

VOL. I

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Serials **See 1**

L. A. County Grand

Jury Transcript re: L. A. County Clerk Office

Dated 8/16/71 — 8/17/71 AM
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L. A. County Clerk Office

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New Vol
made 9/27/74

1 THE GRAND JURY OF THE COUNTY OF LOS ANGELES
2 STATE OF CALIFORNIA

3 * * * * *

4
5 THE PEOPLE OF THE STATE OF CALIFORNIA,)

6 Plaintiff,)

7 vs.)

No. A-233,421

8 SIRHAN BISHARA SIRHAN,)

9 Defendant.)

SEP 7 1971

10
11 REPORTER'S TRANSCRIPT OF GRAND JURY PROCEEDINGS

12 AUGUST 16, 1971

13 AUGUST 17, 1971

14 (A.M. ONLY)

15 VOLUME 1 of 3 VOLUMES

16 Pages: 1 - 241, incl.

17 APPEARANCES:

18 RICHARD HECHT, Deputy District Attorney of Los Angeles County
19 and

20 SIDNEY TRAPP, Deputy District Attorney of Los Angeles County,
21 representing the Office of the District Attorney.

22 JULIUS KOLINER, duly appointed and sworn as the
23 Official Shorthand Reporter of the Grand Jury.

24
25 JULIUS KOLINER, C.S.R.
26 Official Court Reporter
27 Superior Court
28 Los Angeles, California
90012

56-1562-1

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LOS ANGELES, CALIFORNIA, MONDAY, AUGUST 16, 1971

10:05 A. M.

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(The Grand Jury Court Reporter, Julius Koliner, was sworn as follows:

THE FOREMAN: You do solemnly swear that you will correctly take in shorthand and correctly transcribe, to the best of your ability, all of the testimony given by each and every witness testifying in the matters now pending before this Grand Jury, and that you will keep secret and divulge to no one any of the proceedings of this Grand Jury, so help you God?

THE REPORTER: I do.)

THE FOREMAN: The Secretary will please call the roll.

(Thereupon, the Secretary complies.)

THE SECRETARY: There are 21 Grand Jurors present.

THE FOREMAN: I will read the Foreman's Statement.

The death of Senator Robert F. Kennedy in Los Angeles on June 6, 1968, triggered an investigation more comprehensive in scope than any other criminal case in the history of California.

An indictment charging Sirhan Bishara Sirhan with the murder of Senator Kennedy was returned by the 1968 Los Angeles County Grand Jury on June 7, 1968. From that moment on, the Superior Court, acting upon the recommendation

1 of the District Attorney, meticulously sought to preserve the
2 integrity of the original evidence in this case by issuing
3 two separate court orders restricting access to the exhibits
4 introduced during the Grand Jury presentation and during the
5 subsequent trial.

6 The District Attorney has requested that he be
7 given the opportunity to present certain evidence concerning
8 the nature of those court orders and the extent to which they
9 were complied with by members of the Los Angeles County Clerk's
10 Office - the office which has acted, under the law, as the
11 official custodian of such exhibits.

12 The District Attorney respectfully submits that
13 this presentation may be of some assistance to the members of
14 this Grand Jury in connection with its supervisory power over
15 county officers as set forth in Penal Code 928.

16 Any member of the Grand Jury who has a state of
17 mind in reference to this matter which will prevent him from
18 acting impartially and without prejudice will now retire.

19 (Whereupon, no Grand Juror asked to be excused.)

20 THE FOREMAN: Our Deputy District Attorneys are
21 Richard Hecht and Sidney Trapp.

22 Mr. Hecht, do you wish to amplify the statement
23 that I have made?

24 MR. HECHT: Yes, if I may. I have an opening statement
25 that I would like to read.

26 The assassination of Robert F. Kennedy was the
27 third such killing within a relatively short period in our
28 history, following shortly upon the heels of the murder of

1 Martin Luther King and, going one step back further, the
2 killing of President John Kennedy.

3 When Senator Kennedy was killed, Evelle Younger
4 was the District Attorney of Los Angeles County; and he
5 believed that regardless of how comprehensive the Los Angeles
6 Police Department investigation would be, there would
7 inevitably be persons with varying motives, good, bad and
8 otherwise, who would either write a book or make a film urging
9 that Senator Kennedy was killed as a result of a conspira-
10 torial plot, and that Sirhan Sirhan was either a knowing and
11 willing component of that conspiracy, or, in the alternative,
12 a Manchurian candidate - a man who was programmed to murder
13 without realizing the nature and extent of the forces that
14 were controlling him.

15 In any event, because of this apprehension, and
16 because of the desire to do the best job possible, and parti-
17 cularly in view of the criticism of the Warren Commission
18 in connection with its report on the assassination of
19 President John Kennedy, the investigation was, in fact, a
20 very extensive one.

21 During the investigation, and after the trial had
22 been concluded, it was the opinion of both the Los Angeles
23 Police Department, and my office, that no responsible,
24 credible, legally admissible evidence existed that Sirhan
25 acted in concert with others. Yet, the simple making of such
26 a statement invites attack, and puts the burden on the
27 proponent to demonstrably prove a negative, which is often
28 an impossible task.

1 Well, as anticipated, the books have been written
2 and the motion pictures have been produced which have con-
3 demned the investigating agencies for failing, either to
4 uncover, or having uncovered, to publicly disclose the facts
5 as seen through the eyes of these persons.

6 Yet, let me make it clear that aside from the
7 fact that a great deal of money can be made by selling material
8 which attracts public attention, this kind of criticism,
9 regardless of whether it is responsible or irresponsible, is,
10 in my opinion, a very healthy force since it reasserts pressure
11 on all of the concerned agencies, including my own, to evaluate
12 the validity of the conclusions which have previously been
13 publicly announced. And I firmly believe that governmental
14 agencies need be exposed to that kind of prodding in order to
15 be reminded of their responsibility to make sure they have done
16 the best job possible.

17 It should therefore come as no surprise to you when
18 I tell you that there has always been a very low level of
19 anxiety on the part of the concerned agencies insofar as the
20 vexing question of whether Mr. Sirhan acted alone or not.

21 You will recall that the Los Angeles Police
22 Department has consistently indicated that in the event that
23 new evidence arises which indicates that he did not act alone,
24 SUS, which stands for Special Unit Senator - the Task Force
25 which served as the primary investigating unit in connection
26 with the Sirhan case - will be immediately re-activated and
27 the investigation pursued.

28 It was for this reason that from the very outset

1 of the case, we were concerned with preserving the integrity
2 of the evidence which had been gathered during the course
3 of the investigation and ultimately introduced into evidence
4 where it then came into the care, custody and control of the
5 Los Angeles County Clerk's Office.

6 We were concerned with all of the evidence, but
7 particularly the ballistics evidence - the bullets, the bullet
8 fragments, the shells, the gun used by Sirhan - so that five
9 or ten or twenty years from the day that evidence was
10 introduced, it could be re-examined, if the need arose, to
11 demonstrate the validity or the invalidity of the original
12 investigation.

13 At the conclusion of the trial, a series of
14 volumes covering the complete investigation was given to the
15 Justice Department to be placed in their archives for
16 subsequent review and evaluation.

17 We believe, as a result of our investigation into
18 the care and handling of the exhibits by the Los Angeles
19 County Clerk's Office, that this material is incomplete in
20 that it does not reflect an accurate picture insofar as the
21 present integrity of the evidence is concerned. Therefore,
22 one reason for this Grand Jury presentation is to bring their
23 records up to date through the vehicle of the testimony taken
24 here during the next several days.

25 Another reason for this presentation results
26 from our desire to perpetuate the testimony given here in the
27 event that future indictments may become warranted.

28 Aside from the background material which I have

1 just made reference to, the present investigation into the
2 care and handling of the evidence in the Sirhan Sirhan case
3 arose as a result of a recent letter sent by a local
4 attorney to the Los Angeles City Civil Service Commission
5 alleging that a Los Angeles Police Department ballistics
6 expert had committed substantial error during the course
7 of his testimony during the Sirhan case and in two other
8 unrelated cases. As a result of this letter, a Board of
9 Inquiry was created by the Chief of Police to look into the
10 validity or invalidity of these allegations.

11 At the same time, we acted in order to reassure
12 ourselves that the exhibits in the Sirhan case were still
13 protected by the court orders that had been issued earlier.
14 We are of the opinion that they have not been so protected.

15 As a result of the investigation into the allega-
16 tions contained in the letter which I have just made reference
17 to, the possibility exists that the Kennedy death weapon may
18 have to be re-fired in order to confirm or deny the validity
19 of some of these allegations. In the event that a court
20 order is obtained to test-fire the gun which was used by
21 Sirhan to kill Senator Kennedy, the testimony taken during
22 this presentation will be critically important in evaluating
23 the validity of the results of such a test.

24 I would like to make it as clear as possible that
25 this presentation has been designed to focus solely on the
26 integrity of the evidence while it has been in the custody of
27 the Los Angeles County Clerk's Office. Every other aspect of
28 the current investigations being conducted both by the Police

1 Department and by the defendant is now, or soon will be,
2 before the appropriate reviewing body, which is, of course,
3 the California Supreme Court.

4 What, then, will be your options after hearing
5 this presentation? (1) You may elect, after hearing the
6 evidence, to do nothing, simply because what you have heard
7 may, in your opinion, not warrant any recommendation or
8 comment; (2) You may elect to issue a report within a
9 reasonably short time after this presentation; or (3) You
10 may elect to draft a report at the time you prepare your
11 final year-end report.

12 THE FOREMAN: Thank you. You may proceed.

13 MR. HECHT: At this time I would like to have marked
14 for identification 37 photographs which purport to be
15 photographs which will be referred to in this proceeding as
16 Exhibit Viewing Slips or Exhibit Review Slips.

17 THE FOREMAN: It will be so marked as Exhibits 1 through
18 37.

19 Also, I have a transcript of a meeting held in
20 the chambers of Assistant Presiding Judge Charles A. Loring
21 on Friday, May 16, 1969, at 1:30 P.M. I will ask that this
22 transcript be marked Grand Jury Exhibit Number 38 for
23 identification.

24 THE FOREMAN: It will be so marked.

25 MR. HECHT: At this time I would like to call
26 Mr. John Howard, please.

27 (Thereupon, John E. Howard, is escorted into the
28 Grand Jury Hearing Room by the Sergeant At Arms.)

1 - 37
IDENT.

38 IDENT.

1 JOHN E. HOWARD,
2 called as a witness before the Grand Jury, was duly sworn
3 as follows:

4 THE FOREMAN: You do solemnly swear that the evidence
5 you shall give in this matter now pending before the Grand
6 Jury of the County of Los Angeles shall be the truth, the
7 whole truth, and nothing but the truth, so help you God?

8 THE WITNESS: I do.

9

10

11

EXAMINATION

12 BY MR. HECHT:

13 Q Mr. Howard, what is your occupation, please?

14 A I am Chief Deputy District Attorney of
15 Los Angeles County.

16 Q In connection with the matter of People versus
17 Sirhan Bishara Sirhan, did you have some official connection
18 with that particular prosecution?

19 A I was one of the Deputy District Attorneys
20 assigned to the investigation and one of the Deputy District
21 Attorneys assigned to the trial in connection with the
22 matter.

23 That was together with the then Chief Deputy
24 Lynn Buck Compton and now Judge David Fitts, who were also
25 assigned to the investigation and trial.

26 Q Insofar as the investigation and trial of
27 Sirhan Bishara Sirhan was concerned, did the District
28 Attorney's Office treat that matter somewhat differently than

1 they would the average case you normally come into contact
2 with on a daily basis?

3 A Yes, it certainly was treated differently.

4 Q What was the reason for that, Mr. Howard?

5 A At the time of the assassination of Senator
6 Kennedy, it was the third assassination of a national political
7 figure occurring within a relatively short time; the first
8 being the assassination in Dallas of President Kennedy, and
9 then the subsequent killing of Harvey Lee Oswald followed
10 by the investigation of the Warren Commission, which was
11 concerned with the specter of some type of national conspiracy
12 to effectuate a political action by some unified association.

13 The results of the Warren Commission together
14 with the assassination at Atlanta of Dr. Luther King, which
15 was the second assassination of a nationally known figure,
16 and it was then followed by the assassination of Senator Robert
17 Kennedy; it was then anticipated by the District Attorney and
18 the members of his staff that there was always the possibility
19 of some either real or involuntary attempt to connect the
20 three cases together in order to arrive at a theory of
21 conspiracy.

22 The investigation was to be thorough to determine
23 if there was, in fact, merit as to the possibility of the
24 conspiracy theory, either individually or connected with the
25 other two.

26 Q Now, were any special investigative techniques
27 used by virtue of the unique character of this case?

28 A Yes, I would say it was unique in the extent that

1 the investigation went.

2 By that I mean, for example, everyone that could be
3 located in the pantry area, where the assassination occurred --
4 everybody that could be located in the pantry area at the
5 time of the assassination, we went through and tried to get
6 in touch with them and take a statement from them.

7 That was done in cooperation with the Police
8 Department. There was assigned as many as 45 detectives to
9 a special unit that was concerned with the investigation
10 and the actual control of all of the evidence.

11 Q Did that unit have a name?

12 A It was called the Special Unit, Assassination
13 Investigation.

14 A security area was set up and all of the records
15 were kept there.

16 Q Why did you investigate so many witnesses?

17 A There was a public dedication to review in depth
18 every witness in the pantry area, and television cameras were
19 used to locate the people who were present at the time of the
20 assassination. As many as possible were identified from the
21 television pictures because we had no list of the 100 or 125
22 people in the pantry area. We talked to everyone that we could
23 locate. We asked them who was there and what they saw and
24 what they knew about it. We located every person that we
25 could, not only with the help of our investigators and the
26 help of the Los Angeles Police Department, but also with the
27 cooperation of the Federal Bureau of Investigation. We took
28 statements of people that were just residents -- I mean just

1 guests at the hotel and had gone back to their homes throughout
2 the United States. We interviewed everyone we could. We
3 found everyone that was in the pantry area. We found everyone
4 in the hotel or nearby and statements were taken from all of
5 these people.

6 Q Do you remember how many people were interviewed
7 in the course of the investigation?

8 A My recollection is in the thousands, perhaps
9 4,000.

10 Q In connection with the actual trial itself, were
11 any efforts made to introduce perhaps more evidence than would
12 be introduced in the average criminal case in connection with
13 turning over to the Court additional materials that could be
14 used in the future for reference and things of that nature?

15 A At the conclusion of our case in chief, the
16 prosecution, we introduced as a matter of record -- not for
17 jury consideration and not for evidence in the trial itself,
18 but my recollection is that there were 175 full statements of
19 witnesses that had some knowledge or partial knowledge of the
20 events at the Ambassador.

21 At the end of the case we put in an additional
22 number of interviews and statements and reports of individuals.
23 We did this for the reason that in any lawsuit it is necessary
24 at some time to conclude the case. It was a long trial which
25 took three or four months.

26 We called 160 witnesses that had some partial
27 knowledge at the trial and we could have called all these
28 other witnesses if we had wanted to.

1 However, any lawsuit and particularly a jury
2 trial has to be completed at some time. So we called the
3 witnesses that could testify directly to the events that
4 were involved.

5 We called the best witnesses of all the witnesses
6 that we had, and as to these other witnesses from whom we had
7 taken statements who had some partial knowledge of the events,
8 we made those statements part of the record so that any one in
9 the future could review those statements and see what they had
10 to say and would not say to us, "Why didn't you call these
11 witnesses?"

12 We made a calculated risk in that we called our
13 best witnesses, the ones that knew the most and put the other
14 statements in.

15 Q Did you anticipate during the course of the trial
16 that there would be those who would be critical of the
17 investigation or the prosecution in this case?

18 A Right. It seemed to us that with the background
19 and a study of what had happened in the questioned articles in
20 the Dallas case and at Atlanta, that there would seem to be
21 an expected group or a small group of individuals that would
22 attempt to, for whatever motive, to take apart this investiga-
23 tion or question its results.

24 Q Directing your attention now to the ballistics
25 evidence that was introduced during the course of the trial,
26 can you describe generally the nature of that evidence,
27 Mr. Howard?

28 A Right; first of all the Grand Jury hearing was used

1 as a background. The election was on June the 4th and the
2 assassination took place in the early morning hours, which
3 was the 5th of June.

4 We went to the Grand Jury as quickly as we could
5 for security reasons.

6 By security reasons I mean, for the security of
7 the defendant in custody because it was a custodial problem,
8 and also for the security of the exhibits that we had at that
9 point in time.

10 We had the gun, which was a .22 caliber revolver,
11 Ivers & Johnson revolver.

12 We got the gun and whatever bullets or expended
13 bullets were found around the pantry area as quickly as we
14 could into the Grand Jury.

15 I believe we started with the Grand Jury on the
16 5th and the revolver was taken into evidence. We also had two
17 live shells that were taken into evidence.

18 The gun was an eight-shot revolver and there were
19 six casings inside, which indicated that there had been six
20 bullets fired, so we had both the two live bullets from the
21 gun and the six casings, as I recall.

22 At that time, we went to the Grand Jury, moving
23 as quickly as we did at that time.

24 The autopsy had been performed on the Senator and
25 I believe that taken from the body of the Senator there were
26 two pieces of bullet fragments, .22 caliber bullet fragments
27 from the head area of the Senator.

28 We had a spent bullet, a bullet that was found in

1 the dead man, and I believe it was in the cervical vertebra
2 of the Senator.

3 In addition we put into the Grand Jury certain
4 test bullets.

5 To understand this course of the investigation,
6 the criminalist was DeWayne Wolfer. In a regular fashion,
7 when he received the gun and had taken out the bullets, the
8 expended casings and the bullets, he then went to a water
9 tank, loaded the gun, the death weapon, with mini-mags
10 purchased from the same area where Sirhan had purchased his
11 bullets.

12 They had the same numbers as close to similar
13 bullets as we could get.

14 He fired the bullets into the water tank, these
15 mini-mag bullets for future comparison.

16 At the time we went to the Grand Jury we had the
17 bullets from the Senator, that I have indicated, and as I
18 recall other individuals were shot by Sirhan and some of these
19 bullets had been removed but they had not come to us from the
20 bodies of the other victims for ballistic examination or
21 comparisons.

22 So we did not have all the bullets from the other
23 victims at that time.

24 We used the Senator's bullets. I believe there
25 were three bullets, the two fragments of bullets and one
26 complete bullet which was recovered in the cervical spine.

27 Mr. Wolfer fired these test bullets into the water
28 tank and they were recovered. I believe that three of these

1 test bullets were introduced into evidence, and four bullets
2 were kept for future comparison when the other victims' bullets
3 would show up.

4 That was approximately what we had as far as
5 ballistics evidence at the Grand Jury. My recollection is
6 that we had some other exhibits, for example, we have a box
7 with mini-mags which was in a carton taken from his car,
8 and I believe a receipt indicating the store from which the
9 bullets were purchased.

10 We found out that Sirhan had purchased these
11 relatively shortly before the assassination.

12 That is what we had at the time of the Grand Jury.

13 Q At the time of the trial, was there further
14 ballistics evidence introduced?

15 A Yes, there was.

16 Q Explain what that was, sir.

17 A By the time of the trial the bullets taken from
18 the other victims had, of course, caught up with the Crime Lab
19 where they had been compared.

20 They had been compared to the test bullets, since
21 we only put in three bullets before the Grand Jury and we had
22 four test bullets for further comparison.

23 Those were kept in an area where it was restricted
24 and only authorized people could have access to the exhibits.

25 We kept the test bullets. And, therefore, at the
26 time of the trial they were used to compare the additional
27 bullets and the fragments taken from a Mrs. Evans, a victim,
28 a Mr. Stroll, another victim, a Mr. West, another victim, and

1 a Mr. Paul Schrade and a Mr. Ira Goldstein, and they were all
2 introduced as part of our case in chief.

3 Those were the bullets recovered from the other
4 victims in the case.

5 From the very outset of the case and from the
6 very beginning, from the very beginning of the investigation
7 of the case, we were concerned with the preservation and the
8 integrity of the physical evidence, not only by ourselves but
9 by all other members of the staff.

10 From the time of the investigation we went into
11 strict internal control in this special unit in order to
12 insure the integrity of the evidence that was collected.

13 As I said, this special unit was set up and all
14 the exhibits were kept under lock and key and there were only
15 two individuals authorized to open the evidence locker and a
16 log was kept to show when those lockers were opened and what
17 pieces of evidence were examined and this was all done as part
18 of our preparation in this case.

19 These precautions were taken to insure the
20 integrity of the exhibits so that any time in the future we
21 could show that the original evidence was kept intact and no
22 changes were made in it, and also it became a question if
23 there were any independent study, that we would be able to
24 show that there was proper identification for all the exhibits
25 that we had obtained.

26 When the Indictment against Mr. Sirhan was
27 returned by the 1968 Los Angeles County Grand Jury, which was
28 presented in Department 100, before Judge Alarcon, at that time

1 I was present and Judge Alarcon entered into a restrictive
2 order in connection with access to the exhibits.

3 Q That was done before the actual trial commenced?

4 A Yes, at the time the Indictment was returned to
5 Judge Alarcon.

6 Q At that time he made an order restricting access
7 to the exhibits, is that correct?

8 A Yes, that's correct.

9 Q And during the trial, did you have any conference
10 with any representatives of the Clerk's Office in connection
11 with continuing your efforts to insure the integrity of the
12 exhibits and the manner in which they were kept?

13 A We had conferences with the Court, with Judge
14 Walker and with representatives of the Clerk's Office.

15 Ground rules were laid down.

16 During the trial itself there was a special locked
17 cabinet provided and control of that was in the Court Clerk
18 and that was while the trial was actually pending.

19 The conclusion of the trial, my recollection is,
20 about the middle of May, 1969, a series of conferences,
21 informal conferences, were held which culminated in a formal
22 conference in the presiding judge's chambers to discuss future
23 continued control of the exhibits.

24 Q Do you recall at the present time who was the
25 representative of the Clerk's Office, who participated with
26 you during these continuing conferences?

27 A Normally my recollection is that Mr. Talmachoff --
28 on some occasions Mr. Talmachoff and Mr. Emory Hatcher.

1 I believe I recall one where Mr. Sharp was
2 present.

3 Q In any event, did you obtain from Judge Walker
4 in connection with the case certain directions as to how the
5 original exhibits were to be kept?

6 A Yes; after all the series of conferences, it
7 was decided that a court order would be made, that it would
8 be drawn with specificity for all time and it would provide
9 for the continuing control of the exhibits.

10 I recall it was drawn. I believe it was executed
11 on or about May 20, 1969.

12 At this point in time, as I recall, it was thought
13 there might be new judges coming in as Judge Walker was to
14 retire, and this was done as a matter of precaution.

15 Q Subsequent to the time that Judge Walker's
16 Court Order was issued were any members of your staff ever
17 given any notice that certain persons from the public domain
18 were actually viewing the original exhibits on the 4th Floor
19 of the Clerk's Office premises?

20 A No, sir.

21 Q When did you first become aware that such viewings
22 had taken place?

23 A When this investigation originated, and shortly
24 thereafter, possibly the first part of June of this year.

25 Q What were the circumstances that brought that fact
26 to your attention, do you recall briefly?

27 A Yes, the District Attorney, Joseph Busch, had
28 asked for an investigation. We had briefed the District

1 Attorney that there had been restrictive court orders and that
2 the exhibits were, therefore, being adequately protected.

3 At that time I went to determine what controls
4 had been placed on the exhibits, and I learned that they had
5 been transferred from the Clerk's Office to the Supreme Court.
6 The appeal is automatic to the California Supreme Court, and
7 by this time the appeal had advanced to the point that the
8 Supreme Court desired to see the exhibits and the exhibits were
9 sent to the Supreme Court.

10 I realized that there was a Court Order and I
11 just wanted to make sure what the security was on the other
12 side of the counter before they had gone to the Supreme Court.

13 I believe at that time Mr. Hecht, of our staff,
14 briefed me on this matter for the first time.

15 I went downstairs to talk to Mr. Talmachoff and I
16 heard from Mr. Hecht that perhaps there had been a failure to
17 follow the procedures that I thought were in fact being
18 followed.

19 Q When was this in time?

20 A I would say in June of this year.

21 Our department's investigation had come into
22 effect.

23 Q Going back to the time that Judge Walker had made
24 his order, from that time forward, had any representative of
25 the County Clerk's Office ever asked you for an independent
26 investigation or an explanation of Judge Walker's Court Order?

27 A No, sir.

28 Q Did any member of the Clerk's Office ever request

1 permission to show original exhibits to members of the public
2 or representatives of the defense?

3 A No, not of me or the staff.

4 Q In connection with your recollection of the
5 ballistics evidence and the bullets and so forth allegedly
6 used in Mr. Sirhan's gun, are we talking about a .22 caliber
7 long rifle bullet, sir?

8 A Right.

9 That had a technical name. I think it was
10 referred to officially as a mini-mag, describing some
11 characteristic of the bullet which is somewhat different from
12 the typical .22 slug.

13 Q Based on your knowledge of the case, was that a
14 copper-coated bullet?

15 A They were.

16 Q Is it possible, Mr. Howard, that when the gun
17 was taken from Mr. Sirhan in the pantry, there were eight
18 shells in the gun and two live rounds on his person, touching
19 upon your present recollection?

20 A Eight live rounds?

21 Q Yes.

22 A That is probable. There are eight shells in the
23 gun.

24 Q There were eight shells in the gun and two live
25 rounds that were found on Mr. Sirhan?

26 A My recollection is one expended shell and two
27 upon his person.

28 MR. HECET: I have nothing further of this witness.

1 THE FOREMAN: Any questions to be directed to this
2 witness by any member of the Grand Jury? If so, please write
3 them out and they will be directed to the witness through the
4 Deputy District Attorney.

5 Apparently not.

6 Mr. Howard, I need not admonish you as to the need
7 for secrecy as to this Grand Jury proceeding, sir.

8 MR. HOWARD: Indeed you do not.

9 THE FOREMAN: Thank you, sir, for coming in.

10 (Thereupon, the witness, Mr. Howard, was then
11 escorted from the Grand Jury Hearing Room by the Sergeant
12 At Arms.)

13 MR. HECHT: Judge Alarcon, please.

14 (Thereupon, the witness, Judge Arthur Alarcon, was
15 then escorted into the Grand Jury Hearing Room by the
16 Sergeant At Arms.)

17
18
19 ARTHUR L. ALARCON,
20 called as a witness before the Grand Jury, was duly sworn
21 as follows:

22 THE FOREMAN: You do solemnly swear that the evidence
23 you shall give in this matter now pending before the Grand
24 Jury of the County of Los Angeles shall be the truth, the
25 whole truth, and nothing but the truth, so help you God?

26 THE WITNESS: I do.
27
28

EXAMINATION

BY MR. HECHT:

Q Judge Alarcon, you are a Judge of the Superior Court of the County of Los Angeles?

A Yes, sir.

Q Did you in 1968 have any official connection with the returning of the Indictment in connection with the Sirhan Bishara Sirhan case?

A Yes, I did.

Q What was that connection, sir?

A On, I believe it was, June the 7th of the year 1968, I was the Acting Presiding Judge of the Los Angeles Criminal Division of the Superior Court, and that was the day on which the Grand Jury for that year returned the Indictment in the Sirhan matter.

So I was the Judge who accepted the Indictment, having determined that it was a true bill.

Your Honor, I have here what purports to be the District Attorney's copy of the transcript and this is Volume I of the People versus Sirhan Bishara Sirhan case, and I would invite your attention to Page A-1 of the transcript which at the top indicates:

"Los Angeles, California, Friday, June 7, 1968, 4:25 P.M."

Would you examine these pages, please, and tell me if they appear to represent the proceedings at the time the Indictment was returned in court?

A Yes, I will.

1 (The witness complies with counsel's request,
2 and examines the exhibit.)

3 Q Do you recognize, your Honor, the proceedings
4 that occurred in your court?

5 A Yes; I've almost finished reading it, but up to
6 this point they are the proceedings that occurred.

7 May I have just a moment?

8 Q Yes, sir.

9 A (The witness continues reading the exhibit.)
10 Yes, I have completed the reading from portions of
11 the transcription that you have shown me.

12 Q Let me call your attention to Page A-8, your
13 Honor --

14 A Yes.

15 Q Have you read through Pages A-8 and A-9 in this
16 transcription that I have shown you?

17 A Yes, I have.

18 Q Will you please read, starting on Line 5, from
19 that page until I tell you to stop.

20 A Yes.

21 (Reading:)

22 "First, the record will show that
23 Mr. Peter Talmachoff, Chief of the Criminal
24 Division of the Office of the Clerk of the
25 Superior Court, is present in the courtroom.
26 And, further, that Donald Ostrov, the Official
27 Court Reporter for the 1968 Los Angeles County
28 Grand Jury is also present.

1 "I herewith will read the written orders which,
2 upon their being read by the Court, will be served by
3 the Sheriff upon the individual or offices in question.

4 "It is the Order of the Court that upon presenta-
5 tion of the Reporter's Transcript of the Grand Jury
6 Proceedings to the Clerk of the Court that the Clerk
7 shall receive said transcript and keep secret the
8 contents thereof until after service of a copy of said
9 Reporter's Transcript has been made on the defendant or
10 his attorney.

11 "It is further ordered that the original
12 Reporter's Transcript of the Grand Jury Proceedings
13 will be served by the Clerk on the District Attorney,
14 and that the District Attorney also will keep secret
15 the contents of said transcript until after service
16 has been made on the defendant or his attorney.

17 "It is the Order of this Court that the exhibits
18 received by the Grand Jury in its proceeding concerning
19 this Indictment will be delivered to the Clerk of the
20 Court and will be safeguarded by him pending the
21 determination of this case.

22 "It is further Ordered that the Clerk shall not
23 make the exhibits available to any person or agency
24 except upon Order of this Court.

25 "This Order and the previous one, dated June 7,
26 1968, signed Arthur L. Alarcon, Judge of the Superior
27 Court."

28 Q That was, in fact, your Court Order?

1 A Yes, it was.

2 Q I notice that the Court Order can be said to be
3 divided into two parts.

4 One is with respect to maintaining the secrecy of
5 the proceedings of the Grand Jury, the testimony taken at the
6 Grand Jury; and the other in connection with the exhibits.

7 Am I interpreting that correctly?

8 A Yes, sir.

9 Q Can you explain the circumstances leading up to
10 the promulgation of this specific Court Order?

11 A Basically I was concerned with the problem of a
12 fair trial in view of the enormous publicity which occurred as
13 a result of the assassination of Robert Kennedy.

14 So my primary concern was to protect and insulate
15 everything in connection with the proceedings so that there
16 would not be a later reversal, based upon the ground of
17 excessive or pervasive publicity.

18 For that reason I took steps immediately upon the
19 accepting of the Indictment to try to protect the case from
20 publicity, and also to take corrective measures, of what I
21 believed to be abuses up to that point.

22 Q In connection with your Order safeguarding the
23 exhibits, what was your purpose in doing that?

24 A Again to make sure that nothing interfered with
25 the fairness of the proceedings and to avoid either the
26 release of the exhibits for exploitation for publicity
27 purposes, or to prevent any kind of tampering which might
28 result in anything other than a fair trial.

1 Q Now, your Honor, you had become aware that a
2 subsequent Court Order was issued at the end of the trial by
3 Judge Walker in connection with, among other things, the
4 handling and sealing of the exhibits except to attorneys of
5 record or by those having a Court Order?

6 A Only by reading the newspapers.

7 Q Assuming for the purpose of my question, such a
8 Court Order was entered into by Judge Walker, between the time
9 you entered your Court Order and the end of the actual trial
10 in the Sirhan Bishara Sirhan case, did anyone seek to have you
11 modify or vary the terms of your Court Order that you have read
12 to us in these proceedings?

13 A Yes.

14 Q Under what circumstances?

15 A Many representatives of the news media and also
16 the District Attorney's Office of the County of Los Angeles
17 sought to have the Court Order modified.

18 Q Did you, in fact, modify the Court Order, insofar
19 as it pertained to the sealing of the exhibits?

20 A No, I did not.

21 Q To clarify the record, in this particular case
22 that would be the District Attorney, and representatives of
23 the media sought to have you vary or modify the Court Order,
24 and do you know whether that was in regard to the publicity
25 aspects?

26 A Well, I would assume so.

27 Q Did any representative of the Los Angeles County
28 District Attorney's Office ever ask you for any explanation or

1 interpretation or variation of that part of the Court Order
2 dealing with the sealing of the exhibits?

3 A Your question is so broad that I may not be
4 totally responsive. I may be volunteering something.

5 I know after the Order was promulgated and signed
6 by me and read into the record, I was not requested by the
7 County Clerk or any representative of the County Clerk's
8 Office to modify, vary, change or explain the Order.

9 The Order was drafted with the cooperation and
10 prior discussion with Mr. Peter Talmachoff of the County
11 Clerk's Office.

12 Q I don't understand that, your Honor; could you
13 amplify that for us?

14 A Well, I was assigned to handle the proceedings
15 for Friday, June 7th, on Wednesday, June 5th.

16 In preparing for the problems that I felt were to
17 be implicit in the Sirhan trial, one of the problems I was
18 concerned with was publicity. The other problem I was con-
19 cerned with, and it's related to the question of publicity,
20 is any handling or tampering or exploitation of the exhibits.

21 So following the mandate of the United States
22 Supreme Court with reference to fair trials and the problem
23 that is posed by the First Amendment, where we have a free
24 press, I undertook, starting Wednesday, June 5, to write a
25 series of orders which were to try to put some teeth into
26 protecting the case from the excessive publicity or a mis-
27 handling of the exhibits in any way.

28 In so doing I drafted an order with reference to

1 all parties and then I drafted orders directly to the Court
2 Reporter, the County Clerk's Office and other persons.

3 Insofar as the Order, with reference to the
4 Clerk's Office, I called upon Mr. Peter Talmachoff who came to
5 my chambers. I told him I contemplated sealing up and putting
6 a veil of secrecy over everything in connection with the Sirhan
7 case and that I had jurisdiction to do so, and a large part had
8 to do with his office and I drafted something which I showed
9 him and asked him if that was broad enough to give complete
10 protection and secrecy and security to the matters which were
11 within his office.

12 After discussing with him, I wrote the final
13 draft.

14 MR. HECHT: I have no further questions.

15 THE FOREMAN: Any further questions to be directed to
16 the witness by any member of the Grand Jury? If so, please
17 write them out and they will be directed to the witness through
18 the Deputy District Attorney.

19 Apparently not.

20 Thank you, your Honor, for coming in.

21 (Thereupon, the witness, Judge Arthur L. Alarcon, was
22 escorted from the Grand Jury Hearing Room by the Sergeant At
23 Arms.)

24 MR. HECHT: Judge Walker, please.

25 (Thereupon, the witness, Judge Herbert V. Walker, was
26 then escorted into the Grand Jury Hearing Room by the Sergeant
27 At Arms.)
28

1 HERBERT V. WALKER,
2 called as a witness before the Grand Jury, was duly sworn
3 as follows:

4 THE FOREMAN: You do solemnly swear that the evidence
5 you shall give in this matter now pending before the Grand
6 Jury of the County of Los Angeles shall be the truth, the
7 whole truth, and nothing but the truth, so help you God?

8 THE WITNESS: I do.
9
10

11 EXAMINATION

12 BY MR. HECHT:

13 Q Judge Walker, I know you had a very important
14 official connection with the Sirhan case.

15 Would you state what that connection was?

16 A I was the Judge.

17 Q At the conclusion of the case, and more
18 specifically, on Friday, May 16, 1969, was there a conference
19 held in the chambers of the Assistant Presiding Judge,
20 Charles A. Loring, which you attended?

21 A Yes, sir.

22 Q Have you ever seen a copy of the transcript of
23 those proceedings?

24 A Yes, I have.

25 Q I would like to call your attention to Grand Jury
26 Exhibit Number 38 for identification, and ask you to take a
27 look at that and tell me if that appears to be a transcript
28 of those proceedings?

1 A I would assume that you have had this
2 authenticated?

3 Q Yes, we have.

4 A Well, as to your first question, I have seen it.
5 I assume it is a copy of those proceedings and I would assume
6 that it is so because, as you said, you have had it
7 authenticated.

8 Q What was the purpose of the conference held in
9 Judge Loring's chambers on the date indicated?

10 A Well, it had many purposes. You know, I'm getting
11 to be an old man and my memory is not as good as it should be.

12 I believe the main purpose was to determine --

13 I don't mean to insult anybody whose age is over
14 70 -- but the principal purpose was to make a determination
15 with respect to the disposition and care of the exhibits that
16 were introduced in the trial.

17 Q To that extent there were a number of statements
18 in that transcript reflecting your concern and Judge Loring's
19 concern?

20 A That's correct.

21 MR. RECHT: Mr. Foreman, I have here a document which
22 at this time I would like to mark as Grand Jury Exhibit Number
23 40 for identification.

24 I believe I'm skipping a number, but I would like
25 to have it marked that number at this time.

26 This purports to be a copy of an Order issued by
27 the Honorable Herbert V. Walker, Judge of the Superior Court
28 of the County of Los Angeles entitled, "Order Governing the

1 Inspection and Reproduction of Exhibits."

2 Would you examine that Order and tell me if that
3 appears to be familiar to you?

4 A Yes, it is.

5 Q Was that, in fact, the Court Order you issued,
6 your Honor?

7 A Yes, it was.

8 Q Your Honor, bearing in mind that in this
9 transcript that you have just identified as Grand Jury
10 Exhibit Number 38 for identification, that a number of
11 statements were made on that date, such as, for instance,
12 one of them made by you, "Well, we won't have any viewing
13 of the original exhibits except to attorneys of record",
14 and there may be other statements in that transcript
15 expressing the same thought, and having that in mind you
16 issued the Court Order a few days later which authorized
17 only attorneys of record or those obtaining Court Orders to
18 have access to the exhibits, let me ask you the following
19 question:

20 Assuming that a man who is a person who had no
21 official connection with the Sirhan case either before,
22 during or after the trial, after the termination of the trial
23 went to one of the attorneys handling their appeal and asked
24 for and received a letter addressed to Mr. Robert Sours, who
25 I represent to you is the Assistant Chief of the Criminal
26 Division of the Clerk's Office, and said letter read as
27 follows:

28 "Dear Mr. Sours:

1 "As the duly obtained attorneys of record for Sirhan
2 Bishara Sirhan in the case of the People of the State
3 of California, Plaintiff and Respondent, versus
4 Sirhan Bishara Sirhan, Defendant and Appellant, Case
5 Number 14026 in the Supreme Court of the State of
6 California (Superior Court Number A-233,421), we hereby
7 authorize and request that you permit our representa-
8 tive and expert witness, William W. Harper, to see,
9 examine, inspect and, where necessary, make copies of
10 or from each and all and every exhibit in the above-
11 entitled case in your custody and possession, whether
12 the said exhibit was received in evidence, marked for
13 identification only or rejected and especially, but not
14 limited to, the following exhibits:

15 "Numbers 52;

16 "52-A;

17 "53;

18 "(The exhibit, however it may be numbered, which
19 consists of the fragments of the bullets depicted in
20 Exhibit 53);

21 "62;

22 "63;

23 "64;

24 "64-A;

25 "64-B;

26 "81;

27 "82;

28 "78.

1 "Thank you for your courtesy in this matter.

2 "Sincerely yours,

3 "George E. Shibley, Luke McKissack and

4 Abdeen Jabara

5 "(Signed) George E. Shibley,

6 "Attorneys for Defendant and Appellant."

7 Assume further that Mr. Harper was not employed by
8 or formally retained in any way by any of the attorneys, but by
9 showing this letter to members of the Los Angeles County
10 Clerk's Office, and he was at that time given virtually un-
11 limited access to the original exhibits, the ballistics
12 evidence, the bullets, the bullet fragments, and that on a
13 number of occasions he brought with him to the Clerk's Office
14 other persons, as many as three or four persons in his party,
15 who also had the opportunity to see and inspect and to handle
16 the original ballistics evidence; did you intend such person to
17 be given unlimited access to the original exhibits in your
18 Court Order?

19 A Well, your question is quite lengthy and I want to
20 be sure.

21 This man was not employed by the attorneys of
22 record in the trial or the attorneys of record on appeal; is
23 that right?

24 Q He was not employed or retained by or paid by --

25 A I don't care whether he was paid or not. It's a
26 question of whether he had been retained as an employee by
27 either of those two classes of attorney.

28 Q To my knowledge, he had not been employed by them.

1 Office ever call upon you for an explanation or interpretation,
2 or whatever, of the Court's Order which you issued?

3 A No, they did not.

4 MR. HECHT: I have nothing further.

5 THE WITNESS: I might explain to you -- may I volunteer?

6 BY MR. HECHT:

7 Q Please do.

8 A After August 1969 I was not in court. I had a
9 heart attack on July 30th and I've never been to court since.

10 MR. HECHT: Thank you, your Honor.

11 I have nothing further.

12 THE FOREMAN: Any questions to be directed to his
13 Honor by any members of the Grand Jury? If so, please write
14 them out and they will be directed to the witness through the
15 Deputy District Attorney.

16 Apparently not.

17 I'm sure I need not explain to you the need for
18 secrecy of your testimony before this body, your Honor.

19 THE WITNESS: No, you need not.

20 THE FOREMAN: Thank you for coming in.

21 (Thereupon, the witness, Judge Herbert V. Walker, was
22 then escorted from the Grand Jury Hearing Room by the Sergeant
23 At Arms.)

24 MR. HECHT: Mrs. Joyce Shannon.

25 (Thereupon, the witness, Joyce M. Shannon, was then
26 escorted into the Grand Jury Hearing Room by the Sergeant
27 At Arms.)
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JOYCE M. SHANNON,

called as a witness before the Grand Jury, was duly sworn as follows:

THE FOREMAN: You do solemnly swear that the evidence you shall give in this matter now pending before the Grand Jury of the County of Los Angeles shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

EXAMINATION

BY MR. HECHT:

Q Is it Miss or Mrs.?

A Mrs.

Q Thank you.

Mrs. Shannon, would you state for the record your business or your occupation?

A I am Secretary to the Grand Jury.

Q How long have you occupied that position?

A Two years.

Q In that capacity do you have access to and do you have custody of the official records of the Los Angeles County Grand Jury?

A Yes, I do.

Q Did I ask you to bring with you several documents to this presentation?

A Yes, you did.

Q Did you bring those with you, ma'am?

1 A Yes, I did.

2 MR. HECHT: May I have one moment, please?

3 THE FOREMAN: Surely.

4 BY MR. HECHT:

5 Q Did you bring with you a portion of the 1968
6 Grand Jury Report insofar as it relates to the County Clerk's
7 Office?

8 A Yes, I did.

9 Q Did you also bring with you what purports to be
10 a response from the County Clerk's Office to that Grand Jury
11 Report?

12 A Yes, I did.

13 MR. HECHT: With your permission, Mr. Foreman, I would
14 like to first mark the Grand Jury Report as Exhibit Number 41
15 for identification at this time.

16 THE FOREMAN: It will be so marked.

17 MR. HECHT: I would like to have the response marked as
18 Grand Jury Exhibit Number 42 at this time.

42 id.

19 THE FOREMAN: It will be so marked.

20 MR. HECHT: I have no further questions of this witness.

21 THE FOREMAN: Are there any other questions to be
22 directed to this witness by any member of the Grand Jury?
23 If so, please write them out and they will be directed to the
24 witness through the Deputy District Attorney.

25 Apparently not.

26 I'm sure I don't have to instruct you as to the
27 necessity for the secrecy of the Grand Jury.

28 (Thereupon, the witness, Joyce M. Shannon, was then

1 escorted from the Grand Jury Hearing Room by the Sergeant
2 At Arms.)

3 MR. HECHT: Judge Fitts, please.

4 (Thereupon, the witness, David N. Fitts, was then
5 escorted into the Grand Jury Hearing Room by the Sergeant At
6 Arms.)

7
8
9 DAVID N. FITTS,
10 called as a witness before the Grand Jury, was duly sworn
11 as follows:

12 THE FOREMAN: You do solemnly swear that the evidence
13 you shall give in this matter now pending before the Grand
14 Jury of the County of Los Angeles shall be the truth, the
15 whole truth, and nothing but the truth, so help you God?

16 THE WITNESS: I do.
17
18

19 EXAMINATION

20 BY MR. HECHT:

21 Q Judge Fitts, would you please state your present
22 occupation?

23 A Judge of the Superior Court of the County of
24 Los Angeles.

25 Q Directing your attention to the case of the People
26 versus Sirhan Bishara Sirhan, did you have an official connec-
27 tion with that case, either in the investigation or prosecution?

28 A Yes, I did.

1 Q What was that official connection?

2 A I was one of the Deputy District Attorneys
3 assigned to the case.

4 Q Do you recall, your Honor, being present in
5 the chambers of Judge Loring, after the guilty verdict and
6 the penalty verdict had been returned in the Sirhan case?

7 A Vaguely.

8 Q I will direct your attention to Grand Jury
9 Exhibit Number 38, which purports to be the transcript of
10 such a meeting, and you will notice on the first page thereof
11 a list of the people who attended the meeting.

12 A That is on the front page of the transcript?

13 Q Yes.

14 A I see I was present.

15 Do you want me to peruse this with some par-
16 ticularity?

17 Q I just wanted to invite your attention to the
18 fact that such a conference did take place and that you were
19 one of the participants and perhaps that might refresh your
20 recollection that such a meeting did occur and that you were
21 present.

22 A Well, such a meeting did occur and I was present.

23 I must confess that at the present time my
24 recollection is rather hazy as to what went on at that
25 meeting.

26 Q My records reflect that the guilty verdict in the
27 Sirhan case was returned on April 17, 1969, and the penalty
28 verdict was returned on April 23, 1969, which means the

1 meeting in Judge Loring's chambers took place after both those
2 verdicts were returned.

3 Is that in accord with your recollection?

4 A If it is a matter of record, it must be so, but
5 I don't recall it. I do not have any present recollection.

6 Q Assuming for the moment that my records are
7 correct, at the time that the meeting took place in Judge
8 Loring's chambers, having in mind that it was after the penalty
9 verdict had been returned would all the exhibits that had been
10 introduced during the course of the trial be then turned over
11 to a representative of the Los Angeles County Clerk's Office?

12 A I would assume so.

13 Q Do you recall Judge Walker issued a Court Order
14 several days after this meeting in Judge Loring's chambers
15 in connection with the Sirhan case in an effort to preserve the
16 integrity of, and to safeguard, the exhibits in the Sirhan
17 case?

18 A I know such an order was issued.

19 Q From the date such an order was issued which was
20 on May 20, 1969, up until the present time, has any repre-
21 sentative of the Los Angeles County Clerk's Office ever asked
22 you for an interpretation or a variance or a clarification of
23 Judge Walker's Court Order?

24 A No, they have not.

25 Q Your Honor, I want to show you, if I may, what has
26 been marked as Grand Jury Exhibit Number 31 for identification,
27 which is a photograph of what purports to be an Exhibit
28 Viewing Slip, though I may state that we haven't established