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The Lavender Scare of New Orleans

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The Lavender Scare of New Orleans

by

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Undergraduate honors thesis under the direction of

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Introduction

President John F. Kennedy was shot in Dealey Plaza in Dallas, Texas on November 23, 1963. After the shooting, the motorcade rushed the President to Parkland Memorial Hospital where he was pronounced dead from a gunshot wound to the head shortly after his arrival. About an hour after President Kennedy was shot, Dallas police apprehended a suspect in the shooting named Lee Harvey Oswald. Oswald worked in the Dallas School Book Depository which was where several people in Dealey Plaza believed the shots originated. He was the only employee who was missing from the building after the assassination occurred. As evidence began to pile up against Oswald, it appeared that the police had caught their man. However, two days later, the unthinkable happened: the assassin was assassinated. A man named Jack Ruby shot Oswald during a prison transfer. Ironically, Oswald was taken to the same hospital where President Kennedy died two days earlier. Oswald also died after arrival from a gunshot wound to the abdomen.

The loss of America's leader greatly shocked the nation since a United States President had not been assassinated in over six decades since William McKinley's assassination in 1901. Kennedy's death left the citizens of the United States grieving and searching for answers. To attempt to explain what had happened, President Lyndon B. Johnson assembled a team to "evaluate matters related to the assassination and the subsequent killing of the alleged assassin." This group was led by Chief Justice Earl Warren and included many other well-known figures in Washington D.C. including future president Gerald Ford. The Commission released their findings on September 24, 1964, and shortly afterwards published the 26 volumes of interviews, related to their investigation. It concluded that "Oswald acted alone" and stated that despite its

extensive investigation, it found no evidence “that Oswald was involved with any person or group in a conspiracy to assassinate the President.”¹

In the wake of such tragedies, citizens have often shown a propensity to blame a certain group of people or make a scapegoat out of that group in order to cope with the sense of loss. In general, the group that is blamed tends to be a minority group that is poorly understood within the general population. Examples of this can be found throughout history, as with the Germans blaming their loss in World War I on the Jews, the harsh treatment of Japanese Americans after the bombing of Pearl Harbor, or the negativity Americans exhibited toward Muslims and Islam after the events of 9/11. Many people also engaged in this type of behavior after Kennedy’s assassination and began to blame different groups for his death. They included the Russians, the Cubans, the Communists, and members of the Mafia. A poll taken between November 22 through 27, 1963, shows that only twenty-nine percent of Americans believed that one man was responsible while fifty-two percent believed that others were likely involved. By 1976, the number of people who believed in conspiracy theories involving the assassination was astronomically high at eighty-one percent. Not much has changed since the Warren Report is still hotly contested with only about thirty percent of people accepting its final conclusion that Oswald was the lone gunman.²

Jim Garrison, who was District Attorney of New Orleans at the time of the assassination, was one of the people who disbelieved the Warren Report’s final conclusion and was convinced

¹ "Warren Commission – Introduction," National Archives and Records Administration, Accessed January 19, 2018.

"Chapter 1: Summary and Conclusions, " National Archives and Records Administration, Accessed January 19, 2018.

² Art, Swift, "Majority in U.S. Still Believe JFK Killed in a Conspiracy," Gallup.com, November 15, 2013, Accessed January 19, 2018.

that other people had been involved. As a result, Garrison soon launched his own investigation into Kennedy's murder and came to his own conclusions. Based on his beliefs about the case, a trial occurred and one man's life was changed forever. A New Orleans man named Clay Shaw, who was a known, though discreet homosexual, was arrested on charges of conspiracy.

Homosexuals were one of the groups Garrison blamed for the assassination of John F. Kennedy. Garrison was able to use Shaw's homosexuality as a tool to prey upon the fears people had at the time that homosexuals were a group of people with a questionable and suspicious way of life. Oswald never faced trial, and because of that, many people believed that Kennedy never received justice for his untimely death. Garrison was also able to use the widespread belief in a conspiracy to his advantage since many people hoped to find and punish those they believed were involved to gain a sense of closure.

Contemporary New Orleans is often thought of as a place that is largely accepting of the LGBTQ community. However, this city was not always as tolerant of this group of people as it is now. In fact during the twentieth century, New Orleans experienced several instances of violence or prejudice towards gay people, and the story of Clay Shaw is a prime example.

Chapter I: Security Risks, Sexual Deviates, and Fernando Rios

To understand why and how Garrison used Shaw's homosexuality to facilitate his prosecution, one must first understand how homosexuality was viewed around the time period leading up to Shaw's 1969 trial. An outbreak of homophobia took place in Washington D.C. during the 1940s and 1950s. After World War I, the nation's capital became a place with a thriving gay community. President Franklin D. Roosevelt had greatly expanded the federal government and its bureaucracy, which resulted in a great need for more federal workers. As a result, the city provided young gay men and women a place of refuge and gave them the opportunity to live independently and work without undue suspicion. In fact, people who worked for the government during Roosevelt's "New Deal" era did not have to be "particularly selective or fearful for their jobs if their homosexuality were revealed." There were even known gay hang outs and cruising spaces like Lafayette Park. However, this atmosphere of acceptance began to change during the late 1940s.³

Starting in 1948, many Americans had the sense that the country's "moral codes were loosening and that homosexuality was becoming more prevalent, or at least more visible." The terms "sex pervert" and "sexual psychopath" became popular phrases that were associated with homosexual behavior. There was a common belief that homosexuals were "sick, could not control themselves, and needed to recruit new members to their ranks." Congress in 1948 began to hold hearings about the need for a sexual psychopath law to combat the fears expressed by the general public at this time. President Truman went on to sign the Miller Sexual Psychopath Law in 1948 which was used to "further criminalize consensual sex between adult homosexuals." The

³ David K. Johnson, *The Lavender Scare: The Cold War Persecution of Gays and Lesbians in the Federal Government* (Chicago: The University of Chicago Press, 2004), 46.

U.S. Park Police started the “Pervert Elimination Campaign” to increase patrols in gay cruising areas like Lafayette Park and known gay bars. It became a law of “harassment and intimidation” and led to the arrest of at least two hundred homosexual males.⁴

The increase in arrests of homosexuals also led to an increase in violence towards them. Male teenagers would go to Lafayette Park with the hope of “knocking off a queer.” Because of this, Lafayette Park became a potentially dangerous place for homosexuals to congregate. Jack Frey became a victim of such violence. When he came to the district, in 1952, he had read that Lafayette Park was the place for homosexuals to meet. On Frey’s first visit there, he picked up a man “who robbed him of all his money at knifepoint.” Because of incidents like the one Frey experienced, homosexuals were forced to choose other locations for hang outs. As a result, the U.S. Park Police sergeant reported in 1950 that homosexuals had ““seemed to disappear”” from known gay locations such as “Lafayette Park and the Monument Grounds.” As the Pervert Elimination Campaign continued, word spread among homosexuals in the city to no longer frequent Lafayette Park. Unfortunately, newcomers to the city or visitors might not be aware of these warnings, so those that were arrested were figures like “a touring actor, a federal job seeker, and an English professor from Louisiana.”⁵

All of this tension and violence towards homosexuality ultimately led to the Lavender Scare. During the Red Scare in 1950, Senator Joseph McCarthy claimed that Communists had infiltrated the federal government. To calm the public’s fears about this issue, Deputy Undersecretary of the Truman Administration, John Peurifoy, made a statement that no known Communists had been fired from the federal government. However, the department admitted that

⁴ Johnson, *The Lavender Scare*, 53-63.

⁵ *Ibid*, 154.

a certain number of “security risks” had been dismissed, ninety-one of whom were homosexuals. Using the word “homosexual” was very taboo during this time, so words like “security risks,” “moral weaklings,” “sexual misfits,” “moral risks,” “undesirables,” and “persons with unusual morals,” were often used instead. The comment by Peurifoy contributed to the beginning of the Lavender Scare which was premised on the fear that homosexuals had infiltrated the federal government. As a result, the Civil Service Commission worked to filter out homosexuals from federal employment. A typical case of this sort “involved a homosexual being confronted with circumstantial evidence that he had associated with ‘known homosexuals’ or been arrested in a known gay cruising area.” Usually if the person in question admitted to any kind of homosexual behavior, no matter how far in their past, they were dismissed from their job.⁶

Since this event overlapped with the Red Scare, homosexuals became associated with Communists, since both were considered “security risks” who posed the potential threat of betraying federal government secrets. The fear was that homosexuals could be blackmailed by Soviet spies about their personal lives and therefore would be forced to reveal national security secrets. This could be perceived as a humorous threat considering that most homosexuals who worked for the federal government usually held a simple position as a clerk most of whom had little information regarding national secrets. A study done about employment shortly before the Lavender Scare showed that “half of the gay men interviewed worked as office clerks, stenographers, or other clerical help.” However, this witch hunt was no laughing matter since it resulted in the firing of nearly six hundred civil servants. The fear that gripped that nation’s capital regarding homosexuality was not an event isolated to that particular location. The Lavender Scare was a more accurate reflection of the entire country’s fears about homosexuality

⁶ Ibid, 1, 2, 3, 7.

at this particular time. It was a far-reaching concern that extended to many different parts of the country, including all the way to the city of New Orleans where the trial of Clay Shaw took place in the next decade.⁷

New Orleans, prior to the trial of Clay Shaw was very similar to Washington D.C. prior to the Lavender Scare. New Orleans became a place that also had a large gay community, especially in the historic French Quarter. Beginning in the 1940s, the gender proportions of the city transformed, which made the city more male dominated. The change signified “a brewing societal revolution, the unclosing of homosexuality.” There were many possible reasons why New Orleans became attractive to homosexuals. World War II might have been a factor since New Orleans was a large port city. Author Clayton Delery mentioned that the riverfront bars offered sailors the opportunity to get a drink and fulfill their sexual desires, “and they were not terribly particular about how they met either need.” Homosexual males also liked historical neighborhoods and “excelled at restoring them.” A man named Lyle Saxon displays a perfect example of this. Saxon was a gay man who moved to the Quarter during the 1920s and became employed by the Federal Writers’ Project of the Works Progress Administration during the Great Depression. He later “leased, owned, and renovated several French Quarter properties.” A biographer of Saxon, James Thomas, references several sources which give credit to Saxon for “almost single-handedly saving the French Quarter.” Whatever the main reason was for homosexuals moving to cities like New Orleans and Washington D.C., it is evident that these places were more accepting and “less alienating for gays than elsewhere.”⁸

⁷ Ibid, 17, 45.

⁸ Richard Campanella, *Bourbon Street: A History*, (Baton Rouge: Louisiana State University Press, 2014), 186-188; Clayton Delery, *Out for Queer Blood: The Murder of Fernando Rios and the Failure of New Orleans Justice*, (McFarland Publishers, North Carolina, 2017), loc. 30-32 of 236, Nook book.

The development of a new gay community in New Orleans also resulted in an influx of known gay hang outs, similar to the ones that existed in Washington D.C. prior to the Lavender Scare. Café Lafitte's Bar and Dixie's Bar of Music became popular gay hang outs starting in the 1930s. After a few relocations during the 1950s, the two bars made homosexuality visible in the city and were known for their frequent gay customers. Café Lafitte's became so popular that in 1949 a gay men's social club was founded among its regulars called the Fat Monday Luncheon Club. New Orleans might have been more accepting at the time than some other cities regarding homosexuality, but "gay expression remained socially suppressed and legally penalized." As homosexuality became more prevalent in New Orleans, efforts were made to try to control and suppress it.⁹

The condition of New Orleans during this time makes it is easy to understand why city leaders chose homosexuals as a group to blame for existing problems in the city. Some in the city believed that the eighteenth and nineteenth century architecture of the French Quarter was out of date with its surroundings and considered it a "liability." There were even some who called for the French Quarter's total demolition and reconstruction. The Quarter during this time was considered "a slum," filled with undesirable businesses like brothels and burlesque clubs and undesirable people like poor African Americans, alcoholics, drug addicts, and homosexuals. A letter from a local New Orleans resident to the editor of a newspaper in 1959 said that "if the city put it up to a vote whether to keep the antique part of New Orleans, I know how it would turn out. Local people are fed up." However, residents and officials understood that it was unlikely the French Quarter would be completely destroyed and rebuilt. As an alternative, they "could at

⁹ Campanella, *Bourbon Street*, 186-188.

least clean up the moral atmosphere,” and as a result, homosexuals became a prime target for this “moral clean up.”¹⁰

Actions and statements made by people in New Orleans during this time show an attempt to “crack down” on the acceptance the city had developed towards homosexuality. Cooperation between the police office and the District Attorney’s office led to vice drives in an attempt to “clean up” the French Quarter and rid it of “undesirables.” The targets of this “clean up” were “police characters, homosexuals, B-drinkers, prostitutes and narcotics violators.” The Chair of the Mayor’s Special Citizens Committee, Richard Foster stated that “criminologists and psychologists state that every sexual deviate is a potential murderer.” Records from a 1954 Special Citizens Investigation Committee listed the Driftwood, Dan’s International, Tony Bacino’s, Dixie’s Eric’s Bar and Restaurant, and Lafitte’s in Exile as “pervert hangouts.” These types of actions by city officials show that homosexuals were being increasingly linked with other kinds of criminal behavior and that they were being blamed as the root of other criminal problems in the city. In 1955 New Orleans’s mayor, “Chep” Morrison, appointed a new police chief, Provosty A. Dayries, who identified homosexuals “as the city’s first vice problem.”¹¹

As a result, New Orleans began to enforce preexisting laws to specifically target homosexuals. Louisiana’s “crime against nature” law began to be used against homosexual

¹⁰ Delery, *Out for Queer Blood*, loc. 30, 31, 35 of 236, Nook book.

Orlenian, (pseud), Letter to the editor, “Native Would Raze Old French Quarter,” *The New Orleans States-Item*, (New Orleans, LA), Jan. 23, 1959.

¹¹ “Action Decided in Drive to Clean Up the Quarter,” *Times-Picayune* (New Orleans, LA), Aug. 8, 1962.

“Quarter Vice Drive Opened: DA, Police to Co-operate in Crackdown,” *Times Picayune* (New Orleans, LA), Aug. 7, 1962.

Donald H. Carpenter, *Man of a Million Fragments: The True Story of Clay Shaw*, (Donald H. Carpenter, LLC, 2014), loc. 702 of 1884, iBooks.

Campanella, *Bourbon Street*, 188.

Delery, *Out for Queer Blood*, loc. 64 of 236, Nook book.

males during the 1950s and 1960s. The law is defined as “the unnatural carnal copulation by a human being with another of the same or opposite sex or with an animal.” The presence of a gay community and the “clustering of gay bars gave police a convenient target.” A common occurrence of the enforcement of this law normally included a man making an “indecent” proposal towards an undercover vice officer who then arrested the man. Although the word “homosexuality” was never explicitly stated or mentioned, it can be inferred that these “indecent” proposals were of the “homosexual” kind. Billy Richards was arrested “in the 400 block of St. Anne” Street by the “special vice squad” in 1958 for an “attempted crime against nature.” In 1966, a man named George E. Gilkerson was arrested when he offered to “commit an indecent act with an undercover” officer. Another example of an arrest shows two adult men being arrested for a seemingly consensual act. Sidney J. Boudreaux and Lawrence A. Snider were both arrested in 1966 for an “indecent act in a public restroom at Madison and Decatur” streets. Sometimes a “crime against nature” arrest was not as bad as the possible repercussions that could occur as a result of the charge. For example, local newspapers often listed the arrest with the person’s name, address, and offense which “could mean losing a job—or even a home.” These laws attempted to embarrass homosexuals in the public sphere and encourage them to move away from places like New Orleans.¹²

A particular instance of violence occurred in New Orleans in 1958 against a young, gay man in the French Quarter. Fernando Rios was a twenty-six-year-old, tour guide from Mexico

¹² Louisiana Criminal Code, Ch.1: Criminal Code, Part V: Moral Offenses Against the Public, Sec. 89: Crime Against Nature (1967).

Campanella, *Bourbon Street*, 188.

“Man is Arrested on Morals Charge,” *Times-Picayune* (New Orleans, LA), Apr. 23, 1958.

“Two Men Arrested by Vice Squad Officers,” *Times-Picayune* (New Orleans, LA), Feb. 16, 1966.

“Vice Squad Officers Arrest Two Men,” *Times-Picayune* (New Orleans, LA), Feb. 13, 1966.

City who was leading a group of tourists for a visit in New Orleans. On September 27, 1958, Rios took his tour group back to their hotel and went out alone for a night on Bourbon Street. Later that night, Rios was severely beaten and later died the next day due to multiple skull fractures which caused a brain hemorrhage. The men responsible for Rios' death were three Tulane University students named John Farrell, Alberto Calvo, and David Drennan. The three also went to Bourbon Street that night to have a good time. Early in the evening, Farrell suggested that they "roll a queer." The phrase "rolling a queer" was a popular phrase used for gay bashing and in relationship to today's standards is similar to a "mugging." Calvo and Drennan rejected the idea, but Farrell suggested it again later in the evening. After the second proposal, the other men did not object. Farrell entered Café Lafitte's in Exile and soon began a conversation with Rios. When Rios stated that he was going to walk back to his hotel, Farrell offered to give him a ride. Drennan and Calvo walked behind the other two men. It is unclear whether Farrell introduced Rios to Drennan and Calvo when they exited the bar, or if Drennan and Calvo never officially met Rios and simply followed Farrell and Rios from a distanced once they left Café Lafitte's. Farrell told authorities he had trouble finding his car, and he and Rios ended up in a secluded alleyway by St. Louis Cathedral. Farrell said he punched Rios after he grabbed his crotch. He initially said he hit Rios only once, but while testifying, he said that he hit Rios twice. Farrell said he then called for help, and Calvo came to assist in the alley. At some time during the altercation, Calvo stole Rios' wallet. Shortly afterwards, the three men left Rios alone and badly beaten.¹³

Rios was found early the next morning by a *Times-Picayune* vendor named Matthew Lillard and a local priest. The priest called for the police, and Rios was taken to the hospital. He

¹³ Delery, *Out for Queer Blood*, loc. 71, 73, 74, 77-79, of 236, Nook book.

arrived at the hospital with “multiple skull fractures, hemorrhages, a subdural hematoma, and damage to the lungs, heart, and liver.” Rios died later that evening from his injuries. When the news reached Farrell, Calvo, and Drennan that Rios had died, they became quite nervous due to the fact that they had proudly told several friends that they beaten up a “queer” and stolen his wallet. They received advice from Farrell’s roommate, George Meyer, who “had some familiarity with the law.” Meyer advised them not to mention the fact that they had stolen Rios’ wallet to the authorities. The three men also spoke with two Deans of Tulane University named John H. Stibbs and William Ray Forrester before giving statements to the police. Stibbs also happened to be a Dean of Tulane’s law school. They told the students that they should turn themselves into the authorities and most likely also advised them on what to say in their statements. The three men were arrested and charged with murder.¹⁴

Farrell, Calvo, and Drennan gave statements to the police that conflicted with their testimony in court when the trial began on January 19, 1959. The police statements given by all three men were fairly consistent. They claimed they went to the movies and afterwards went to the French Quarter, a restaurant, and Café Lafitte’s. Their statements said that Farrell went in the bar and came out with Rios. They got to the alley, and Rios made the alleged “improper advance.” Both Farrell and Drennan said that Rios was “fondling Farrell’s penis,” but Calvo said he did not see that happen. Farrell said he hit Rios once, and both Drennan and Calvo said they saw Farrell strike Rios. Afterwards, they left the alley and learned about Rios’s death the next day in the newspaper. Farrell was the first of the three men to take the stand during the murder trial. He admitted that he was the one that suggested “rolling a queer,” however, he claimed that he did not know that Café Lafitte’s was a gay bar. It seems highly improbable that Farrell would

¹⁴ Ibid loc. 79-82 of 236, Nook book.

unknowingly find himself in a gay bar when earlier that night he had suggested “rolling a queer.” Farrell also claimed that after Rios grabbed his crotch, he hit Rios twice, the first in the stomach and the second in the head, instead of only once which he had said in his police statement. Under oath, Farrell also said the Calvo stole Rios’ wallet. The theft was left out of all three student’s original statements to police. With his testimony, “Farrell wanted the jury to believe that when the beating and robbery finally took place, [the acts of violence] had nothing at all to do with his previously voiced intentions.”¹⁵

Calvo was the next of the three defendants to testify. He stated the he and Drennan followed behind Farrell and Rios at a distance. He went into the alley after he heard Farrell call for help. When he arrived he saw Rios on the ground and took his wallet. He said he did not “see any blows struck, and denied seeing any marks or evidence of injury to” Rios. It is unclear how Calvo was able to steal Rios’ wallet from his back pocket with ease since Calvo said that when he initially saw Rios in the alley he was “lying on his back.” He did admit to later waving the wallet around and bragging about robbing a queer to other Tulane students after the incident occurred. However, his testimony contradicted things that Farrell said. For instance, Farrell specifically denied to District Attorney Dowling that there had been a plan for Drennan and Calvo to follow him and Rios after they left the bar, but Calvo clearly stated that he and Drennan had followed the other two men.¹⁶

Drennan was the last of the defendants to take the stand. He admitted to several things in his testimony such as destroying Rios’ wallet and its contents and lying to the police. He said that they destroyed evidence and lied, because they were afraid and had been advised to do so by

¹⁵ Ibid, loc. 90-91, 110-111 of 236, Nook book.

¹⁶ Ibid, loc. 114-115 of 236, Nook book.

Meyer. He even claimed that he did not know what a homosexual was and opposed the idea of “rolling a queer” when Farrell first suggested it. He also reiterated Calvo’s testimony by saying that he and Calvo had followed Farrell and Rios once they left the bar. He said they stayed on the opposite side of the street and at a distance from the two men walking ahead of them. He claimed that Calvo was positioned at one end of the alley, and he was positioned at the other when Farrell and Rios entered it. If this statement is true, it suggests that the men in fact had a “premeditated strategic plan” to trap, rob, and beat Rios in the alley. However, Drennan did not mention a few things he had said in his initial police statement such as seeing Rios grab Farrell’s crotch or hearing Rios make a sexual advance towards Farrell.¹⁷

Rios’ wallet was definitely taken by the defendants, but whether the wallet was taken before or after the beating became a crucial aspect of the case. If the robbery took place “during the beating that had caused Fernando’s death, or even as related to the beating,” the three men could be charged with the death penalty. As a result, the defense wanted the jury to believe that the beating and robbery were two separate incidents. The beating occurred because Rios made an advance towards one of them, and the wallet had been taken as “an afterthought and an act of revenge.” However, the prosecution introduced witnesses who testified that stealing Rios’ wallet was not an afterthought. Both Nicholas Silvey and Javier Zapata were Tulane students and were also in the French Quarter the evening the crime took place. They stated that night Calvo told them Farrell had gone to Café Lafitte’s “to get a queer to roll” and waved around the wallet to show off the trio’s success of beating up and robbing Rios in the alleyway. Meyer also testified and stated that Calvo and Farrell entered his room late that evening, woke him up, and appeared to be “in good spirits.” They told him that they had beaten up and stolen Rios wallet, but had

¹⁷ Ibid, loc. 116-118 of 236, Nook book.

“torn [it] into a million pieces,” but had kept its contents which included “\$40 in a mixture of Mexican, Canadian, and American currencies, and several identification cards.” The testimony of these witnesses showed that Farrell, Calvo, and Drennan seemed very proud of what they had done to Rios and did not appear to be distressed by advances made to one of them by a homosexual.¹⁸

Since Rios was a stranger to the community with no friends or family members in the area, Rios became a kind of “blank slate” for the defense to portray in whatever way they saw fit. The defense’s strategy was to put the fault of the crime on Rios’ own sexual behavior. The prosecution was seeking the death penalty for all three students, but the defense claimed that the defendants were merely defending themselves after Rios made an “indecent advance” to one of them. The defense attorneys entered several pieces of evidence during the trial in an attempt to defame Rios’ character in front of the jury and to suggest that his death was Rios’ own fault. During Rios’ autopsy which was performed the day after his death on September 29, 1958, it was revealed that Rios had an extremely thin skull which made it “unusually fragile.” This thin type of skull is sometimes referred to as an “eggshell cranium.” The defense stated that because of Rios’ medical abnormality he was unable to withstand the few blows that Farrell admitted delivering to Rios that night. This idea fit with a common stereotype of the time that a homosexual was a “weaker” kind of person.¹⁹

To reinforce this idea, the defense also pointed out Rios’ homosexuality and connected it to “femininity” in an attempt to emasculate the victim. For instance in his testimony, Farrell

¹⁸ Ibid, loc. 101-103, 106 of 236, Nook book.

“Boast in Fatal Beating is Told,” *Times-Picayune* (New Orleans, LA), Jan. 22, 1959. Capanella, *Bourbon Street*, 188.

¹⁹ Delery, *Out for Queer Blood*, loc. 81, 95 of 236, Nook book.

stated that a note was located in Rios' wallet. This alleged note was from a man in Tennessee who said he would mail Rios a nightgown. It is unknown whether this note ever existed since the defendants destroyed Rios' wallet and the evidence inside. The reference to this note had nothing to do with the case except for the fact that "it further tarnished Fernando Rios' reputation by suggesting he was unmanly, and therefore a pervert and a degenerate." This tactic was used again when one of the police officers who examined Rios' body testified. While the officer was on the stand, the defense made sure to point out that "one of the articles of clothing taken from Rios was a pair of silk panties." This victim blaming was used to try to convince the jury that accidentally killing a homosexual man was easier than accidentally killing a heterosexual man due to a homosexual's weaker and feminine nature. The defense was trying to convey that perhaps if Rios had been a "normal" man, he would have survived.²⁰

Before the jury ever announced their verdict, public opinion seemed to be on the side of the three defendants. Evidence for this can be found in newspaper articles before and during the trial. In articles, Farrell, Calvo, and Drennan are always referred to as "students" and never as "thugs or suspects." On the other hand, Rios is normally identified as a "Mexican." For example, in an article from November 1958, all three of the defendants were mentioned by name with information about their hometowns and families, but Rios was simply referred to as a "Mexican tour guide." Rios was essentially stripped of the majority of his identity, while all of the pity was directed to his murderers. These articles draw the line in the sand and reflect public opinion that the true victims in the crime were the defendants, not Rios.²¹

²⁰ Ibid, loc. 112-113 of 236, Nook book.

²¹ Ibid, loc. 83 of 236, Nook book.

"Trial of Tulane Trio Continued," *Times-Picayune* (New Orleans, LA), Nov. 13, 1958.

The jury deliberated for only two hours and fifteen minutes. All three young men were all found not guilty. When the court began reading out the not guilty verdicts, “shouting and waving broke out” in the courtroom in support of the verdict. The fact that the defendants were found not guilty reveals how the jury felt about homosexuality. They found the defendants innocent, because they must have believed the argument put up by the defense: that the students were “defending” themselves against the proposal made by a homosexual and that Rios was ultimately to blame for his own murder due to his homosexual behavior.²²

Several New Orleans newspaper articles from the 1960s displayed that the homophobia felt by citizens during the trial of Rios in the 1950s extended into the next decade as well. In particular, a few parents wrote to the newspaper, expressing their concern about their children “turning into” homosexuals. In one article from 1962, a worried father wrote to an advice column that appeared in the newspaper. In his letter, the father stated how he was worried because he believed that his wife was treating their son like a daughter. Ann Landers, who responded to the father, stated that the couple’s problem was very serious and cautioned that if the behavior by the mother was not stopped, their son could potentially become a homosexual. In 1965, a mother wrote into the same column with a similar worry. The woman stated that she was concerned that her husband kissing their sons might lead to homosexual tendencies. Although Landers did not see this situation as much of a problem, both articles display the fear parents had about their children turning “bad” and becoming homosexuals during this time.²³

²² Delery, *Out for Queer Blood*, loc. 61, 121 of 236, Nook book.

“Jury Acquits 3 Students Tried in Slaying of Guide,” *Times-Picayune* (New Orleans, LA), Jan. 24, 1959.

²³ Ann, Landers, “Mother, Son Need Help,” *Times-Picayune* (New Orleans, LA), Dec. 24, 1962. Ann Landers, “She Frets Over Kisses,” *Times-Picayune* (New Orleans, LA), June 21, 1965.

This increasing hostility and violence towards homosexuals in New Orleans was incredibly similar to Washington D.C. just prior to the Lavender Scare. This supports the idea that the homophobia felt in both places of the country were not isolated incidents, but overall reflected the general feeling Americans had towards homosexuals. They became an easy target for officials in power to blame for other issues based on many citizens of the time associating homosexuality with suspicious and criminal types of behavior. The actions of those in New Orleans led to a tipping point against homosexuals in the city and the “Lavender Scare of New Orleans” came to a head with the trial of Clay Shaw.

Chapter II: Jim Garrison against Clay Shaw

Shaw's battle with Garrison began during the height of New Orleans's paranoia about homosexuals in the city. Shaw was a known homosexual but was "discreet about his personal life." In his early life, "Shaw's sexual orientation wasn't really a secret to any of [his] family members, and not an issue in their dealing with him." He was known to "escort" women on dates, and many people either never knew or dismissed "the idea of his homosexuality." Shaw was able to live comfortably in New Orleans "even with [his] promiscuity and somewhat daring sexual experimentation" because of the divide that existed in New Orleans over the "issue" of homosexuality. Despite his homosexuality, Shaw was still a well-respected and well-liked man in the community.²⁴

A quick glance at Shaw's life reveals the kind of person that he truly was. While he was in his late twenties, he honorably served his country during World War II when he was drafted into the Army. Shaw also had an artistic side with a great appreciation for theater, poetry, and the performing arts. This side of him might have been the part that influenced him to renovate many parts of the French Quarter. Instead of seeing the French Quarter as an eyesore, as it was in the view of so many critics and city officials, Shaw saw these buildings as valuable pieces of history that should be saved. Perhaps his most famous renovation effort was the Spanish Stables, located at 716 Governor Nicholls Street, which Shaw purchased in February 1962. He resold the property two and a half years later for "the highest price an individual residential property had ever fetched in the French Quarter" up to that time. After his death, some of Shaw's friends

²⁴ Carpenter, *Man of a Million Fragments*, loc. 39, 129, 699 of 1884, iBooks.

talked about getting a plaque placed in the Spanish Stables in Shaw's honor. This vision came true when the plaque was installed at the Stables on September 28, 1976.²⁵

Shaw was also a successful business man. He was best known as the Managing Director of the International Trade Mart (ITM). The original proposal for this enterprise came from Theodore Brent, who in 1945 claimed that an ITM could be used to increase trade in the port of New Orleans. He believed the introduction of such a business would increase shipments into the city and bring more profits to New Orleans businesses. The organization purchased the Baldwin Building in 1945 to house the operations for the Mart. Shaw was hired to find tenants for the building. The plan was to find "firms that handled general merchandise on the first floor," "firms doing import-export work on the second floor, firms handling household furniture and furnishing on the third floor," "apparel companies on the fourth floor," and firms selling items like "drugs, cosmetics, stationary, jewelry and novelties" on the fifth floor. Shaw rose quickly in the company and "appeared to cover the management of the entire operation" including activities such as "making speeches, writings articles, and generally publicizing the Mart in every way possible." The job also required Shaw to travel constantly. The Mart officially opened on July 1, 1948. After several decades of great success on the Mart's behalf, Shaw was able to retire in 1965 at the relatively young age of fifty-two. Despite all of these great accomplishments, Shaw's defining moment in history began on March 1, 1967, when District Attorney Jim Garrison, ordered Shaw's arrest for "having conspired to murder John F. Kennedy."²⁶

²⁵ Ibid, loc. 66, 741, 1623, 1628, 1630 of 1884, iBooks; addresses of renovation on plaque dedicated to Shaw at the Spanish Stables: 909 St. Louis Street, 505, 507, 509, and 511 Dauphine Street, 921 and 927 Burgundy Street, and 1313 Dauphine Street.

²⁶ Ibid, loc. 118, 120-121, 123, 126, 134, 176, 854 of 1884, iBooks.

Ruth Laney, "The Trouble with Tight Pants," *Country Roads Magazine*, Sep. 23, 2014, Accessed Nov. 8, 2017.

Even though Shaw seemed like a highly unlikely participant in plotting the assassination of a president, he had to face the wrath of another prominent figure in New Orleans: “The Jolly Green Giant,” Jim Garrison. His physical presence alone was intimidating with his tall stature of six feet seven inches and his booming, deep voice. His rise to power began when he beat the Democratic incumbent, Richard Dowling, and ascended to the position of District Attorney of New Orleans in 1962. His main message in his campaign for office promised a “full time” district attorney. Once in office, one of Garrison’s first actions was to target homosexuals in the French Quarter, and he began raids on gay bars. He then targeted establishments that supported “prostitution, gambling, and B-drinking.” However, as his raids went on to clean up the French Quarter, the city’s eight criminal court judges denied Garrison’s office the funds it needed to continue with its undercover and vice activities. Garrison then accused the judges of working for special interests, and the judges charged him with “criminal defamation of character.” The case made it all the way to the United States Supreme Court where Garrison was victorious. The Court upheld a citizen’s right to criticize public officials. As a result of his raids and win in the Supreme Court, few people wished to cross him due to the large political influence he had quickly gained in the city. He also had an impressive record since “his assistants had not lost a single murder case.” People in New Orleans grasped the message which Garrison was sending: cross the District Attorney and risk facing his fury. This heightened sense of ego led Garrison to pursue at least one thing outside the scope of Orleans parish jurisdiction.²⁷

After Kennedy’s assassination, Garrison took a special interest in the case and the Warren Report’s ultimate conclusion that Oswald acted alone in murdering Kennedy. The wheels in

²⁷ Patricia Lambert, *False Witness: The Real Story of Jim Garrison’s Investigation and Oliver Stone’s Film JFK*, (New York: M. Evans and Company, Inc., 1998), 14-18.

Garrison's head definitely started turning after discussing the assassination on a plane trip in 1966 with Senator Russell Long whose father, Huey P. Long, had also been assassinated a few decades earlier while he was a senator of Louisiana. Long told Garrison that he believed the true assassin(s) used Oswald as the "fall guy" who drew attention to the Texas School Book Depository while the real killers took the shots that murdered the president. After his talk with Long, Garrison returned home and began studying the case and the twenty-six volumes of the Warren Report. As Garrison studied, a cohesive assassination plot began to form in his mind. The heart of Garrison's case against Shaw revolved around the plotting of three conspirators: Lee Harvey Oswald, David Ferrie, and Clay Bertrand. Garrison was able to link these conspirators together based on statements given by three witnesses: Dean Andrews, Jack Martin, and Perry Russo.²⁸

Andrews was as unique a character as the city of New Orleans itself. He was a comical looking kind of person who is often described as having a "roly poly" type of build and was rarely seen without wearing a pair of sunglasses. Andrews provided his story about the character "Clay Bertrand" shortly after the assassination while he was heavily medicated in the hospital. He was a lawyer in New Orleans and claimed that Bertrand called him at the hospital to ask if he would be interested in going to Dallas to defend Oswald. He also stated that Oswald had come to his office the summer before the assassination with "a Mexican" and "gay kids" to inquire about getting his dishonorable discharge changed. The FBI investigated Andrews' claim, and he even testified before the Warren Commission about his story. In the weeks right after the assassination he told the FBI that Bertrand was a "figment of his imagination." However, six months later in testimony to investigator Wesley Liebeler, he provided a description of Bertrand

²⁸ Lambert, *False Witness*, 40, 42.

and claimed to have seen him recently in the French Quarter. It seemed that the ability to gain “fifteen minutes of fame” allowed Andrews to resurrect his “Clay Bertrand” story. After Shaw’s arrest Andrews later told Garrison’s office that “he possibly first met Bertrand at Dixie’s Bar of Music,” which was a location that Shaw was known to frequent.²⁹

Andrews later admitted that Bertrand in relation to his story was a completely fictitious person as the trial loomed closer, and it was obvious that an innocent man faced prison time. He explained how the named “Clay Bertrand” ever came into existence during trial testimony in 1969. He stated that in the 1950s he was introduced to someone named Clay Bertrand. Andrews’ friend and client, Helen Girt, who went by the named “Big Joe,” introduced him to Bertrand at a gay wedding reception. Girt had used the name to jokingly refer to a gay bar owner named Eugene Davis. Andrews said he simply used Bertrand’s name as a “cover name” when giving his story to the FBI. It was obvious that Clay Bertrand did not exist, but this did not stop Garrison from his prosecution of Shaw. At the trial Andrews admitted under oath that he did not receive a phone call from Clay Shaw while he was in the hospital and had never even been introduced to Shaw.³⁰

The second witness, Martin, provided the link between Ferrie and Oswald. He told the District Attorney’s office that Ferrie might have trained Oswald to shoot and could have been a possible getaway pilot after Oswald assassinated the President. Martin claimed that Ferrie was in the area when Oswald shot Kennedy. He spent the weekend after the assassination spreading his

²⁹ Kirkwood, *American Grotesque*, 128-129.

Carpenter, *Man of a Million Fragments*, loc. 970-971 of 1884, iBooks.

Lambert, *False Witness*, 35-36.

³⁰ Carpenter, *Man of a Million Fragments*, loc. 1102-1103 of 1884, iBooks.

State of Louisiana vs. Clay L. Shaw, Clay Shaw Trial Transcripts: Feb. 25, 1969, Testimony of Mr. Andrews, 11, 52-55, 60 Mary Ferrell Foundation.

story to many outlets such as the New Orleans Police Department and the local news network, WWL-TV. The Secret Service investigated Martin's claims and their report stated that "Martin, who has the appearance of being an alcoholic, has the reputation locally of furnishing incorrect information to law enforcement officers, attorneys, etc." Martin even later admitted that he called the District Attorney's office with his story about Ferrie and Oswald after one of his "drinking sprees." At first, the police refused to take Martin's story seriously, because they knew his habit of getting drunk and calling the police with outlandish stories. However, the story soon reached Garrison who then got the police involved in looking for Ferrie. As a result, Ferrie soon became "the most wanted man in New Orleans."³¹

Initially, Garrison's office targeted Ferrie as their main suspect for the investigation. After Martin's story, Ferrie was investigated by the FBI and Garrison's office. Ferrie had been on his way to Houston for ice skating with two friends around the time of the assassination. He returned home when a house guest at his apartment called and informed him that there were rumors that he had been involved with the assassination. Ferrie admitted to the Secret Service that he had publicly criticized Kennedy but never stated that he should be killed. He firmly denied Martin's story and denied knowing Oswald. The FBI was able to confirm Ferrie's story regarding his whereabouts during the time of the assassination, and the New Orleans police were "unable to uncover any evidence which linked Ferrie to the assassination." However, Garrison set Ferrie in his crosshairs once he opened his investigation into the assassination. Garrison believed Martin's story that Ferrie's trip to Texas set him up to be used as a getaway pilot for Oswald after he killed Kennedy. Ferrie offered to take a polygraph and "truth serum" for

³¹ James Kirkwood, *American Grotesque: An Account of the Clay Shaw—Jim Garrison Affair in the City of New Orleans*, (New York: Simon and Schuster, 1968), 125-126. Lambert, *False Witness*, 25-26.

Garrison's office to dismiss the accusations against him, but Garrison refused, because if Ferrie passed the test, his investigation would reach a dead end. Garrison began harassing Ferrie's friends and ordered constant surveillance of him. Garrison also became very frustrated when his investigators could not find any evidence against Ferrie. For example, investigator William Gurvich was supposed to prove that Ferrie had been in Dallas on the day of the assassination with his plane ready, but no one recalled seeing Ferrie and records from a local airport proved fruitless.³²

Ferrie became very fearful and anxious as Garrison continued to investigate him and expressed this fear to several of his friends. Ferrie called David Synder, an investigative reporter, who stated that Ferrie was "scared to death of Garrison [and] scared of being arrested." The stress seemed to be too much for Ferrie who was found dead in his apartment from a brain hemorrhage on February 22, 1967. After his death was announced, Garrison referred to Ferrie as "one of history's most important individuals." He also claimed that Ferrie committed suicide with an overdose of his thyroid medication, because his office was planning an arrest. However, a suicide from Ferrie's thyroid medication was highly unlikely due to the "slow-acting" nature of the drug. Ferrie's death also provided Garrison with a serious problem: finding another person to pin his conspiracy on. However, Garrison was in luck because a final witness emerged who put his entire investigation back on track.³³

Perry Russo had an interview with WDSU-TV on February 24, 1967, regarding information he had on Ferrie. Russo stated that Ferrie had commented about how "easy it would be to assassinate a President of the United States." Russo had been a friend of Ferrie and said he

³² Lambert, *False Witness*, 26-29, 44-45, 55, 62, 64.

³³ "Tests are Run on Body of Figure in JFK Probe," *Times Picayune*, (New Orleans, LA), Feb. 23, 1967.

met him in New Orleans during 1962. Andrew Sciambra from Garrison's office was sent to Baton Rouge the day after the news interview to take Russo's statement. In his statement, Russo identified a picture of Shaw but not by name. He simply said he thought he had seen Shaw "once or twice in New Orleans but gave no indication of ever meeting." He also identified a picture of Oswald as possibly being a roommate of Ferrie's after several beards were drawn on the picture's face. However, Russo's story began to change after several hypnosis sessions and the use of sodium pentothal, or "truth serum" was administered at the behest of Garrison's office. Critically, he provided a story that he did not include in his original account to Sciambra. Under hypnosis, where he was heavily guided by the doctor, Russo stated he attended a party at Ferrie's apartment where Ferrie, Oswald, and "Clem Bertrand" planned to assassinate John F. Kennedy. Russo became the "star" witness for Garrison's case since his story made it possible to link the three alleged conspirators together.³⁴

As the investigation went on, it is very easy to see how uneasy Russo became about his testimony being used as the critical piece of evidence against Shaw. On the night that Shaw was arrested, Russo said he might have been unsure about his statement and hoped that Shaw was not being arrested solely based on what he had told Garrison's office. Sciambra advised Russo not to worry and told him that he would just be another witness or might not have to testify at all. This was a complete lie since Russo was "the entire legal basis for the charge filed against" Shaw. A reporter, named James Phelan, attempted to convince Russo to recant his statements that he had made about Shaw. Phelan had previously written a positive article about Garrison when he first

³⁴ Kirkwood, *American Grotesque*, 144-145.

James Phelan, "A Plot to Kill Kennedy? A Rush to Judgement in New Orleans?" *Saturday Evening Post*, May 6, 1967.

Lambert, *False Witness*, 68.

became District Attorney. As a result, Garrison gave Phelan Sciambra's notes on his first interview with Russo and the transcript of Russo's first hypnosis session to show Phelan how airtight the prosecution's case was against Shaw. However, Phelan found the notes far from convincing. He was the first person to discover that Sciambra's notes made no mention of the party where the assassination plot was supposedly discussed. The notes stated that Russo had seen Shaw twice and described both occasions. The party was not included in either instances. During the preliminary hearing against Shaw, Russo testified about the plotting of the assassination at the party. After the hearing, Phelan confronted Garrison with what he had found out since he knew that Russo would testify to seeing Shaw at the party during the actual trial. Garrison called Sciambra who stated that he had been very busy and had forgotten to put that part of the story in his notes. After talking with Garrison and Sciambra, Phelan went on to meet with Russo six times at his apartment. Russo told Phelan that he was afraid that he had identified the wrong man and was upset about being the prosecution's primary witness. Unfortunately, Phelan's attempts at getting Russo to recant his statements were unsuccessful since Russo stayed on course and continued to be Garrison's star "piece" of evidence.³⁵

Russo seemed to be trapped in Garrison's web and was unable to get out. However, any pity felt for Russo dissolves quickly based on his actions. In the beginning, Russo seemed to be an extremely willing participant in the events. He was a character that enjoyed the limelight and fame that accompanied his involvement in Garrison's investigation. He was also rewarded for his part in the testimony. Russo said he was able to stay in fancy hotels and "was permitted to invite all of [his] friends there for dinner." It seems that Russo was also promised by the Garrison office that if he testified he would be rewarded financially even though Russo was never actually

³⁵ Lambert, *False Witness*, 80-81, 90-91, 103-104, 113.

payed. *Life* magazine had promised Garrison \$25,000, and Garrison told Russo that he would receive “ a lot” of it for his troubles. It is easy to see how Russo was benefitting from the story he provided to Garrison’s office and possibly why he was unwillingly to confess the true. The moment he told the truth, he would no longer be able to enjoy the high class and fancy life which he was participating in. Russo was being viewed as someone who was valued and important, and it was not something that he was willing to give up. Although as the trial loomed closer, he expressed guilt and uncertainty to people like Sciambra, Phelan, and others about the statements he had made, he still refused to do the right thing by setting the record straight. Russo, like Garrison and other members of his team, was willing to prosecute and convict an innocent man based on selfish motives.³⁶

Based on the stories given by the investigation’s key witnesses, it is easy to see that the evidence which Garrison had to link to his three co-conspirators was flawed and flimsy, and on its own very unlikely to gain a guilty verdict, but this was not a component that would stop a skilled prosecutor like Garrison. Despite the slim evidence, Garrison had several advantages over Shaw in the case. Firstly, the way the Louisiana Code defined conspiracy could make it easier for Garrison to gain a conviction. In the Louisiana Criminal Code of 1967, conspiracy is defined as:

the agreement or combination of two or more persons for the specific purpose of committing any crime; provided that an agreement or combination to commit a crime shall not amount to a criminal conspiracy unless, in addition to such an agreement or combination, one or more parties of such parties does an act in furtherance of the object of the agreement or combination.³⁷

In other words, for Shaw to be convicted under this law, all Garrison’s prosecution team had to do was prove that Shaw had engaged in a conversation with Ferrie and Oswald about committing

³⁶ Ibid, 80.

³⁷ Louisiana Criminal Code, Ch.1: Criminal Code, Part I: General Provisions, Sec. 26: Criminal Conspiracy (1967).

the assassination since Oswald later committed the act of “furtherance of the object of the agreement” by actually carrying out the assassination.

A second advantage Garrison had was that, since Oswald and Ferrie were both dead, Shaw was the only living, alleged “conspirator.” Garrison was free to make accusations about Oswald and Ferrie being linked to Shaw since the other two men could not refute such statements. When no Clay Bertrand could be found in New Orleans, the prosecution then began to talk amongst themselves to see if anyone named Clay could be found as their third perpetrator. Shortly afterwards, someone dropped the name Clay Shaw. He was a “person with the suspect[’s] first name, a man who was important, educated, well off, who was not married and had friends in all strata of New Orleans society, including the homosexual world.” Shaw’s personal life provided a kind of puzzle piece that Garrison was able to use to his advantage. Pointing out Shaw’s sexuality “made it perhaps more believable to some in the conservative city that he was guilty of something.” Garrison knew the public’s feelings towards homosexuality, so he tried to cast shade on Shaw’s personal life to make him seem like a more guilty defendant in the eyes of the people.³⁸

Fortunately, Shaw assembled a legal team that fought for his innocence and defended him well. While at police headquarters shortly before his arrest, Shaw demanded to see an attorney. He first called Edward Wegmann, but he was out of town. Wegmann had been a civil attorney for Shaw’s real estate arrangements for years. Shaw next called Wegmann’s brother, William, but he was also unavailable. Finally, Salvatore Panzeca, who belonged to the same firm as the

³⁸ Kirkwood, *American Grotesque*, 139.

Adrain Quinland, “After JFK assassination, DA Jim Garrison’s investigation rips into the life of Clay Shaw,” *Times-Picayune*, November 21, 2013, Accessed Oct. 17, 2017.

other two men, came to Shaw's aid at the District Attorney's office. Edward Wegmann arrived shortly afterward to help Shaw make bond. As the trial loomed closer, Edward Wegmann understood that the defense team needed someone with more criminal law experience. Wegmann reached out to Irvin Dymond who joined Shaw's team shortly before the preliminary trial began. Dymond was a well-known defense attorney in New Orleans with "a somewhat legendary reputation," and as a result, he soon became Shaw's lead defense counsel. This group of men on Shaw's side were ready and equipped for whatever Garrison was preparing to throw at them during the upcoming trial.³⁹

Before the trial, comments made by Garrison or actions taken by the District Attorney's office would show that they were subtly focusing on Shaw's homosexuality in an attempt to defame his character. Shortly after Shaw's arrest, the police searched his home. They then provided news outlets a carefully curated list of possessions they seized which was then printed by *The Times Picayune*, for the entire city of New Orleans to see. Some of the items included in the list were a few things that could be used for sexual purposes like ropes, chains, and whips. The prosecution sought to "expose" Shaw's secret life in hopes of shaping the way the public viewed him. It seemed to work as rumors spread in New Orleans "of Shaw's sadomasochistic role-playing." They also decided to list a book seized from Shaw's home which was titled *A Holiday for Murder*, even though elsewhere the list separately identified "4 paperback books," and "12 hardcover books." They specifically decided to point out that Shaw owned a book with "murder" in the title. The book was nothing more than a simple, murder-mystery by Agatha

³⁹ Carpenter, *Man of a Million Fragments*, loc. 260, 961, 962, 982 of 1884, iBooks.

Christie, but it was separately listed to link Shaw to the “murderous” act which the prosecution was trying to prove he took part in planning.⁴⁰

Early in the investigation, Garrison explored the homosexual aspects in the case since “both Ferrie and Shaw, and many of their friends, were rumored to be homosexuals.” Andrews had also indicated that Clay Bertrand “had associated with homosexuals.” Miguel Torres, who was a prisoner at Louisiana State Penitentiary in 1967, said some men from Garrison’s office had come to interview him and wanted “him to say that he had been to Shaw’s residence and engaged in sadomasochistic sex with Shaw.” Garrison also gave an interview with James Phelan before the preliminary trial in which he called the assassination “a homosexual conspiracy masterminded by David Ferrie.” Garrison went on to say the men involved were motivated by wanting to commit the “perfect crime” and said that the case was no different than the Loeb and Leopold case from the 1920s.⁴¹

Garrison’s comparison to the Loeb and Leopold case was very strategic in attempting to ignite the fears that people in the city already had regarding homosexuality. Loeb and Leopold were two, college students, who also happened to be engaged in a sexual relationship. Together they killed a younger student, named Bobby Franks, in a period when “society was undergoing multiple changes, including a rapid increase in popular forms of leisure that were dramatically altering the way people encountered and expressed sexuality in the public sphere.” Because of this, some people started to fear that American youths were becoming immoral, and as a result, the homosexuality of the assailants became a main aspect of the murder case. Popular portrayals

⁴⁰ “Articles Held in Search of Shaw Quarters List,” *Times-Picayune* (New Orleans, LA), Mar. 3, 1967.

⁴¹ Carpenter, *Man of a Million Fragments*, loc. 967, 1146, 1425 of 1884, iBooks. Phelan, “A Plot to Kill Kennedy?”.

suggested that Loeb and Leopold's murder of Franks had no motive but was instead committed to "satisfy some 'perverted' desire." The press often referred to the two men as "pals" with the word put in quotation marks to put special emphasis on their relationship. Both Loeb and Leopold were found guilty and were sentenced to life imprisonment. Just like Loeb and Leopold, Garrison was trying to insinuate that Shaw had also been motivated by his sexuality to commit the "perfect crime" by planning to kill John F. Kennedy.⁴²

During Shaw's 1969 conspiracy trial, subtle references were made to make the jury aware of Shaw's sexuality. For example, many witnesses were asked about the fit of Clay Shaw's pants or his "friendships" with other males. The debate about the pants began with the testimony of Russo. He began his testimony by stating that he had been at Ferrie's apartment in the middle of September in 1963 where he was introduced to a man who was Ferrie's roommate. He described the roommate as being "dirty" with a beard. He then identified a picture of Oswald as being the roommate he had seen at Ferrie's apartment and said that he had been introduced to the man as "Leon Oswald." There were several other people at Ferrie's house including "three or four Latins or Cubans," "a couple of young guys," and one "well-dressed man" who Russo described to look like Shaw. He claimed everyone left the apartment but Ferrie, Oswald, Bertrand, and himself. It was then that Russo claimed the three conspirators discussed killing the President. Russo identified Shaw as Clem Bertrand in the court room and described two other occasions where he claimed to have seen Shaw. The first time Russo said he saw Shaw was at the Nashville Wharf where in 1962 President Kennedy was giving a speech. The main prosecutor, James Alcock, asked Russo if he saw Shaw there with anyone else. Russo replied by saying "he appeared to be

⁴² David S. Churchill, "The Queer Histories of a Crime: Representation and Narratives of Leopold and Loeb," *Journal of the History of Sexuality*, vol. 16, no. 2 (2009): 287, 291-292, 296, 298.

with one man.” Russo also said he thought Shaw was acting oddly, because he was looking around and not at the President. On the second occasion, Russo said he saw Shaw at a gas station with Ferrie in 1964. The story Russo created provided a connection to Shaw in the conspiracy. Russo’s initial testimony laid the groundwork for connecting Shaw to the conspiracy, and his next bit of testimony in Sciambra’s notes would release Shaw’s homosexuality in the courtroom.⁴³

Sciambra’s notes about Russo’s original statement from his interview were also read aloud for the court to hear during Russo’s testimony. Before it was read out loud, Russo verified that it was an accurate description of what he had told Sciambra during their interview. When Russo described seeing Shaw at the Nashville Warf in Sciambra’s notes, he said he remembered Shaw “because he was apparently a queer” who “kept turning and looking at all the young boys in the crowd.” Russo also said that Shaw wore “dark pants that day which fit very tightly and was the kind of pants that a lot of queers in the French Quarter [wore].” After Russo’s testimony, the defense introduced witnesses who testified that they had never seen Shaw wear the type of pants which Russo described in his interview with Sciambra. Russo had in a way opened the “homosexuality” door, and the defense tried its best to close it in an attempt to distance Shaw from the link to homosexuality which the prosecution was trying to establish.⁴⁴

The defense first called Lloyd Cobb, President of the ITM, who denied that he had ever seen Shaw wear tight pants. The defense established that Cobb was someone who knew Shaw fairly well. When he was asked if “it was necessary for [him] to contact [Shaw] frequently,”

⁴³ *State of Louisiana vs. Clay L. Shaw*, Clay Shaw Trial Transcripts: Feb. 10, 1969, Testimony of Mr. Russo, 26-29, 33-37, 42-43, 45, 67-69, Mary Ferrell Foundation.

⁴⁴ *State of Louisiana vs. Clay L. Shaw*, Clay Shaw Transcripts: Feb. 10, 1969, Testimony of Mr. Russo, 109-110, Mary Ferrell Foundation.

Cobb responded by saying “it was absolutely necessary.” When asked about Shaw’s manner of dress, Cobb replied that Shaw “dressed like any ordinary businessman,” and responded with the answer “no” when asked if Shaw ever wore tight pants. On cross examination, Alcock asked if Cobb and Shaw had seen each other socially and also inquired if Cobb had ever been to Shaw’s apartment. Alcock was trying to do the same thing to Cobb which the prosecution sought to do to Shaw: attempt to make his account untrustworthy by attempting to connect him with some kind of homosexuality.⁴⁵

Goldie Moore, Shaw’s former secretary, was the next witness brought forth for the defense regarding Shaw wearing tight pants. Moore had been Shaw’s loyal secretary at the International Trade Mart for nineteen years. Moore was also asked by the defense if she was familiar with Shaw’s manner of dress. She replied that he always “wore a conservative business suit.” When she was asked if she had ever seen Shaw wear tight pants, she responded by saying “never.” She also stated that she never knew Shaw to use an alias such as Clay or Clem Bertrand. On cross examination, Alcock asked Moore if she knew any of Shaw’s “social friends away from work” which hinted at Shaw’s relationship with men. Alcock specifically referenced a “Mr. Biddison” and asked Moore if she knew whether Shaw “lived with Mr. Biddison or [if] Biddison ever live[d] with” Shaw. Moore responded that she did not know and normally did not associate with Shaw outside of work except at social functions given by the ITM. Alcock was attempting “to activate [through his questioning] the imagination of the jury to a Jekyll and Hyde split between [Shaw’s] business and personal life.” He was trying to convince the jury that the witnesses the defense called knew the businessman that Shaw was during the day, but they were

⁴⁵ *State of Louisiana vs. Clay L. Shaw*, Clay Shaw Trial Transcripts: Feb 21, 1969, Testimony of Mr. Cobb, 3-4, 10, 15, 17, 27, Mary Ferrell Foundation.

unaware of his “social escapades” after work where he engaged in “sexual deviant behavior,” which in the prosecution’s case was linked to plotting to kill the President.⁴⁶

The defense introduced two additional witnesses, Arthur Biddison and Arthur Davis, both of whom also denied ever seeing Shaw wearing tight-fitted pants. When the two men were asked about the pants, Biddison replied that he had “never” known Shaw to wear them, and Davis responded by saying “no.” Davis went on to say that he only knew Shaw to wear “business suits.” In Alcock’s cross examination of Biddison, he spent a particular amount of time focusing on Biddison’s relationship with Shaw and with other men. Alcock began his cross examination of Biddison by asking him a series of questions about a few male residents who had lived at his home, including Shaw for a short period of time. Biddison testified he and Shaw had lived together from 1947 to 1950. Later in the questioning, Alcock asked if Biddison was a “social friend of Mr. Shaw,” to which Biddison replied that he was a “business and social friend of Mr. Shaw.” Finally, Alcock asked if Biddison had been subpoenaed to appear in court, and Biddison replied that he had not. Alcock commented that Biddison must have appeared due to his “friendship with the Defendant.” Again, like he had done with Cobb, Alcock tried to hint at the witness’s possible homosexuality as a way of discrediting his testimony in defense of Shaw.⁴⁷

It is impossible to deny based on the evidence that Garrison’s prosecution used Shaw’s homosexuality and personal life to their advantage. Not only did they make his homosexuality known to the public before the trial, but it was also obviously hinted at during the trial in the way

⁴⁶ *State of Louisiana vs. Clay L. Shaw*, Clay Shaw Trial Transcripts: Feb. 21, 1969, Testimony of Ms. Moore, 35-36, 57, 59, 60-61, 65-66, Mary Ferrell Foundation. Kirkwood, *American Grotesque*, 372.

⁴⁷ *State of Louisiana vs. Clay L. Shaw*, Clay Shaw Trial Transcripts: Feb. 25, 1969, Testimony of Mr. Biddison, 8, 14-15, 22-23, 27, Mary Ferrell Foundation. *State of Louisiana vs. Clay L. Shaw*, Clay Shaw Trial Transcripts: Feb. 27, 1969, Testimony of Mr. Davis, 8, Mary Ferrell Foundation,

in which Alcock questioned certain witnesses in the presence of the jury. Garrison might have hoped that his lack of evidence would be overlooked if he could attach Shaw to his homosexuality since it was an issue that most likely made the jury uncomfortable due to its taboo nature. Thankfully, Garrison's plan did not work.

Chapter III: The Aftermath of a Witch Hunt

The trial came to an end on March 1, 1969, when the jury found Shaw not guilty in less than an hour, but irreparable damage had been done to Shaw's life. Before the trial, Shaw had been at the "pinnacle of his life." He was a retired, financially secure man who had plans for the rest of his life. As a result of his prosecution, Shaw had exhausted most of his financial means "in paying for attorney fees and investigative expenses." He had to resort to selling his home at 1313 Dauphine Street six months after the trial. He also eventually had to return to work in December 1971. New Orleans Mayor Moon Landrieu initially appointed Shaw to an unpaid position on the French Market Board to make up for his ordeal with Garrison and to pay him back for his contributions to the city. Shaw was later given the paid position of Managing Director of the French Market Corporation which included renovating and developing the old French Market area in the French Quarter. However, Shaw's acquittal did not sit well with Garrison, and Shaw's conflict with Garrison was far from over.⁴⁸

Three days after Shaw was found not guilty on conspiracy charges, Garrison personally charged Shaw with perjury on March 3, 1969, after none of Garrison's assistant prosecutors would sign the arrest warrant. The perjury charge was connected with Shaw's testimony in court that he did not know Ferrie or Oswald. Perhaps in Garrison's mind, if Shaw was convicted of perjury, it would "be the same in the public mind as a conviction on the original conspiracy charges." After the new charges against Shaw, Garrison released a statement he had from a witness that proved that Ferrie and Shaw knew one another. The witness was June A. Rolfe who claimed that in the early 1960s she had seen Shaw in the front seat of a Ford Thunderbird with a

⁴⁸ "Shaw Found Not Guilty in Plotting to Kill JFK: Jury Takes Less than One Hour Before Reaching Verdict," *Times-Picayune*, (New Orleans, LA), Mar. 1, 1969. Carpenter, *Man of a Million Fragments*, loc. 949, 1421, 1459, 1487-1488, 1496 of 1884, iBooks.

few other young men, and Ferrie was in the backseat. However, Rolfe's motives for providing such a statement were questionable. Firstly, Rolfe and her husband were friends of Garrison and strong supporters of his investigation. Rolfe also might have had personal reasons for making such accusations against Shaw. Several years earlier she had a dispute with Shaw over a rent payment. He claimed she had never made the payment, and it caused Rolfe credit problems. Perhaps her accusations of seeing Shaw and Ferrie together was Rolfe's way of getting revenge for her quarrel with Shaw.⁴⁹

Shaw's perjury trial was set for January 1971 and more witnesses came forward for the prosecution. Betty Rubio said she had seen Ferrie and Shaw at the Lakefront airport, Herbert Wagner stated that he had seen Shaw at Ferrie's service station, and James Louviere claimed he had seen Shaw at Ferrie's home and service station. However, many of these witnesses, like Hebert and Louviere, "never identified Shaw to Garrison's office with any certainty in 1967."⁵⁰

Amidst the ongoing perjury charges, Shaw filed a civil law suit in 1970 against several people including "Jim Garrison, Perry Russo, the hypnotist Dr. Esmond Fatter, and three wealthy backers of the Truth and Consequences organization: Cecil Shilstone, Joseph M. Rault Jr., and Willard Robertson." Truth and Consequences supplied Garrison with private funds to continue his investigation without having to publicly account for the spending and source of the money. Shaw was seeking \$5 million in damages. Garrison attempted to block the civil suit filed against him by claiming he had "official immunity" which was a right granted to police officers and district attorneys. This doctrine "was designed to prevent all persons who had been investigated and later exonerated, or who had been tried and acquitted, from filing suit against officials

⁴⁹ Ibid, loc. 1395, 1473 of 1884, iBooks

⁵⁰ Ibid, loc. 1459 of 1884, iBooks.

simply doing their job.” Some speculated that the reason Garrison charged Shaw with perjury was to delay any kind of civil suit that Shaw might file against him.⁵¹

Shaw’s lawyers filed a federal civil rights suit seeking “a permanent injunction on further prosecution of Shaw on January 26, 1971, which would effectively prevent Shaw from being tried again in relation to the Kennedy assassination.” District Judge Hebert Christenberry denied the injunction, but Shaw’s lawyers appealed to the United States Court of Appeals in New Orleans. The appeals court required that Christenberry hold a hearing to determine “whether Shaw should receive a temporary injunction that would immediately postpone the [perjury] trial, and beyond that a permanent injunction against further prosecution” by Garrison. After the hearing, Christenberry ordered a “permanent injunction against further prosecution of Clay Shaw related to Garrison’s Kennedy assassination investigation” in May 1971. Christenberry criticized Garrison’s investigation and prosecution of Shaw, particularly the heavy reliance on Russo as a witness, the lack of evidence against Shaw, and the private financing of the investigation. He even stated that there was no “factual basis for questioning Shaw about the assassination,” and the perjury charges against Shaw were “brought in bad faith and for purposes of harassment.” Even after this ruling, Garrison refused to stop. Garrison appealed Christenberry’s decision, but the ruling was upheld by the United States Court of Appeals in New Orleans on July 31, 1972. Garrison then appealed the United States Supreme Court. The perjury charges against Shaw finally came to an end when the Supreme Court declined to hear the appeal on November 21, 1972.⁵²

⁵¹ Ibid, loc. 1442-1443 of 1884, iBooks.

⁵² Lambert, *False Witness*, 165, 174.

Carpenter, *Man of a Million Fragments*, loc. 1459-1460, 1483-1484, 1513, 1528 of 1884, iBooks.

Howard Jacobs, “Shaw Prosecution Barred,” *Times-Picayune* (New Orleans, LA), May 30, 1971.

With the perjury charges dismissed, Shaw's civil suit was free to continue. Unfortunately, the proceedings soon faced another roadblock. Shaw became ill. The beginning of the end of Shaw's life started on February 4, 1974, when Shaw was involved in a car accident that was caused by a seizure. While he spent time recovering from the seizure, he was diagnosed with cancer once again in spring of 1974. Previous medical records from 1973 indicated that Shaw had radiation treatment which is frequently used in cancer treatment. He also received x-rays of his colon and scans of his liver and spleen. Most likely around Easter 1974, Shaw was told that he had terminal cancer and was dying. As a result of his illness, Shaw's lawyers tried to speed up the civil proceedings. A pretrial conference date was scheduled for October 23, and the trial was set to begin on November 4, 1974. Statements by Shaw's lawyers attempted to show that the defendants had benefitted from Shaw's prosecution. Garrison had aspirations for higher political office and book contracts, and the members of Truth and Consequences "received business either from the government or government-controlled agencies, and it was important for them to be on friendly terms with local elected officials." Shaw provided records of his income to show how he had suffered during the conspiracy trial. In addition to financial losses, Shaw said he had suffered "depression, pain, mental anguish, humiliation, embarrassment, and suffering."⁵³

Even with the proceedings moving faster, Shaw was fading fast. By May of 1974, Shaw had said his final goodbyes to many of his friends, and he settled in his home with two close friends, Don Doody and Gail Baumgartner, and a medical student, Wayne Julian, who all became Shaw's caretakers in the final part of his life. Edward Wegmann wrote to Irvin Dymond and William Wegmann about his visit to Shaw's home in July to discuss the case. Wegmann said

⁵³ Carpenter, *Man of a Million Fragments*, loc. 1540-1541, 1573, 1576, 1590, 1592 of 1884, iBooks.

Shaw “seemed confused and was hallucinating during the visit.” Shaw’s personal physician, Dr. Hugh Batson, told Shaw’s lawyers that Shaw would be unable to testify at the trial due to his condition. Shaw died on August 15, 1974, at the relatively young age of sixty-one at his residence at 1024 St. Peter Street. The cause of death listed on his death certificate was “metastatic lung malignancy, into the brain and liver, due to adenocarcinoma of the lung.” Shaw was unable to enjoy the last few years of his life since he spent them engaged in legal disputes that arose from the original conspiracy charges Garrison brought against him.⁵⁴

Unfortunately even after his death, Shaw continued to be harassed. The first attack came from the Orleans Parish Coroner, Dr. Frank Minyard. After Shaw’s death Minyard went to Shaw’s house and asked to see his body, but Edward Wegmann did not let Minyard in the house. Wegmann said that Minyard had come too late since Shaw’s body had already been returned to Kentwood which was Shaw’s hometown. Minyard contacted a Kentwood judge in an attempt to have the body returned but realized it would be a long and difficult legal process. As a result, Minyard called for a police investigation into Shaw’s death. He “requested the police department’s homicide division” look into Shaw death despite Minyard’s admission that he had no evidence that Shaw died of anything other than natural causes. Two detectives were later assigned to the case. Minyard said he was worried about someone “helping [Shaw] along” since he stated that mercy killings happened “all the time” in terminally ill cancer patients. He also did not rule out suicide, murder, or other forms of foul play. Minyard said he would request that Shaw’s body be exhumed and brought back to New Orleans for an autopsy if any evidence

⁵⁴ Ibid, loc. 1580, 1596-1597 of 1884, iBooks.

“Clay Shaw Finals Rites to be Today,” *Times-Picayune*, (New Orleans, LA), Aug. 16, 1974. Alecia P. Long, “Death Delights to Service the Living”: Reconsidering the Life and Legacy of Clay L. Shaw, *The Journal of the Louisiana Historical Association*, Vol. LVII, No. 4 (Fall 2016): 392.

suggested he did not die of natural causes. With a few simple statements, Minyard was able to do what Garrison had done to Shaw a decade earlier: make charges and claims against a person with little to no evidence to back it up.⁵⁵

Shaw's lawyers were quick to defend Shaw and condemn Minyard's statements and actions. Edward Wegmann commented by saying that it was "regrettable that the scavengers [would] not allow Clay Shaw to rest in peace." He went on to say any statements suggesting that Shaw had committed suicide or was murdered was preposterous considering it was known in the New Orleans community that Shaw was dying of cancer. Wegmann even stated that Shaw's early death might have been directly connected to his continued harassment by public figures like Garrison and Minyard. Wegmann's statement about figures harassing Shaw causing his death could have been true considering that prior to Shaw's legal problems with Garrison, the only real health issue Shaw dealt with was a back problem.⁵⁶

Garrison also continued to publicly defame Shaw. He had the audacity to blame his loss in the 1974 Louisiana Supreme Court race on Shaw's death. He suggested that there could have been a conspiracy in Shaw's death to prevent him from winning the election. Garrison claimed that Shaw's death led to the reemergence of Shaw's name in the newspapers which would have reminded potential voters about Garrison's unpopular trial against him. He even claimed that before Shaw's death, he was leading in the polls. It seemed that facts still mattered little to

⁵⁵ Kenneth A. Weiss, "Police 'Quietly' Probe Shaw's Death," *Times-Picayune*, (New Orleans, LA), Aug. 18, 1974.

Adriane Quinland, "After JFK assassination, DA Jim Garrison's investigation rips into the life of Clay Shaw," *Times-Picayune*, NOLA.com, Nov. 21, 2013, Accessed Oct. 17, 2017.
Lambert, *False Witness*, 177.

Long, "Death Delights to Service the Living," 393-394.

⁵⁶ Weiss, "Police 'Quietly' Probe Shaw's Death," *Times-Picayune*.

Long, "Death Delights to Service the Living," 394-395.

Garrison, because a poll taken of members of the New Orleans Criminal Courts Bar Association discredited his claim of leading in the polls before Shaw's death. Ninety percent of the one hundred members responded to the poll, and they showed that Garrison was not in the lead before Shaw died. The results showed that for the Supreme Court race, Pascal F. Calogero Jr. received eighty-nine percent, Alwynn J. Cronvich received eight percent, and Garrison came in last place with only three percent of the vote. However even while in his grave, Shaw continued to provide Garrison with a convenient scapegoat to blame his short faults and failures on.⁵⁷

After Shaw's death, his lawyers made a valiant effort to continue his civil suit against Garrison and the other defendants. Edward Wegmann filed a motion seeking to be substituted for Shaw as the plaintiff in the case since Wegmann claimed he was the executor of Shaw's estate. Wegmann argued that Shaw had suffered property as well as personal damage as a result of Garrison's prosecution of Shaw. Wegmann said that "Shaw's constitutional rights were violated as a result of a conspiracy between Garrison and other defendants" who included members of the Truth and Consequence's organization which helped to privately fund Garrison's investigation of Shaw. Wegmann also cited the 1866 Civil Rights Act to defend Shaw's case. It stated that a violation of a person's civil rights gave the injured party:

"a right of action to recover any damages, exemplary as well as actual, which he may sustain before any court of competent jurisdiction."⁵⁸

However, Malcom Monroe, who was the lawyer for some of the defendants, claimed that the suit should no longer be allowed to continue due to Louisiana's Civil Code. It stated that if a person claiming damages died, the trial could only continue in favor of:

⁵⁷ "Poll Results for Calogero," *Times Picayune* (New Orleans, LA), July 21, 1974. Long, "Death Delights to Service the Living," 397-398.

⁵⁸ Revised Statue Laws of the State of Louisiana, Civil Rights, Sec. 458 (1870).

“(1) the surviving spouse and child or children of the deceased, or either such spouse or such child or children; (2) the surviving father and mother of the deceased, or either of them, if he left no spouse or child surviving; and (3) the surviving brothers and sisters of the deceased, or any of them, if he left no spouse, child, or parent surviving.”⁵⁹

Since Shaw had no living spouse, children, parents, or siblings, the defense claimed that, under Louisiana law, the case had no grounds to continue.⁶⁰

Federal District Judge Frederick J. R. Heebe ruled on March 4, 1975, that Wegmann was able to proceed as the plaintiff of Shaw’s \$5 million lawsuit. Heebe noted that “the action would normally abate (die with the death of the plaintiff) under state law,” but “federal common law requires that the action survive in favor of the executor.” Shaw’s case was reviewed by the U.S. Fifth Circuit Court of Appeals by a three-judge panel including John Minor Wisdom, Joe Ingraham, and Harlan H. Grooms. The judges affirmed Heebe’s original decision on January 24, 1977, that the case should be allowed to move forward by saying that “a civil rights action [under federal common law] instituted by a plaintiff, seeking damages to redress a violation of his own civil rights, prior to his death survives in favor of his estate.” Even though Louisiana law blocked the continuation the judges agreed that federal common law allowed the suit to proceed.⁶¹

Shaw’s civil case made it all the way to the Supreme Court where the case *Robertson v. Wegmann* began arguments in March 21, 1978. Wegmann argued that the Court should uphold

⁵⁹ Civil Code of Louisiana and Ancillaries, Book III of the Different Modes of Acquiring the Ownership of Things, Title V of Quasi Contracts, and of Offenses and Quasi Offenses, Ch.2 of Offenses and Quasi Offenses, Art. 2315 (1980).

⁶⁰ “Wegmann Motion Considered,” *Times-Picayune*, (New Orleans, LA), Oct. 24, 1974. Long, “Death Delights to Service the Living,” 399.

⁶¹ Gordon Gsell, “Shaw’s Garrison Suit Okay,” *Times-Picayune*, (New Orleans, LA), Mar. 5, 1975.

Gordon Gsell, “Shaw Suit’s Future is Weighed,” *Times-Picayune*, (New Orleans, LA), May 12, 1976.

Gordon Gsell, “Clay Shaw’s Executor Can Sue Garrison—Court,” *Times-Picayune*, (New Orleans, LA), Jan. 25, 1977.

the Fifth Circuit's decision. He insisted that Garrison had violated Shaw civil rights, and that Congress's federal civil rights law prevented "persons like Garrison from misusing their offices with 'police state' tactics." Robertson's lawyer, Monroe, used the same argument that he had used in the two lower courts: that Louisiana law prevented the case from continuing due to Shaw having no surviving relatives. Unfortunately, the justices did not rule in Shaw's favor when they released their decision on March 21, 1978. The Court overturned the two lower court's decision based on a "narrow" vote of 6-3.⁶²

Justice Thurgood Marshall wrote the majority opinion and stated that, "the goal of compensating those injured by a deprivation of rights provides no basis for requiring compensation of one who is merely suing as the executor of the deceased's estate." The opinion went on to say that absolute survivorship should not be provided as a solution to a case that under state law would otherwise result in abatement. It continued by stating that it overturned the two lower court's decision because "few persons are not survived" by one of the close relatives which Louisiana law required in a case like Shaw's. The Court could have used Shaw's case as an opportunity to expand survivorship for defendant's whose civil rights were violated but who died and left no close living relatives to continue their case. Instead, the Court decided to categorize Shaw's case as a rare incident which was not worthy of receiving justice. However, in closing, the opinion said that the Court's decision might have been different if the deprivation of Shaw's civil rights had actually caused his death. Apparently, the actions of a prosecutor who was hell-bent on Shaw's conviction and who for years subjected Shaw to mental abuse and

⁶² Kenneth A. Weiss, "Clay Shaw Lives on Via Lawsuit," *Times-Picayune*, (New Orleans, LA), Mar. 22, 1978.

"Clay Shaw's Estate Can't Sue Garrison Supreme Court Says," *Times-Picayune*, (New Orleans, LA), June 1, 1978.

Carpenter, *Man of a Million Fragments*, loc. 1635 of 1884, iBooks

anguish which might have been a factor in his early death was not enough evidence for the Supreme Court Justices.⁶³

However, not all of the justices agreed with the Marshall and the other five judges' majority opinion. Justice Harry Blackmun wrote a dissenting opinion which two other justices joined. The dissent's opening stated it did not understand why the Court did not allow the lower courts to deny state law when applying the local law "seriously undermine[d] substantial federal concerns." It continued by stating that Shaw's case proved the "unsuitability" of Louisiana's survivorship law. It claimed that it was not abnormal, like the majority opinion said, for a defendant to die and leave no relatives from the four categories of Louisiana's survivorship law—a spouse, children, parents, or siblings. The dissent further backed up their claim by saying that "any lawyer who has had experience in estate planning or in probating estates knows that the situation is frequently encountered." The opinion concluded by saying that "absolute survivorships, survivorship in favor of a descendant's nonrelated legatees in the absence of familial legatees, are the simple goals of uniformity, deterrence, and perhaps compensation."⁶⁴

Sadly, this is where Shaw's story comes to an end. All in all, Shaw was never given the justice and retribution that he deserved for all of the years of hardship and harassment that he suffered from Garrison's investigation and trial. It is also unfortunate to see that after years of dedication to a city's growth and prosperity, Shaw is largely remembered for a decade in his life that he would most likely want to forget.

⁶³ *Robertson v. Wegmann*, 436 U.S. 584 (1978).

⁶⁴ *Robertson v. Wegmann*.

Conclusion

The case against Clay Shaw can serve as a warning about what happens when political officials gain too much power over the people they are supposed to serve. Garrison was given the power to begin a prosecution and take a conspiracy case to trial even though the state had very little evidence against Shaw. Since Garrison had access to private funds due to the Truth and Consequences Organization, he could rack up large bills for investigation without disclosure or fear of serious consequences. Many of those involved in the investigation, like Garrison, went on to live successful lives, while Shaw's life was left in ruins. Garrison went on to publish several successful books about his investigation surrounding the assassination including *On the Trail of Assassins*. Garrison was also later hailed as a hero who simply could not win his case to bring those who plotted against the President to justice in Oliver Stone's 1993 film, *JFK*, while Shaw was portrayed as the arrogant villain who got away.⁶⁵

Extreme similarities can be seen between the events that took place before the Lavender Scare in Washington D.C. and the city of New Orleans prior to Shaw's trial. Both instances involved a homosexual community establishing itself in a city where it was tolerated for a short period. However, once homosexuality became a visible, there was a sharp response by the community to crackdown upon it and diminish its influence and scope. The crackdown often led to incidences of violence against homosexuals like the attack on Jack Frey in Lafayette Park and the murder of Fernando Rios in the French Quarter. Finally, both situations reached a tipping point due to the explosion of an incident, and homosexuality was blamed as the precipitating cause. In Washington D.C., the Red Scare led to the Lavender Scare out of suspicion of a

⁶⁵ Jim Garrison, *On the Trail of Assassins: My Investigation and Prosecution of the Murder of President Kennedy* (New York: Sheridan Square Press), November 1988.
JFK, Directed by Oliver Stone, USA: Warner Brothers, 1991.

homosexual's way of life. In New Orleans, Garrison blamed the tragic death of John Kennedy on a plot that was planned by a group of homosexuals.

Shaw's story sometimes fades into the background of history when discussing the Kennedy assassination. In fact, it is hard to find people who have even heard Shaw's story or know much about Garrison's trial against him. However, he is an incredibly important and fascinating figure considering he is the only person to have ever been brought to trial for alleged involvement in a conspiracy regarding Kennedy's assassination. Aside from being involved in the trial, Shaw was a man who was described by many of his friends and those who knew him as a kind and good friend. At his memorial service, his lifelong friend and poet, Rob McKuen called Shaw a "gentle man and a gentleman." Shaw was also a person who greatly loved his city and spent much of his time and effort in restoring many French Quarters properties. He tragically died without fulfilling many of his dreams such as traveling the world and pursuing his aspirations to be a poet and playwright. His story is one that deserves to be told, because the legal system and the city that he loved dearly did him a great injustice.⁶⁶

The most alarming thing that was discovered during this research is the fact that the "crime against nature" law still exists in Louisiana to this day. Even though the 2003 Supreme Court decision in *Lawrence v. Texas* ruled that "the liberty protected by the Constitution allows homosexual persons the right to choose to enter upon relationships in the confines of their homes and their own private lives and still retain their dignity as free persons," this liberty is threatened by the continued existence of anti-sodomy laws in fourteen states: Louisiana, Alabama, Florida, Idaho, Kansas, Michigan, Mississippi, North Carolina, Oklahoma, South Carolina, Texas, and

⁶⁶ "Rob McKuen Tribute to Clay Shaw," Donated Papers of Clay Shaw. Long, "Death Delights to Service the Living," 393.

Utah. Though it is improbable that these laws could be used as discriminatorily against homosexuals as they were in the 1950s and 1960s, an arrest under this law can still have undesirable consequences. Such arrests can cause problems such as trouble finding housing or a job. Some progress was made in 2012 when a U.S. District Judge Martin Feldman of Louisiana ruled that people convicted of a “crime against nature by solicitation” would not have to register as sex offenders. Before August 2012, anyone convicted under this law, even if it was a first offense, was required to register as a sex offender. Unfortunately, this ruling did not change anything for around four hundred people who had already been convicted of this crime and had to register as sex offenders.⁶⁷

In 2013, a dozen “crime against nature” arrests occurred in East Baton Rouge Parish when undercover officers targeted gay men in a local park. Cops went undercover in the park, propositioned a gay man for sexual activities, and then arrested the man when he agreed to accompany him home to perform sexual acts. These arrests are eerily similar to those done by undercover cops in the 1950s in Lafayette Park in D.C. and the French Quarter in New Orleans. In 2014, a man was arrested in East Baton Rouge Parish for an “attempted crimes against nature.” The District Attorney refused to bring charges against the man since the law he was arrested on was unenforceable. An attempt to repeal the law was introduced in the legislature in April 15, 2014, but the law was upheld by a vote of 66 to 27. People who were against the appeal argued that repealing the law “would eliminate protections from oral and anal sexual assault.” If this is a concern, Louisiana lawmakers could simply rewrite the statutes by removing the anti-

⁶⁷*Lawrence v. Texas*, 539 U.S. 558 (2003).

"12 states still ban sodomy a decade after court ruling." *USA Today*. April 21, 2014, Accessed Jan. 16, 2018.

Michael Kunzelman, "Louisiana sex law violates offenders' rights, federal judge rules," *NOLA.com*, Mar. 29, 2012, Accessed Jan. 17, 2018.

sodomy portion of the law while still protecting victims of sexual assault. The trend of arrests under this law continued in 2015 when two men were arrested for “crime against nature” for having sex in a car in a park after hours. However, the charges were later dropped to trespassing. Some argue that there is no harm in these laws remaining on the books since they are unenforceable and cannot be prosecuted, but the fact that they still remain reflect an underlying homophobia that continues to exist in some states. These anti-sodomy laws have no place in our state or anywhere in our country where homosexual couples are now free to marry as a result of the Supreme Court’s decision in *Obergefell v Hodges* in 2015.⁶⁸

A quote by Martin Niemoller, who was a Holocaust survivor, shows how dangerous it can become when a person remains silent to the prejudice going around them. He said that,

“first they came for the Communists, and I did not speak out, because I was not a Communist. Then they came for the Socialists, and I did not speak out, because I was not a Socialist. Then they came for the trade unionists, and I did not speak out, because I was not a trade unionist. Then they came for the Jews, and I did not speak out, because I was not a Jew. Then they came for me, and there was no one left to speak out for me.”

John F. Kennedy said something similar in 1963 when he said, “the rights of every man are diminished when the rights of one man are threatened.” These quotes remind the reader to stand up against injustices even if a person is not directly affected by the injustice being done. For when one group’s civil liberties and personal lives are invaded, it is a danger to every person’s civil liberties and personal lives in the future. History has an unfortunate pattern of sometimes repeating itself, and future generations are doomed to repeat past mistakes unless important lessons are learned from them. Clay Shaw never received what he deserved while he was alive. Maybe future changes to anti-homosexuality laws and telling his story, can help him someday

⁶⁸ Ibid.

Julie Compton, “American Men are Still Being Arrested for Sodomy,” *The Advocate*, May 23, 2016, Accessed Jan. 16, 2018.

receive a place in history where he is admired and remembered favorably for many generations to come.⁶⁹

⁶⁹ Quote from Martin Niemoller, Holocaust Memorial Day Trust, Accessed Nov. 9, 2017. "John F. Kennedy Speeches," John F. Kennedy Presidential Library and Museum, Accessed Dec. 29, 2017.

Bibliography

Primary Sources

“Action Decided in Drive to Clean Up the Quarter.” *Times Picayune* (New Orleans, LA), Aug. 8, 1962.

“Articles Held in Search of Shaw Quarters List.” *Times Picayune* (New Orleans, LA), Mar. 3, 1967.

“Boast in Fatal Beating is Told.” *Times-Picayune* (New Orleans, LA), Jan. 22, 1959.

"Chapter 1." National Archives and Records Administration. Accessed January 19, 2018.

<https://www.archives.gov/research/jfk/warren-commission-report/chapter-1#conclusions>.

Civil Code of Louisiana and Ancillaries. Book III of the Different Modes of Acquiring the Ownership of Things. Title V of Quasi Contracts, and of Offenses and Quasi Offenses. Ch.2 of Offenses and Quasi Offenses. Art. 2315 (1980).

“Clay Shaw’s Estate Can’t Sue Garrison Supreme Court Says.” *Times-Picayune*, (New Orleans, LA), June 1, 1978.

Gsell Gordon. “Clay Shaw’s Executor Can Sue Garrison—Court.” *Times-Picayune*, (New Orleans, LA), Jan. 25, 1977.

Gsell, Gordon. “Shaw’s Garrison Suit Okay.” *Times-Picayune*, (New Orleans, LA), Mar. 5, 1975.

Gsell, Gordon. “Shaw Suit’s Future is Weighed.” *Times-Picayune*, (New Orleans, LA), May 12, 1976.

Jacobs, Howard. “Shaw Prosecution Barred.” *Times-Picayune* (New Orleans, LA), May 30, 1971.

“Jury Acquits 3 Students Tried in Slaying of Guide.” *Times-Picayune* (New Orleans, LA), Jan. 24, 1959.

Lawrence v. Texas. 539 U.S. 558 (2003)

<https://supreme.justia.com/cases/federal/us/539/558/case.html>.

Louisiana Criminal Code. Ch.1: Criminal Code. Part I: General Provisions. Sec. 26: Criminal Conspiracy. Ch.1: Criminal Code. Part V: Moral Offense Against the Public. Sec. 89: Crime Against Nature (1967).

“Man is Arrested on Morals Charge.” *Times-Picayune* (New Orleans, LA), Apr. 23, 1958.

“Quarter Vice Crackdown: D.A., Police to Co-operate in Crackdown.” *Times Picayune* (New Orleans, LA), Aug. 7, 1962.

Revised Statue Laws of the State of Louisiana. Civil Rights. Sec. 458. (1870).

“Rob McKuen Tribute to Clay Shaw.” Donated Papers of Clay Shaw.

Robertson v. Wegmann. 436 U.S. 584 (1978)

<https://supreme.justia.com/cases/federal/us/436/584/case.html>.

“Shaw Found Not Guilty in Plotting to Kill JFK: Jury Takes Less than One Hour Before Reaching Verdict.” *Times-Picayune*, (New Orleans, LA), Mar. 1, 1969.

State of Louisiana vs. Clay L. Shaw, Clay Shaw Trial Transcripts: Feb. 25, 1969, Testimony of Mr. Andrews, 11, 52-55, 60 Mary Ferrell Foundation. Accessed Jan. 10, 2018.

<https://www.maryferrell.org/showDoc.html?docId=1302#relPageId=61&tab=page>.

State of Louisiana vs. Clay L. Shaw, Clay Shaw Trial Transcripts: Feb. 25, 1969, Testimony of Mr. Biddison. Mary Ferrell Foundation. Accessed Nov. 2, 2017.

<https://www.maryferrell.org/showDoc.html?docId=1304>.

State of Louisiana vs. Clay L. Shaw. Clay Shaw Trial Transcripts: Feb. 21, 1969. Testimony of Mr. Cobb. Mary Ferrell Foundation. Accessed Nov. 2, 2017.

<https://www.maryferrell.org/showDoc.html?docId=1296org/showDoc.html?docId=1296>.

State of Louisiana vs. Clay L. Shaw, Clay Shaw Trial Transcripts: Feb. 27, 1969, Testimony of Mr. Davis. Mary Ferrell Foundation. Accessed Nov. 2, 2017.

<https://www.maryferrell.org/showDoc.html?docId=1308>

State of Louisiana vs. Clay L. Shaw. Clay Shaw Trial Transcripts: Feb. 10, 1969. Testimony of Mr. Russo. Mary Ferrell Foundation. Accessed Nov. 2, 2017.

<https://www.maryferrell.org/showDoc.html?docId=1275>

State of Louisiana vs. Clay L. Shaw. Clay Shaw Trial Transcripts: Feb. 21, 1969. Testimony of Ms. Moore. Mary Ferrell Foundation. Accessed Nov. 2, 2017.

<https://www.maryferrell.org/showDoc.html?docId=1296>[org/showDoc.html?docId=1296](https://www.maryferrell.org/showDoc.html?docId=1296),

“Tests are Run on Body of Figure in JFK Probe.” *Times Picayune*, (New Orleans, LA), Feb. 23, 1967.

“Two Men Arrested by Vice Squad Officers.” *Times Picayune* (New Orleans, LA), Feb. 16, 1966.

“Vice Squad Officers Arrest Two Men.” *Times Picayune* (New Orleans, LA), Feb. 13, 1966.

"Warren Commission - Introduction." National Archives and Records Administration. Accessed Jan. 19, 20. <https://www.archives.gov/research/jfk/warren-commission-report/intro>.

“Wegmann Motion Considered.” *Times-Picayune*, (New Orleans, LA), Oct. 24, 1974. 18.

Weiss, Kenneth A. “Police ‘Quietly’ Probe Shaw’s Death.” *Times-Picayune*, (New Orleans, LA), Aug. 18, 1974.

Weiss Kenneth A. “Clay Shaw Lives on Via Lawsuit.” *Times-Picayune*, (New Orleans, LA), Mar. 22, 1978.

Secondary Sources

"12 states still ban sodomy a decade after court ruling." USA Today. April 21, 2014. Accessed

- Jan. 16, 2018. <https://www.usatoday.com/story/news/nation/2014/04/21/12-states-ban-sodomy-a-decade-after-court-ruling/7981025/>.
- Compton, Julie. "American Men Are Still Being Arrested for Sodomy." *Advocate*. May 23, 2016. Accessed Jan. 16, 2018. <https://www.advocate.com/crime/2016/5/23/american-men-are-still-being-arrested-sodomy>.
- Campanella, Richard. *Bourbon Street: A History*. Baton Rouge: Louisiana State University Press, 2014.
- Carpenter, Donald H. *Man of a Million Fragments: The True Story of Clay Shaw*. Donald H. Carpenter, LLC, 2014, iBooks.
- Churchill, David S. "The Queer Histories of a Crime: Representation and Narratives of Leopold and Loeb." *Journal of the History of Sexuality* 18, no. 2 (2009): 287-324.
- Delery, Clayton. *Out for Queer Blood: The Murder of Fernando Rios*.
- DiEugenio, James. *Destiny Betrayed: JFK, Cuba, and the Garrison Case*. New York: Sheridan Square Press, 1992.
- Garrison, Jim. *On the Trail of Assassins: My Investigation and Prosecution of the Murder of President Kennedy*. New York: Sheridan Square Press, November 1988.
- JFK*. Directed by Oliver Stone. USA: Warner Brothers, 1991.
- Johnson, David K. *The Lavender Scare*. Chicago: The University of Chicago Press, 2004.
- "John F. Kennedy Speeches." John F. Kennedy Presidential Library and Museum. Accessed Dec. 29, 2017. https://www.jfklibrary.org/Research/Research-Aids/JFK-Speeches/Civil-Rights-Radio-and-Television-Report_19630611.aspx.
- Kirkwood, James. *American Grotesque: An Account of the Clay Shaw—Jim Garrison Affair in the City of New Orleans*. New York: Simon and Schuster, 1968.

- Kunzelman, Michael. "Louisiana sex law violates offenders' rights, federal judge rules."
NOLA.com. Mar. 29, 2012. Accessed January 17, 2018.
http://www.nola.com/crime/index.ssf/2012/03/louisiana_sex_law_violates_off.html.
- Lambert, Patricia. *False Witness: The Real Story of Jim Garrison's Investigation and Oliver Stone's Film JFK*.
- Laney, Ruth. "The Trouble with Tight Pants." *Country Road*, Sep. 23, 2014. Accessed
Nov. 8, 2017.
<http://countryroadsmagazine.com/art-and-culture/history/the-trouble-with-tight-pants/>
- Long, Alecia P., "Death Delights to Service the Living": Reconsidering the Life and Legacy of
Clay L. Shaw. *The Journal of the Louisiana Historical Association*. Vol. LVII, No. 4
(Fall 2016).
- Mellen, Joan. *A Farewell to Justice: Jim Garrison, JFK's Assassination, and the Case That
Should Have Changed History*. Virginia: Potomac Books, Inc., 2005.
- Phelan, James "A Plot to Kill Kennedy? Rush to Judgement in New Orleans?" *Saturday
Evening Post*, May 6, 1967.
- Quinland, Adriane. "After JFK assassination, DA Jim Garrison's investigation rips into the life
of Clay Shaw." *The Times-Picayune*. NOLA.com. Nov. 21, 2013. Accessed
Oct. 17, 2017.
http://www.nola.com/politics/index.ssf/2013/11/after_jfk_assassination_new_or.html
- Quote from Martin Niemoller. Holocaust Memorial Day Trust. Accessed Nov. 9, 2017.
<http://hmd.org/uk/resources/poetry/first-they-came-pastor-martin-niemoller>.
- Swift, Art. "Majority in U.S. Still Believe JFK Killed in a Conspiracy." Gallup.com. November

15, 2013. Accessed Jan. 19, 2018. <http://news.gallup.com/poll/165893/majority-believe-jfk-killed-conspiracy.aspx>.