

Reflections on Mark Lane's "Oswald Innocent? A Lawyer's Brief"

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On December 19, 1963, just four weeks after the assassination of President John F. Kennedy, *The National Guardian*, a progressive newspaper, published a legal brief written by Mark Lane entitled "Oswald Innocent? A Lawyer's Brief". With this brief, Lane was the first citizen to write a critical article which questioned Lee Harvey Oswald's guilt in the assassination of President Kennedy. Lane's brief had been offered for publication to, and rejected by, United Press International and the Associated Press.

On March 14, 2013, Lane explained why he had written that brief:

On November 22, 1963, President John F. Kennedy was murdered ... On November 24, 1963, Lee Harvey Oswald was murdered ... The next day, the *New York Times* headline was, "President's Assassin Shot to Death ..." That headline disturbed me. I passionately believed then, as I still do, in the American system of justice, and that headline convicted a man before he was even indicted.[1]

In the spring of 1965 Lane and I met. In October of 1964, I had written an article for a legal journal entitled "The Warren Report Analysis of Shots, Trajectories and Wounds: A Lawyer's Dissenting View".[2] A progressive lawyer, Harry Levitan, whom I did not know, had read both articles and thought that Mark Lane and I should meet. He invited Lane and me to dinner at his home. At the dinner Lane urged that I head up a Philadelphia chapter of his Citizen's Committee of Inquiry. Knowing my complete lack of organizational and leadership skills, I spared Lane from making a horrid decision on the leadership of his Philadelphia Chapter and respectfully declined his offer.

At that time, my interest in the JFK assassination was not focused, as was Lane's, primarily on the deprivation of Oswald's civil liberties. Instead, my attention was concentrated upon the newspaper accounts which reported Oswald as having been involved with widely diverse organizations. He had been a member of Fair Play for Cuba Committee and the American Civil Liberties Union. He had written letters to and had received answers from the Communist Party U.S.A. Oswald's photograph appeared in newspapers holding a rifle and a Trotskyist newspaper. When he was in the marines he had studied the Russian language. After his discharge from the marines he had defected to the Soviet Union.

So, when I met Mark Lane, I told him that Oswald's promiscuous flirtations with so many fractionalized leftist causes led me to believe that he was not a *bona fide* political radical. I

told Lane that Oswald appeared to me to be a U.S. intelligence agent. I informed Lane that if Oswald was the patsy as he had proclaimed himself to be, that would raise an issue. It raised the question of whether, if a U.S. intelligence agency or agencies had employed and controlled Oswald, had they been complicit in Kennedy's assassination? I asked if Oswald had not been a patsy but had been the guilty assassin, then would the U.S. government not have guaranteed Oswald's survival? Would not an innocent U.S. government have viewed Oswald's survival as critical in order to reassure the world of the U.S. government's innocence? Would not an innocent government have been required to ensure a guilty Oswald's survival to undergo a fair public trial to prove Oswald's guilt and the government's innocence? Lane listened to me respectfully, but he did not suggest that he wished to pursue the avenues of investigation that would have opened if Oswald was demonstrated to be a U.S. intelligence agent. In later years, as more evidence to this effect surfaced, I have reason to believe that Lane ultimately accepted my view of Oswald as a U.S. intelligence agent.

The dinner conversation convinced me that Lane's interest was in his becoming the leader of a political movement to prove Oswald's innocence. Looking back now, I feel that Lane's position almost fifty years ago was wise and politically correct. At that early period my thrust to prove Oswald a U.S. intelligence agent was premature because the U.S. public was not politically ready and able to accept such a concept.

In later years the question of whether Oswald was a U.S. intelligence agent became critical to explaining the meaning of President Kennedy's assassination.[3] But back in 1964 Lane understood that raising that matter publicly would not be fruitful. Unlike me, Lane had very considerable political experience. He was important in the Reform Democratic Movement within the Democratic Party in New York City. In 1960 he was elected to, and served a term in, the New York Legislature. He had supported efforts to reform U.S. criminal justice and to expose political corruption. In short, Lane had that which I lacked: an understanding of what was then politically feasible.

Lane, having been steeped in politics, felt that it was not feasible to make public a meaningful case in support of President's Kennedy's killing as a state crime. Lane saw his role in the Oswald case as a leader of a political movement to help preserve and to improve the American system of justice and to redress a "breakdown of the Anglo-Saxon system of jurisprudence."

Lane did go on to lead a successful attack on the U.S. government's fraudulent case for Oswald as the assassin.[4] Beyond question he proved that the U.S. government's myth generation of Oswald as Kennedy's sole assassin was in violation of the basic principles of

civil liberties. The position Lane took at the dinner was politically sound. My position, although historically correct, was politically ill advised. In 1964, no measurable portion of the U.S. public would have had the mindset to accept my viewpoint that Kennedy's assassination was a state crime.

Shortly after the dinner, Lane contacted me. At his suggestion I agreed to go to Dallas in the summer of 1964 to explore investigative leads which Lane had provided. With my brother-in-law, Harold Feldman and his wife, Irma, we went to Dallas.[5] Upon our return, we reported our findings to Lane. He used the results of our investigation in his speaking engagements. Lane and I both worked with Jim Garrison.

As I reflect back, I conclude that Lane [in his 1963 legal brief](#) accomplished more than writing a convincing brief that Oswald was not guilty of killing President Kennedy. In the brief he also clearly pointed out that the then-available evidence of the shots, trajectories and wounds of the Kennedy assassination definitely indicated that President Kennedy was killed by a multiple-assassin ambush. But in his future writings he did not focus upon and flesh out this aspect of the assassination.

I see Mark Lane as having been driven in his defense of Oswald by his love of civil liberties. In his JFK assassination work Lane demonstrated bravery, brilliance and leadership. He contributed importantly to the work of the community of critics to attack and dismantle the U.S. government's lone-assassin fraud. Through his speeches and writings he successfully accomplished his central aim, to prove Oswald's innocence.

To Lane's credit, through his persuasive defense of Oswald, he enlisted in his cause the philosopher giant, Bertrand Russell. Lane's book, [Rush to Judgment](#), became a best seller. In another of his books, [A Citizen's Dissent](#), published in 1968, Lane replied to the communications industry and the establishment intellectuals who in their defense of the [Warren Report](#) attacked the critics as "scavengers." [6] In [A Citizen's Dissent](#) Lane countered the charge that the Warren Commission critics were scavengers by stating that "they [the critics] constitute the most devoted and selfless group of men and women I have known." (p. 252)

Lane's efforts, which began with his legal brief, paved the way for the valorous endeavor of Jim Garrison, the only public governmental figure who sought to employ his office to arrive at the truth in the assassination of President Kennedy. In turn, it was Garrison's investigation which led the way to the historically convincing work of [James W. Douglass](#) in his book, [JFK and the Unspeakable, Why He died And Why It Matters](#) and David Talbot in his book [Brothers: The Hidden History of the Kennedy Years](#). In their books they marshaled clear and convincing evidence that President Kennedy was killed by a U.S. warfare-state coup. They

proved that JFK was assassinated because he and Khrushchev had turned away from the Cold War.[7] Mark Lane, in printing his legal brief, produced the first tear in the Oswald-as-the-sole-assassin myth. His brief began the long and successful struggle to shred the Oswald myth and to expose the grim reality of [the Kennedy assassination as a state crime](#), the purpose of which was to abort President Kennedy's turn towards peace.

Notes

1. [Mark Lane on Facebook](#), accessed 9 May 2013. [↔]
2. "The Warren Report Analysis of Shots, Trajectories, and Wounds: A Lawyer's Dissenting View," by Vincent J. Salandria, *The Philadelphia Legal Intelligencer*, November 2, 1964. [↔]
3. For a compilation of biographical details on Lee Harvey Oswald which confirm his identity as an agent for U.S. intelligence services see "[Oswald and U.S. Intelligence](#)," by Christopher Sharrett, [Appendix V, History Will Not Absolve Us](#). See Also: Philip H. Melanson, *Spy Saga: Lee Harvey Oswald and U.S. Intelligence*. New York: Praeger, 1990. The first 100 pages is [available on ratical in PDF format](#). This copy is provided Courtesy of The Weisberg Collection. Hood College, Frederick, MD, USA. URL: jfk.hood.edu. The original file can be downloaded from the Weisberg Digital Archive and is named: [Item 3A.pdf](#). [↔]
4. An indication of Lane's staying power includes books through the decades that carried the fight forward: *Rush to Judgment* (1966), *A Citizen's Dissent: Mark Lane Replies to the Defenders of the Warren Report* (1968), *Plausible Denial: Was the CIA Involved in the Assassination of JFK?* (1991), *Last Word: My Indictment of the CIA in the Murder of JFK* (2011). Early on Lane debated Joseph Ball, senior counsel for the Warren Commission A recording of entire event – "Mark Lane vs. Joseph Ball, Herman Selvin and A. L. Wirin at Beverly Hills High, December 4 1964," 3 hours and 5 minutes – is available at the [Internet Archive](#). [↔]
5. See "[The Unsinkable Marguerite Oswald](#)" by Harold Feldman (*The Realist*, Issue Number 53 - Sept. 1964 - pp. 12-14), for an account of this trip to Dallas. [↔]
6. As Fred Cook writes in his book, *Maverick: Fifty Years of Investigative Reporting* (New York: G.P. Putnam's Sons, 1984) starting in the latter half of the sixties, "an orchestrated campaign was mounted in books and magazine articles to label all who questioned the validity of the *Warren Report* mere "scavengers" who were out to make a fast buck by preying on the trauma of the American people. No propaganda campaign was ever more vicious or more untrue; some of those engaged in the research spent thousands of dollars of their own money, almost bankrupting themselves in the process." [Reprinted as [The Truth Is Too Terrible](#) in *History Will Not Absolve Us*] [↔]
7. One of the foundations of this rapprochement was a confidential correspondence between Khrushchev and Kennedy that began with a 26-page letter from the Soviet Chairman to the American President. It was written during the Berlin crisis on September 29, 1961, and smuggled in a newspaper carried by Georgi Bolshakov, a Soviet intelligence agent, to Pierre Salinger, Kennedy's press secretary. Bolshakov was also an editor of *USSR* magazine and an interpreter for visiting Russian officials in Washington. He spent an entire night translating the letter from Russian and gave Salinger the original in Russian as well to permit comparison by U.S. translators. [Pierre Salinger, *With Kennedy* (New York: Doubleday, 1966), pp. 197-199] [↔]

See [Jim Douglass, JFK and The Unspeakable, Why He Died and Why It Matters](#) (New York: Simon & Schuster, 2010): "In July 1993, the U.S. State Department, in response to a Freedom of Information Act request by a Canadian newspaper, declassified twenty-one secret letters between John F.

Kennedy and Nikita Khrushchev.” (p. 23) In 1996 all the private correspondence between JFK and Khrushchev was published in *Foreign Relations of the United States (FRUS), 1961-1963, Volume VI, Kennedy-Khrushchev Exchanges* (Washington: U.S. Government Printing Office). The [Kennedy-Khrushchev Exchanges: Document List](#) contains 120 communications, of which 21 make up the secret letters between JFK and Khrushchev. It is not clear precisely which of the 120 make up the subset of 21 private communications. Here is a list of what probably constitutes the bulk of the private missives:

- [Document 21: Letter From Chairman Khrushchev to President Kennedy](#), Moscow, September 29, 1961
- [Document 22: Letter From President Kennedy to Chairman Khrushchev](#), Hyannis Port, October 16, 1961
- [Document 23: Letter From Chairman Khrushchev to President Kennedy](#), Moscow, November 9, 1961
- [Document 24: Letter From Chairman Khrushchev to President Kennedy](#), Moscow, November 10, 1961
- [Document 25: Letter From President Kennedy to Chairman Khrushchev](#), Washington, November 16, 1961
- [Document 26: Letter From President Kennedy to Chairman Khrushchev](#), Washington, December 2, 1961
- [Document 27: Letter From Chairman Khrushchev to President Kennedy](#), Moscow, December 13, 1961
- [Document 32: Letter From Chairman Khrushchev to President Kennedy](#), Moscow, February 10, 1962
- [Document 34: Letter From President Kennedy to Chairman Khrushchev](#), Washington, February 15, 1962
- [Document 37: Letter From Chairman Khrushchev to President Kennedy](#), Moscow, February 21, 1962
- [Document 42: Letter From Chairman Khrushchev to President Kennedy](#), Moscow, March 10, 1962
- [Document 51: Letter From President Kennedy to Chairman Khrushchev](#), Washington, July 17, 1962
- [Document 71: Letter From Chairman Khrushchev to President Kennedy](#), Moscow, October 30, 1962
- [Document 82: Letter From Chairman Khrushchev to President Kennedy](#), Moscow, November 22, 1962
- [Document 84: Letter From President Kennedy to Chairman Khrushchev](#), Washington, December 14, 1962
- [Document 85: Letter From Chairman Khrushchev to President Kennedy](#), Moscow, December 19, 1962
- [Document 99: Letter From Chairman Khrushchev to President Kennedy](#), Moscow, May 8, 1963

In the summer of 1962 John Kennedy gave himself three Bay of Pigs -type events – specific conflicts with his national security managers from the military and intelligence establishments – [before a military coup would overthrow him and seize control of the United States](#). A list of such conflicts between himself and his national security state includes:

1. 1961: [negotiated peace with the Communists for a neutralist government in Laos](#);
2. April 1961: [Bay of Pigs](#) and JFK’s response: “[I want] to splinter the CIA in a thousand pieces and scatter it to the winds.”
3. 1961-63: Kennedy-Hammarskjöld-UN vision [kept the Congo together and independent](#);
4. April 1962: [conflict with big steel industrialists](#);
5. October 1962: [Cuban Missile Crisis](#);
6. 1961-63: [Diplomatic opening to Third World leadership of President Sukarno](#);
7. May 6, 1963: [Presidential order NSAM 239 to pursue both a nuclear test ban and a policy of general and complete disarmament](#);

8. **June 10, 1963: American University Address;**
9. Summer 1963: [Nuclear Test Ban Treaty](#);
10. Fall 1963: beginning of [back-channel dialogue with Fidel Castro](#);
11. Fall 1963: JFK's [decision to sell wheat to the Russians](#);
12. October 11, 1963: [Presidential order NSAM #263 to withdraw U.S. troops from Vietnam by 1965](#);
13. November 1963: [Khrushchev decides to accept JFK's invitation for a joint expedition to the moon](#).

For a summary of JFK's turning toward peace during his Presidency that marked him out for assassination, see Jim Douglass, "[The Hope in Confronting the Unspeakable in the Assassination of President John Fitzgerald Kennedy](#)," Keynote Address at the Coalition on Political Assassinations Dallas Conference, 20 November 2009. Many endnotes in this annotated transcript include segments from [JFK and the Unspeakable](#).

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