104-10419-10277

S E C R E T

2 May 1975

MEMORANDUM FOR: Deputy Chief, Operations Staff

SUBJECT : Review of Agency Holdings regarding Photograph of Unidentified Individual in Mexico City published by the Warren Commission

REFERENCE : Letter dated 15 April 1975 by Mr. David W. Belin, Executive Director of the Commission on CIA Activities within the United States, to Mr. E. Henry Knoche (copy attached to accompanying report)

1. This is further to, and in completion of, my interim memorandum of a few weeks ago.

2. The attachment is a detailed review in narrative, chronological order - together with appropriate commentary - of our extensive holdings on the OSWALD case that have a bearing on the matter of photographs taken by Mexico City Station on 1, 4 and 15 October 1963 of an Unidentified Individual. As a consequence of a combination of analytical error, misjudgement and under the stress of an urgent desire to contribute to the development of the investigation of the assassination, a cropped version of one of the photographs of the Unidentified Individual was introduced into the chain of evidence in the OSWALD case on 23 November 1963 by an FBI representative in Dallas. The successive vicissitudes which have now made this event a cause celebre right down to the present moment are detailed in the narrative.

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3. The attached report is not intended to be an answer to the Fensterwald/O'Toole article which Mr. Belin attaches to his memorandum. (I have prepared a paragraph-by-paragraph refutation and comment on that article, which I believe is more appropriately handled by a separate memorandum to Mr. Belin, and I will prepare this as a memorandum if that is desired.)

Not done: no "desire" was referred to me, RSR 5/10/75

4. The point of the referenced memorandum is that consideration should be given now to "whether or not the entire matter can be fully disclosed at this time." This submission is designed to make it possible for you, the IG and others whom you may desire to consult to make this decision. The narrative-interpretive summary has been put together in such a way that it discloses no cyptonyms, pseudonyms or other CIA jargon. However, its contents go well beyond what has been released to the public thus far in the Warren Commission documentation. This point must be borne in mind in making a decision on Mr. Belin's question. To remove any question in anybody's mind about our good faith in this matter, the narrative is backed up by copies of actual documentation from our files. It seems to me necessary, in reply to Mr. Belin, that he or his representative review the documentation that backs up the narrative. The documentation has not been keyed into the narrative presentation, but it follows the chronological order of presentation from 9 October into the latest developments in the matter, and there is an overall index to facilitate reference to individual items. [NB: There is only one copy of this collection; this is it.]

The IG needs his own copy of the entire package, including all attachments. RSR 5/10/75

5. As noted above, one of the photographs taken in Mexico City on 4 October 1963 was introduced into the Warren Commission public record. However, it was introduced into that record in two cropped versions. The Warren Commission and its staff were made fully aware in the course of their inquiry at Headquarters and in Mexico City of the origins of the photograph, the fact that we had additional photographs of the same individual taken at different times in Mexico City and on the basis of full knowledge of these facts reached their own conclusions regarding the irrelevance of the photograph to OSWALD and the assassination.

6. In fact, we actually hold twelve different photographs of the Unidentified Individual. Each of these ~~are~~ reproduced in the collected documentation backing up the narrative report (see Items 25 - 27). Chief, LA Division,

had indicated in writing to Chief, CIOPS, that he has no objection for Mr. Belin to do whatever is desired with these photographs at this time. It should be noted that Mr. Fensterwald in 1971 - 1972 was actually shown, by Mr. Houston during a visit to the Agency, two of the twelve photographs, other than the one already published in the Warren Commission report. (It is these two that he has published in The New York Review of Books article which Mr. Belin attaches to his memorandum.)

7. It seems to me that whoever makes a decision on whether the entire matter can be fully disclosed at this time should bear in mind that a subsidiary decision must also be made, i.e., whether to crop or otherwise fuzz up the background of the photographs or, alternatively, to publish the entire run of the photographs for the first time without taking out the background. Obviously, none of these questions apply to the passage of this material to Mr. Belin and the Rockefeller Commission itself. I think they should see the entire documentation as it stands. Perhaps after that, the question of what could be discussed and the question of "how?" and "how much?" could be taken up with Mr. Belin himself. My personal recommendation is that the more we can say about this matter in a fully open and final manner, the better off we will be as an Agency. But it is my understanding that there are still sensitive aspects deriving from the fact that the operation which produced the photographs was [redacted] and as a consequence publication at this time would create additional problems at that level in Mexico. Also, it should be noted that the Ambassador, according to Win Scott's memorandum to J.C. King on 22 November 1963 (see Item 8 in the backup documentation), allegedly played a direct role in the decision to put the photographs into the hands of the FBI in Dallas laterally from the Field. As far as I know, there has not been anything published about this aspect at any time in the past nor have we had any discussions with the State Department about that aspect of the matter.

Raymond G. Rocca

Attachments:
as stated

2 May 1975

SUBJECT : The Photo of an Unidentified Individual in the Warren Commission Report: A Factual Chronological Survey

REFERENCE: Memorandum by David W. Belin to Mr. E. Harry Knoche, 15 April 1975 (Attachment A)

1. Reference memorandum suggests it would be appropriate to reconsider full disclosure at this time of the circumstances and factual data relative to the Subject. The purpose of this survey is to permit a realistic evaluation of the suggestion.

Background

2. This examination and summary photograph considered by the Presiden of President Kennedy (hereinafter cit introduced into evidence as Odum Exhil (together with others of the same indi

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1 See Hearings Before the President's of President Kennedy (hereinafter cite

sensitive intelligence operation being conducted in October 1963 by the [redacted] against the Soviet and Cuban Embassies in Mexico City.

3. Under the extraordinary press of effort to develop information on the assassin and the assassination, copies of the photograph were made available by CIA's Mexico Station Chief on the afternoon of 22 November to the local FBI representative, and later that day, assertedly on the decision of the Ambassador, copies were conveyed by an FBI representative by a special flight carried out by the U.S. Naval Attaché to the Dallas office of the FBI for possible use in the ongoing investigation. One photograph, cropped by the FBI, was shown to Mrs. Marguerite OSWALD (Lee Harvey OSWALD's mother) in Dallas on the evening of 23 November 1963 by FBI Agent Bardwell D. ODUM.

4. The Warren Commission's report describes the sequence of events at pp. 364-365 and 667 (Attachment B) which ultimately resulted in Mrs. Marguerite OSWALD's allegation that she had been shown a cropped photo of Jack RUBY the day before he murdered her son. (A further complication compounding this erroneous conclusion was the fact that when she had been shown a copy of the <u>same</u> photograph in her appearance before the Commission, it had been cropped by the FBI in Washington in a slightly different manner.)

5. No detail in the Warren Commission report illustrates more vividly than this one the difficulties that beset simple truth in the

politicized, rigidly deterministic interpretive climate that has been nurtured by the media over the past decade about the Kennedy Assassination. The photograph, acknowledged now not to be RUBY, has continued to preoccupy "specialists" and has become the centerpiece of another hypothesis that holds OSWALD to have been "framed" by the use of a double in his activity in Mexico City.[2]

Lee Harvey OSWALD - Reporting on Mexico City Stay

6. Although in no way related to Lee Harvey OSWALD or his stay in Mexico City from the morning of 27 September 1963 to the morning of 2 October 1963, at least one set of photographs of the unidentified man originated during OSWALD's stay there. It is important, therefore, to an understanding of the acquisition and handling of the photographs by the Mexico Station to review what the Station ascertained and did with the information it developed about OSWALD in Mexico City, together with Headquarters action on that information.

7. From all credible evidence known to this time (none, incidentally, added since the exhaustively unique work of the Warren Commission), Lee Harvey OSWALD spent four (4) full days and two (2) partial days--about 116 hours in all--in Mexico City from about 10:00 a.m. 27 September

2 This is the thrust of the article "The CIA and the Man Who Was Not Oswald" by Bernard Fensterwald and George O'Toole in the New York Review of Books, a copy of which is attached to reference (Attachment A).

1963 to about 8:30 a.m. 2 October 1963. His place of residence was a small commercial traveler hotel, not frequented by "gringos"--the Hotel Commercio--where he was registered under alias. Exhaustive and detailed interviews and interrogation by the Mexican authorities and the FBI, after the assassination, established that in the recollection of all hotel personnel he left early and returned late each day of his stay.

8. Assuming, and allowing for the fact of late arrival and early departure, that he slept one-third of the time of his stay (38 or 39 hours), there remain some 78 hours of activity to be accounted for. Overall, CIA's information can account solely for very brief periods during 27, 28 September and 1 October. All coverage by CIA during the entire period was technical. The Station had no live source (living agent)

9. It should be noted that OSWALD was in no sense "under investigation." None of the facts of his defection and stay in the USSR and return to the U.S., 1959 - 1962, were known to Mexico Station files before 10 October 1963, when the bare bones of his biography were forwarded by Headquarters in response to a Station cabled report of 8 October which had forwarded, on a routine basis, what appeared to be a contact by an American for a visa to Cuba in transit to the USSR. This was indicated and deduced from technically acquired information on 1 October, which was the first and only occasion in which OSWALD identified himself (partially) by true name.

10. At no time during his stay in Mexico City did the CIA acquire a photo of OSWALD. A careful review of all coverage, voice intercept, as well as photographic, of both the Soviet and Cuban Embassies was conducted by the Station on 22 and 23 November 1963 after the assassination, going back to materials from August 1963. It is, therefore, firm that there was no CIA photo coverage of OSWALD at any time during his Mexico trip or stay in Mexico City. Moreover, although it had made a cabled request on 15 October, the Mexico Station had no photo of OSWALD in its records, nor did it receive one from Headquarters--which did not have one either--before 22 November 1963.

11. ~~During~~ This intensive review of voice intercept transcripts by the monitor and other personnel on the basis of the 1 October intercept--which had been reported to Headquarters and disseminated to the interested members of the intelligence community (as an ex-Marine OSWALD was a Navy and FBI case under the Delimitations Agreement, and potentially of interest to the Department of State)--turned up matches based on content with materials intercepted on 27 and 28 September 1963. These matches were reported to Headquarters on 23 November 1963. Analysis based on voice comparison (except for what could be recalled by the monitor--and this was not an insignificant element because of the memorably poor Russian spoke by OSWALD) could not be made because the tapes, in accordance with the normal practice, had been erased and re-used.

12 It must be stressed that the voice intercept and photographic coverage was not (and normally is not) processed in "real time." The means of acquisition and the volume of the information precludes anything but the spot reporting of items judged by the monitor to be of more than ordinary interest and, therefore, noted in summary logs. Full texts of selected items require consultation of the tape and either a full transcription or full translation or both. Photo coverage tends to become available in quantity lots which requires scanning and selection on a rapid and accelerated basis in four or five day "peaks." One of the "triggers" that normally operates to focus and accelerate more speedy review and reporting of this kind of raw intelligence is the mention of a name. This was precisely what occurred in the second of two conversations on 1 October with the Soviet Embassy, during which the speaker said he was "Lee OSWALD." It was this information reported by the Station to Headquarters in its first indication on OSWALD on 8 October 1963.

13. The Mexico Station did one more thing in its 8 October report on Lee OSWALD based on its 1 October voice intercepts: it coupled the data with descriptive information it had acquired from a sensitive collateral source--a photograph of a male individual, apparently an American, who was observed entering the Soviet Embassy on 1 October. The Station reported this detail on the 8th as a matter of coincident fact. The Station did not assert or suggest that the data deduced from the photo was in fact OSWALD, or indeed, was in any way related to OSWALD.

Lee Harvey OSWALD - CIA Coverage of His Mexico City Stay

14. One additional element of background must be stipulated now as the final precondition to understanding the relevance (or irrelevance) of the photo of the unknown individual placed in the chain of evidence on 23 November in Dallas by FBI Agent Bardwell ODUM: what was the totality of CIA Mexico's coverage of OSWALD's activity as of the afternoon of the 23rd when all available coverage had been checked?

15. The totality of Mexico Station coverage on, or reasonably inferable to be OSWALD, consisted of five (5) voice intercepts as follows:

a. 27 September 1963 (Friday), 1605 hours Mexico City time. Silvia DURAN, a Mexican national, a local employee of the Cuban Embassy, Consular section, a receptionist, speaks with an unknown male at the Soviet Embassy. Silvia DURAN tells the man that the American citizen was there, the one who wants a visa for Cuba on his way to the Soviet Union, and he wants to know with whom he was talking there because she (Silvia DURAN) had sent him to the Soviet Embassy saying that if they accepted him and gave him a visa, then the Cubans (Embassy) would also give him a visa without further paper work, only advising Immigration in Cuba. The American, she says, wants to know with whom he had talked there because he says he was told there would be no problem. The man in the Soviet Embassy says to wait a moment. A different Soviet speaks, and

Silvia DURAN explains the same thing to him. This man says to leave a name and telephone number and says he will call back. Silvia DURAN gives the telephone 11-28-47 (Cuban Consulate). She also takes advantage of the conversation and states she has moved and wants to advise the Soviet Embassy of her change of address so that she can receive the Soviet Embassy's Bulletin. The man says to call KOUKHARENKO to give her new address, then he asks the name of the Consul or Cultural Attaché. Silvia DURAN says the name is Teresa PROENZA and the telephone number is 14-13-26. The man says thanks.

b. 27 September 1963 (Friday), 1626 hours Mexico City time. An unidentified male, a Soviet, calls the Cuban Consulate, asks Silvia DURAN if the American had been there. Silvia DURAN says he is there now. The Soviet says the American showed papers from the Consulate in Washington, that he wants to go to the Soviet Union and be there for a long time with his wife, who is Russian, but the answer has not come from Washington in respect to this problem, and according to this procedure it takes four or five months, but without having permission from the Soviet Union they should ask, or better said, they cannot issue a visa there without asking Washington. However, according to this man, he showed a letter indicating he was a member of an organization in favor of Cuba and that the Cubans said that they cannot issue a visa without his having a visa

for the Soviet Union, and now he (the Soviet) does not know what to do with him (the American), because they have to wait for an answer from Washington.

Silvia DURAN agrees the same problem exists with the Cubans, that the problem with him (the American) is that he does not know anyone in Cuba and therefore if that is true it will be difficult for him to get a visa for Cuba, because he was thinking of processing his visa (for the Soviet Union), because he knew it would require waiting a long time for his visa to the Soviet Union while in Cuba, and from there go to the Soviet Union. The Soviet said the thing is that if his wife right now were in Washington she would receive her visa right now, or permission, from the Soviet Union, to return to her country, she is going to receive her visa in Washington but having this visa, she could communicate to any place this permission, for example here or any place she could receive it (visa or permission), but right now they do not have them. Silvia DURAN says certainly and they cannot give a letter either because they do not know if the visa will be approved. The Soviet says he cannot give a letter or recommendation either because he does not know him (the American) and asks to be excused for bothering her. Silvia DURAN says that is all right and many thanks.

c. 28 September 1963 (Saturday), 1151 hours Mexico City time. Silvia DURAN calls the USSR Embassy and talks to an unidentified

Soviet. She says that in the Cuban Embassy there is a North American who was at the Soviet Embassy. The Soviet says wait a minute. Silvia DURAN speaks English with someone--and comments in Spanish that they gave APARICIO telephone 14-12-99 and to take the number down--Silvia DURAN then says the American citizen is going to talk with you, i.e., the Soviet. The American first speaks Russian and the Soviet speaks English. They continue in English. The American talks broken Russian and says I was in your Embassy and spoke to your Consul. Just a minute. A Soviet takes the phone and asks the American in English what does he want? The American says please speak Russian. The Soviet says what else do you want? The American says I was just now at your Embassy and they took my address. The Soviet says I know that. The American, in hardly recognizable Russian, says I did not know it then. I went to the Cuban Embassy to ask them for my address, because they have it. The Soviet says why don't you come again and leave your address with us, it is not far from the Cuban Embassy. The American says I'll be there right away.

d. 1 October 1963 (Tuesday), 1031 hours Mexico City time. An unknown male (American) calls the Soviet Embassy, the Military Attaché's number, 15-69-87, and says to an unidentified Soviet respondent: I was at your place last Saturday and talked to your Consul. They said that they would send a telegram to Washington,

and I wanted to ask you if there is anything new? The Soviet says I would like to ask you to call another phone number? Please write it down: 15-60-55, and ask for a consul. Thank you.

e. 1 October 1963 (Tuesday), 1045 hours Mexico City time. The same person who phoned a day or so ago and spoke in broken Russian speaks to OBYEDKOV (a Soviet Embassy guard). He says: This is Lee OSWALD speaking. I was at your place last Saturday and spoke to a consul, and they said that they would send a telegram to Washington, so I wanted to find out if you have anything new? But I don't remember the name of that consul. OBYEDKOV says: KOSTIKOV. He is dark (hair or skin - ?). OSWALD says yes. My name is OSWALD. OBYEDKOV says, just a minute, I'll find out. They say that they have not received anything yet. OSWALD says: Have they done anything? OBYEDKOV says: Yes, they say that a request has been sent out, but nothing has been received as yet. OSWALD says, and what . . . ? OBYEDKOV hangs up.

16. Each of these items, including the texts of the raw intercepts, were read by, discussed with, and examined by Warren Commission staffers in Headquarters and at the Mexico Station during a stay from 8 - 13 April 1964.[3] All were made available promptly to the FBI.

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3 The Warren Commission group that visited the Mexico Station consisted of Mr. Coleman, Mr. Slawson, and Mr. Willens. They examined not only the

17. Summing up, we can state, or by free interpretation reasonably infer from the intercept evidence, that OSWALD made or could have made the following contacts with the Cuban and Soviet official establishments in Mexico City.

a. 27 September 1963 (Friday). After arrival and check-in to his hotel, OSWALD went first to the Cuban Embassy where he talked with Mrs. Silvia DURAN. The time of his first Cuban Embassy visit is unknown. The time of his second Cuban Embassy visit was about 1600 hours (i.e., just before closing). Sometime between the two Cuban Embassy visits, at Mrs. DURAN's indication, he must have visited the Soviet Embassy. We have no indication who he talked with at the Soviet Embassy.

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intercepts a - e above, but others for the 27th and one for 3 October that seemed to have relevance. These have not been included in this summary because they appear, on review, to be excludable from the OSWALD matter on logical or substantive grounds, or both, bearing in mind that the Soviet Embassy received many calls pertaining to visa matters.

On the 27th at 1037 hours the Soviet Embassy received a call from an unknown individual speaking Spanish who said he wanted visas to go to Odessa. He was told the Consul was not in and to call back at 1130. OSWALD is known to have arrived at the Flecha Roja bus terminal on bus #516 at circa 1000 hours on the 27th. It was, therefore, possible for him to have made this call. But granting this, it is unreasonable to believe the calls were OSWALD's for the following reasons:

a. The caller wanted visas, and specifically for Odessa. OSWALD was seeking a visa and never in any context did he specify the Black Sea port of Odessa as a destination.

There was no photographic coverage of OSWALD's entries into either the Cuban or Soviet Embassies on the 27th. The lack of coverage on the Cuban installation is explainable: the camera, based on the recollection of officers still in service in Headquarters, was down on the 27th because of mechanical malfunction, which was in course of correction. Why OSWALD was missed in his probable entry to the Soviet installation on the 27th is not yet explained, but no technical operation of that kind is infallible.

b. 28 September 1963 (Saturday). [Note: Both the Cuban and Soviet Embassies were closed to the public on Saturdays. Photographic coverage was normally suspended Saturdays and Sundays.]

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b. The call was directed to the correct Soviet consular number: 15-60-55. On 1 October, OSWALD first called the wrong number, 15-69-87 (the MA's number), and had to redirect his call to the correct number, 15-60-55. It seems unlikely he would have made what would have been his initial call, on Friday the 27th, to the correct number, and called the incorrect number on 1 October.

c. There is every reason to believe from the context of the intercepts, para 15, a-e above, that OSWALD's first destination after arrival and check-in to his hotel, was a visit to the Cuban Embassy.

d. The use of the Spanish language would exclude OSWALD unless he made use of an intermediary, which seems unlikely from what is known of his modus operandi.

On 3 October at 1539 hours an individual speaking broken Spanish, then English, called the Soviet Embassy and asked for a visa. The Soviet respondent says: Call on the other phone. The requestor says: I'm

OSWALD, notwithstanding the holiday schedule, went on Saturday morning to the Soviet Embassy (his second visit) where he spoke to a Consul. He apparently could not recall his new Texas address. At circa 1151 hours he went to the Cuban Embassy--his third entry--where he had registered it in his visa application the day previously. He secured the address from Mrs. DURAN and she called the Soviet Consulate presumably to permit him to give them the address over the phone. Instead, the Soviet with whom OSWALD spoke over Mrs. DURAN's telephone invited OSWALD to come back in person, and he said he would immediately. Presumably, thereupon OSWALD went back to the Soviet installation (his third entry).

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looking for a visa to go to Russia. The Soviet says: Please call on the telephone of the Consul, 15-60-55. The requestor says: One moment please, I'll have to get a pencil to write the number down. They issue the visa there? The Soviet: That depends on your conversation. I don't know about this business. The requestor asks for the number again. The Soviet gives him the number and tells him to ask for the Consul of the Soviet Embassy in Mexico.

The relevance of this intercept to OSWALD is excludable on three grounds:

a. The use of broken Spanish. OSWALD throughout used broken Russian or English. He had no competance in Spanish to handle a conversation of this kind.

b. The substance of the request indicates a visa request in the first stages of initiation. OSWALD had developed his matter with the Cubans and the Soviets the previous Saturday to a point well beyond the stage indicated by the substance of this call.

c. 29 September 1963 (Sunday). No activity registered.

d. 30 September 1963 (Monday). No activity registered. (It is known that OSWALD reserved space this date on a Mexico City-Loredo bus, departing 2 October 1963 at 0830 hours.)

e. 1 October 1963 (Tuesday). OSWALD made at least two calls, at 1031 and 1045 hours, to the Soviet Embassy. He identified himself twice during the second call when he talked with OBYEDKOV--a guard--and referred to his talk on Saturday, probably with KOSTIKOV. There was no photographic coverage of OSWALD on 1 October; if the following reasoning is correct, that was as it should be. From the context of the two calls, there would have been no reason for him to go to the Embassy. His case had clearly been placed at the sufferance of the USSR Embassy in Washington. His two calls on 1 October were concerned with whether any reply had been received from Washington. Under those circumstances, it is unreasonable to believe OSWALD would have gone to the Soviet Embassy on that date.

18. The camera at about mid-day registered the entry into the Soviet Embassy of a white-shirted individual who, in the opinion of the

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c. OSWALD had left Mexico City, based on all the credible evidence, the early morning of the previous day, 2 October, and could not have made this local call.

Station, among all the persons photographed that day, appeared to be the only person--a non-Latin, and possibly an American--who entered the Soviet installation. On the chance there could be an association between the identification data derived from the voice intercept and the descriptive data derived from the photograph, the Station reported the two elements as separate facts in its cable to Headquarters on 8 October.

19. The Station's action was not unusual and really amounted to an analytic "quantum leap," justified by the primitive and initiatory status of the OSWALD identification. Many examples of a similar kind of thing can be found in the day-to-day record of Station-Headquarters correspondence and reporting.

Developments from 8 October - 22 November 1963

20. Mexico Station reported to Headquarters on 8 October (received in Headquarters 9 October) the following initial information on OSWALD.[4]

(1) On 1 October 1963, an American male who spoke broken Russian and said his name Lee OSWALD (phonetic), stated he was at SovEmb on 28 September when he spoke

4 Cablese has been rendered here, and throughout, into readable English, without substantive changes or omissions. Cryptonyms and pseudonyms have been omitted or put into clear text.

with a consul whom he believed to be Valeriy Vladimirovich KOSTIKOV. Subject asked the Soviet guard [Ivan] OBYEDKOV, who answered, if there was anything new regarding a telegram to Washington. OBYEDKOV upon checking said nothing had been received yet, but the request had been sent.

(2) Mexico Station said it had photos of a male who appeared to be an American entering the Soviet Embassy at 1216 hours, leaving 1222 on 1 October. Apparent age 35, athletic build, circa 6 feet, receding hairline, balding top. Wore khakis and sport shirt.

(3) No local dissemination was being made by the Station.

21. On 10 October 1963 at 2012Z time the WH Division responsible for action disseminated this report to the Department of State, the FBI, and the Navy Department by routine electrical transmission, adding some collateral details drawn from a preliminary file review:

(1) On 1 October 1963 a reliable and sensitive source in Mexico reported that an American male, who identified himself as Lee OSWALD, contacted the Soviet Embassy in Mexico City inquiring

whether the Embassy had received any news concerning a telegram which had been sent to Washington. The American was described as approximately 35 years old, with an athletic build, about 6 feet tall, with a "receding" hairline.

(2) It is believed that OSWALD may be identical to Lee Henry [sic] OSWALD, born on 18 October 1939 in New Orleans, Louisiana, a former U.S. Marine who defected to the Soviet Union in October 1959 and later made arrangements through the United States Embassy in Moscow to return to the United States with his Russian-born wife, Marina Nikolaevna PUSAKOVA [sic] and their child.

(3) The information in paragraph (1) is being disseminated to your representatives in Mexico City. Any further information received on this subject will be furnished you. This information is being made available to the Immigration and Naturalization Service.

22. Although the reaction of the Headquarters desk was "by the book" and in good time, there were a number of errors in this advisory to the departments which, on the record, were concerned with the OSWALD case:

a. OSWALD's middle name was misgiven: "Henry" for Harvey. The reason for this mistake is simplicity itself. The sheet opening the file on OSWALD on 9 December 1960 had been erroneously inscribed "OSWALD, Lee Henry." That sheet--unchanged except for the notation of the error--is still the first sheet in the OSWALD file.

b. His wife's maiden name was misspelled: "PUSAKOVA" for PRUSAKOVA.

Neither of these errors are significant (though they persist in the Headquarters communications throughout the month). More important was:

c. Paragraph (2) of the Mexico Station's report, which dealt with a concurrent, but separate, phenomenon, the description of an individual observed going into and out of the Soviet Embassy, had been locked on to Lee OSWALD as an alleged descriptive fact. The Station's qualification, "appeared to be an American," was transformed in the flat designation of the unidentified individual as "The American."

There can be no question that this misreading of the Mexico Station report was an analyst's error which escaped detection in the coordination before release: the descriptive details attributed to OSWALD were so far off the mark as to be immediately recognizable as such by the recipients in Headquarters, among whom both the Navy and FBI had photos of OSWALD. (In partial explanation, if not exculpation, be it recalled that as of that moment CIA had no photograph of OSWALD in Headquarters or in Mexico City to refer to.)

23. Confirmation of this judgment is provided by the contents of the cable composed by the same analyst and sent as of 2209Z time (two hours later) to Mexico Station, referencing its 8 October cable:

(1) Lee OSWALD who called SovEmb 1 October probably identical Lee Henry [sic] OSWALD born 18 October 1939, New Orleans, Louisiana, former radar operator in United States Marines who defected to USSR in October 1959. OSWALD is five feet ten inches, one hundred sixty five pounds, light brown wavy hair, blue eyes.

(2) On 31 October 1959 he attempted to renounce his United States citizenship to the United States Embassy in Moscow, indicating he had applied for Soviet citizenship. On 13 February the US Embassy Moscow received an undated letter from OSWALD postmarked Minsk on 5 February 1961 in which subject indicated he desired return of his US passport as he wished to return to USA if "we could come to some agreement concerning the dropping of any legal proceedings against me." On 8 July on his own initiative he appeared at the Embassy with his wife to see about his return to States. Subject stated that he actually had never applied for Soviet citizenship and that his application at that time had been to remain in USSR and for a temporary extension of his tourist visa pending outcome of his request. This application, according to OSWALD, contained no reference to Soviet

citizenship. OSWALD stated that he had been employed since 13 January 1960 in Belorussian radio and tv factory in Minsk where he worked as a metal worker in research shop. OSWALD was married on 30 April 1961 to Marina Nikolaevna PUSAKOVA [sic], a dental technician born 17 July 1941, USSR. No Headquarters traces. He attempted to arrange for his wife to join him in Moscow so she could appear at Embassy for visa interview. His American passport was returned to him. US Embassy Moscow stated twenty months of realities of life in Soviet Union had clearly had a maturing effect on OSWALD.

(3) Latest Headquarters information was an FBI report dated May 1962 saying the FBI had determined OSWALD is still a US citizen and both he and his Soviet wife have exit permits and Department of State had given approval for their travel with their infant child to USA.

(4) The Station should pass the information of reference [its 8 October cable] and paragraph (1) above to the Embassy, the FBI, the Navy, and I&NS locally. The information given above as

paragraphs (2) and (3) originated with the FBI.

(5) Reference and possible identification being disseminated to Headquarters of FBI, State, Navy, and I&NS. Please keep Headquarters advised on any further contacts or positive identification of OSWALD.

24. Headquarters feedback to Mexico City of OSWALD's correct description should have been sufficient, in view of the incongruities with the details deduced from the photo of the unidentified male, to keep these two matters apart as investigative facts. But things did not work out that way.

25. Mexico Station on 15 October 1963 asked Headquarters to "please pouch a photo of OSWALD." Headquarters electrically delivered to the Department of the Navy the following message on 24 October 1963.

"Lee Henry [sic] OSWALD . . .

"It is requested that you forward to this office as soon as possible two copies of the most recent photograph you have of subject. We will forward them to our representative in Mexico, who will attempt to determine if the Lee OSWALD in Mexico City and subject are the same individual."

No photo had been received by CIA by 22 November 1963.

26. Within its limitations and capabilities, Mexico Station had done all it could to comply with Headquarters instructions:

a. Headquarters had been alerted, and in turn those agencies with an investigative or policy interest in OSWALD as an American in the United States, had been alerted, both in Washington and in the field.

b. Mexico Station had no further contacts by OSWALD to report because--as it was ultimately ascertained--he had left Mexico City on 2 October.

c. OSWALD was not an Agency investigative responsibility, in any case. Even with a photograph, it would have taken very special efforts, triggered by the other interested U.S. agencies, to have made a positive identification in view of OSWALD's hotel registration under alias.

There the matter rested until mid-day 22 November 1963.

The Insertion of the Photo of the Unidentified Individual into the Chain of Evidence

27. On 22 November 1963 the Mexico Station cabled Headquarters at 2229Z time after learning of the arrest of Lee H. OSWALD, age 24,

possibly in connection with the assassination, and referenced its earlier messages of 8-9 and 15 October and Headquarters' reply of 10 October. The Station requested by:

> "priority pouch a photo of OSWALD so that Station can check all recent coverage for OSWALD. Forwarding soonest copies of only visitor to Soviet Embassy on 1 October who could be identical with OSWALD."

28. It is clear that Mexico Station had forgotten that according to its own communication the unidentified male in the photo was of "apparent age 35" and that the accurate description of OSWALD forwarded by Headquarters on 10 October precluded the identity with OSWALD of the person whom they regarded as the "only visitor to the Soviet Embassy on 1 October who could be identical."

29. The Station meanwhile had begun an exhaustive and accelerated review of all its technical and photographic intelligence. A dispatch was prepared in accordance with the indication given in the cable of 22 November, cited in paragraph 25 above. The dispatch noted that photo coverage of the unidentified individual had turned up on 4 and 15 October at the Soviet and Cuban Embassies, respectively. The text of the 22 November 1963 pouched dispatch read:

> "1. Attached are copies of the only photographs obtained . . . on 1 October 1963 which appeared

to be an American. This same man visited the Soviet Embassy on 4 October 1963.

"2. Copies of these photographs were shown to the U.S. Ambassador on 22 November 1963 and a copy of each of the two photographs was given to Chief FBI, Mexico, on that date . . . .

"P.S. Photographs dated 15 October 1963 were inserted after typing of dispatch. These were taken as [the] person entered the Cuban Embassy."

Attached were eight photographs: four (of which two were marked 1 October on reverse) showing the individual in a white shirt, and four (unmarked on reverse) showing the individual in a black shirt. It would seem to be logical that the word "sets" was probably omitted from paragraph two of the dispatch between the words "two" and "photographs."

30. That the Station was working under forced draft is clearly apparent from the text of the dispatch, which tacked on a material fact as a postscript. That fact was reported simultaneously by cable to Headquarters at 0053Z time, 23 November:

"1. Mexico Station has photos same unidentified American type who is possibly OSWALD entering Cuban Embassy on 15 October. Searching for

possibility photo-documented entry Cuban Embassy other days.

"2. Also attempting establish OSWALD entry and departure Mexico."

31. Headquarters, at 0136Z time, 23 November 1963, asked Mexico Station to send a staff member with all photographs to Headquarters on the next available flight.

32. Concurrently with or before the foregoing cables to Headquarters, the Chief of Station, Mexico City, had spoken directly by double-talk telephone with the Western Hemisphere Chief of Division, Mr. J. C. KING, and secured permission to give copies of the photographs of the unidentified individual to the Legal Attaché and to make them known to the Ambassador.

33. What happened next is best reflected in a personal note by the Chief of Station to the WH Division Chief, mailed to the latter from Dallas, together with copies of the photographs, by the Legal Attaché's representative who delivered them to the FBI in that city.

"22 November 1963

"Dear J.C. [KING]:

"Reference is made to our conversation of 22 November

in which I requested permission to give the Legal Attache copies of photographs of a certain person who is known to you.

"Attached are copies of each of the photographs we have with the dates of the visits stamped on the back.

"At 6 p.m. Mexico time on 22 November, The Ambassador decided that this was important enough to have a member of the Legal Attache's office take copies of these pictures to Dallas, Texas. The Naval Attache is making a special flight from Mexico City for this purpose. The Legal Attache's officer who is going to Dallas has promised to mail this material to you for me.

"Copies of these photographs are also being sent by pouch which will leave Mexico City on the night of 22 November 1963.

"Best wishes.

"Win [SCOTT]"

According to a sidelined comment on this letter, the Legal Attache's officer was Eldon RUDD.

34. The decision to remit the photographs to the FBI in Dallas had been made by the Ambassador, according to the Chief of Station, who simultaneously with the FBI agent's departure reported to Headquarters by cable (0244Z time, 23 November):

> "FBI agent left here 2000 local time with two copies each of six photos of a person suspected to be OSWALD, on a special flight for Dallas. He is carrying envelope with one copy each photo for airmail special from Dallas to J. C. KING at home as per telephone conversation with SCOTT. One copy of each of these photos plus a copy of each of the photos showing the same person exiting the Cuban Embassy forwarded by memorandum leaving by regular pouch tonight. In view of above does Hqs still want a staffer with additional photo(s)?"

35. Headquarters responded two hours later, 0422Z time, 23 November 1963, cancelling its request:

> "1. No need send staffer with photos. We have asked Navy for photos again, but Mexico can see OSWALD's picture soonest on the press wire.
>
> "2. Have just re-emphasized to FBI Headquarters the sensitivity of photos you are sending and also

relaying names of travelers with similar names. Note radio says OSWALD lived under alias of O. H. LEE."

36. On the 23rd at 1729Z time, Headquarters advised Mexico City:

"The FBI says that the photos of the man entering the Soviet Embassy which Mexico Station sent to Dallas were not of Lee OSWALD. Presume Mexico Station has double-checked dates of these photos and is also checking all pertinent photos for possible shots of OSWALD."

37. And at this point, 2048Z time, 23 November, Mexico Station finally agreed:

"Saw photos of Lee OSWALD on television night of 22 November and it obvious photos sent to Dallas were not identical with Lee OSWALD held in Dallas. Dates are as given on photos.

"Mexico Station is reviewing all available photos of persons entering Soviet and Cuban Embassies."

38. Two hours later (2254Z time, 23 November 1963) the Station had reported the results of its effort to review all available coverage:

"Complete recheck of photos of all visitors to Cuban Embassy from August through first half of November against good press photos shows no evidence of OSWALD visit. Similar blank against all Soviet Embassy photos from 1 September. Note, only visit we know he made to Cuban Embassy 28 September, Saturday, on which Embassy closed and we had not had coverage . . . ."

39. With this communication the matter of the "unidentified individual" reaches the end of Phase I, the key element of which is the conviction, at first latent, then expressed, that the photographed individual might be identical with OSWALD. This applies especially to the Station, though at a certain point even Headquarters moved no rebuttal despite the hard fact that the description of OSWALD and the unidentified individual were quite disparate.

40. This review has attempted to deal even-handedly with all items in the case record that have a bearing on what happened. The operational zeal, innovativeness, and the high committment of all involved, especially in Mexico City, speaks for itself. Equally apparent--because of the 20/20 advantage of hindsight--is the evidence of non-performance. It was a critical failure, for example, that no photo of OSWALD was made available--though it was expressly requested both at Headquarters and by the field--or that it was not more aggressively

sought by CIA, before 22 November. A photograph of OSWALD would have obviated--in a way the mere possession of a correct physical description evidently could not--the whole successive deterioration of what began in Mexico City as an impressionistic selection of the photograph on 1 October 1963 into a cause celebre today.

40. It should be clear from this factual survey that never had there been a cause celebre with less intrinsic merit. It is equally clear from the facts themselves that there was nothing contrived or conspired in what happened, unless we have now descended to that point in human values achieved under STALIN in the USSR and under HITLER in Germany, where just a plain mistake is per se evidence of conspiracy.

The Genesis and Development of Odum Exhibit No. 1 and Commission Exhibit 237

41. Special Agent of the FBI, Bardwell D. ODUM, on 23 November 1963 showed one of the six photos flown up from Mexico City the previous day to OSWALD's mother, Marguerite OSWALD. ODUM himself had trimmed off the background by straight cuts. Mrs. OSWALD had no recognition of the image in the photograph. ODUM's own detailed account may be found in Hearings, op cit, Vol. XX, p. 268.

42. The photograph shows the unidentified individual in a black shirt. It was one of the five photos taken of him in front of the Soviet

Embassy in Mexico City on 4 October 1963, two days after OSWALD had left the city.

43. At this point, for the record, the total available photo coverage of the unidentified individual numbers twelve (12) photographs:

a. Five (5) taken on 1 October 1963, entering and exiting the Soviet Embassy. He is garbed in a white shirt and light-colored (khaki-?) trousers.

b. Five (5) taken on 4 October 1963 in front of the Soviet Embassy. He is garbed in a dark, open, button-down shirt with a high-neckline undershirt showing and dark trousers.

c. Two (2) taken on 15 October 1963 in front of the Cuban Embassy. He is wearing a dark, collarless T-shirt or light sweater.

The negatives of all of these are extent and are now held in Headquarters as integral parts of the OSWALD and related file holdings.

44. The result of ODUM's display of the photograph--to repeat, a cropped version of one of those noted under paragraph 43b, above--was Mrs. Marguerite OSWALD's allegation that she had been shown a picture of her son's killer, Jack RUBY, a day before he perpetuated the deed! Again the Warren Commission Report (pp. 364-365, 367) exhaustively disposes of this erroneous charge and requires no repetition here. A complicating fact developed along the way was Mrs. OSWALD's (correct) observation,

when she finally admitted before the Commission that the ODUM photograph was not RUBY, was that the photo had been cropped differently from the one she had been shown in Dallas. Inspector MALLEY's cropped version of the ODUM photograph became Commission Exhibit 237 (see Hearings, Vol. XVI, p. 638).

45. The net effect of the developments in the hearings of the Commission was to require the admission of the cropped photograph into evidence in a chain of depositions beginning with ODUM, including the FBI Inspector, James R. MALLEY (who had trimmed the photograph used by the Commission in Washington), and Richard HELMS, who deposed for the originator. These documents speak for themselves and will be found in the Hearings, Vol. XI, pp. 468-470.

46. Mexico Station and other senior Agency officers strongly advised against the publication of the photograph in any form on the grounds that the Soviets would be immediately alerted to the existence of a useful and continuing U.S. intelligence operation, and the operation would go down the drain. There were repeated cables exchanged on this point between Headquarters and Mexico Station during the summer of 1964, in particular from 23 September to 15 October 1964 when the Station had plans underway to abandon the operation.

47. In acceding to the Commission's request for a deposition, Mr. HELMS, then the Deputy Director for Plans, replied affirmatively to

Mr. RANKIN by memorandum of 23 June 1964 which included the following additional observation:

> "The Central Intelligence Agency recommends that this photograph not be reproduced in the Commission's report because it would jeopardize a most confidential and productive operation. In addition, it could be embarrassing to the individual involved who as far as the Agency is aware had no connection with Lee Harvey OSWALD or the assassination of President KENNEDY."

48. In this instance the needs of the Commission prevailed over the DCI's statutory obligation to protect sources and methods. The "Unidentified Individual" remains to this day unidentified and there is no credible evidence up to this time to rebut the assertion made by Mr. HELMS in the concluding sentence of his memorandum to Mr. RANKIN on 23 June 1964. And the operation did, as predicted, go down the drain. Within a week of the public appearance of the Odum Exhibit No. 1 and Commission Exhibit 237, members of the Soviet Embassy began systematic efforts to survey the surrounding buildings, ostensibly for rental space, but clearly their inquiries were directed to spotting possible camera sites. The operation was continued in any case. Within a year it had become almost totally unproductive in coverage on Americans in contact with the Embassy--a clear sign that this category of visitor was being warned away by the Soviets themselves.

Phase III: The "Unidentified Man" Photographs, 1964 - 1975

49. As could be foreseen, there has been persistent pressure by critics of the Warren Commission Report to exploit Odum Exhibit No. 1 and Commission Exhibit No. 237 for partisan interpretive purposes. A considerable correspondence has accumulated since the end of 1964 in which the Agency has attempted to be responsive to these requests and, simultaneously, has tried to satisfy what has been its sole interest from the inception of the matter: to protect the method of acquisition of the photograph [redacted] which made the acquisition possible.

50. Following are highlights from the correspondence during the current phase.

a. On 16 May 1967, over the signature of the General Counsel of the Agency, Lawrence R. HOUSTON, CIA voluntarily submitted a statement about the photograph to Judge BAGERT of the Criminal District Court for the Parish of Orleans, State of Louisiana. The response dealt affirmatively with the contents of the subpoena that had been delivered to the United States Marshall in the District of Columbia, despite the fact that the subpoena could not be executed because of the lack of jurisdiction.

Mr. HOUSTON proferred on Agency behalf categoric assurances to the court regarding the inaccuracy of statements and

inferences made by Mr. GARRISON in New Orleans about the photograph of the unidentified individual. The following is extracted from Mr. HOUSTON's memorandum.

> "Because of the publicity which has surrounded the Orleans Parish Grand Jury proceedings, we have recently carried out an exhaustive search of the files of the Central Intelligence Agency for any picture of Lee Harvey OSWALD taken in Mexico. As a result of this search, I can state categorically that the files of this Agency do not contain, and never have contained, any such picture of Lee Harvey OSWALD taken in Mexico and that we have no information whatsoever that any such photograph ever existed. To the best of our knowledge and information, therefore, there is no such photograph. Furthermore, the photograph which is printed in the Warren Commission Report, Exhibit No. 237 in Volume XVI, never contained more than one figure, and the figure in the photograph depicts an individual who, to our knowledge, has not been identified. The circumstances of the filing of this photograph with the Warren Commission are set forth in affidavits on pages 468 and 469 of Volume XI, Hearings Before the President's Commission on the Assassination of

President Kennedy. Consequently, we have no record of any photograph that answers in any way the description of the one we understand was requested in the subpoena.

"I hope you will accept this information in this form in the spirit of cooperation in which it is proferred."

b. The Agency has repeatedly serviced requests about the identify of the unknown individual from Mr. Emory L. BROWN, Jr., Route #4, Box 82, Squankum Road, Farmingdale, New Jersey. The last exchange of correspondence in our record covered the period 4 - 17 April 1970.

c. Detailed inquiries on the unidentified individual were received on 1 and 24 November 1971, to which the Agency responded on 15 November and 14 December, respectively, from Mr. Paul L. HOCH, 1735 Highland Place #2, Berkeley, California.

d. The most extensive effort to pursue the unidentified individual was and is being made by Bernard FENSTERWALD, Jr., who is now Executive Director of a Committee to Investigate Assassinations, 927 55th Street, N.W., Washington, D.C., beginning on 22 March 1971, shortly after the Agency declassified Commission Document No. 674, and extending through 11 October 1972, after the

FBI's declassification of Commission Document No. 556. On 8 April 1971, Mr. FENSTERWALD was invited to the Agency for a discussion with the General Counsel, Mr. HOUSTON, of his question about the photograph of the unknown individual. Two other photographs of the unidentified individual, in addition to the photograph depicted in the two Commission exhibits, were shown to him at that time. It is a matter of more than ordinary interest to note that on this occasion Mr. FENSTERWALD, who was accompanied by his partner, Mr. William OHLHAUSEN, told Mr. HOUSTON and another representative of the Agency in attendance that he knew who the unidentified man was. The following is extracted from Mr. HOUSTON's Memorandum of Record, 8 April 1971:

> "3. Mr. FENSTERWALD came to my office this morning with his partner, William G. OHLHAUSEN, looked at the other photographs, and told us he did know who the man was. He said he is presently serving a prison term somewhere in the United States and admitted that he had known OSWALD, but Mr. FENSTERWALD said there was nothing to indicate any connection between the man in the photographs and the assassination of President KENNEDY. Mr. FENSTERWALD did not give us the man's name at this time, as he said enough people had suffered unnecessarily from allegations that they were

associated with the assassination, but he did say he was sure we had a file on the man. He asked if he could have the photographs, and I asked how he could use them. He said he did not know and finally agreed that for the time being he would not press his request. . . . The whole meeting was extremely friendly and they thanked us for our response."

The following is extracted from the Memorandum of Record by the other CIA man present, Mr. Arthur E. DOOLEY.

"Mr. FENSTERWALD said he knew who the person was and had spoken to him; that the man was too nervous to come forth on his own. FENSTERWALD would not give the man's name but said he is an American, serving a prison term in this country on a criminal charge, and that he had met OSWALD in Mexico. I asked whether the prisoner had any conspiratorial relationship with OSWALD. FENSTERWALD replied he did not know the answer as he had not interviewed the man as yet. We reiterated that we did not know who the man was, and said that we would like to know his identity. FENSTERWALD replied that CIA has a

thick file on the unknown man, and that we will be furnished his name in due course . . . ."

Mr. FENSTERWALD made no reference in his subsequent conversations and correspondence to this allegation about the identity of the "Unidentified Individual," though the claim, if true, would be of direct evidential interest and possibly permit us to assert with finality what we believe has been the fact from the beginning: the "Unidentified Man" has nothing to do with the OSWALD case at all.

Attachment A: Memorandum by David W. Belin to Mr. E. Harry Knoche, dated 15 April 1975, with attachment: "The CIA and the Man Who Was Not Oswald" from the New York Review of Books, by Bernard Fensterwald and George O'Toole.

Attachment B: Pages 364, 365, and 667 from the Warren Commission's report.