MEMORANDUM FOR: Director of Central Intelligence

FROM : John H. Waller
Inspector General

SUBJECT : Bernard Fensterwald, Jr. Comments in 22 October 1976 Issue of Washington Star

1. The following is a response to your query to Mr. Seymour Bolten concerning comments made by Bernard Fensterwald, Jr.

2. The comments made by subject in the marked section of the attached newspaper clipping are partially factual and partially sheer speculation. It is true that the Agency has been particularly sensitive about the entire matter because the photographs in question originated from a highly sensitive intelligence operation which was conducted in October 1963 by the Agency and Mexican security authorities against the Soviet and Cuban Embassies in Mexico City. However, the material was not withheld from the Warren Commission. It should be noted that Oswald was in no sense "under investigation" and that at no time during his stay in Mexico City did the CIA acquire a photograph of Oswald.

3. The Agency has 12 different photographs of an individual, possibly an American as yet unidentified, who was observed entering the Soviet Embassy and later the Cuban Embassy. A cropped photograph was introduced into the Warren Commission public record. 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, and the fact that we had additional photographs of the same individual taken at different times in Mexico City. At one point our Chief of Station in Mexico City suggested that the man in the photograph was Oswald. However, this proved not to be the case. It should be noted that Mr. Fensterwald in 1971-1972 was actually shown two of the 12 photographs during a visit to the Agency, other than the one already published in the Warren Commission report. It is a matter of more than

ordinary interest to note that in April 1971 Mr. Fensterwald told Mr. Lawrence Houston, the General Counsel at that time and another representative of the Agency in attendance at the meeting that he knew the identity of the unidentified man in the photograph and that we will be furnished his name in due course.

4. All coverage by CIA of Oswald's stay in Mexico City was technical. The Station had no live source coverage either unilateral or from Mexican liaison. Subsequently, Mexican police interrogated Sylvia DURAN, a Mexican employee of the Cuban Embassy. Her testimony gave us full details on Oswald's trip to Mexcio City, and was made available to the Warren Commission. The lack of coverage on Oswald entering the Cuban or Soviet Embassies resulted from mechanical malfunction. The Agency provided the Federal Bureau of Investigation in the field in Mexico City and in Washington all of the information it had acquired.

John H. Waller

Attachment: a/s

Distribution:
Original - Addressee w/att.
1 - DDCI w/att.
2 - ER w/o att.
1 - OGC (Mr. Bolten) w/att.
1 - IG Subject w/att.
1 - IG Chrono w/o att.
1 - J.L. Leader Chrono w/o att.

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Q and A

U.S. Integrity Is at Stake In JFK Probe

Bernard Fensterwald Jr., a Washington lawyer who represented James McCord during Watergate and James Earl Ray, convicted of killing Dr. Martin Luther King Jr., heads the Committee to Investigate Assassinations, a group of private citizens that has investigated the slayings of President John F. Kennedy and others. He was interviewed by Washington Star Staff Writer Michael J. Sniffen.

Q: The Committee to Investigate Assassinations has long been suspected by some people of being somehow connected with the CIA and you yourself being labeled possibly a CIA agent or CIA plant. Are you in fact a CIA agent of any sort?

Fensterwald: No, I'm a full-time lawyer. Neither I nor my partner have ever been affiliated with the CIA or worked for the CIA either with or without pay in any way, shape or form. I have no idea where the rumor started. I don't know anyone that knows anything about my history that has ever made such an accusation. On the converse side, going back to the early '60s when I worked for the Senate as counsel for one of their committees, I did an investigation on the CIA and since then I have represented a number of clients in cases against the CIA to the extent that if there's any evidence at all, it all points in the other direction.

Q: Is it possible that the CIA or the FBI has evidence locked away somewhere that could shed new light on the investigations into the JFK assassination or perhaps Martin Luther King's assassination?

A: It's always possible, and there is considerable evidence which is under lock and key in the National Archives today which will remain classified until the year 2039 unless it is declassified by the various government agencies, primarily the FBI and the CIA. In addition to that, there are literally thousands of documents that the CIA did not give to the Warren Commission and did not go to the National Archives which have never been made public. A number of freedom of information suits have resulted in declassification of a part of this material, yet we know from the index they give us that they have a mass of material which has never been made public.

Q: Apart from material that might prove distasteful or hurtful to the Kennedy family, the JFK autopsy photographs for example, is there other evidence or do you feel there's other material under lock and key that could shed significant light on the assassinations?

A: Well, certainly from reviewing the index of the withheld material which they have been forced to supply to various district courts, you get the impression that much very vital information is being withheld. Again, I say, without knowing what that information is, it's hard to say where it's going to point.

Q: Can you hazard a guess as to what they might have?

A: No, I can't. I can only tell you so far as the CIA is concerned a large part of the withheld testimony involves a trip Lee Harvey Oswald made to Mexico just immediately prior to the assassination. No one in the public knows what this trip was all about. But we do know that the CIA has been particularly sensitive with respect to that. We do know that there were CIA cameras taking pictures of people going in and out of the Cuban and Soviet embassies and they took a number of pictures of a man they labeled Lee Harvey Oswald. From looking at him, he is obviously not Lee Harvey Oswald, but the CIA will not identify him.

Q: Would it not better serve the American public to just simply release this information and get to the bottom of the matter once and for all?

A: The Committee to Investigate Assassinations has urged through the years that all of the information with respect to the John Kennedy assassination be made public. The official solution is that Lee Harvey Oswald was a lone nut killer and that there were no other people involved and there were no international ramifications. And therefore, taking that story as gospel makes it difficult for a lawyer to see why they should cover anything. However, there is this intense desire on the part of government to keep it secret, and I think in any lawsuit where you have this sort of mania for locking the evidence up you create the suspicion that there's more there. And I don't think anybody at this time outside the government knows what happened to John Kennedy. I think the congressional committees in time will find out.

Q: It has been 13 years since the Kennedy assassination. Why reopen his grave?

A: It's not really a question of reopening his grave. I know the subject is frequently talked about in terms similar to that. I think that the integrity of our whole political process is probably at stake because whether the Warren Commission was right or wrong, I think that the American people — and the polls bear this out — have a great doubt as to whether Oswald was properly investigated. They have a doubt as to whether Oswald was a lone nut killer. And until their doubts can be satisfied, I think the integrity of the system and the credibility of the government is very much weakened.

Q: Why has it taken 13 years for Congress to become officially involved in this?

A: Well, it's a number of reasons. One, I think the membership of the Warren Commission itself contained so many outstanding people that it is difficult to believe that for whatever reason they would not seriously try to give the public a full answer. There's a great reluctance to disbelieve people like Justice Warren and Sen. Russell. Secondly, I think until Watergate people tended to disbelieve that their government could be involved in anything of this nature. But even more recently the revelations, the accounts of the CIA to kill Fidel Castro have gotten rid of the last reluctance there is.

Q: Is it conceivable that the Warren Commission — in the interests of

As a lawyer I tend to believe they made the best conclusion they could from the evidence at hand. We know of so much key evidence that was either withheld or destroyed that you get a general feeling that they had only a relatively small part of the really important material. For example, Lee Harvey Oswald wrote a threatening note to an FBI agent shortly before the assassination. In a matter of an hour or two before Jack Ruby shot Oswald, the FBI agent flushed it down the toilet. Now this was never reported to the Warren Commission. There are certain people who can link Oswald and Ruby, and this material was never passed to the commission. So I think it's a very harsh judgment to say that this very distinguished bunch of Americans — including the chief justice of the United States — purposely did not reach the proper conclusion.

Q: *How long will it take the House to investigate this affair and come to some sort of a conclusion. Will it be years away, do you feel?*

A: No, I don't think it will be that far away. The House of Representatives had two basic roads they could have followed. They could have taken their staff members, people who were thoroughly familiar with the subject but equally opinionated, or they could start with people who were good lawyers and good investigators and start with a clean mind and simply go down the same road that others have been going down for 12 years. They chose the latter. That will take somewhat more time, but with the caliber of people that have been chosen I can't see that it's going to take a matter of years. I think it will take a number of months longer than it would going the other way.

Q: *Eunice Shriver, who of course lost two brothers to assassins, has said that she would prefer the whole thing be dropped, that the investigations into JFK and Robert Kennedy's deaths shouldn't be opened. How do you respond when a family member expresses this kind of a sentiment?*

A: Well, I think all of us feel a basic sympathy, not only for Mrs. Shriver but also for Mrs. Rose Kennedy and for the remaining brother, Sen. Kennedy. But it's my own feeling that the question of what happened to the Kennedy brothers, if something more than meets the eye did occur, is really a matter of national concern and transcends their own very understandable interest in it. I think that the investigation certainly into President Kennedy's death can be done in such a way as to cause minimum grief to the family. And I think there's a very good chance that this will happen because I think the members of the House of Representatives and the members of the Church committee in the Senate are very well aware of the problem, and I can't see any reason why it cannot be done without terribly distasteful evidence being trotted out in public. I just don't think that's necessary.

Q: *You were the attorney for James Earl Ray. Do you feel that there is evidence that could clear him or alternatively to prove that he was not the lone assassin?*

A: It is my own personal belief that there was a conspiracy. I think that the question would be resolved if James Earl Ray were given a trial. I think most of us in the United States, most of the public certainly, and almost all of Washington that I know were simply amazed when a guilty plea was extracted from him and he went off to serve a 99-year term without a trial. It came as a great shock to most people and I think most people were rather disappointed in a crime of this magnitude a man would not in fact stay for a jury trial. I spent six years trying to achieve this. I must confess I was unsuccessful, but it is very possible that this investigation of the House of Representatives would achieve in a lot shorter period than six years what we were unable to do in the courts.

Q: *The FBI is now known to have hounded Martin Luther King and there has been speculation that the FBI may have some way been involved in his death. Do you subscribe to this possibility?*

A: I have seen no evidence to that effect and I have seen in both the John F. Kennedy case and the Martin Luther King case that one has to be careful to distinguish between the crime and the investigation. I think in the Martin Luther King case that the FBI because of its animosity for Dr. King may not have made what we would consider their best effort to investigate it. But we have made a long jump from that possibility to the possiblity that we had anything to do with killing. It seems to me that these are questions that gave the congressional commmittee the powers that they have. I don't really know that speculating gets anywhere.

Q: *Your Committee to Investigate Assassinations, what do you think it has been able to accomplish? Why was it formed?*

A: It was formed for two basic reasons. One was to get the critics of the Warren Commission to coordinate their efforts. The basic aims of the group were to gather information to keep the subject of John Kennedy's assassination alive until we could convince the Congress to reopen their own investigation. Fortunately, I think we've been very successful. The subject has been kept alive. As the climate in the country changed, the climate in Congress changed, we were able, with the help of a lot of other people, to persuade them go in with a full-fledged investigation. We intend to turn over all of our investigation to them and to give any other assistance.

Q: *There's been an eternal fascination with John F. Kennedy's murder. Do you think when or if the House investigation reaches its conclusion that will lay to rest finally the speculation?*

A: I believe that if this House committee continues to get the support in the next Congress that they have in the last months of this Congress, that they will investigate this killing thoroughly. I think they will cull out the leads, I think they will look at all the evidence, and if after that length of time and that length of investigating they conclude that the Warren Commission was correct, I certainly think that 99.9 percent of the people will be satisfied. I must say that in all honesty, I know of a few people who are never going to be satisfied, at least you can never satisfy all of them because they each have a particular theory. And these theories are internally inconsistent if nothing else. But I think that as a practical matter that if a congressional commmittee, and if not this one, maybe the Senate committee or maybe both of them will attack the job they are supposed to do, I think that most of the doubts, if not all of them, will be laid to rest.