

Doubt and Disbelief in the *Warren Report*

By Max Holland and Tara Marie Egan

Last October, when the Lyndon B. Johnson Library released a new batch of recordings, one of the most revealing conversations went literally unnoticed. Yet the 13½ minute conversation between President Johnson and Justice Abe Fortas on January 11, 1967—the day after LBJ had delivered his third State of the Union address to Congress—underscores one of the most striking insights ever to come from the once-secret tapes.



At the outset, in error, Lyndon Johnson blamed Robert F. Kennedy for fomenting the disbelief in the *Warren Report* that was widespread by late 1966. Indeed, both Johnson and Fortas viewed RFK's reach and influence with such suspicion that to them, it seemed conceivable that *The New York Times* had aborted its 1966 investigation into the Warren Commission because the *Times's* findings had turned out to be too "favorable." Publication of a single story, much less a series, that put the commission in a positive light would supposedly run counter to Kennedy's interests and might incur his displeasure, or so Johnson and Fortas mistakenly thought.

Johnson's toxic notions about RFK, to be sure, were not entirely unwarranted. A *prima facie* case could be made that Robert Kennedy was bent on putting the Warren Commission into disrepute. By the fall of 1966, despite a growing chorus of criticism of the *Report*, Kennedy, then the junior senator from New York, resolutely persisted in his policy of "no comment" with respect to all the controversies that had arisen in the assassination's wake. His refusal to put a damper on the damaging speculation—in a way that only the slain president's brother could—had the net effect of allowing baseless criticism to grow and deepen. In addition, Kennedy acolytes, like former White House aide Richard Goodwin, were writing or speaking out about alleged shortcomings in the Warren Commission's investigation. In the absence of comment from Kennedy, it was not unreasonable to believe Goodwin was acting as Kennedy's agent, writing what the New York senator dared not say himself.

Finally, of course, Johnson had every reason to believe Kennedy was intent on impugning the Warren Commission because of the publishing spectacle that had simply become known as the "Manchester affair." Part soap opera, part *opéra bouffe*, this scandal had fixated the publishing world for more than three months by January 1967. Retained by the Kennedys to write the "authorized" version of the most agonizing four days in American history, Manchester had produced a book, *The Death of a President*, that depicted Lyndon Johnson in an unflattering light—an uncouth power-grabber from the very state with the unspeakable city that was responsible for the assassination. Sitting

presidents had never been treated this way by a major New York publisher like Harper & Row. And although Johnson's popularity was fast declining, the vast majority of the American people still appreciated the thoughtful and sensitive manner he had displayed immediately after the assassination, when the entire nation was on edge after the wrenching presidential transition. Now Manchester, the Kennedys' chosen instrument, was trying to rob Johnson of his finest hour. The conversation with Fortas occurred two days after the first excerpt from Manchester's book had been published in *Look* magazine.



Johnson's near-paranoia about Robert Kennedy, however, could not have been more mistaken in this instance. The [one person with the most to lose](#), and nothing to gain, from a re-investigation of the assassination was RFK himself. Re-opening the assassination would threaten again to expose one of the darkest secrets from the Kennedy presidency, namely, that RFK had been the leading advocate and motive force behind the CIA's plots to assassinate Fidel Castro. Any re-investigation would almost surely tug again at the loose strands from these plots, and, as in 1964, threaten to unravel them. Ultimately, JFK's martyrdom would be put at risk, as would RFK's ambition to lead a Kennedy restoration, which might be the only way to repair the bottomless grief he felt over his brother's assassination.

Sooner than President Johnson could imagine, he would gradually become disabused of the notion that Robert Kennedy was intent on undermining public confidence in the *Warren Report*. Just five days after the conversation with Fortas, Washington columnist Drew Pearson would approach Johnson privately and tell him about an astonishing rumor: that the CIA had attempted to assassinate Castro numerous times in the early 1960s, and that most of these attempts had occurred at RFK's direction, when the then-attorney general was "riding herd" on the agency for his brother.^[1]

Johnson, though so embittered that he was inclined to believe the worst about RFK, still found Pearson's story incredible. Later he would liken it to someone "telling me that Lady Bird was taking *dope*."^[2] But as the rumor continued to gather force, the president would turn to CIA Director Richard Helms and ask for a full report. On May 10, five months after LBJ's conversation with Fortas, the president would learn directly from Helms that the rumor was true, save for one aspect: there was no evidence that Castro had retaliated by ordering the assassination of President Kennedy.

Helms's caveat would fall on unreceptive ears. Confirmation of the efforts to assassinate Castro astounded Johnson. That, together with the president's innate proclivity to relate things that were not connected, meant that LBJ would go to his grave believing that "Kennedy was trying to get to Castro, but Castro got to him first."^[3]

11 January 1967, Wednesday, 3:45 PM^[4]



Despite serving on the Supreme Court, Fortas continued to advise Johnson on a wide variety of matters, as he had for almost 20 years. Now that advice sometimes even concerned the internal workings of the Court itself. The previous fall, for example, Fortas had connived with the president to secure Justice Tom Clark's retirement, so that Johnson could satisfy his goal of being the first president to appoint a black man, Thurgood Marshall, to the Supreme Court.[\[5\]](#)

On this occasion, the conversation, initiated by the president, was about a far less sensitive matter: Earl Warren's forthcoming trip to Latin America, and Johnson's desire to put a US government plane at the chief justice's disposal.

JOHNSON: *[reading]* . . . free countries, and our image throughout Latin America. The chief's visit will be very helpful. It's always quite a security problem. They tell me the embassies [are] bein' instructed to take very *special* precautions to avoid any unpleasant incident involving the chief justice.

FORTAS: Um-hmm.

JOHNSON: *[still reading]* Although unrelated to [the] OAS summit and your trip, the presence of so high a United States official in Latin America will arouse public interest.[\[6\]](#)

[to Fortas] Ah . . . I would think it'd be *good* if you would tell him [Warren] that I just ran across this in my intelligence reading.

FORTAS: Um-hmm.

JOHNSON: And that I would like to make a plane available to him, instead of him ridin' around down there in whatever he's going in.

FORTAS: Right.

JOHNSON: I think that . . . it would reduce the opportunities for incidents—

FORTAS: Uh-huh.

JOHNSON: —and I think it would make him *live* longer, and . . . he's *always* very shy, and this is a—we do it for *generals*, and we do it for *le-gis-la-tors* in other departments, and I don't know why—

FORTAS: *[chuckles]*

JOHNSON: —a justice shouldn't. And I don't wanna be doin' it for him direct, 'cause I don't want him to think I try to curry *favor*—

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But Fortas thought there might be another explanation, and after listening, Johnson agreed. The president reiterated the belief he first voiced back in October, that Robert Kennedy was the invisible hand behind the concerted attacks on the Warren Commission, the first important decision of the Johnson administration.[\[12\]](#)

FORTAS: Now I got one other thing to tell you. You remember a long time ago, I told you that I was going to talk with the chief [justice] about *The New York Times*?

JOHNSON: No, I don't remember.

FORTAS: Well, *The New York Times* is goin' make a . . . is doing an article, or a series of articles, on the . . . ah, *Warren Report*.

JOHNSON: Yeah, uh-huh.

FORTAS: And I told you that I would talk with the chief, and see that—

JOHNSON: Yes, I remember now.

FORTAS: —his top man [J. Lee Rankin] got in touch.[\[13\]](#) Well, there's been a remarkable bit of information that's come through on that.

His top man worked very extensively with a *New York Times* reporter. *The New York*— and also gave this *New York Times* man access to *all* of the lawyers who had been on the staff. The *New York Times* man worked with *all* of them . . . wrote up five articles, and, ah . . . which were very *favorable*. And then a decis[ion]—and then, first, a decision was made to cut 'em down to *one* chapter, and then a decision was made to *kill* them. Kill the whole project.

Now I have asked the chief to find out for me—*discreetly* if he could—the name of the *Times* reporter. And he says he . . . he will, and he should have that today. He says he can find it out without any awkwardness.

Isn't that an *amazing* story?

JOHNSON: Yeah, yeah it is. Ah . . .

FORTAS: Yeah.

JOHNSON: They started—our friends up there . . . everyone—y'all won't believe this, but every man that crosses 'em in any way gets *murdered*.

FORTAS: Um-hmm.

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JOHNSON: They've started all this stuff . . . they've created all this doubt, just like they have with [William] Manchester. And if we'd had anybody less than the attorney general—ah, the chief justice—I would've already been *indicted*.[\[14\]](#)

FORTAS: Hmm!

JOHNSON: Ah, the—that's the way this operation *runs*.

FORTAS: Uh-huh.

JOHNSON: 'course, *everybody's* got skeletons, and it happens that they pick out the ones with the worst skeletons *first*.

FORTAS: Uh-huh.

JOHNSON: But they'll get to 'em. Eddie Weisl told me that in 1960, and I just couldn't believe it.[\[15\]](#) I just didn't think . . . I was just too *naïve* to think anything like that in the world happened. But I . . . I see it just *plain as day now*, just as clear as anything.

FORTAS: Yeah.

JOHNSON: [Adam Clayton] Powell took it yesterday, and . . . he's a no-good bastard, and we've always *known* that.[\[16\]](#) But he just went high, wide, and handsome until he crossed him [Robert F. Kennedy] on poverty, and told [Sargent] Shriver that he'd have to quit payin' these folks who go out and play tennis.[\[17\]](#) And he criticized him a little bit, and that—they started on him, and they—our friend up in New York moved, and he's *gone*.

FORTAS: Uh-huh.

JOHNSON: [He] got [Thomas] Dodd.[\[18\]](#) He's got Earle Clements.[\[19\]](#) He's got Bobby Baker.[\[20\]](#) He got *anybody* that's tied in, and I'm surprised that you got confirmed . . . if he hadn't of thought that you were too smart for him.[\[21\]](#) But they do it with every one of 'em. Why I, I don't . . .

FORTAS: Hmm.

JOHNSON: I don't . . . I think Walter Jenkins's problems had somethin' to do with it.[\[22\]](#) I think it . . . this whole thing [about] Bill [Moyers] leavin', I think that's tied into it in a *general* way.[\[23\]](#)

FORTAS: Uh-hmm.

JOHNSON: I think this book comin' out in '67 instead of '69 is a part of it.[\[24\]](#)

FORTAS: Yeah.

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JOHNSON: I think *The [Washington] Post* and the *Newsweek* are tied into it. I think *Look* is tied in with 'em. I don't know whether—I've never been able to get the stock holdings of the foundations, but I'll bet you *four* dollars that that outfit's tied in with RCA, and with *Look*, and with the Graham interests.^[25] I understood that Kennedy told Phil Graham if he'd go buy *Newsweek*, that they'd get him the money.^[26]

FORTAS: Uh-huh.

JOHNSON: I never have been able to know it. But when I . . . when I *see* these things, and just see 'em takin' over the whole damn paper, bringin' in all their *kids*, I just know it's just not *natural*.

FORTAS: Yeah.

JOHNSON: Throwin' out people like Russ Wiggins and stuff like that—this is just not a *normal* thing to do.^[27]

FORTAS: Yeah.

JOHNSON: These things are *not* just accidental. They start *campaigns* on 'em. *Hell*, when *Mac Bundy* crossed 'em here one time . . . why they just refused to invite him, they wouldn't see him, they did everything until he was *crawling on his desk*.^[28] And then when he criticized *me*, they let him come back *in* for a day or two.

FORTAS: [*chuckles*] [*indistinct*]

JOHNSON: And that's . . . that's . . . that's the way they operate.

FORTAS: Yeah.

JOHNSON: Goes out and arrests a goddamn horse, and takes him away from a fella, and takes him over to his lot, and keeps him for a week. And then does it all in the name of charity, and . . . because it's a *charitable* act, thievery is justified.^[29]

FORTAS: Yeah . . . well, I think they've proved that . . . they like horses. [They] might try it out on *people* sometime.

JOHNSON: Yes, it would be awfully good if they did.

FORTAS: [*laughs*] Well, I'll see what I can do about following through on this other thing . . . carefully.

JOHNSON: Okay, my friend. Thank you.

The conversation seemed about to end when Johnson was reminded of something he had wanted to discuss with Fortas, namely, nominations to the Board of Trustees of the

John F. Kennedy Center for the Performing Arts. Fortas is a trustee, although the board is dominated by Kennedy friends and allies.



The conversation would end with Johnson bringing up Arthur M. Schlesinger, Jr., the one member of the Kennedy retinue he detested the most. The feeling was mutual. In January 1964, Schlesinger had been the first prominent member of the White House staff to resign in the wake of the assassination.

Schlesinger personified the liberal intelligentsia of the Democratic Party, an element that had come to adore Kennedy, although the transition from Adlai Stevenson had not been seamless. Unable to accept Johnson as anything but an unworthy successor, Schlesinger never missed an opportunity to scorn LBJ, even though he had already proven to be a far more successful president than Kennedy ever was, that is, if one's measure of a president was success in getting the liberal agenda codified into law.

In the wake of the 1966 election, which saw the GOP gain 47 seats in the House, three in the Senate, and seven governorships, Johnson, ever the political realist, had decided to adopt a more bipartisan approach to the new Congress. Insofar as Schlesinger was concerned, that simply opened up a new angle of attack.

JOHNSON: You see this *sonuvabitch* last night on television, this Schlesinger?

FORTAS: Ah, no, I *heard* about it. You know, I was over at the State of the Union, but I *heard* about it.[\[30\]](#)

JOHNSON: [*sarcastically paraphrasing Schlesinger*] Johnson gets [Everett] Dirksen down at the ranch, and lays up with him, and keeps him down at that ranch . . . and he's his buddy, and that's who's runnin' the *government*.

FORTAS: Yeah.

JOHNSON: Now, Dirksen came down with [Mike] Mansfield . . . and came down with [Gerald] Ford and [Carl] Albert—

FORTAS: Uh-hmm.

JOHNSON: —and they came on a *bipartisan* thing.[\[31\]](#) And they all agreed on what I was doing, and they approve what a Democratic president *asked* them to. Then *he* [Schlesinger] gets on, and he tries to . . . tries to make it appear there's something *evil* . . . *that I've turned Republican*.

FORTAS: Uh-hmm.

JOHNSON: My message last night . . . was a *Republican* message, on account of Dirksen.

[1] Max Holland, *The Kennedy Assassination Tapes: The White House Conversations of Lyndon B. Johnson regarding the Assassination, the Warren Commission, and the Aftermath* (New York: Alfred A. Knopf, 2004), 392.

[2] *Ibid.*, 396.

[3] “Johnson Is Quoted on Kennedy Death,” *New York Times*, 25 June 1976.

[4] Being “assassination-related,” this conversation should have become available when the first batch of Johnson recordings was released in 1994. Its exclusion was entirely inadvertent, according to archivists at the Lyndon B. Johnson Library. The conversation can be heard by clicking [here](#) and locating conversation number 11333 from January 1967.

[5] Holland, *Kennedy Assassination Tapes*, 311-312.

[6] President Johnson had pledged to attend an Organization of American States’ summit conference, the first since 1956, which was scheduled to take place in Punta del Este, Uruguay in mid-April.

[7] Holland, *Kennedy Assassination Tapes*, 90, 94.

[8] Jerry Policoff, “[How All the News About Political Assassinations in the United States Has Not Been Fit to Print in *The New York Times*](#),” *The Realist*, Number 94, October 1972, 30; *Newsweek*, 12 December 1966, 20.

[9] Salisbury endorsed calls for a re-investigation in a mostly positive book review of the critical works by Edward Epstein and Mark Lane. Salisbury, “Who Killed President Kennedy?” *The Progressive*, November 1966.

[10] Ralph Blumenthal, “Nizer Calls Criticism of Warren Report ‘an Outrage’,” *New York Times*, 17 November 1966.

[11] Melvin Eisenberg e-mail to Holland, 8 January 2008. Eisenberg, a commission staffer, had been interviewed in California at great length by Gene Roberts.

[12] Holland, *Kennedy Assassination Tapes*, 312, 318.

[13] Rankin, a New York lawyer and solicitor general during the Eisenhower administration, had been general counsel of the Warren Commission.

[14] Johnson was engaging in his common practice of hyperbole to make a point, in this case about how much the atmosphere has shifted since November/December 1963.

[15] Weisl, an influential Wall Street lawyer, had been a friend and adviser to Johnson since the late 1930s, when LBJ was an up-and-coming congressman. In 1960, when Johnson sought Weisl's advice on whether to join the Democratic ticket as the vice presidential nominee, Weisl became nearly apoplectic. He detested JFK's father, who Weisl believed was vicious, untrustworthy, and an anti-Semite. He warned Johnson that he should not trust any of the promises being made by the son either, e.g., that LBJ would play a vital role in any Kennedy administration. When Johnson accepted JFK's offer against Weisl's advice, the Wall Street lawyer was devastated, heartbroken that Lyndon was now allied with the "hated Kennedys." Holland, *Kennedy Assassination Tapes*, 76.

[16] Despite winning re-election in November 1966, the Reverend Adam Clayton Powell (D-New York) was on the brink of being expelled from the House of Representatives, owing to his alleged misuse of public funds and his criminal contempt of the New York state courts. When he died in 1972, *The New York Times* obituary noted that Powell, in addition to being the leader of the largest church congregations in the nation and an effective chairman of the House Education and Labor Committee, was a "political demagogue, a Congressional rebel, a civil rights leader . . . a rabble-rouser, a grandstander, a fugitive, [and] a playboy." Thomas A. Johnson, "A Man of Many Roles," *New York Times*, 5 April 1972. Kennedy had just issued a statement saying that he was "disturbed" by the effort to deny Powell his congressional seat. But Johnson thinks this is a ruse, and Kennedy is backing the effort that will result in Powell's expulsion. "Action on Powell Upsets Kennedy," *New York Times*, 11 January 1967.

[17] Johnson's reference was obscure, but Shriver, a Kennedy brother-in-law, was head of the Office of Economic Opportunity, a critical element of LBJ's declared War on Poverty.

[18] Senator Thomas J. Dodd (D-Connecticut) was one of Johnson's oldest friends in Washington, dating back to their days as state directors in the National Youth Administration during the mid-1930s. A conservative Democrat and a loner, Dodd was embroiled in scandal, charged with diverting campaign funds for personal use. In June he would be censured in an overwhelming vote by his peers, becoming only the sixth senator to endure that punishment. Johnson apparently shared the belief that Dodd's misconduct had been minor and inadvertent, and that he was really being punished by the Senate's liberals for being a hawkish Democrat.

[19] Johnson's reference to Clements, a former governor and US senator from Kentucky, was unclear. Clements had been one of LBJ's closest associates in the Senate before losing his seat in 1956 to a Republican challenger. But in 1967, Clements was a Washington lobbyist for the tobacco industry, and as such, locked horns with Senator Kennedy, who was intent on curbing cigarette advertising, particularly to minors. Democrats' support for such measures would inexorably drive tobacco interests, long a reliable backer of Southern Democrats, toward the GOP. George Lardner, Jr., "Tobacco Heads Guardedly Offer To Stiffen Cigarette Ad Curbs," *Washington Post*, 1 November 1967.

[20] From the moment the Bobby Baker influence-peddling scandal had broken in 1963, Johnson believed that then-Attorney General Robert Kennedy was exploiting it to force Johnson off the Democratic ticket in 1964. LBJ was no longer majority leader when Baker, his former protégé, was accused of misusing his position as secretary of the Senate majority. In 1967, Baker would plead guilty to income-tax evasion charges stemming from the FBI's investigation.

[21] Johnson's 1965 nomination of Fortas to the Supreme Court had to be approved by the Senate Judiciary Committee, which counted RFK as a member.

[22] Just weeks before the 1964 election, Johnson's long-time administrative assistant, Walter Jenkins, had been arrested in a YMCA men's room on a charge of indecent sexual behavior. More than three years later, Johnson still found it hard to believe that it wasn't a case of entrapment, with the aim of embarrassing the president on the eve of the election. Initially, however, he thought it was a GOP dirty trick.

[23] Moyers, who had served the president as a special assistant and then press secretary, had resigned in December 1966 to become publisher of *Newsday*. Moyers's departure had evoked more than the usual amount of comment and sniping. It was taken as evidence of Johnson's increasing estrangement from liberal Democrats, and had been particularly difficult for Johnson to accept. LBJ looked upon Moyers almost like a son, though he drove him as hard as anyone on his staff.

[24] Johnson knew that Manchester was originally expected to work on his book for five years before it would be ready. Accelerating publication was an effort to influence the 1968 contest for the Democratic nomination, or so Johnson thought.

[25] At the time, the National Broadcasting Company, one of the three major TV networks, was owned by RCA. Johnson seemed to be suggesting that the Kennedy family's foundation had a financial interest in RCA; Cowles Publishing, which owned *Look* magazine, and two media companies owned by Katherine Graham, *The Washington Post* and *Newsweek*. Johnson perceived all of these media outlets as being increasingly and unjustifiably critical of his administration.

[26] The late Philip Graham was a friend to both JFK and LBJ. In what was deemed a media coup under Graham's leadership, The Washington Post Company had purchased *Newsweek* in 1961.

[27] Wiggins had become managing editor of *The Washington Post* in 1947, when it was only the third-biggest newspaper in the capital. Under his leadership the *Post* became a newspaper of national import, yet it was Johnson's perception, apparently, that many new hires were eroding Wiggins's editorial control, although he still held the rank of editor. Younger journalists tended to admire Robert Kennedy, whereas Johnson knew that Wiggins and RFK did not get along. The newspaperman "was distrustful of the emotions the senator aroused among younger Americans," and was a reliable, if at times critical,

supporter of Johnson's policies in Vietnam. Chalmers M. Roberts, *The Washington Post: The First 100 Years* (Boston: Houghton Mifflin, 1977), 398.

[28] McGeorge Bundy, President Kennedy's national security adviser, had stayed in that position until 1966, much to the chagrin of Kennedy partisans. Johnson was probably referring to prized invitations to Hickory Hill, RFK's McLean, Virginia estate.

[29] While Johnson seemed to be resorting to a Western anecdote to illustrate how untrustworthy the Kennedys were, actually, he may have had that day's newspaper in mind. On January 10, Ethel Kennedy, RFK's wife, prevailed in civil damage suit filed against her by a horse-breeder who claimed she had taken away a colt he owned and refused to return the animal. Mrs. Kennedy explanation was that the colt was starving and in distress. Richard Corrigan, "'Horseback Samaritan,' Ethel Kennedy, Wins Suit," *Washington Post*, 11 January 1967.

[30] Fortas apparently was in the audience while Johnson delivered the president's annual address to Congress.

[31] Dirksen (R-Illinois) was the Senate minority leader; Mansfield (D-Montana), the Senate majority leader; Ford (R-Michigan) was the House minority leader; and Albert (D-Oklahoma), the majority leader in the House.