

In its own reexamination of the case in the late 1970s, the House Select Committee investigated the first generation of critics and found their work wanting in terms of fairness and accuracy. Robert Blakey, the Select Committee's chief counsel, said that many early critics "had special axes to grind. As a result of our investigation, the Committee found that 'criticism leveled at the Commission . . . [was] often biased, unfair and inaccurate . . . [and] . . . the prevailing opinion of the Commission's performance was undeserved.'"<sup>21</sup>

Thomas Buchanan, an American Communist living in Europe, wrote *Who Killed Kennedy?* based on press accounts, and published it before the Warren Report was even in print.<sup>22</sup> The FBI, which studied Buchanan's work, concluded he was responsible for "false statements, innuendoes, incorrect journalism, misinformation, and . . . false journalism," and that his book stated as facts items "which the Commission's investigation has disproved completely."<sup>23</sup> A German leftist, Joachim Joesten, published a vitriolic book also based on newspaper accounts, *Oswald: Assassin or Fall-guy?*, but its questions were answered when the Commission's report was released.<sup>24</sup>

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 In 1966, Harold Weisberg published *Whitewash*, the first in-depth attack on the Warren Report.<sup>25</sup> Weisberg, who later published another five books on the case, was a former Senate investigator who had been dismissed for possibly leaking information to the press. Robert Blakey said his "rhetoric was so obscure, his arguments so dependent on accusation rather than logic, the effect of [his] work was to make complex issues confusing."<sup>26</sup>

That same year, the first major commercial success for a Commission critic was *Rush to Judgment*, by New York attorney Mark Lane.<sup>27</sup> Dan Rather, of CBS, dubbed Lane "the gadfly of the Warren Commission," but Governor John Connally called him a "journalistic scavenger."<sup>28</sup> Lane, a former New York State legislator associated with some prominent left-wing causes, had represented Marguerite Oswald. He unsuccessfully argued with the Commission to be allowed to represent the deceased Oswald at the hearings and to be permitted to cross-examine the witnesses who appeared. Reportedly, *Rush to Judgment* has sold more than a million copies in various editions.

## Critic to Get Free FBI Set Of JFK Files

By George Lardner Jr.  
Washington Post Staff Writer

U.S. District Court Judge Gerhard Gesell refused yesterday to delay the FBI's impending release of thousands of additional documents bearing on the assassination of President Kennedy, but agreed that author-critic Harold Weisberg should get a free set "with all reasonable dispatch."

The FBI plans to make public on Wednesday some 40,000 pages of headquarters documents on the 1963 assassination at a cost of 10 cents a page for those who want their own copies. The bureau released an initial 40,000 pages last month on a similar basis.

An outspoken critic of the Warren Commission and author of six books on the JFK murder, Weisberg noted that he has had freedom-of-information requests for such documents pending for years and that he had asked for a waiver of fees in mid-November. He filed for a federal court injunction in late December, arguing that he was entitled to a free set at least by the time the final batch was made public.

Charging that such voluminous FBI releases amounted to "media events" that effectively camouflage unjustifiable deletions and paper over "a very careful job of sifting and concealing," Weisberg said the Justice Department and the FBI had completely ignored his request for a waiver of the fees, which he said he could not afford.

Announcing his decision from the bench after an hour-long hearing, Gesell was sharply critical of the government's delay in responding to Weisberg's request for more than 50 days. The Justice Department offered him a reduced rate of 6 cents a page last week, but Gesell said "it is apparent no consideration whatever" was given to Weisberg's claims of poor health and indigency.

"The equities are very substantially and overwhelmingly in plaintiff's favor," Gesell said. He said that the records would not be coming to light now were it not for earlier freedom-of-information litigation by Weisberg. This led to a congressional change in the law, opening the door to FBI investigatory records.

The judge, however, declined to hold up the Wednesday release, on grounds that the disclosure of the documents was the "pre-eminent consideration." Weisberg's lawyer, James H. Lesar, said later that he understood the FBI would mail Weisberg copies of the forthcoming 40,000 pages the same day.

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velopment of the post-Warren Commission review of the assassination. On July 4, 1967, Lyndon Johnson signed into law the Freedom of Information and Privacy Act (FOIA). It was revolutionary legislation that allowed private citizens to apply for the release of federal government files, even including those maintained by the FBI, CIA, and other sensitive organizations. The government agencies could only refuse to release the documents if they fell under privacy or security exemptions that were set forth in the law. Since its inception, and a subsequent amendment in 1974, over a million pages of documents have been released about the Kennedy assassination. However, the federal agencies were initially very reluctant to comply with FOIA, and researchers were often forced to resort to lawsuits to win the release of even the simplest documents.

"I think the FBI's attitude was that they hated the Freedom of Information Act from the very beginning," says James Lesar, whose pro bono lawsuits for documents relating to the Kennedy case, many on behalf of Harold Weisberg, have been responsible for prying more sensitive material out of the government than those of anyone else. "The FBI was originally so against the idea of FOIA that it classified early FOIA requestors as a '100 file,' a domestic subversive. They also tried to make the process unpleasant. One of the little things they did at first was to provide you with atrocious copies. They would wait for the copy machine to run low or something, and provide terrible copies. But they eventually wearied of that."

The FBI was repeatedly unmasked for lying to those who filed FOIA requests. "For instance," Lesar recalls, "one ploy was that they said they had to search all their files page by page, because they had no index. And all the while they had a 48,000-card index in the Dallas field office. Technically, FBI headquarters [in Washington] didn't have the index."

"In other instances, they would say there wasn't anything in the field offices that wasn't also kept in headquarters, that the

\*Researchers did not discover the existence of the card index until Weisberg sued for the Dallas field office files in 1978, and the index was disclosed in 1980 (Interview with James Lesar, December 1, 1992).

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