

INQUIRY

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The JFK case is not closed.

WAITING FOR JUSTICE

By JEFF GOLDBERG



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The JFK murder case is not closed.

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More than a year ago, a congressional committee overturned the findings of the Warren Commission, and suggested the trail may lead to the Mob.

By JEFF GOLDBERG

"I T IS THE BEST OF TIMES AND THE worst of times," says a former investigator for the House Select Committee on Assassinations with a sigh as the sixteenth November 22 passes without an answer to the question of who killed JFK. The best of times, because the now disbanded assassinations committee took an important step closer to the truth by putting an official congressional stamp on a conspiracy verdict after years of inaction and cover-up, and because no one has yet come forward to seriously challenge the basic findings. But also the worst of times, because media indifference has led the public to believe nothing more can be done and the struggle to find the truth may die a lingering death from official neglect before it has a last chance to yield results.

One who says the investigation must not die is the man who directed the House probe, its former chief counsel G. Robert Blakey. Blakey is certain his investigation zeroed in on the

only suspects. He is sure he uncovered enough evidence to satisfy history, if not a court, that organized crime killed JFK. He boils it down this way: "Any effort to explain that assassination has to include the fact of two shooters and the fact that Oswald was killed by Jack Ruby. Those are facts. They are not debatable anymore. Everything else is theory. I am sorry if this goes down hard or disturbs people who made up their minds that something else was true. I have looked at everything else I could find, in addition to those hard facts, and they all point in one direction. Ruby killed Oswald as a result of a desire to silence him. And Oswald killed the President for a motivation that was known only to Lee Harvey Oswald. But he acted in behalf of a desire on the part of elements of the Mob to get the Kennedy administration off their back. It's that simple."

Simple or not, most people are confused about where the matter stands. When the committee chaired by Representative Louis Stokes (D-Ohio) stopped investigating last December, just days after making public its sensational evidence, this was mistakenly read as an abrupt halt and therefore a sign

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After directing the largest investigation in the history of the Congress, he has left Washington, and is back now teaching on the scenic Ivy League campus he left two years ago. His duties include directing Cornell's respected Institute on Organized Crime, where he trains future prosecutors.

Because of these credentials, and despite his backing of conspiracy evidence in both the Kennedy and King cases, Blakey has maintained a credibility in Washington that none of the Warren Commission critics has ever achieved. To those in high places he is now the E.F. Hutton of the JFK case—"When Blakey talks, people listen." "It all depends on how much he pushes it," emphasizes one of Blakey's ardent supporters. "No one else can do it but him. What he says goes now. Blakey has been slow in coming to this realization and shy in accepting this role. Until now he hasn't appreciated that he has a unique position of power and influence with the Congress, the department, and the Kennedy people. No one else has it."

Blakey knows this, but still plays down his status. "I am not going to make this a one-man crusade," he explained in a recent interview. "I gave it two years of my life. I did what I could within the context of the time and the ability that were available to me, and I'm going on with my life. I have other things I want to do." He emphatically adds he has no interest in heading any continued investigation (although he would surely be close by as a consultant).

Despite this reluctance to become ensnared by the JFK case, Blakey has found, like others before him, that it isn't easy to leave the case behind once you get the bug. And he has caught it. Much of his time is still spent preparing investigative leads for the department, talking to former staffers, answering reporters' questions, doing an occasional late night radio talk show, and answering the hostile articles and letters of former Warren Commission counsel David Belin, the most outspoken and visible defender of the lone-assassin thesis. The two are waging an ongoing debate on the pages of *National Review* and the *New York Times Magazine*. And Blakey's book—à la Leon Jaworski and Sam Dash—on his experiences inside the investigation is due some time this year.

So he is doing his part to keep the issue alive. "To see how poorly this was done in 1964 has been the single most soul-shattering experience that I have ever had," he says solemnly. "The investigation has fundamentally changed my life and my attitude toward my government and my society. And I would be deeply disappointed in the agencies of my government, and in the people who currently run them if the case was simply allowed to die."

Blakey is already disappointed in the media coverage of the committee. It has left him (and others from his staff), in his words, "frustrated and cynical." He is severely critical of all the big news outlets and their reporters for prejudging the committee's work and belittling any conclusions that differed from their own. "The press was pleased that there was a dissent in our report," says Blakey. (The members officially voted 5 to 2 in favor of the report.) "They emphasized the dissent, and thus said the report doesn't amount to anything. Then they walked away from it. I think that the management level people, who decide what is news and what's not news, have gone through the whole assassination coverage twice before—in 1964 with the Warren Commission and then again in 1967 with Jim Garrison—and they have learned to live with what they think is the answer. I don't think they have the time or energy to go back through and rethink it a third time."

The report Blakey left behind in July, although it will surely receive a great deal of criticism, has changed forever the way

in which the details of the Dallas assassination must be viewed. The burden of the report is that the Warren Commission was wrong in its account of the murder. It thought a total of three shots were fired, all from behind, and that Lee Oswald fired them all. But now, space-age scientists hired by Blakey have said that there is a 95 percent-plus certainty that a fourth shot was fired from in front of the motorcade from the grassy knoll. Therefore, there were two shooters in Dealey Plaza and a conspiracy to kill the President.

This conclusion comes from an analysis of the Dallas Police Department Dictabelt recording made automatically through a microphone stuck open on a DPD motorcycle riding escort in the motorcade. This transmission recorded on tape the sounds of gunfire during the assassination.



ORIGINALLY BLAKEY SET OUT TO prove there were no shots recorded on the tape. To avert later criticisms, he wanted to be sure he thoroughly checked out the potential piece of hard acoustical evidence, though he suspected it would yield nothing. Instead, the experts found a fourth shot, which the staff immediately nicknamed "Blakey's problem." "That term meant," Blakey recalls now, "that we had to fundamentally reconsider everything—all of the evidence that had come before."

Blakey is confident he used the finest acoustics experts in the country to make the analysis. "They're the best," agrees a knowledgeable source at the Justice Department. "I think that's why they were picked." The consultants, who testified during televised hearings last fall, were Dr. James Barger, of the Massachusetts firm Bolt, Beranek, and Newman, and Queens College Professor Mark Weiss and his research associate Ernest Aschkenasy. Barger and Weiss do sophisticated work for the military, and previously had been appointed by courts to examine the Watergate 18½-minute gap and tape recordings of the Kent State shootings. Blakey calls their work on the Dallas tape "superb," and adds, "nobody could have

The people who decide what's news are tired of rehashing the assassination.

done what Barger did but Barger. He and his firm are simply incredible. I stand in awe of their ability."

Not surprisingly, the proponents of the "lone-assassin theory" don't agree. Since the evidence became public, it has come under a concerted attack from Dallas police officers, unnamed FBI sources, Warren Commission lawyers, and conservative voices in the media and on the committee itself. These irreconcilables question the authenticity of the tape and charge that the analysis was wrong. They say the tape could not have been recorded in the plaza because there were other sounds (sirens, a bell, other voices, etc.) on it from a micro-

At first, Blakey was trying to prove that no shots were on the police tape.

that the Congress would not probe fully into this murky, festering area of national disgrace. Few knew that this was a specially appointed "select committee"—mandated and budgeted for only two years with no provision for renewal—that had planned all along to expire on December 31, 1978. More important, few understood that it was only a fact-finding panel, without prosecutorial power, that was set up to issue investigative and legislative recommendations.

If the case was to be pursued after the committee expired, all in charge agreed, the investigation would need the full range of powers and techniques available only to the Justice Department (or a Special Prosecutor). The next move is up to the department, but because of its long silence, few realize that it is in fact still deliberating whether or not to pursue the committee's leads.

Justice Department and FBI staffs closely monitored the committee's work since its inception in October 1976, and the current review of the final JFK report is being overseen by the department's Criminal Division. They have been aware of the committee's recommendations for almost a year now, and behind the scenes they have been preparing extensive option memos about what to do if a policy decision is made at the top to proceed.

The final decision is officially up to Attorney General Benjamin Civiletti and FBI Director William Webster. The Washington scuttlebutt is that both men favor pursuing the evidence, Webster more than Civiletti. Blakey knows both personally and believes they are men of "high integrity and great ability." He hasn't talked to either since the report was released, but predicts, "They won't let it die."

Six months ago the Stokes committee issued its thirteen-volume report concluding that "President John F. Kennedy was probably assassinated as a result of a conspiracy." Two hectic years of study, initially marred by internal controversy, finally brought forth a verdict that there were at least four shots fired at the President and thus two shooters, not the Warren Commission's three shots and a lone gunman. The commission had stated its conclusions much too definitively and was grossly misled by the FBI and CIA. Crime bosses Carlos Marcello in Louisiana and Santos Trafficante in Florida are now the prime suspects.

Though to some critics the Stokes committee's conclusions were not enough, or just another whitewash, in fact they were more than most felt the government would admit to at such a late date. The committee produced a scientific "smoking gun" showing conspiracy—a tape recording of the assassination—plus living conspirators to pursue. The Stokes committee report was an overturning of "official history," and a direct

answer to the stalwart Warren Commission defenders and media voices who had been steadfast opponents of further probing.

The committee recommended that the Justice Department have qualified experts redo the acoustic analysis of the shots and have organized crime specialists recheck the evidence of Oswald's and Ruby's ties to organized crime.

Because the tape recording is generally perceived as "new" evidence that turned the committee around to a conspiracy conclusion, the department has made its first priority the confirmation of the finding that four shots were fired. FBI Director Webster has an in-house acoustics team that could finish the job in sixty days, but he is holding back, waiting for the department to hire outside contractors to complete the work first so that the initial news coverage would come from their impartial reanalysis. Only then would the FBI team come in with a second opinion.

Little information about progress in this area can be obtained from official spokesmen. "The review is still under way," is about all Justice spokesman Robert Havel would confirm. "No outside consultants have begun work yet and no time frame has been set." The FBI is even more noncommittal. "Our review is still going on," says FBI spokesman Dave Cassens. "We won't say anything until our report is completed, and even then any comments will come from Justice."

The signal to proceed awaits Attorney General Civiletti's approval. He is said to be grappling with such political considerations as how much it will cost, who he should put in charge, and whether the whole thing will end up making the department look foolish. A several-hundred-page report has been prepared for him outlining the project—names of contractors, expected time and costs, anticipated staff needs, and questions to be answered.

NO ONE IS ABSOLUTELY SURE WHAT the Attorney General will decide or when, but to better understand his quandary it is instructive to focus on Blakey: It is Blakey's leads and strategies that are being studied, and his opinion perhaps carries more weight than that of anyone else outside the department. He is also the only person with inside knowledge of the department's current thinking who will speak openly for the record.

Blakey is by all accounts one of the nation's most respected experts on organized crime. In the summer of 1977 he was called to Washington from Cornell University, where he was a law professor, to repair the badly damaged committee. Now 43, Blakey was chosen because he had proven Hill experience (chief counsel to a Senate judiciary subcommittee, 1969-73), impressive credentials from the past decade's major federal studies of organized crime and criminal law, and perhaps most significantly, four years service (1960-64) in the organized crime section of the Justice Department under then Attorney General Robert Kennedy. (He has also publicly spoken of the fact that he was with RFK at a meeting on the morning of the assassination.)

As a Kennedy loyalist, Blakey has a reputation among civil libertarians as a hard-line conservative in criminal law. This stems primarily from his work in the Senate as a principal author of the Omnibus Crime Control and Safe Streets Act of 1968, which set the standards for court-authorized government wiretapping and electronic surveillance. He worked to create this legislation because of his professional objective of giving law enforcement every possible edge in fighting organized crime.

phone outside the plaza. They argue that the officer identified by the committee as the motorcycle rider claims his radio was switched to a different channel from the one recorded on the tape. And they belittle the acoustics analysts as "self-appointed," "so-called," "purported" experts practicing an "arcane" science.

These objections are more on the order of delaying actions than seriously considered responses to the evidence. "No one who is reasonably qualified has so far challenged our work on theoretical or methodological grounds," says Mark Weiss.

And none of the criticisms deals with what is on the tape—the unique echo patterns of Dealey Plaza, making it an exact "acoustic fingerprint" that could be recorded nowhere else. And the irreconcilables don't explain how the four shots got on the tape or why they show up at the exact time the limousine is in position on Elm Street or why the calculated echo patterns move in exact synch with a microphone moving at the speed of the motorcycle, 11 mph.

Blakey and the experts are certain they have considered and rebutted all of the objections. For example, the bells heard on the tape are accounted for as other police microphones outside the plaza trying to break into, and then recording over, the motorcade microphone. These superimposed transmissions do not mean that the sounds of shots were transmitted from anywhere other than Dealey Plaza.

Blakey terms the fourth-shot finding a "scientifically irrefutable fact" and challenges his critics to prove him wrong. "Unless you want to believe something other than what your senses and intelligence tell you is there," he says combatively, "there is only one conclusion: 95 percent-plus. Those people who study it and don't agree with it are either dumb or biased."

Even the committee's dissenters, like Representative Harold Sawyer (R-Mich.), look forward to the Justice Department's rechecking of the tests. Sawyer anticipates this will refute Barger and Weiss, though he offers no evidence to back up his claim. Blakey confidently disagrees. "The feedback I get from the FBI is that they know it is going to come out our

Hoffa and Giancana were murdered, but Trafficante and Marcello thrive.

way," he remarks. "And they really can't afford to do a sham job, because ironically, anybody can do the rest. Anybody with a modicum of expertise as a mechanical engineer, a basic knowledge of radio, a piece of string, an oscilloscope, and a scale map of Dealey Plaza can do it and check the bureau's work. It doesn't take Barger or Weiss's ability to do it now."

"They will contract out for the acoustics," Blakey continues. "It's the FBI's judgment that it would not be wise for them to do it themselves. For obvious reasons. If they said that we were wrong, nobody would believe them."

BECAUSE OF THIS VERY FACT, several critics of the Stokes committee report have argued that a special prosecutor, independent of the Justice Department and its subsidiary the FBI, could best supervise the work. Since the committee found the FBI badly botched its original responsibilities—it ignored leads, destroyed evidence, and misled the Warren Commission—many feel it can't do an objective job and doesn't deserve another chance. Blakey again disagrees; he is persuaded that sixteen years later, Justice Department personnel have changed, and for the better, which eliminates the conflict of interest with past loyalties. He also has faith in the checks and balances of the three branches of government. "The kind of criminal investigation that will produce results constitutionally belongs in the department," he argues. "And if you take it out of there, you will get a bad, unconstitutional result and you will not want that. If in fact the department doesn't pursue this investigation, the solution is to get a new head for the department, not to take it and put it someplace else."

The department has now had six months to read the volumes. "Up to now they have been shuffling papers around on the acoustics," explains one impatient source. "They don't feel any great pressure, and they would really like it to go away. It will probably take at least six months more to do."

Blakey agrees with this estimate. He is asked, "What's taking so long?" "Bureaucracy," he replies. "Nobody wanted to do anything until they got our final report. They could have started in January if they had wanted to, but they didn't. This is obviously not a crisis for them. Whatever priority this has is extremely low and it is not going forward with alacrity. But the process is going forward. And I think it's inevitable, because the way we framed the recommendation has left them no real alternative. We didn't say, reopen the case. They could say, that's hopeless, and then not reopen it. We asked them to verify what we did, as they are doing, and finish the acoustics. And at that point decide whether to reopen the case."

If Blakey's scenario holds, at that point the focus shifts to the committee's leads on organized crime in New Orleans and Dallas—matters rather separate from the scientific evidence. It is not generally realized that the committee staff had framed a JFK conspiracy thesis before the acoustics data exploded last December. The impact of the acoustics was to upgrade a "likely" conspiracy verdict to a "probable" one. The initial thesis was based not on physical evidence about the number of shots, but rather on a great deal of circumstantial evidence bearing on Oswald's relationships with New Orleans associates of crime boss Carlos Marcello and on Ruby's relationships with a host of mobsters around Marcello, Santos Trafficante, Sam Giancana (former Chicago boss), and Jimmy Hoffa. Though Giancana and Hoffa were the victims of gangland-style murders in 1975—which remain unsolved—Marcello and Trafficante still thrive in their respective domains.

The department's organized-crime experts are said to be impressed with the committee's investigation. "They are suspicious of Marcello and Trafficante," says a source privy to their thinking. "But because the report is so large, it creates a sort of paralysis for someone not familiar with it. They don't know exactly what to do and they're waiting for more feedback from people like Blakey, Representatives Stokes and Preyer [who chair, respectively, the full select committee and the JFK subcommittee], Tip O'Neill, Senator Kennedy, and organized-crime experts from around the country. The department people are very secretive about it."

Concerned about potential legal ramifications, the commit-

tee chose final language that only carried it out onto the ledge overlooking this conspiracy evidence. Its report does not directly accuse Marcello and Trafficante of plotting Kennedy's death, but does say cautiously that they cannot be "precluded" as suspects. However, since leaving the committee, Blakey no longer feels personally constrained and has spoken out forthrightly. He is not an impetuous man and he measures his words with care, yet he now flatly states, "The Mob killed the President of the United States and got away with it for fifteen years and continues to get away with it."

"Give me 5 lawyers and 25 FBI agents and 6 months," says Blakey.

Blakey claims to be a late convert to this conspiracy view. He says he hadn't followed the development of the case through the years. He had read the Warren Commission report when it came out and was generally satisfied that Oswald had acted alone. "Literally, I did not know what the issues were," he says. "And I had no particular desire for it to come out one way or another."

According to a former staffer, organized crime was at first an unlikely suspect for Blakey, because he didn't feel Oswald or Ruby was the sort of person who would be used for such a hit. "It was a nightmare trying to convince him," says this source. "He has the toughest standard for Mob evidence of anyone around." It wasn't until last November, after the JFK hearings, that Blakey began to put all the evidence together and told the staff he had changed his mind.

"I resisted it for the longest time," concedes Blakey. "And I personally treated the staff with the utmost skepticism as this Mob evidence began to develop. I'm sure they all think I'm some kind of nut, because I never believed anything they said."

ATTORNEY GENERAL CIVILETTI HAS to make his decision in the context of the current race between Jimmy Carter and Ted Kennedy. Certainly from the moment LBJ persuaded Earl Warren to head the blue-ribbon commission in order to squash the nasty rumors before the 1964 election, determining what happened in Dallas has always been a political hot potato.

The question today is whether officials appointed by and responsible to Carter will take on a task that would produce sympathy for candidate Kennedy. "This is probably something Civiletti is going to have to get clearance to do from the White House, because of the political ramifications," says a former committee staffer, summing up the streetwise speculations. "You don't get into the assassination of Ted Kennedy's brother when your boss, the President, is running against him. The political realities are important here."

Carter's people will of course deny this tension exists, and some Kennedy supporters (who want the case pursued) also say there is nothing to it. Other Kennedy backers won't comment for fear that linking the senator's name with the assassination question will threaten his safety.

Kennedy's statements all along on the JFK case have been carefully hedged. He has said that if there was new evidence he'd reconsider his support for the Warren Commission report. With new evidence now scientifically confirmed, he has most recently said he has come to "accept" the commission's report. Just as he didn't stop his draft movement with a Shermanesque statement, he hasn't stopped the assassination investigation from continuing. It would have been easy to terminate the House probe through his close ally Tip O'Neill, especially after the committee's embarrassing start under the leadership of Representative Henry Gonzalez (D-Tex.) and chief counsel Richard Sprague. But instead, RFK protégé Blakey was brought in.

And last year it was revealed for the first time that RFK himself had strong doubts about the Warren Commission report. In his biography *Robert Kennedy And His Times*, Arthur Schlesinger wrote of his talks with RFK between 1964 and 1966 in which Kennedy speculated about whether Oswald was part of a larger plot arranged by organized crime or Castro or Hoffa. After one 1966 conversation Schlesinger noted, "RFK wondered how long he could continue to avoid comment on the [Warren] report. It is evident that he believes that it was a poor job and will not endorse it, but that he is unwilling to criticize it and thereby reopen the whole tragic business."

Ted Kennedy has evidently decided to take the same tack, and will not speak publicly about the assassination. But if he is elected president (and if nothing is done by the Carter Justice Department in 1980), a Kennedy-appointed attorney general will probably pursue both the JFK and King cases until, as Blakey says, "there is nothing left to do."

Blakey believes it would be relatively simple to train a new team. "It's not that complicated anymore," he says matter of factly. "If you took some senior prosecutors and investigators from the department, it would take six to eight weeks to start up."

The fundamental question is, of course, what would be their chances for concrete results? Blakey is ready for the question. "Let's be frank," he begins realistically. "This case is sixteen years old. While I believe there are things that can be done to move this towards trial, I am not necessarily suggesting that I could bring an indictment that would secure a conviction. I think I could come close to it. Give me five lawyers and twenty-five FBI agents and six months and I'll run out all the additional evidence and tell you at that time whether anything else can be done. It may well be that what happened in the past has had a consequence that cannot now be remedied. This case may be permanently unsolved."

"Because you want the truth in this case," he continues, "it does not follow that you will get it. You are entitled to be told the truth. But what the truth may well be is, 'I don't know and it is not knowable.' What this country is entitled to from the Department of Justice is the frank statement, 'We didn't do it right in 1964. And the consequence of not doing it right in 1964 is that the case is officially unsolved. And we have now done in 1979-80 everything that we can and there is nothing else to do.'"

"If they walk away," he concludes, "and say, 'the Congress has done it, let the Congress live with it,' then we have a compounding of the tragedy of 1964. That's what we don't have to live with."