* was being investigated.

- Allen Dulles cautioned the Commission that Hoover might lie if Oswald was, indeed, an FBI informer. He confessed to his colleagues that during his tenure as CIA director he would lie under oath to everybody except the President of the United States if he thought it was in the national interest or in the interest of the

agency:

- Rep. Ford provoked a near-uproar in the panel when, on June 4, he charged that outside forces were trying to pressure the Commission to decide in advance that Oswald was a solitary assassin. In December, Mr. Katzenbach wrote and asked [for] . . . a statement to the effect that there was no foreign involvement, there was no conspiracy . . . a growing volume now . . . with the same intent . . . I have come to no specific conclusion yet." A month later, with but one executive session held in the interim—its contents are still classified—members of the Commission were meeting with psychiatrists in an effort to construct a psychological portrait of Oswald as murderer.

- The psychiatrists' panel told the Commissioners that Oswald might not have assassinated Kennedy if Marina, his wife, had treated him with kindness on the eve of the murder. The psychiatric hypothesis was that Marina unwittingly triggered Oswald's disturbed personality into his criminal act. This was as close as the Commission could have come to fixing on an assassination motive, but it shied away from it in the report.

The transcripts, so reflective of the age of American innocence that died with John Kennedy, are stark drama. The Commissioners are seized with doubts about the probity of the FBI, whose reputation had rarely been questioned in the past. Justice Warren recoils at the idea of reproducing the gruesome photographs of Kennedy's autopsy reports. A staff memorandum tells the Commission that if certain rumors about the assassination—the possibility of a foreign conspiracy—are not quelled, they "could conceivably lead the country into a war which could cost 40 million lives." So there was cold fear both of global catastrophe and domestic turmoil pervading the Commission's work as it peered into the unknown.

Also there were grotesque touches. John J. McCloy, for example, was continually telling the Commission that he had to catch a plane to London or Brazil and would have to be excused. Boggs found it difficult to attend a session because a new governor was being elected in Louisiana. Ford missed the April 30 session altogether because he was in Michigan on political business. Even at its second session, the Commission lacked a copy of the Executive Order establishing it: Warren had to use a clipping from *The Washington Post*. The Commission worried at length about such prosaic matters as parking space near its Maryland Avenue headquarters in Washington, the possibility of borrowing clerical help from other government agencies so that it would not have to pay salaries, and the minimum number of copies of the report to be printed at the least possible cost. As a money-saving device, Dulles proposed at one point that the Commission hire a CIA secretary who was on maternity leave. Many casual remarks show how much the Commission was an expression of the American establishment; its members

September 27, 1975

11

understood each other. When the name of William T. Coleman, a Philadelphia lawyer, came up for a staff appointment, General Counsel Rankin explained, in the language of another day, that "he is a colored man." (In 1975, President Ford named Coleman to be Secretary of Transportation.)

The Warren Commission was appointed by Executive Order 11130 on November 29, 1963. This was a few days after Johnson had encouraged Texas authorities to set up their own court of inquiry—as much as anything else to clear the name of Texas in the Kennedy tragedy. Johnson may have been unaware at the time that by setting in motion two parallel investigations, he was inviting rivalries that, in the long run, complicated the overall investigation effort. For a time, the Warren Commission and the Texas court of inquiry, unknownst to the public, were not even on speaking terms. Today, Texas officials still feel that, for the sake of the ultimate result, and given leads they wanted followed up, they should not have been completely excluded from the Warren Commission's work. This situation became ludicrous: for months members of the Warren Commission were afraid to go to Texas to investigate the scene of the investigation, lest they be subpoenaed by the Texas authorities.

The Warren Commission is known to have held 13 executive sessions between December 5, 1963 and September 18, 1964. But so much concerning the Commission's work is still wrapped in secrecy that it is possible that it met on other, unrecorded, occasions. Thus the "Inventory of the Records of the President's Commission on the Assassination of President Kennedy," issued by the National Archives in 1973, lists only 12 meetings. An emergency meeting, called by Warren in utter secrecy on January 22, 1964 to discuss information that Oswald may have been an FBI informer, is not listed by the Archives. In response to an inquiry by *The New Republic*, a spokesman explained that this transcript was "discovered" subsequently. Its "top secret" classification was lifted only on March 14, 1975. Likewise there is no actual transcript of the final September 18, 1964 session. There are, however, minutes of this meeting, which throw additional and disturbing light on the proceedings.

The National Archives began declassifying the transcripts in 1968, but the most significant ones were made available for research only in 1974 and 1975. The transcripts form a comprehensible narrative only when they are studied as a whole. This is why researchers and historians, who until recently had access only to three transcripts and one set of minutes declassified in 1968, were stymied in their efforts to produce a coherent analysis of the Commission's activities. It is necessary to study the bulk of the material—including the staff report on the meeting with the psychiatrists' panel and other internal memoranda—to be able to understand the frame of mind in which the Commissioners operated.

There still are gaps. The National Archives continues to refuse to declassify the transcripts of the May 19 and June 23 sessions. The reason given *The New Republic* for withholding the May 19 transcript was that it related to "personal and medical files and similar files," the disclosure of which would, under the provisions of the law, "constitute a clearly unwarranted invasion of personal privacy." There was no clue as to whose privacy might have been jeopardized.

In the case of the June 23 transcript, *The New Republic* was advised by letter from Jane Smith, director, Civil Archives Division of the National Archives, that it was being held back on the request of the CIA. Smith's letter said in part:

"The transcript of the executive session of June 23, 1964, is withheld from research under 5 USC 552 (b) (1) as amended; matters that are . . . specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order. In response to a previous request for access, the transcript was reviewed by the Central Intelligence Agency because it relates to Yuri Nosenko, the Soviet defector. In response to our request for a review of the transcript the CIA asked that the request for access be denied in order to protect sources and methods and other information related to our operational equities. The CIA further stated that the transcript warranted classification at the 'Confidential' level under the criteria of Executive Order 11652 and exemption from the general declassification schedule pursuant to section 5 (b) (2) and (3) of the Order. . . ."

Yuri Ivanovich Nosenko, identified in internal Commission documents as a KGB official who defected from the Soviet Union in 1964, provided both the FBI and the CIA with a certain amount of information concerning the period Lee Harvey Oswald, himself a defector, spent in the Soviet Union, between 1959 and 1962. It should be noted however, that, to the end, the Warren Commission remained dissatisfied with the information it could obtain about Oswald's stay in Russia. However, an internal Commission memorandum, dated June 24, 1964, makes this point:

"Most of what Nosenko told the FBI confirms what we already know from other sources and most of it does not involve important facts, with one extremely significant exception. This exception is Nosenko's statement that Lee Harvey Oswald was never trained or used as an agent of the Soviet Union for any purpose and that no contact with him was made, attempted or contemplated after he left the Soviet Union and returned to the United States. Nosenko's opinion on these points is especially valuable because, according to his own testimony at least, his position with the KGB was such that had there been any subversive relationship between the Soviet Union and Oswald, he would have known about it."

Nosenko's statement to the FBI confirms our information from other sources in the following respects:

Prior to Oswald's arrival in Russia in the fall of 1959 he had no contacts with agents of the Russian government or of the International Communist party who were in turn in contact with

the Russian government. (Our independent sources on this are extremely weak, however. We simply do not have much information on this particular subject.) . . .

. . . Nosenko was shown certain portions of our file on Oswald, including a section which stated that Oswald received a monthly subsidy from the Soviet Red Cross. On seeing this statement, Nosenko commented that it is normal practice in the Soviet Union to make payments to emigres and defectors in order to assist them to enjoy a better standard of living than ordinary Soviet citizens engaged in similar occupations. (Nosenko also said that the subsidy Oswald received was probably the minimum given under such circumstances. This is news to us, although it is not inconsistent with other information we have.)

Oswald was in possession of a gun which was used to shoot rabbits while he was living in Minsk. (Nosenko said he learned this upon reviewing Oswald's file after the assassination of President Kennedy when, under the circumstances, he took particular note of this fact.) . . .

. . . The KGB in Moscow, after analyzing Oswald through various interviews and confidential informants, determined that Oswald was of no use to them and that he appeared "somewhat abnormal." . . .

. . . Shortly after the assassination, Nosenko was called to his office for the purpose of determining whether his department had any information concerning Oswald. When a search of the office records disclosed that information was available, telephone contact was immediately made with the KGB branch office in Minsk. The branch office dictated a summary of the Oswald file to Moscow over

the telephone. This summary included a statement that the Minsk KGB had endeavored to "influence Oswald in the right direction." This statement greatly alarmed the Moscow office, especially in view of their instructions to Minsk that no action was to be taken on Oswald except to "passively observe" his activities. Accordingly, the complete Oswald file at Minsk was ordered to be flown at once via military aircraft to Moscow for examination. It turned out that all this statement referred to was that an uncle of Marina Oswald, a lieutenant colonel in the local militia at Minsk, had approached Oswald and suggested that he not be too critical of the Soviet Union when he returned to the United States. . . .

. . . Inasmuch as the above staff memorandum, written the day after the Commission held its secret meeting on June 23, covers most of the material discussed by the Commissioners, it remains unclear why the actual Commission transcript remains classified. It does, of course, help to build the FBI's and the CIA's no-conspiracy case, but in this instance the intelligence agencies evidently preferred to conceal their information sources and methods. Interestingly Nosenko is not even mentioned in the published Warren report.

In any event, it is unknown what else the National Archives has withheld. The Kennedy records add up to 360 cubic feet of material. Much of it remains uncataloged in the public inventory. According to Sen. Richard S. Schweiker (R, Pa.), 152 Warren Commission items still remain classified in the Archives, including 107 FBI and 23 CIA documents.