

How the Survivors Feel Now

Aftermath

by Eliot Marshall

The Warren Commission staff was under enormous pressure in 1964, first, (in Earl Warren's phrase) to "quench" rumors, second, to meet a deadline before autumn and, third, to find the truth. How successful was it in meeting its objectives? As doubts about the Commission's work continue to pile up, it seems clear that the panel did far better at meeting its deadline than at quelling rumors. Where did it fail?

According to Waggoner Carr, attorney general of Texas at the time of the investigation, the Commission's greatest handicap was that it relied on federal agencies for its information. Carr concedes that Chief Justice Warren had little choice but to use the agents of the FBI and CIA as his investigators, but he believes Warren could have done a better job if he and his staff had not put so much weight on the assurances of FBI Director J. Edgar Hoover, CIA Director John McCone and McCone's deputy, Richard Helms. After all, these men could not have been expected to reveal information that would damage their agencies or their own careers. The CIA and FBI both were involved in watching the assassin's actions before November 22, 1963, and in putting together the evidence that

convicted him posthumously. They were not objective participants in the inquiry.

On the weekend of the assassination Waggoner Carr announced that he was preparing to hold an independent, public court of inquiry in Texas into the circumstances surrounding the deaths of President Kennedy and Lee Harvey Oswald. He did so at the urging of the wounded Texas Gov. John Connally and the new President, Lyndon Johnson. Carr was in the process of gathering staff and laying out procedures for the inquiry when officials in Washington virtually ordered him to call it off. They wanted him to defer to the newly appointed presidential Commission in Washington headed by Earl Warren. Carr recently described those negotiations of December, 1963: "We had a difficult time in the beginning with Mr. Warren, who insisted that we drop all thoughts of holding a court of inquiry and turn it completely over to him and his organization." Carr balked, for the "simple reason that I had read a quote of Mr. Warren where he laid the blame on Texas. I felt that to turn the investigation over to a man who might have already made up his mind that Texas was guilty would have been an unforgivable thing on

my part, so I refused." Carr and his assistants, who had come to Washington, would not surrender until the Chief Justice made some concessions himself. Warren just as adamantly insisted that the Texans would have to give up their plans for an investigation before he would even see them. Carr said: "For three days we cooled our heels waiting for him to see us, and he kept refusing. Mr. Katzenbach, who was deputy attorney general at the time, was the intermediary between us and the White House. Finally on the third night we sat up there and he completely refused to see us, and we refused in turn. . . . I just lost my patience and announced to Mr. Katzenbach that I was through waiting. I might be a little country bumpkin to him but after all I was the attorney general of the state of Texas and owed some obligation to my people." He was heading back to Texas, he told Katzenbach, and in the morning he would announce that he was opening the court of inquiry. "Well, before we got out of town Mr. Warren sent word that he would see us. So we went up to his office and had a nice meeting with him, out of which this written agreement was worked out."

According to the written agreement, the Texas authorities promised to forward all the information they could gather on the Kennedy and Oswald murders to the Warren Commission and to hold off their own investigation. They insisted, however, that they be allowed to sit in on questioning of witnesses, and they reserved the right to have their own independent inquiry if they felt the Warren Commission had left out important material or hidden facts that should have been made public. They were also determined to see that the Warren Commission not reach conclusions that were unfair to the state of Texas. The arrangement worked well for the Commission, not quite so well for Texas. The Texans sent all they had to the Commission's Chief Counsel, J. Lee Rankin, and Rankin allowed the Texans to review the testimony of his witnesses. But there was a catch; the Texans had to come to Washington and view the record within the security of the Commission's meeting room. For obvious reasons, the Texas officials could not keep abreast of all that was going on in the investigation.

Today Carr says he agrees with the findings of the Warren Commission, and because he felt the same way in 1964, he never undertook a large, independent inquiry of his own. Although he concurs with the "general thrust" of the Commission's work, there are "two things that I felt frustrated over. . . . I was never completely satisfied." One, he said, was the investigation into whether there was any possible connection between Oswald and the CIA or the FBI. "And the second was the disturbing fact that at the time Oswald was captured he had gone from downtown Dallas to Oak Cliff, and was headed in the general direction of Ruby's apartment." Carr has never seen any evidence of a prior acquaintance between Ruby and Oswald, but "I'm still keeping that somewhat open in my own

mind."

Carr's first question—whether Oswald might have been a secret agent—is one that troubled the Commission itself for many months. On January 22, 1964 Carr told J. Lee Rankin that rumors were persistent "everywhere in Texas" that Oswald had been an undercover agent, and that the Commission ought to make this a "major factor" of its investigation. He later followed this up with a letter to Rankin in which he suggested that the Commission check out Oswald's background on its own by interviewing all the FBI and CIA agents in the Dallas area who might have had contact with Oswald. He thinks the Commission didn't take his advice seriously enough: "I still think they should have done it." Instead, the Commission dealt primarily with the heads of the agencies—Hoover and McCone—and later took testimony from several agents who had filed reports on Oswald. But the interviews with the agents came later, after Hoover and McCone had stated flatly that Oswald had never been on their payrolls. No one who hoped to get ahead in the intelligence field would lightly contradict Hoover, McCone and Helms.

The federal government's treatment of Dallas officials in those difficult months left behind a residue of bitterness. Waggoner Carr felt that he'd been treated as a "country bumpkin," and William Alexander, then assistant district attorney in Dallas, felt that the FBI and members of the Warren Commission regarded him and his staff as "rinkydinks." Although the Dallas police and district attorney's office fulfilled their half of the bargain, Alexander said, the Feds did not fully live up to theirs. They did not forward useful evidence gathered by the FBI and other federal agencies to the district attorney in Dallas. According to Alexander, "all those bastards are vaccinated with the same needle. It's a one-way street." The experience was frustrating, like "every other deal" involving Washington. "You give one of those bastards a telephone number, and then lose it, and call him and ask for it, and he'll tell you to call Washington and get permission from the supervisor." Alexander thought it wise to temper his complaints, however: "You understand, I wouldn't be critical of the organization at all. I'm sure they have their reasons. After all, I don't want to take on the FBI and CIA at the same time."

Alexander most emphatically does not believe there was a conspiracy. "There was nothing you could put on a witness stand with a straight face that would connect Ruby with Oswald," he said. But there remain some unanswered questions in his mind. He was impressed with the Commission's work: "I was amazed that they did as good a job as they did." But "I really would like to know whether Oswald was or was not taking handouts from some federal agency. Another thing I would like to know is whether he was debriefed after he got back home from Russia. Wouldn't you?"

Neither Carr nor Alexander is fond of the federal bureaucracy. They were not impressed with the FBI's performance in 1963. The Texas court of inquiry, had it been allowed to proceed, might have attacked the thorny problem of the FBI's negligence in handling Lee Harvey Oswald more boldly than the Warren Commission did. Although Texas officials didn't have authority to investigate Oswald's career outside the state, they could have—and, if Carr's letters are any indication, they would have—questioned local FBI men about Oswald without fretting over the agency's reputation. This is conjecture, of course. But the test was never made. The court of inquiry was called off, and Texas officials were persuaded to accept the Warren Commission study as the country's best effort at finding the truth.

Nicholas Katzenbach, who was deputy attorney general and liaison with the Warren Commission, had a simple explanation for the decision to close down the Texas inquiry and focus the investigation in Washington. He said, "The only answer is that it was thought [the Warren investigation] was going to be an awful lot better done. The problem was how can you conceivably persuade the world that this investigation was straightforward and honest. We did not feel the Texas commission would have that prestige." He thought that hiring special investigators would have accomplished nothing. It seemed ludicrous, in fact: "You wouldn't have the FBI investigate the CIA and vice versa, would you?" (The *Washington Star*, a few days after I spoke with Katzenbach, had the news that the FBI is engaged in an unprecedented investigation of some CIA employees to find out whether they may have broken the law in hiring assassins for use abroad, lying to congressional committees and snooping within the U.S.) Like Katzenbach, the Commission's chief counsel, Rankin, is also skeptical. Asked whether the Commission might have done a better job with its own investigators, Rankin said, "I don't know where you could have got them. And I don't know how you'd get Congress to pay." He said the Commission appreciated the "good deal" it had in being allowed to use the federal investigative agencies, and "we made the best use of them we could." According to Rankin, "We thought that our greatest skills would be in evaluation of evidence, and in evaluation we'd move with great care. I don't know whether it would have been better or worse with our own investigators."

Rankin seemed taken aback by recent criticism from Texas. As for Waggoner Carr, Rankin asked, "Where did he make any single affirmative contribution to the whole thing?" Didn't Carr report the allegations that Oswald worked for the FBI? Rankin said Carr merely "jumped on" rumors brought to him from other sources; he didn't investigate them. "The best we could do then," Rankin said, was to check the FBI records very carefully. "You know the FBI's undercover people, and

how they're handled. You have the problem of whether the information that you get traces out to the correct person under that kind of a system." Rankin doubts that anybody else in his place could have done better. "Suppose you had an independent investigator. How would he find out whether the undercover agent—say, number 10—was the same as some other person? It's so largely under the control of the agency." Though relations with the FBI and CIA were good, Rankin said, that doesn't mean the Commission wasn't misled. Whether or not the Commission got the truth or "somebody's fabrication" will never be known.

Like other members of the Commission staff who were interviewed in September, Rankin saw no value in reopening the case in 1975. He believes essentially that the trail of conspiracy or deception—if there was one—would be too cold to follow. The passage of time is one of the worst obstacles to a good investigation, and nearly 12 years have passed since John Kennedy was killed. Witnesses "die or disappear," Rankin said. He doubted that a new inquiry would turn up anything relevant to the Kennedy assassination.

Perhaps the most outspoken opponent of a new investigation is attorney David Belin, a Warren Commission staff counsel who lives in Iowa. He was also executive director of the Rockefeller-headed study of CIA activities completed in June. Belin has written a book attacking the Warren Commission doubters called *November 1963: You Are the Jury*. He believes the conspiracy theories "that tie in Gordon Liddy, E. Howard Hunt, the Mafia and Texas millionaires have no more substance than moonbeams." Belin is adamantly opposed to a new investigation. Another staff counsel, W. David Slawson, took to the press to defend the Commission's work this year. In an article recently published by the *Los Angeles Times*, Slawson attempted to answer some of the most often asked questions about the Commission report. He concluded that a sweeping reinvestigation of Kennedy's murder would serve no "useful purpose," but he did feel that "special limited new investigations" should be sanctioned "if and when a need for one of them arises."

Howard Willens, now an attorney in the District of Columbia, in 1964 the Warren Commission's liaison with the Justice Department, was firm: "I think there's been a lot of very slovenly discussion as to the inadequacies of the Commission report . . . I see absolutely no value whatever to reopening the investigation." Nor did he see any point in reviewing the deceptions by the FBI or CIA. The fact that the Dallas FBI office destroyed a note delivered by Lee Harvey Oswald, Willens said, "obviously gives further support for those who think that if there could have been deception on that incident, there could have been deception of a much more egregious nature." But he said the incident itself was irrelevant to the Commission's findings. "The Commission concluded that the FBI was negligent in any event" in its surveillance of

Oswald. If the Commission had known of the Oswald note, "there would have been even more support for that criticism."

The news that the CIA may have hired assassins in Cuba, and that it withheld this information from the Commission, did not warrant a new inquiry, either. "If anyone has facts suggesting that Oswald met with Castro supporters, or that Oswald was aware of the CIA's plans, that might be worth investigating." Willens said he might someday change his position. "But neither of these more recent developments carries with it any fact or promise of developing facts that go to the central conclusions of the Warren report."

Another familiar name on the roster of Warren Commission lawyers is Albert Jenner. He was minority counsel to the House Judiciary Committee that in 1974 held impeachment hearings on President Nixon's involvement in the Watergate scandal. In 1964 Jenner was the Warren Commission's liaison with the FBI and other intelligence services, which gave him primary responsibility for assigning investigative tasks to the correct agency. It is unfair to call the FBI the Commission's investigative arm, Jenner said recently, because the Commission also used the CIA, the military intelligence services, state police, US attorneys and members of the Commission staff to "check and cross-check" every piece of information received. "As liaison," Jenner said, "I used the FBI very carefully. You know we were very critical of them. I used them only in investigating situations that had arisen subsequent to Dallas."

Jenner's overriding concern today is that "responsible journalists" not follow the clique of "bookwriters and theorists" who seek to poke holes in the Commission's work. "I understand the people," Jenner said. "The poor public, they're getting confused. They'd like some reassurance. They'd like to be quieted." But he doesn't believe that a new investigation would come up with the answers they seek. "You have to be very careful of politicians who are up for reelection. They get letters from all kinds of people who are confused, and want to be comforted. They want a new investigation so that they can feel better about their President, about their country." The politicians, Jenner said, respond to the pressure, but "don't investigate much." His experience with congressional committees leads him to believe that "the odds are 95 percent, no accomplishment and 99 percent, a thorough confusion."

The new information that has come to light about the FBI and CIA in Jenner's view is immaterial to the Warren Commission's work. Jenner said it seemed unimportant to him whether Oswald had or had not delivered a threatening note to the FBI because it would not change the chief conclusion of the Commission, that Lee Harvey Oswald killed the President without assistance from anyone. As for possible involvement of the CIA, Jenner said, "It is a horrible thing to think that

an agency of the United States was engaged in assassinating a President. Is it possible? Sure, anything is possible. Is it probable? Absolutely no." He opposes any reopening of the investigation unless it can be shown that the questions to be examined "if resolved, would lead down to a material modification of the Warren Commission report." Otherwise, he would not "disturb the people" with another inquiry.

As this sample illustrates, the staff of the Warren Commission believes that it did a thorough job of investigating the leads it discovered in 1964. None of the men interviewed in September felt there was a basis for reopening the case at this time, or even for reviewing parts of the investigation. But doubts persist. As Lee Rankin said, "All our thoughts about the FBI and CIA are different since Watergate." Rankin himself still wonders how Oswald could have been killed in a police station. Everyone involved in the investigation seems to have a few unanswered questions like his.

Public questioning of the Commission's work revived this year with the discovery that the FBI and CIA withheld embarrassing information from the investigators 11 years ago. The *Saturday Evening Post* in its September cover story inquires once again into the "unsolved mystery" of the Kennedy assassination. *New Times* recently published a two-part article discussing the theory that Lee Harvey Oswald was merely a patsy for a crime arranged by some influential conspirators. *Skeptic* magazine devoted its most recent number to the question, "Who killed John Kennedy?" *Time* last week quoted "FBI sources close to the investigation" who believe that John Mohr, former administrative chief of the bureau, ordered the threatening note from Oswald destroyed.

Is there cause for a new investigation? Sen. Richard Schweiker (R, Pa.), a member of the Select Committee investigating US intelligence activities, thinks there is. On September 8 he held a news conference to announce that he would like the Senate to extend the charter of the committee on which he sits to include the Kennedy assassination. Specifically, he would like to examine the CIA and FBI files on Jack Ruby and Lee Harvey Oswald to find out whether these men were actually tied to the intelligence agencies in ways the Warren Commission failed to discover. In addition, he wants to reexamine the performance of those secret agencies during the Warren investigation to determine whether they cooperated fully. To do this, Schweiker must get permission from Congress. At the moment, he cannot convince his own committee. Chairman Frank Church (D, Idaho) and Vice Chairman John Tower (R, Tex.) said they didn't believe there was enough evidence to warrant such an inquiry, and, passing the buck, they suggested that some "separate committee" should be assigned the task. That was a polite, if temporary, way to relieve the pressure.