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THE DIRECTOR OF CENTRAL INTELLIGENCE

WASHINGTON, D.C. 20505

OLC 79-0113/c

Legislative Counsel

13 February 1979

Mr. G. Robert Blakey
Chief Counsel and Director
Select Committee on Assassinations
House of Representatives
Washington, D.C. 20515

Dear Mr. Blakey:

Forwarded herewith are comments on draft reports forwarded by you recently. The section titled Cuban-American presents some questions that require more detailed review and will be the subject of later comments. If comments we make are adopted, we agree with unclassified publication. (U)

Oswald, Was He or Was He Not, a CIA Agent?

It is understood that this is intended for unclassified publication, so comments will relate to security and accuracy. (U)

Page 2. The HSCA investigators did not review the "CIA's 144-volume Oswald File." They did read 19 volumes of the CI Staff 57-volume Oswald file. There were another 87 so-called "bulky" files in the CI Staff Oswald file, of which 16 have been reviewed. Of the seven volumes held by the Office of Security, four were reviewed and part of a fifth. If FOIA materials released by the Agency were read elsewhere, it still would not constitute the same thing because of sanitization, in addition to which the organization of the files would be missed. Whatever was read, as stated it is incorrect. (U)

Page 4. The statement "nor was there always an independent means of verification that all materials requested by the Agency were, in fact, provided," leaves the gratuitous inference that there may have been some withholding. If there were files in the Agency that were not made available, it simply would have been because they could not be found in response to the less than effective manner in which some materials were requested. In any event, before the above statement in the draft can honestly be made, it would have been necessary for the HSCA investigators to have read all the materials made available to them. They did not. It is estimated that some 20% of the files made available for HSCA investigators were not reviewed; some of those are very voluminous. (U)

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Page 5. The reference to "institutional obstacles," must be stated in the context of security standards. Once the Committee accepted the Agency's standards the only remaining problem was one of relevance (under first sentence of the agreement between Chairman Stokes and the DCI dated 19 August 1977), and the ability of the HSCA investigators to explain what they wanted. (U)

Same page. It would be appreciated if the report did not state that "the vast majority of CIA files made available...were reviewed in unsanitized form." While a majority of the files made available were reviewed, and the great majority of these were unsanitized, we would prefer not to have it advertised, even if it contributed to the credibility of the Committee's report. (C)

Page 7, continuing to middle of page 8. New phraseology to remove operational detail: (U)

"To investigate this matter further, the Committee interviewed those officers who had been chiefs and/or deputy chiefs of units within the Soviet Russian Division during 1959-61, and who had been responsible for clandestine activities. The heads of the clandestine activity section stated that, because of his obvious instability, Oswald would never have met the Agency's standards for use in this field." (U)

Page 8. First footnote. This discussion should be deleted because of its explicit reference to details of the legal traveler program. However, if some reference is necessary, the following language is suggested: (U)

"The practice at that time of seeking cooperation of selected foreign visitors to the USSR for limited purposes, involved approaching them prior to their trip. As Oswald went to the Soviet Union in 1959, only the years 1959-62 were checked by the Committee." (U)

Page 8. Second footnote. Suggested correction of phrasing. One officer "claims to believe," as distinguished from "acknowledges" the possibility of a "vest pocket" operation known to no one. That such an operation might be conducted, known to but one or two, would be possible only if not in behalf of the Agency. The HSCA investigators have had explained to them, in extenso, the variety of cross checks and controls, administrative, financial and operational, that work against such a secret operation. If someone--as could any member of the HSCA staff, for that matter--wishes to conduct a private operation of some sort, one would have to accept in theory the possibility. But it would be no more of

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a CIA operation, in one instance than the other. Even the case cited as the basis for the suspicion of HSCA investigators is cited selectively and out of context. There is substantial significance, especially in the present context, that the activity they have in mind was not run the way that they depict it. See ZRRIFLE comments. At some point one would assume that supporting evidence would have to be presented, or theorized remote possibilities must be dropped or severely qualified. (U)

Page 9. Top two lines should be rephrased as follows to avoid specific reference to the legal traveler program: (C)

"...Soviet Russia Division's section which sought the cooperation of visitors to the Soviet Union...." (U)

Page 9. First complete sentence, stating "(t)hese Agency officials...." should be deleted. It could serve to focus Soviet operational attention on "clean-cut college graduates," who might visit the USSR from the U.S. In any event, it is incorrect; undergraduates as well as graduates agreed to cooperate when this program was in effect, as well as non-college types. Reference by Agency witnesses probably were made as illustrative rather than in the literal sense that it was heard by HSCA investigators. (C)

Page 10, ff. It seems that Wilcott hardly merits the space devoted to his allegations. The Committee itself has discredited his testimony and to further serve his propaganda aims is questionable. In any event, his location in [redacted] reveals a post that has not been acknowledged by the U.S. or the [redacted] governments, and further publicity could have political repercussions. It provides the opportunity to have Wilcott speak with apparent authority and credibility as to his work. This even includes his claim to having "unknowingly disbursed payments for Oswald's project using that cryptonym." How he could have, in the first place, having arrived after Oswald left [redacted] is dubious (a fact not noted in the draft). But the allegation of other operational disbursements there could prove troublesome in a number of ways. It serves no purpose and we believe should be deleted. (C)

If some reference seems necessary, it is suggested that naming of Wilcott be replaced by reference to an unnamed former employee who served at an unnamed foreign post. This would, of course, necessitate other deletions. (C)

Lee Harvey Oswald's CIA File

Page 15. Bottom line. The phrase "...bringing all of the CIA's information pertaining to that..." is incorrect. Not all papers will be in such a file; some will be held elsewhere on occasion. The phrase

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should read "...consolidating certain CIA information pertaining to that...." (U)

Page 16. Top line. In line with the foregoing correction, this should read "...individual into one folder belonging to the Directorate of Operations,...." (U)

Page 16. Third line, second paragraph. The file was opened "purportedly" because of counterintelligence consideration. This has been belabored elsewhere in the drafts. Yes, he did meet the criteria for constituting a possible CI threat, so it was permissible to open a file on him if it appeared desirable. The Committee has been advised of the primarily administrative reasons that, joined with other considerations, led to the actual opening of the file. Further, the Committee is aware of only one--not "at least" one--instance where concealed files were contemplated (is the phrase "forged documents" literally correct?). In any event, the fact remains, the thought was not implemented (1) because minimum records were all that were necessary in that case (although records were kept), and (2) an official agency operation requires some basic documentation, as noted elsewhere. (U)

Page 17. Footnote. The cited missing document (Third Agency--naval--documents) are in the file, and were there when reviewed by HSCA investigators. This is detailed elsewhere. (U)

Why was the file opened...a year after his attempt to defect?

Reiterating explanations given elsewhere, there was no requirement to open a file. The judgment of the officer in question controlled. (U)

Page 18. Top of page. While the cable could provide a proper basis for opening a file, if there was reason for doing so in the absence of a requirement to do so, it was also quite proper to have decided against doing so. It tends to boil down to a matter of proper judgment then, against what a novice might think 20 years later, because Oswald killed the President. The basic consideration is that there was no requirement to open files; the administrative objective is to hold down the number of 201 files. There had to be a reason as well as there being information meeting the criteria that constituted a threshold for whether one was even permitted to open such a file. (See comments on draft at pages 2000589-2000590, Issua A - #2, Opening of Lee Harvey Oswald's file.) (U)

Page 19. At the time mentioned, the organization was the Directorate of Plans, not the "DDO." (U)

Page 20. Suggest the sentence end with the date of opening of the file, 9 December 1960. The immediate cause of opening the file on Oswald was the administrative action arising from a State Department inquiry. That preceded his queries about "reentry into the United States." While the memorandum is quoted correctly, the memorandum is incorrect. (U)

Page 20. The opening form provided only a space for citing a "source document." It was customary to refer to an organization, when the opening action was taken on its authority, as in this case. (U)

Page 21. Presumably the reference meant to say "State Department files." (U)

Page 22. A "seemingly long delay" would seem so only to those not familiar with the procedure for opening 201 files. Perhaps the HSCA investigators feel in some way that there should have been a requirement, but there was not, and there should not be. The implicit criticism reflects a continued failure to grasp this operation. (U)

Page 24. Has the draft erred in using the name "Lee Henry Oswald" at the end of the first paragraph? Did the author not mean that had records on Oswald been sought in his correct name, Lee Harvey Oswald, it still would have been found although indexed under Lee Henry Oswald? (U)

The letters "AG" on the opening sheet of the Oswald 201 file

Page 25 ff. The draft emphasizes the memory of the witness (a man with quite a good memory on many things). Unfortunately, his memory betrays him on the timing of the institution of the "AG" symbol. Agency records show that it was in use prior to the assassination of President Kennedy. Perhaps the witness recalls it coming to his attention during the investigation and now believes that it was developed then, but the records show his present recollection on this detail to be in error. Part of the problem with this write-up is that the investigators sought the answers from people years after the fact rather than asking officially; when an official request finally was made, the answer was readily available. The effect of that lost time is reflected in the long treatment of a non-issue. (U)

Page 26. Rather than referring to "its records handbook," it would be preferred if the phrase "a records manual" were substituted. (U)

Was there a dual filing system on Oswald?

Page 29. Second paragraph. The words "changed" and "change" should be "charged" and "charge." The meaning is significantly varied by this error. The basic operation has to do with the practice of desk or case

officers to hold some files. Their possession of the file is recorded centrally, i.e., it is "charged" to them. This records accountability procedure is one of the considerations central to an understanding why "fake" files are not possible on an official Agency operation. Someone not understanding it might consider the central "charge" record to be an indication of "duplicate" files. In any event, there would always be the indexed (but not consolidated) general files, but "duplicate files" in the sense of concealment is an incorrect characterization; such a characterization would, again, reflect basic misunderstandings. The hypothetical premise is in error. (U)

Were 37 documents missing....?

Page 30-31. Delete sentence at bottom of page 30 and top of page 31. It refers to a classified document. (C)

Page 32. Bottom of page. The statement of what the Committee "was aware of from its outset" about a dual filing system, betrays a preconception rather than a fact. "This awareness (sic) was heightened into concern" by the rough notes when the ZRRIFLE program was in its first planning stage. That someone considered such a thing--and clearly did not employ it--demonstrates only that such a thing was considered and not carried out. It does not mean that it could have been done successfully. A reference file has to be held in the central filing system, and it will tell where the full file is (see above comments). There can be no official operation without a record file. The key consideration, if evidence is of any concern to the Committee, is not that Harvey thought about it, but that he did not do it. Why? Because he could not. A lot is draped over the unimplemented ZRRIFLE notes, and extrapolative speculation covers the lack of supporting evidence. This was commented on in a previous letter to you from me dated 27 September 1978. (U)

Page 33. Top of page. There seems to be an editorial error, in which reference is made to "an Agency relationship with the CIA." The context is not clear enough to reveal what is intended. (U)

Page 38. Footnote*. There were not "50" communications in the folder. There were 30, and some of these were not relevant to Oswald. (U)

Page 39. It is not at all clear why reference to Oswald in a CIA file would "raise a question of whether he was, in fact, involved in some sort of CI project." Perhaps because the reviewer did not understand. Having asked the question, it appears that there is a compulsion to write about it. (U)

Page 42. Delete reference to retired employee as "under cover." (C)

Page 43. Please describe Mrs. Egerter by position in lieu of using her name. "The CI Staff officer who opened the Oswald 201 file." (C)

Page 47. Request omit specific reference to "legal travelers program." While the program is inactive at present, it may be activated at some time in the future. It is an intelligence method, and publicity on the concept would jeopardize those who may participate in the future. (See earlier notes.) (C)

Page 48. The reference to "the CIA's New York field office" should be changed to "a CIA field office." (C)

Page 59. Request that the last sentence in the paragraph ending in the middle of the page end after "Joint Press Reading Service," and that the rest of the sentence be deleted. It represents a working relationship with liaison services. (C)

Same page. Request that second sentence, next paragraph, be solely "(t)he application was withdrawn," the next sentence starting "(s)he acknowledged being debriefed by an Agency employee, etc. etc." There should be no reference to her being denied a security clearance. (C)

Page 60. Footnote. Delete reference to "Donald Jameson or James MacDonald" and the two places where "Mr. Jameson" appear elsewhere in the same footnote. This can be handled by ending the first sentence with "C.I.A. employee," deleting the remainder of that sentence, and substituting the phrase "the person interviewing her," where the name "Mr. Jameson" appears. (C)

Page 61. The legal traveler phraseology problem noted earlier. The last sentence in the first paragraph ending on that page might be better phrased as follows: (U)

"An interview with the former Agency official responsible for seeking cooperation of selected visitors to the Soviet Union during the years 1958-1961, confirmed that Ms. McMillan had not been used by the CIA." (U)

Page 65. Delete "at Harvard University," and change next line to read "of his access to others who might be going to the...." This merely tells the story while generalizing the specific operational activity. (C)

Page 66. The two complete sentences at the top of the page should be rewritten to avoid mention of cover arrangements, per se, The following language is suggested: (C)

"Moreover, he added that Snyder went to the State Department as a bona fide employee. This information was confirmed by a former State Department official familiar with procedures for State Department relationships with CIA employees." (U)

Page 66. Following the statement about Dr. Davison's expulsion from the USSR, end the sentence with a period after "...from the Soviet Union." The next sentence would commence, "(a)fter the assassination of...." This refers to a specific operation that retains certain CI considerations. (C)

Pages 69-71. Request deletion of all paragraph starting on page 70 with "Davison admitted his involvement," as well as the paragraph starting the next page with "(a)ccording to his instructions..." and the paragraph starting on page 72 with "Davison denied participating in any other intelligence activity...." The last paragraph on page 72 could stand as written, with deletion for editorial purposes of the word "(a)ccordingly." (C)

Page 72 ff. George de Mohrenschildt. Request J. Walton Moore's name be replaced by description. "CIA local representative." (C)

Page 77 ff. William D. Gaudet. Mr. Gaudet's name should not be revealed. The summary quoted on page 80 reveals personal details and reference to financial loans and should be deleted. (C)

Page 77. Footnote. As it did not involve a CIA employee, suggest deletion in third line of statement "and a CIA." (U)

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Page 81. Oswald in Helsinki en route to USSR. At page 85 reference to the CIA file on Soviet Consul should be deleted, as should the reference to [redacted] (showing the existence of CIA operations in a sensitive location). On page 86 reference to a [redacted] [redacted] should be deleted; it should suffice if it was simply stated that "a dispatch from the Embassy, dated 9 October 1959...." The reference to a [redacted] on page 87 should be deleted. (C)

Page 89. The absence of a reference to the origin of the communication conceals the location, and there is no objection to this form. (U)

Very truly yours,

S. D. Breckinridge

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