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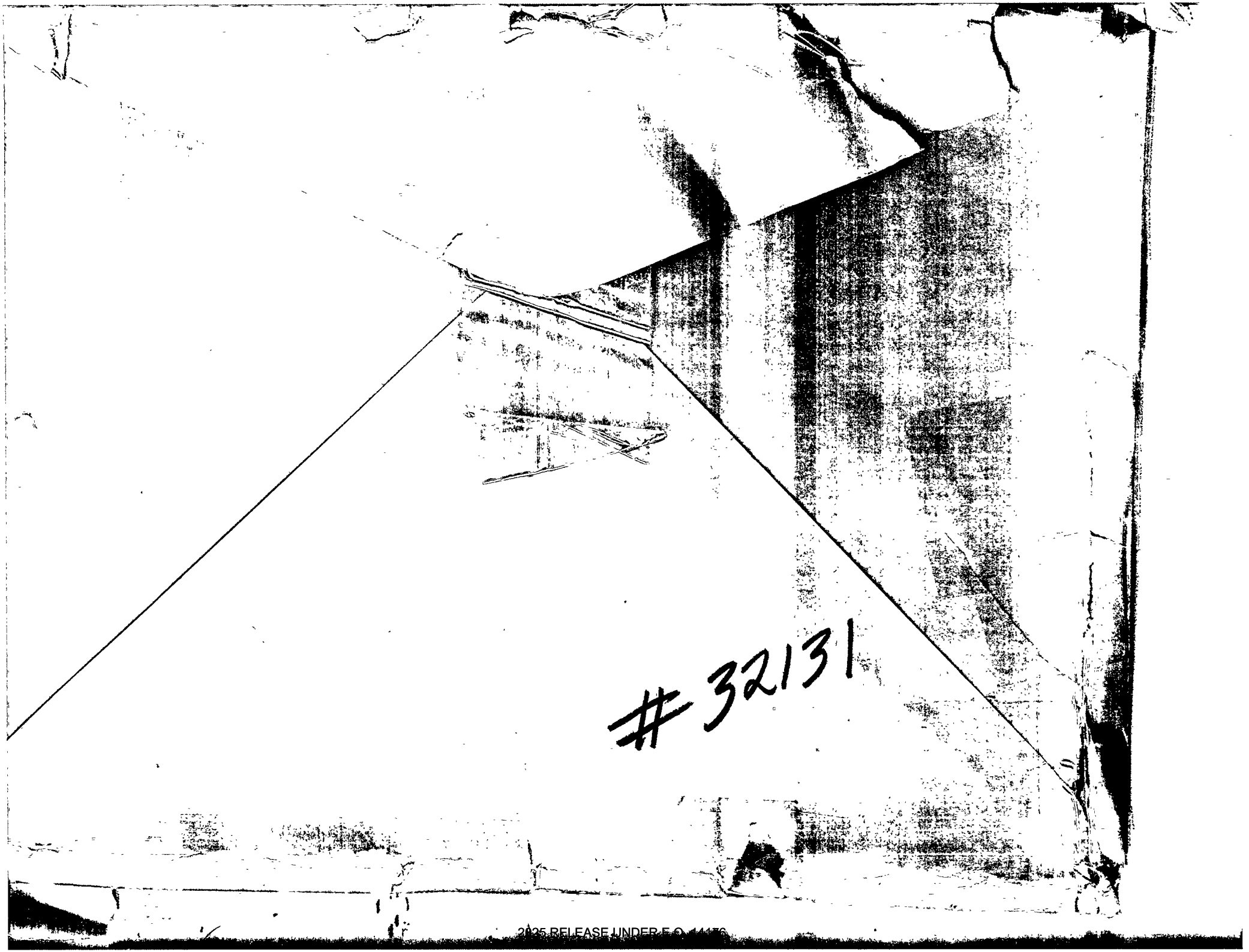

F I R S T S E C T I O N

CHRONOLOGY, HISTORY, NARRATIVE

OF

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FOREWARD

This report presents my observations and conclusions as Special Counsel appointed by the Los Angeles County Board of Supervisors on August 12, 1975, to investigate independently the assassination of Senator Robert Kennedy.

There has been some unwarranted speculation that delay in issuance of this report has resulted from changes being made in the report. Such speculation is false. This report is my product and no changes in either content or substance have been made by any other persons.

Research for the report was conducted from January to March 1976. The report was written from March to May 1976 and dictation tapes were delivered to the District Attorney's Office for typing.

The first draft (which is available for inspection) was reorganized and checked for factual error, typographical errors and grammatical errors from May to August 1976. A second draft was then prepared and proof read. From this second draft a final copy was prepared for reproduction. Due to cut backs in the District Attorney's Office, this final process took about seven months. Secretaries were simply not avaliable to work full time on the project.

I want to thank the Los Angeles County Board of Supervisors for appointing me to undertake this effort and I thank all those in public agencies and the private citizens who have helped me in my investigation. I emphasize that this report is my sole responsibility. I hope that it will help to shed light on one of the most tragic occurences in Los Angeles' history.

Thomas F. Kranz
Special Counsel to the Los Angeles
County District Attorney's Office

MARCH 1977

ROBERT F. KENNEDY ASSASSINATION INVESTIGATION &
THE COURT HEARINGS RE BALLISTICS EXAMINATION & TESTING

Appointment of Thomas F. Kranz as Special Counsel to the Los Angeles District Attorney's Office

On August 14, 1975, Acting District Attorney John E. Howard appointed private attorney Thomas F. Kranz as Special Counsel to the District Attorney's Office in the matter of the Robert Kennedy assassination. The appointment of a special independent outside counsel, who was deputized as a deputy district attorney on August 14, 1975, was to insure a fresh independent look at the entire matter and controversy surrounding the death of Senator Kennedy.

Thomas Kranz, private attorney, member of the Los Angeles County Bar Association and the State Bar of California, and admitted to practice before the United States Supreme Court, met Acting District Attorney John Howard for the first time in midJuly 1975. The purpose of the meeting, at Kranz's request, was to inform Mr. Howard that Kranz was interested in seeking the then vacant position of District Attorney for the County of Los Angeles. Kranz emphasized to Howard that he, Kranz, saw himself as a long shot compromise choice in the event the Board of Supervisors were to deadlock in their selection of a successor to Joseph Busch. During this discussion in the office of Acting District Attorney Howard, Kranz admitted to Howard that "I have always had some degree of reservation concerning the Robert Kennedy case. With all respect to Joe Busch, I feel there are a lot of unanswered questions." Howard did not reply to this comment, but several weeks later, after the filing of both the CBS and Paul Schrade lawsuits, Howard requested that Kranz come to the District Attorney's Office for a meeting.

At that time, in the presence of John Howard, Acting Chief Deputy District Attorney Gordon Jacobson, Chief of Investigators George Stoner, and other District Attorney personnel including Deputy District Attorney Dinko Bozanich, the possibility of the appointment of Kranz as a Special Counsel in the Sirhan Sirhan matter was discussed. The problem confronting Howard, as with Joe Busch, was not the validity of the verdict in the Sirhan case, but the erosion of public confidence in the system of justice in Los Angeles County due to the many questions that were continually being raised in the Sirhan matter. Additional discussion concerned the fact that such an independent special counsel would work with the District Attorney's office in the preparation and presentation of all evidence in the pending court hearing. Additionally, Kranz was to independently review all the previous evidence, transcripts, interviews, and documents relating to the Sirhan case, and make his own independent investigation into the assassination of Robert Kennedy.

Ironically, during this discussion in Acting District Attorney Howard's office, the Board of Supervisors was holding its weekly meeting. Supervisor Baxter Ward was expressing his displeasure with Acting District Attorney Howard's refusal to reopen the Sirhan matter. The previous weekend, the weekend of August 9, Howard had discussed the possibility of the appointment of a special counsel with Supervisor Kenneth Hahn, and Howard suggested his intention to discuss the appointment of special counsel with attorney Tom Kranz. During the Board meeting on that day, August 12, Supervisor Ward requested that Acting District Attorney Howard appear before the Board and give explanations concerning the Sirhan matter. Howard responded to the request to appear, and at the Board meeting, Howard announced that the District Attorney's Office had been exploring various ways to re-examine key evidence in the Kennedy assassination in a proper legal forum. The possibility of the appointment of a special master and special counsel was discussed. Howard then introduced Kranz before the Board of Supervisors, seeking permission for the appointment of Kranz as special counsel to the District Attorney's Office on a 60day basis, salary at $2,000 a month. The motion was approved 5-0. This appointment was later extended for another 60-day period beginning October 13. Kranz appointment as special counsel expired December 12, 1975.

Two days after this Board of Supervisors meeting, Special Counsel Kranz and Deputy District Attorney Dinko Bozanich represented the District Attorney's office at a hearing before Los Angeles Superior Court Presiding Judge Robert Wenke concerning the application by CBS and Paul Schrade for examination and testing of the Sirhan trial exhibits. Kranz and Bozanich stated that the District Attorney's Office had no opposition to the principle of test firing of the gun as long as the matter would be conducted within a judicial forum, with the right of cross examination and evidentary rules applying. The re-testing of the Sirhan weapon and re-examination of all bullet evidence from the 1969 trial were ordered by Judge Wenke. Contrary to the immediate notoriety given the judge's order, this was not a re-opening nor a re-investigation of the Sirhan case. The judge's order involved only the reexamination of the ballistics, gun and bullet evidence that could possibly shed light on factual differences. Judge Wenke had instructed all parties and counsel to draft a suitable procedure for the testing and examination of the exhibits.

In order to understand the nature of the appointment of Kranz as Special Counsel, it is necessary to review the events preceeding the appointment of Kranz as Special Counsel, and to look at the orchestration of controversy during the past several years since the murder of Robert Kennedy in the early morning hours of June 5, 1968, in the kitchen pantry of the Ambassador Hotel.

Statement of the facts of People v. Sirhan & subsequent questions

In an indictment returned by the Grand Jury of Los Angeles County, defendant Sirhan was charged in Count I with the murder of Robert Francis Kennedy in violation of Penal Code Section 187. In Counts II - VI defendant Sirhan was charged with assault with a deadly weapon with intent to commit murder of Paul Schrade, Owen Stroll, William Weisel, Elizabeth Evans, and Ira Goldstein, in violation of Penal Code Section 217.

Defendant Sirhan pleaded not guilty. The trial court denied defendant's motion to surpress certain physical evidence obtained from his residence by means of search and seizure. Defendant's motion for separate juries on the issue of guilt and the possible issue of penalty was denied. Defendant's motion to quash and set aside the petit jury list was denied, as was his motion to quash the indictment.

After a jury trial, defendant was found guilty as charged on all counts, the jury fixing the degree of the offense charged in Count I at murder in the first degree. After further proceedings on the issue of penalty, the jury fixed the punishment on Count I at death. The defendant filed a notice of appeal from the judgment of conviction, and the California Supreme Court modified the judgment to provide a punishment of life imprisonment instead of death for the murder of Senator Kennedy.

Thereafter, every appeal and writ filed by the defendant Sirhan was denied by both California appellate courts and the United States Supreme Court. Most recently, in January 1975, Sirhan's attorney, Mr. Godfrey Isaac, filed a writ of Habeas Corpus, and a writ of Error Coram Nobis before the Supreme Court of California alleging that ballistics evidence indicated that two guns had been fired at the murder scene, and that there had been a knowing supression of evidence by the prosecution at trial. This application for writ was denied by the California Supreme Court in February, 1975.

But despite the affirmation of the trial court and jury's judgment by all appellate courts, the past several years have seen tremendous pressure and demands in many quarters to re-open the investigation of the Senator Kennedy assassination. Specifically, besides the demands of the assassination and conspiracy buffs, there were legitimate requests in the press and by the American Academy of Forensic Sciences that called for a re-examination of the physical evidence in the case. It must be kept in mind that the assassination of a public leader, especially one who commands the extraordinary following as did Senator Kennedy, is an event which produces a profound public reaction. Media coverage of such an event evokes a feeling of shock and indignation similar to the reaction people have to the murder of a friend. The widespread sense of tragedy which followed such an assassination made it a topic for much public discussion and a subject that guaranteed a mass audience for anyone who chose to publicly discuss it.

Moreover, the previous reports issued by the District Attorney's Office and the Los Angeles Police Department confirming their own conclusions that Sirhan Sirhan had been the lone gunman seemed only to generate accusations by the critics of a "cover up." Eventually, during 1975, new accusations appeared in the press, and on media talk and entertainment shows. At the time of the appointment of Kranz as Special Counsel, the facts and circumstances surrounding political assassinations had become new entertainment in both tabloid reading and on television and radio talk shows. The United States Congress was investigating possible conspiracy concerning the assassination of President John Kennedy, and other Congressional Committees were investigating the link between CIA operations in foreign countries and political assassinations. The Columbia Broadcasting System was in the process of producing a news documentary on the subject of political assassinations for nationwide broadcast in early 1976. CBS, through its local Los Angeles attorneys, had filed a request in Los Angeles Superior Court for examination and testing of the exhibits and evidence in the Sirhan case.

In short, major questions had been raised about the scientific evidence generated in the investigation of Sirhan and in the trial which followed the assassination of Senator Kennedy. The major questions were whether all of the bullets recovered from Senator Kennedy and the other five victims came from the gun of Sirhan. Beginning in mid-1970, and for the next several years, several forensic scientists, working in the field of firearms identification, and on the basis of examination of photographs and the physical evidence, had concluded that there were inconsistencies in the cannelure design and the rifling angles of the Kennedy neck wound bullet (Sirhan trial exhibit 47) when compared to the Weisel wound bullet (trial exhibit 54). It was argued by the critics that these "apparent inconsistencies" should not have been present if both bullets had been fired from the Sirhan gun.

Evidence Presented at Trial

On the evening of June 2, 1968, Senator Robert Kennedy had given a speech at the Palm Terrace Room of the Ambassador Hotel in Los Angeles. Prior to the Senator's speech on the evening of June 2, William Blume, who had worked as a stock boy in a liquor store located next door to an organic health food store where defendant Sirhan had worked the few months previous to that date, observed Sirhan in the lobby area adjacent to the Palm Terrace Room. Mrs. Miriam Davis, a hostess for the Kennedy event that night, was walking around the hotel twenty minutes after the speech when she observed Sirhan seated in the kitchen area. After the Senator's speech on June 2, Kennedy had passed through the kitchen area.

On the morning of June 4, 1968, election day, Sirhan signed in at the San Gabriel Valley Gun Club located on Fish Canyon Road in Duarte. He wrote "Sirhan Sirhan" and the address 696 East Howard Street, Pasadena, on the roster. After Sirhan had fired awhile on the shooting range, he told the range master, Edward Buckner, "I want the best box of shells you have, and I want some that will not misfire. I got to have some that will not misfire." Buckner then sold defendant Sirhan a box of shells, and Sirhan resumed shooting, engaging in rapid fire shooting, using a .22 revolver and remaining on the range til 5:00 p.m.

Five other witnesses at the trial testified that they observed Sirhan engage in rapid fire at the range. One witness, Henry Carreon, noticed 300-400 empty casings where Sirhan was shooting. Sirhan told another witness, Mrs. Ronald Williams, that his mini-mag bullets were superior to the bullets that she was using, and when asked by witness Michael Saccoman if it was against the law to use a pistol for hunting, Sirhan answered "Well, I don't know about that. It could kill a dog."

Earlier in the year, Sirhan had had a conversation with Alvin Clark, a trash collector employed by the City of Pasadena, in which Sirhan had expressed his concern about how the assassination of Martin Luther King would effect "Negro people and how the Negroes would vote in the coming election." Clark testified at trial that he told Sirhan he was going to vote for Senator Kennedy and Sirhan responded by saying, "What do you want to vote for that son-of-a-b for? Because I'm planning on shooting him" Clark then told Sirhan that Senator Kennedy had paid the expenses of bringing Martin Luther King's body back from Tennessee and that "you will be killing one of the best men in the country." Clark remembered that Sirhan stated that Senator Kennedy had done this merely for the publicity involved, and that this conversation had occured in mid-April, 1968.

On the evening of the election, June 4, an hour or two prior to Senator Kennedy's speech in the Embassy ballroom, a member of the Senator's staff, Judy Royer, observed Sirhan in the area to the rear of the Embassy ballroom stage. Because Sirhan was not wearing a press badge or staff badge he was asked to leave, and he turned and walked toward the doors leading out to the Embassy ballroom. Shortly before midnight, as Senator Kennedy took the service elevator down to the pantry area in the rear of the Embassy ballroom, Jesus Perez, a kitchen helper at the Ambassador, and Martin Petrusky, a waiter, observed Senator Kennedy as he passed through the pantry on the way to the Embassy ballroom where about 500 people awaited his speech. Both kitchen personnel observed defendant Sirhan in the pantry at this time. Sirhan inquired whether Senator Kennedy would be "coming back through this way." Both hotel employees replied that they did not know, but testified that Sirhan remained in the area of the pantry close to Perez at the corner of a serving table.

Upon concluding his address at approximately 12:15 a.m. (June 5) Senator Kennedy was escorted off the platform toward the Colonial Room where he was to meet the press. Karl Uecker, assistant Maitre d' at the Ambassador Hotel, led the Senator through the pantry area behind the Embassy ballroom.

In the pantry area, Senator Kennedy stopped and shook hands with some of the kitchen help, including Perez and Petrusky. At that time Sirhan appeared, "smirking", as testified by Perez and Petrusky, and began to fire his .22 caliber revolver at Senator Kennedy. Several shots were fired in rapid succession. Uecker attempted to grab the weapon from Sirhan, and Senator Kennedy fell to the floor of the pantry.

A struggle ensued as those present attempted to immobolize and disarm Sirhan. Roosevelt Grier, Rafer Johnson, George Plimpton, Jess Unruh, and other members of Kennedy's entourage arrived seconds later. Later that night Rafer Johnson turned the weapon over to the L.A.P.D., and it was booked into the property division.

While Sirhan was being held in the pantry awaiting the arrival of the L.A.P.D., Rafer Johnson asked Sirhan repeatedly, "Why did you do it?" Sirhan replied, "Let me explain" or "I can explain." At this time Sirhan also remarked in answer to Jess Unruh's question "Why him?", "I did it for my country," and a few seconds later, "It is too late".

Two L.A.P.D. officers on patrol duty, Arthur Placentia and Travis White, answered the 12:20 a.m. all units call, "Ambassador shooting, 3400 Wilshire", and when the officers arrived they took Sirhan off the serving table where he had been restrained and placed him in custody and handcuffed him. Sirhan was transported through a hostile crowd, which was chanting "Kill him, kill him" to the officers' police car. Jess Unruh also entered the vehicle and the officers drove toward Rampart station. Officer Placentia several times asked Sirhan his name, but Sirhan did not reply. Sirhan was advised of his constitutional rights, and Sirhan replied that he understood his rights. Although the officers did not address any further questions to Sirhan during the trip to the station, Unruh asked Sirhan, "Why did you shoot him?", and Sirhan replied, "Do you think I'm crazy, so you can use it in evidence against me."

Both upon arrest, and later at the Rampart station, L.A.P.D. officers attempted to examine Sirhan's eyes, but did not form an opinion whether Sirhan was under the influence of alcohol or drugs. He did not smell of any odor of alcohol nor did Sirhan appear to Mr. Unruh to be under the influence of intoxicating liquor.

At the Rampart station, Sirhan's eyes were subjected to a light test, and on the basis of that test, as well as Sirhan's appearance and movements, Officer White formed the opinion that Sirhan was not under the influence of alcohol or drugs.

Sirhan's pockets were emptied and the following items were taken from his possession: an automobile key, two live .22 caliber bullets and an expended bullet, two newspaper clippings (one from the Pasadena Independent Star News dated May 26, 1968, a story by columnist David Lawrence which in part noted that in a recent speech Senator Kennedy had "favored aid to Isreal with arms if necessary."; the other newspaper clipping, an advertisement from an unidentified newspaper inviting the public "to come and see and hear Senator Robert Kennedy on Sunday, June 2, 1968, at 8:00 p.m., Coconut Grove, Ambassador Hotel, Los Angeles"). Also removed from Sirhan's pockets was $410.66 in cash, including four one hundred dollar bills. No wallet, identification, or information indicating Sirhan's identity was obtained from the examination of Sirhan's person. Sergeant William Jordon, who was watch commander at Rampart detectives that night, assumed custody over petitioner around 12:45 a.m., and asked Sirhan his name. Receiving no response, the officer informed Sirhan of his constitutional rights. Sirhan asked some questions about his rights and requested the admonition be repeated which was done. Sirhan indicated that he wished to remain silent.

At this time Sirhan was able to identify an absent officer to Sergeant Jordon by the officer's badge number, 3949. Sergeant Jordon formed the opinion at this time that Sirhan was not under the influence of either alcohol or drugs. Sirhan was not given an intoxication test because Jordon concluded there were no objective symptoms of intoxication and no reason to administer such a test. When Sergeant Jordon offered Sirhan a cup of coffee, Sirhan asked the officer to drink from the cup first, and the officer did so.

For security reasons, Sirhan was transported to police headquarters at Parker Center, arriving at the homicide squad room around 1:40 a.m. Sirhan requested some water and again, at his request, Sergeant Jordon tasted it before passing the cup to him. Shortly before 2:00 a.m., a Doctor Lanz examined Sirhan in those areas where Sirhan complained of pain. Sirhan refused to tell the physician his name, and the physician told the officers present that Sirhan was not in need of any immediate medical treatment but that Sirhan should keep as much weight as possible off his left ankle as it was probably sprained.

At this time Chief Deputy District Attorney Lynn Compton and Deputy District Attorney John Howard arrived, as did members of the District Attorney's investigative staff. In an interrogation room, Howard asked Sirhan his name and Sirhan did not answer and at that time Sirhan was advised by Howard of his constitutional rights. Sirhan nodded in the direction of Sergeant Jordon and stated "I will stand by my original decision to remain silent."

During Sergeant Jordon's various contacts with Sirhan, including the four to five hours he spent with Sirhan at the arraignment and immediately prior and subsequent thereto, Sirhan never appeared irrational. While refusing to identify himself by name or place of origin, Sirhan engaged in banter with Sergeant Jordon. Jordon formed the opinion that Sirhan had a "very quick mind", and that Sirhan was "one of the most alert and intelligent persons" the officer had ever interrogated or attempted to interrogate during his 15 years experience on the police force.

About the same time that Sirhan was being taken to the police station, Senator Kennedy was taken to Good Samaritan Hospital in Los Angeles. Surgery was performed, but Senator Kennedy died at 1:44 a.m., on June 6, 1968. Dr. Thomas Noguchi, Coroner and Chief Medical Examiner of Los Angeles County and two deputy medical examiners, performed an autopsy on Senator Kennedy's body between 3:00 a.m. and 9:15 a.m., on June 6. It was disclosed that the gunshot wound to the head, in the right mastoid, had penetrated the brain and was the cause of death. The bullet had fractured the skull and had itself been shattered. According to Dr. Noguchi, powder burns on the right ear indicated that the muzzle distance between the weapon and the ear at the time of the firing was 1 to 1-1/2 inches. The only other two gunshot wounds were in the area of the right armpit and the right side. These shots were fired at very close range. The location, alignment, and direction of the three wounds, in conjunction with the clothing worn, indicated to Dr. Noguchi that the three shots in question were fired in "rapid succession".

L.A.P.D. criminalist DeWayne Wolfer testified at trial (and previously before the Grand Jury in 1968) that a bullet taken from the base of Senator Kennedy's neck (People's exhibit 47) and bullets taken from victims Goldstein and Weisel (People's exhibit 52 and 54) were fired from Sirhan's gun and "no other gun in the world".

Additionally, Wolfer testified that he had test fired eight bullets from the Sirhan weapon into a water tank, obtaining seven test bullets. Wolfer had taken one of the seven test bullets and compared it to an evidence bullet and determined that the bullets in question had come from the Sirhan weapon.

Wolfer stated that the Sirhan weapon was unique due to the striations. This was the process that causes a bullet to become scratched as it passes along the barrel of a gun. The bullet was scratched by the imperfections of the barrel and the bullet picked up these lands and grooves markings from the barrel when projected. And since different manufacturers of guns and bullets have different rifling specifications, by looking at the scratches on the particular bullet under a comparison microscope, and also by looking at the lands and grooves of the particular bullet, Wolfer was able to conclude that the bullets - one test fired bullet and one evidence bullet - had been fired from the same gun. Wolfer emphasized that since no two barrels were going to impart the same impressions or scratches on the projectiles that pass through them when expelled, therefore, these bullets that matched under a comparison test microscope could be said to have been fired from one weapon, the Sirhan weapon.

Wolfer was unable to positively identify the bullet that actually killed Senator Kennedy, People's 48, as having been fired from the Sirhan gun due to the fragmentation of the bullet. But Wolfer testified tnat it had been mini-mag ammunition, and had the same rifling specifications as other bullets fired from the Sirhan weapon.

Wolfer then described the trajectory of the bullets.

a. The first bullet entered Senator Kennedy's head behind the right ear and was later recovered from the victim's head and booked as evidence.

b. The second bullet passed through the right shoulder pad of Senator Kennedy's suit coat (never entering his body) and traveled upward striking victim Schrade in the center of his forehead. The bullet was recovered from his head and booked into evidence.

c. The third bullet entered Senator Kennedy's right rear shoulder approximately 7" below the top of the shoulder. This bullet was recovered by the Coroner from the sixth cervical vertebra and booked as evidence.

d. The fourth bullet entered Senator Kennedy's right rear back approximately 1" to the right of bullet #3. This bullet traveled upward and forward and exited the victim's body in the right front chest. The bullet passed through the ceiling tile, striking the second plastered ceiling and was lost somewhere in the ceiling interspace.

e. The fifth bullet struck victim Goldstein in the left rear buttock. This bullet was recovered from the victim and booked as evidence.

f. The sixth bullet passed through victim Goldstein's left pants leg (never entering his body) and struck the cement floor and entered victim Stroll's left leg. The bullet was later recovered and booked as evidence.

g. The seventh bullet struck victim Weisel in the left abdomen and was recovered and booked as evidence.

h. The eighth bullet struck the plaster ceiling and then struck victim Evans in the head. This bullet was recovered from the victim's head and booked as evidence.

Finally, an envelope containing three of the test bullets fired by Wolfer (and having a serial number of another gun -not the Sirhan weapon - on the coin envelope) was stipulated into evidence by defense counsel. This introduction of the mismarked bullet envelope passed without comment by defense, prosecution, or the trial court.

At approximately 9:30 a.m. on June 5, (after the shooting of Senator Kennedy, but before his death) Sergeant William Brandt of the L.A.P.D. met with Adel Sirhan, one of defendant's brothers, at the Pasadena Police Station. Adel stated that he lived with his two younger brothers, Munir and Sirhan, and their mother at 696 Howard Street, Pasadena. Adel, Sergeant Brandt, Sergeant James Evans of the Homicide Division L.A.P.D., and agent Sullivan of the F.B.I. were admitted to the Sirhan home by Adel at 10:30 a.m. Adel, whom the officers knew to be the oldest male resident of the household, gave the officers permission to search defendant's bedroom. The officers did not have a search warrant and had not made an attempt to secure the consent of Sirhan to enter and search, but their purpose in going to the Sirhan residence was "to determine whether or not there was anyone else involved in the shooting and to determine whether or not there were any things that would be relative to the crime." Sergeant Brandt knew "that there was a continuing investigation to determine if there were other suspects."

Three notebooks were recovered from Sirhan's bedroom. One was observed on a corner of the dressing table in plain view from the entrance to the room. A second notebook was observed by Sergeant Evans in plain view on the floor at the foot of the bed next to a cardboard box filled with clothes. Both of these notebooks were put in evidence (the third notebook was never put in evidence by either party). The prosecution put in evidence (trial reporter's transcript, page 4364), eight pages (4 sheets) of the diary - notebook found on the top of Sirhan's dresser, which Mr. Laurence Sloan, employed in the District Attorney's Office as specialist in handwriting and questioned documents, identified as having been written by Sirhan. These pages read in part as follows:

"May 18, 9:45 a.m./68 - My determination to eliminate R.F.K. is becoming more and more of an unshakable obsession... R.F.K. must die..R.F.K. must be killed...Robert F. Kennedy must be assassinated before 5 June 68..."

Other quotes taken from these pages were the following:

"Ambassador Goldberg must die"..."Ambassador Goldberg must be eliminated...Sirhan is an Arab" "Kennedy must fall, Kennedy must fall...Senator R. Kennedy must be disposed of. We believe that Robert F. Kennedy must be sacrificed for the cause of the poor exploited people..."

On the evening of June 5, Lieutenant Alvin Hegge of the L.A.P.D. used the automobile key, which had been taken from Sirhan's pocket at the Rampart station, in a successful attempt to operate the lock on a door of a 1956 DeSoto parked in the vicinity of the Ambassador Hotel. On the basis of this successful entry, Hegge applied for and obtained the issuance of a warrant to search the vehicle at approximately 12:30 a.m., (June 6), and the following items were recovered:

1. From inside the glove compartment, a wallet containing among other items, current membership card in Sirhan's name in the Ancient Mystical Order of Rosacrucian, as well as other cards identifying Sirhan by name and address;

2. From inside the glove compartment, a business card from the Lock, Stock and Barrel Gun Shop in San Gabriel and a receipt dated June 1, 1968, from that gun shop for the purchase of mini-mag hollow point .22 caliber ammunition, and two boxes of Super X .22 caliber ammunition (a total of 200 bullets);

3. From inside the glove compartment one live round of .22 caliber ammunition and an empty carton labeled .22 caliber "mini-mag";

4. And on the right front seat two spent bullets.

Documents obtained from the California Department of Motor Vehicles established that Sirhan was the registered owner of the DeSoto searched in the vicinity of the Ambassador Hotel.

Evidence introduced at trial established that at 8:00 a.m. on the morning of June 6, Officer Thomas Young of the Pasadena Police Department arrived at the Sirhan residence, having been assigned to security at the rear of the residence to guard the premises from unauthorized persons. At approximately 11:00 a.m., upon discarding a paper cup of coffee into the trash which lay inside several boxes and cans of trash on the Sirhan property, he observed an envelope which bore on its face the return address of the Argonaut Insurance Company. Mr. Laurence Sloan, handwriting specialist of the Los Angeles District Attorney's Office, testified that the writing on the back of the envelope was that of Sirhan. The following words, repeated several times, were written on the reverse side of the envelope, which had been put in evidence by the prosecution:

"R.F.K. must be...disposed of properly. Robert Fitzgerald Kennedy must soon die."

Other trial evidence introduced was testimony of Mr. and Mrs. John Weidner, the owners of a health food store in Pasadena, who had employed Sirhan as a box boy and delivery boy. The Weidners had discussions with Sirhan on the subject of politics in which Sirhan asserted that violence was the only means by which American Negroes would achieve their goals, and that the state of Israel had taken his home, and that the Jewish people were on top and directing the events in America. When Sirhan stated to the Weidners that there was more freedom in Russia and China than in America, Mr. Weidner had inquired, "Why don't you go there yourself?" Sirhan replied, "Maybe one day I will go."

Witnesses Enrique Rabago and Humphrey Cordero testified that they went to the Ambassador Hotel on primary election night, June 4, and observed Sirhan at approximately 9:30 or 9:45 p.m. at the election night headquarters of Max Rafferty, candidate for the U.S. Senate. The two men stated that Sirhan, who had a mixed drink in his hand, remarked, "Don't worry if Senator Kennedy doesn't win. That son-of-a-bitch is a millionaire. Even if he wins he is not going to win it for you or for me or for the poor people." When Sirhan paid for a drink, he gave the waitress a $20 dollar bill and told her to keep the change to "show them." Sirhan also stated "It's the money you've got that counts, not the way you look."

Hans Bidstrut, an electrician employed by the Ambassador Hotel, observed Sirhan at approximately 10:00 p.m. that night at the Venetian Room of the Ambassador Hotel, which was the Rafferty headquarters. Sirhan had a glass in his hand and Bidstrut assumed that Sirhan had been drinking. Sirhan asked Bidstrut whether he (Bidstrut) had seen Senator Kennedy and how long Senator Kennedy had stayed at the Ambassador and Bidstrut stated that Sirhan also mentioned "the security of the hotel and asked about the Senator's security."

Gonzales Cepina, a waiter at the Ambassador Hotel, observed Sirhan in the Venetian Room around 10:00 p.m. on election night, holding a drink with a rolled newspaper under his arm. Sirhan asked for Cepina's assistance in moving a chair. Later, at approximately 11:45 p.m., Cepina observed Sirhan in the pantry area next to the serving table where Senator Kennedy was thereafter shot. Senator Kennedy was giving his speech inside the Embassy ballroom at the time.

Other trial evidence revealed that on September 24, 1966, Sirhan was injured in a fall from a horse at a ranch where he was working as an exercise boy. Sirhan's eyes bothered him for several months after the accident, and he had received $2,000 of Workmen's Compensation as the result of his injuries. During the following twelve months, Sirhan was unemployed and read a great deal at libraries and at home. Sirhan stated at trial that he "read everything about the Arab-Israeli situation that he could lay his hands on," including publications from the Arab information center in the United States and a book on Zionist influence on U.S. policy in the Middle East.

During this period of unemployment Sirhan also became increasingly interested in "the occult and metaphysical," although his interest in these subjects preceded the fall from the horse. Because of Sirhan's desire to learn more about himself, he joined the Rosicrucian Society, attending a meeting the week preceding the assassination. One book read by Sirhan, entitled Cyclomancy, was described by Sirhan as follows: "The basis of what he says is you can do anything with your mind if you know how"..."how you can install a thought in your mind and how you can have it work and become a reality if you want it to." (Reporter's transcript page 4905). Sirhan read a large number of other books in this area, some involving "thought transference." One Rosicrucian article read by Sirhan taught him that if he wrote something down, he would accomplish his goal. Sirhan testified that he had recorded various things in his notebook "with the objective in mind of accomplishing his goals...and in reference to that, the assassination of Robert Kennedy."

At trial, Sirhan admitted writing on May 18, 1968, that his "determination to eliminate R.F.K. is becoming more the more of an unshakable obsession...(and that he) must be assassinated before 5 June 68." Sirhan stated at trial that he did not remember when he wrote this, but admitted that he could have written this at the time Senator Kennedy had said he would send 50 planes to Israel.

Sirhan testified that he purchased the .22 caliber revolver in early 1968 with his money and for his own use, firing it at shooting ranges approximately six times between March and May 1968. On June 1, 1968, Sirhan brought some mini-mag ammunition at the Lock, Stock and Barrel Gun Shop and engaged in target practice at the Corona Police Pistol Range. When he purchased the ammunition, he had not requested this particular type; he had merely said, "Well, give me your best," and was then given the mini-mag.He had never before used mini-mag.

After seeing an ad in the Los Angeles Times inviting attendance at a speech by Senator Kennedy at the Ambassador Hotel, Sirhan attended the June 2 speech. He did not bring a gun at that time and testified that he did not contemplate assassination at that time.

During the two weeks prior to the assassination, Sirhan had been going to the horse races and betting almost daily. On June 3, Sirhan asked his mother for the remaining $500 of his Workman's Compensation award, which he had turned over to her, as he planned to attend the races on election day at Hollywood Park. Originally, he planned to attend a Rosicrucian meeting that same evening June 4. However, when Sirhan saw the race entries in the newspaper for June 4, he concluded that he did not like the horses that were running, and changed his mind and decided to go target shooting at the San Gabriel Valley Gun Club. After finishing his several hours of shooting on the gun range, Sirhan had dinner at a Pasadena restaurant and observed a newspaper ad which read, "Join in the miracle mile march, for Isreal." Sirhan testified that "this advertisement brought him back to the six days in June of the previous year, and that the fire started burning inside of him as a result of the ad." (Reporter's transcript page 5175.)

Sirhan mistakenly thought the parade was scheduled for that evening, June 4, and set out to observe it. He testified that he was driving like a maniac, got lost, and eventually arrived at Wilshire Boulevard where he looked for the parade. The gun was still in the back seat. His wallet, he testified, was in the glove compartment as he always carried his loose money in his pocket and he never kept a wallet on his person.

When Sirhan saw a sign for United States Senator Kuchel's Headquarters, he dropped by and was told that a large party for Senator Kuchel was going on at the Ambassador Hotel. When Sirhan walked toward the hotel, with his gun still in the automobile, he observed a large sign concerning some Jewish organization and Sirhan testified that this "boiled him up again."

Upon entering the lobby of the hotel, Sirhan observed a sign at the entrance to the Rafferty Headquarters which was located in the Venetian Room. Sirhan joined the Rafferty celebration where he testified that he stayed an hour. Sirhan's main purpose was to see Rafferty's daughter, whom he knew from high school, but he never saw her that evening. While at the Rafferty party, he testified he ordered two Tom Collins drinks. Sirhan testified that he returned to his automobile and "Couldn't picture myself driving my car at the time in the condition that I was in." He feared receiving a traffic citation or having an accident without being covered by insurance, and decided to return to the party to sober up with some coffee. He testified that he did not remember picking up the gun from the car seat before returning to the hotel for coffee, but that he "must have." He states the next thing he remembers was being choked and being brought to a police car with a flashlight shone in his eyes.

On cross examination, Sirhan testified that ne could not recall ever having "blacked-out" except when he had the fall from the horse and at the time the present offenses occured.

During the course of trial, Sirhan's attorneys Grant Cooper and Emile Zola Berman, were in the process of possibly calling certain girlfriends of Sirhan's namely, Gwendolyn Gum and Peggy Osterkamp (whose names appeared repeatedly in Sirhan's notebooks) as possible witnesses for the defense. Sirhan had placed an "X" mark beside the listed names of witnesses whom he did not wish his attorneys to call, and both girls were in this category. Out of the presence of the jury, Sirhan screamed to the trial court "I killed Robert Kennedy willfully, premeditately, with 20 years of malice aforethought." Additionally, Sirhan stated, "I'm willing to fight for (the Arab cause)...I'm willing to die for it."

In front of the jury, on re-direct examination, Sirhan explained the circumstances under which he had declared that he had killed Senator Kennedy with malice aforethought. He had stated that at that time, outside the presence of the jury, he had informed the court, "I at this time, Sir, withdraw my original plea of not guilty and submit the plea of guilty as charged on all counts. I also request that my counsel disassociate themselves from this case completely." Sirhan stated in front of the jury that he was "boiling" at this time. And when the trial court asked him "alright, and what do you want to do about the penalty," Sirhan had responded, again outside the presence of the jury, "I will offer no defense whatsoever...I will ask to be executed, Sir." The trial court had refused to accept the plea and had ordered the trial to proceed, finding Sirhan incapable of representing himself. Thereafter, Sirhan's mother and Mr. Nakhleh, a PalestinianArab attorney serving as a defense advisor, had spoken with Sirhan and had given him advice. Sirhan had agreed to proceed with the trial represented by his counsel, once they agreed not to call the two girls as witnesses. And at the time that Sirhan concluded his testimony on these circumstances in front of the jury, Sirhan stated that he was no longer angry with his attorneys but that he was "very satisfied" with them.

Defense of Diminished Capacity

Sirhan's defense lawyers tried to convince the jury that the evidence in the case would disclose that Sirhan was an immature, emotionally disturbed, and mentally ill youth. In light of the numerous stipulations by Sirhan's counsel throughout the trial to avoid presentation of inflammatory photographs and ballistics evidence regarding the shooting of Senator Kennedy, and the out of court admissions by Sirhan's attorneys that Sirhan actually shot and killed Senator Kennedy and shot the other victims, it was obvious that the Sirhan defense team was attempting from the very beginning to portray their client as having severe mental problems, thus laying a foundation that Sirhan could not be convicted of premeditated first degree murder.

Defense witnesses and psychiatric testimony were offered that Sirhan had been, in the early years of his life, while a child in war-ravished Jerusalem (at the time of the original Arab-Israeli war in 1947-48), exposed to severe, repeated acts of war. It was argued that this early childhood experience produced effects on Sirhan that marked his personality for the rest of his life.

At the age of 12, Sirhan's family moved to America, (in 1957) only to have Sirhan's father leave their home, abandon his family, and return to Jordan, and supposedly do nothing for the Sirhan family financially.

Sirhan obtained a job as an exercise boy at a thoroughbred ranch near Corona, with the intent of becoming a jockey. One day Sirhan was thrown by a horse into a rail, knocked unconscious, and taken to an emergency hospital. From that date onward, Sirhan complained about headaches, became more and more irritable, brooded, was quick to anger, and became preoccupied with fanatical obsessions of hatred, suspicion and distrust. His attorneys and later psychiatric doctors argued that Sirhan spent long hours reading works on the power of the mind.

One such instance was offered into evidence that on June 2, 1967, Sirhan had written, "Declaration of war against American humanity." An attempt to introduce this writing and other such acts by Sirhan was to show clear evidence of diminished capacity and mental deficiency.

It was argued in court that Sirhan, after his fall and accident, became more concerned with mystical thoughts and searched for supernatural powers of the mind over matter. In January, 1968, Sirhan and his brother bought a .22 caliber Ivor-Johnson revolver to use for sport and Sirhan spent time shooting at various ranges. It was argued as part of his defense that this shooting gave Sirhan a strange release, but that his mystical experiments gave him no peace of mind, and only produced further bewilderment and emotional confusion.

It was also argued on behalf of Sirhan, that in late May and early June 1968, when Senator Kennedy, during the course of his political campaign, stated that he, as President, would send 50 phantom jets to Israel, that this pledge provoked a heavy shock in Sirhan and sent him back to mysticism. Sirhan testified that he never thought he would ever kill Kennedy, but felt that through his mystic mind power he could fantasize about it (killing Kennedy) and relieve that feeling of emptiness inside him. Defense counsel argued that there was no doubt that Sirhan did in fact fire the shot that killed Senator Kennedy, but that the killing was unplanned and undeliberate, impulsive and without premeditation or malice, totally a product of a sick, obsessed mind and personality, and that at the actual moment of shooting, Sirhan was out of contact with reality, and in a trance in which he had no voluntary control over his will, or his judgment, or his feelings or his action. It was argued that because of this mental illness and emotional disorder, Sirhan did not have the mental capacity to have the mental state that was the necessary element of murder: namely, maturely and meaningfully premeditate, deliberate or reflect upon the gravity of his act.

At trial, defense psychiatrists included Dr. Eric Marcus and Dr. Bernard Diamond, both of whom stated that Sirhan had been a "paranoid schizophrenic: at the time of the shooting." They contended that Sirhan was in a disassociated state of "restrictive consciousness" as a result of his particular psychotic conditioning. Essentially, they argued that Sirhan lacked the capacity to maturely and meaningfully reflect on the gravity of the act of murder.

In rebuttal, prosecution psychiatrist, Dr. Seymour Pollock, stated that he had interviewed Sirhan eight times and the defendant's family several times, and found that Sirhan was "not clinically psychotic." Pollock did admit, however, that Sirhan was emotionally disturbed and mentally ill. Pollock stated that the repetitive writing ("R.F.K. must die" and other writings and actions stated previously in this report), were examples of Sirhan's attempt to strengthen his courage and ability to carry out his intention to kill Kennedy. However, Pollock strongly argued that Sirhan's writing, the manner in which Sirhan wrote, reflected a healthy, mature mind. Pollock also argued that an accused is found not guilty by reason of insanity where there is proved a specifically impared mental function and capacity. Pollock felt whether a particular defendant has a psychosis, paranoid condition, or schizophrenia is not relevant to his guilt or innocence. Pollock concluded that an accused is never found "not guilty by reason of schizophrenia."

In Pollock's clinical judgment, Sirhan was suffering from a substantial degree of paranoid disorder. But he did not believe that Sirhan had killed Kennedy as a "compulsive act", and Pollock felt there was no evidence of any mature paranoid illusions. Pollock stated that Sirhan's desires to kill Kennedy showed intent, but they did not fall into the category of a paranoid obsession.

Pollock stated his conclusion in this manner. Pollock felt that if Sirhan had really had a paranoid obsession, Sirhan would have been much more personally invelved with Senator Kennedy in that Kennedy would have been perceived by Sirhan as an individual who had wronged him personally. Pollock felt that Sirhan at no time showed such ideas of reference, ideas of influence, misinterpretation of reality, or illogical or bizarre thinking which would have been present had he been obsessively developing his paranoid thinking with regard to Kennedy.

Additionally, Pollock stated that although Sirhan believed that the United States was unfair to the poor and minority groups and that he felt that laws in this country were unjust, and that the country favored the rich over the poor, Sirhan did not feel that he was personally surrounded by hostile Americans.

Defense psychiatrists had attempted to show, through statements by Sirhan, that Sirhan actually loved Bobby Kennedy, both before and after he had killed him, and this reflected a mentally deficient state of mind. However, Pollock, in rebuttal, stated that this particular swing in emotional attachment reflected a wide arc of strong love and strong hatred that was possibly present in Sirhan. Furthermore, Pollock felt Sirhan would not be aware of his logical inconsistency in his statement "I love the guy. But I hate him enough to kill him." Sirhan also stated in interviews with Pollock, "I killed Kennedy so I am responsible, but I shouldn't be held legally responsible because Kennedy himself is a murderer to be."

Pollock concluded that Sirhan's identification with the Palestinean-Arab cause was logical and rational. Pollock felt that Sirhan's interest in reading the B'nai B'rith Messenger Newspaper and his interest in attending Jewish meetings and parades (a newspaper clipping in Sirhan's pocket the night of his arrest announced a march to support Israel) demonstrated, to Pollock, a somewhat peculiar extension of his concern about the Arab-Jewish problem, and could be interpreted as a tendency toward seeking out current events that would support his attitude and justify his point of view.

The prosecution offered several uncontroverted facts supporting the proposition that Sirhan acted with premeditation and malice aforethought, and thus was guilty of first degree murder. Several of these statements and actions by Sirhan in the days preceding the assassination reflected a premeditated state of mind. Included in these actions were the fact that Sirhan had spent June 1st at a rifle range practicing target practice. On June 2nd, Sunday, he had been seen at the Robert Kennedy rally at the Ambassador Hotel, and in the kitchen area following Kennedy's speech. Sirhan spent several hours on the rifle range, with alternating slow and rapid fire practice, on the day of the assassination, June 4th. Sirhan parked his car several blocks away from the hotel and left his identification in the glove compartment on the evening of the shooting. Sirhan had articles concerning Kennedy's promise to give phantom jets to Israel in his pocket. Sirhan carried his gun to the Ambassador and into the kitchen area with the gun hidden in his belt. Several times Sirhan asked witnesses of the whereabouts of Kennedy, which route Kennedy would be taking, and inquired about hotel security. Sirhan's statements immediately following the shooting such as "I can explain," "I did it for my country," and his refusal to identify himself or make any statements after telling police officers "you think I'm crazy to tell you anything!"

Additionally, on cross examination of one of the defense psychiatrists by Deputy District Attorney John Howard, Dr. Schorr was asked if he (Schorr) had heard Sirhan testify that Sirhan had first left the Ambassador and went to his car and got in his car and then determined he (Sirhan) was too drunk to drive, and that Sirhan had worried about car insurance and the possibility of an automobile accident and thereafter decided to go back to the Ambassador Hotel to get coffee and sober up. Howard asked Dr. Schorr if that indicated to Dr. Schorr a diminished capacity. Schorr answered that it did not indicate a diminished capacity personality.

Additionally, the prosecution argued that activities and statements of Sirhan reflected his intent to kill Kennedy, statements to the Pasadena trash collector, and his statements concerning his gun "it could kill a dog", and that these pointed to a definite premeditated state of mind. Additionally, while at the police station during interviews by police officers and deputy district attorneys, when offered first water and then coffee, Sirhan asked the officers to first sip the liquid before Sirhan would taste the offered coffee and water. Several police officers, including the original arresting officers and interviewing officers, testified there was no odor of alcohol, or indication of drug use by Sirhan, and that Sirhan at all times reflected and showed an alert state of mind.

Summary of Trial Evidence

It is clear from the record that there was abundant evidence of premeditation and deliberation of first degree murder. Sirhan had purchased the murder weapon almost six months prior to the assassination. Statements to the trash collector two months prior to the assassination that Sirhan was "planning on shooting that son-of-a-bitch Senator Kennedy", and Sirhan's stalking of Kennedy, all reflected by Sirhan's own testimony added substance to this conclusion. Additionally, Sirhan's trip to the shooting range, his visit to the Ambassador Hotel two days prior to the assassination, and his conduct immediately prior to the assassination, including his asking of questions relative to Senator Kennedy's intended route and security protection, including his statements after the assassination that he could "explain" and committed his act "for my county," and his possession on his person of clippings relative to Senator Kennedy and the Senator's favorable position towards Israel, all added to evidence of premeditated murder. Finally, in front of the jury, Sirhan admitted that during a courtroom outburst while the jury was absent, he had stated, "I killed Robert Kennedy willfully, premeditatedly, and with 20 years of malice aforethought."

Previous Public Agency Reports in the Sirhan Case

On May 28, 1969, then District Attorney Evelle J. Younger issued a report at the conclusion of the trial and conviction of Sirhan giving an account of the nature of the investigation immediately following the assassination of Senator Kennedy. Younger stated that public interest and national security had required an exhaustive inquiry into the circumstances of the offense and the background and associates of the defendant Sirhan Sirhan. Of particular concern to law enforcement agencies was the possibility that the accused, Sirhan, was a member of a conspiracy whose objectives were not satisfied by the elimination of one political leader. Under the direction of Chief of Los Angeles Police Detectives Robert A. Houghton, the L.A.P.D. established a special task force (Special Unit Senator) to conduct the investigation. Younger reported that well over 5,000 witnesses, and others pretending to have some knowledge of events bearing upon the crime, were interviewed. Younger further stated that agents of the F.B.I., acting independently of California law enforcement agencies, conducted a parallel investigation, including interviews with hundreds of individuals across the country, who were not easily accessible to local authorities.

Included among these files were recorded interviews of more than 70 people who alleged to have observed the defendant Sirhan at some time during the evening of June 4, and early moring of June 5, 1968, at the Ambassador Hotel. Sixty-five witnesses were called by the prosecution to testify during the course of the trial. Younger stressed that the total number of witnesses called by both prosecution and defense, whose testimony proved pertinent to the issues of the indictment, probably did not exceed 2% of the combined work product of the Los Angeles Police Department and the F.B.I.

Three years after the murder of Senator Kennedy, and two years after the conviction of Sirhan for that murder, Los Angeles Attorney Barbara Warner Blehr sent a letter to Muriel M. Morse, general manager of the personnel department of the Los Angeles City Civil Service Commission, the letter dated May 28, 1971. This letter alleged that L.A.P.D. criminalist DeWayne Wolfer had acted improperly in conducting ballistics tests and testifying concerning evidence in the Sirhan case. On June 4, 1971, District Attorney Joseph P. Busch announced the initiation of an independent investigation into these charges. Busch stated, "As this office was responsible for the prosecution of Sirhan Sirhan for the assassination of Senator Kennedy, it is incumbent upon us to conduct the investigation so that there will be no loss of confidence on the part of the public as to whether the facts presented in the courtroom were correct."

On October 18, 1971, District Attorney Busch issued a report stating that the allegations of Barbara Warner Blehr concerning the procedures of DeWayne Wolfer in the Sirhan case were untrue. Busch stated that these allegations appeared to be the result of inadequate examination of the trial records and of incomplete investigation of the actions of Mr. Wolfer in the case.

The Busch Investigation

During those several months of 1971, the District Attorney's office interviewed DeWayne Wolfer, Mrs. Blehr, William Harper (whom Blehr had identified as her chief criminalist source), three criminalists cited in Blehr's letter to the civil Service Commission, several eye witnesses to the shooting in the pantry of the Ambassador Hotel, all of whom had been previously interviewed subsequent to the 1968 shooting and prior to the 1969 trial, and other persons who claimed special knowledge of the incident. The entire grand jury and trial transcript had been reviewed, and attention was directed to the exhibits, namely, the bullets, that had been called into question by Mrs. Blehr's charges.

DeWayne Wolfer Mistakes

The basic errors in the Blehr allegations according to the Busch report stemmed from two related incidents:

1. L.A.P.D. criminalist DeWayne Wolfer had mislabeled the envelope which was received in Court as People's Exhibit #55. This envelope contained three bullets test fired by Wolfer from the gun taken from Sirhar (Serial #H53725). Wolfer had mistakenly labeled the envelope with the serial #H18602. This latter number was the serial number of an Ivor-Johnson .22 caliber cadet model gun (the same make and model as the weapon seized from Sirhan), which Wolfer had used for muzzle distance and sound tests on June 11, 1968, five days after he test fired the Sirhan weapon.

On June 6, 1968, Wolfer recovered seven bullets which had been test fired into a water tank from the Sirhan gun (H53725). The Busch report issued in October, 1971, stated that all seven test fired bullets were compared with the bullet removed from the sixth cervical vertebra of Senator Kennedy, People's 47, (the neck wound). And after making these comparisons, Wolfer positively identified the Sirhan gun as having fired the bullet removed from Senator Kennedy. (In the special court discovery proceedings called by Los Angeles Superior Court Judge Robert Wenke in September 1975, Wolfer testified that he actually compared just one of the test fired bullets to the various victim bullets from Senator Kennedy and from Weisel and Goldstein, and that he was, unable in 1975, to recall the specific test fired bullet he compared.)

Four of these seven 1968 test fired bullets were introduced before the Grand Jury as Grand Jury Exhibit #5-B on June 7, 1968. Three of the remaining bullets remained in the custody of Mr. Wolfer, who intended to compare them with bullets from the other victims not yet recovered by or received at L.A.P.D. These three bullets were later introduced at trial as People's #55 in a mislabeled envelope.

2. The Busch report stated that Wolfer conducted two series of ballistics tests. The first test was conducted on June 6, 1968, with the gun actually seized from Sirhan, and the bullets from this test were used to identify bullets removed from the victims of the crime. The second ballistics test was conducted on June 11, 1968, when Wolfer used a weapon obtained from the Property Division of L.A.P.D. (Serial #H18602). The Busch report, which Wolfer corroborated in testimony in September 1975 before Judge Robert Wenke, states that the use of the second weapon was necessitated by the fact that Sirhan's weapon had been entered into evidence before the Grand Jury hearing on June 8, and that a court order restricted the availability of the original Sirhan weapon. These second ballistics tests were conducted to determine sound characteristics and to verify muzzle distance by examining gun powder pattern. This second weapon was destroyed in July 1969 in accordance with state law. Since this weapon had been originally confiscated by the L.A.P.D. from a suspect in the commission of an unrelated crime, state law required that such confiscated weapons, if not introduced as evidence at trial, be destroyed one year from the date of apprehension by law enforcement agencies. However, this weapon had been originally scheduled to be destroyed in July 1968. Subsequent records modified by C.I.I. and the L.A.P.D. showed the gun was actually destroyed in July 1969.

The Busch investigation revealed there had been a mislabeled envelope introduced at trial in February, 1969, containing the bullets identified as People's #55. This mismarked envelope had been introduced without objection by the trial court, the prosecution or defense attorneys, or the bailiff and other court officials.

It should be added, that Grand Jury Exhibit 5-B, containing the original four of the seven test bullets fired by Wolfer on June 6, 1968, were correctly identified with the Sirhan gun serial number, and that at the subsequent ballistics examination hearing in the fall of 1975, there was no evidence that any of these seven test fired bullets came from other than one gun.

Condition of the Exhibits

A new but related problem arose during the course of District Attorney Busch's investigation: the condition of the exhibits. The District Attorney's Office discovered that various questions surrounded the handling of Sirhan trial exhibits by the Los Angeles County Clerk's Office. Additionally, the District Attorney felt that these questions were sufficient to suspend further investigative activity into the Barbara Blehr charges pending a grand jury inquiry into the clerk's handling of the exhibits. Among the most serious of these questions were the violations of continuing Superior Court orders setting forth the manner in which the evidence was to be handled.

In a letter to the Board of Supervisors dated August 24, 1971, the Grand Jury expressed serious concern about the operations of the County Clerk's Office and stated:

"Because the exhibits, under the custody of the County Clerk's Office, were handled, examined and photographed by unauthorized persons and mishandled by the County Clerk exhibit personnel, there exists a reservation on the part of the 1971 Los Angeles County Grand Jury relating to the present integrity of the ballistics exhibits which were introduced into evidence both during the Grand Jury presentation on June 7, 1968, and during the subsequent trial of the defendant Sirhan B. Sirhan. Since this evidence is presently out of the jurisdiction of the Los Angeles County, (the evidence at that time being within the jurisdiction of the California Supreme Court in San Francisco), we are unable to substantiate these reservations."

The District Attorney's Office made an extensive investigation into the handling of the exhibits and the Busch report stated that the investigation raised serious questions concerning the present integrity of the exhibits due to the handling of the evidence by unauthorized person while the evidence had been in the custody of the Los Angeles County Clerk.

Charach - Harper Investigation

In July 1970, Investigator Ted Charach had given his theory of a potential second gun and the firing of such by security guard Thane Ceasar to Grant Cooper, chief defense counsel in Sirhan's trial. Cooper referred Charach to ballistics expert William Harper, whom Cooper had known professionally for many years, and whom Cooper had recently learned had begun his own research into the ballistics findings in the Kennedy case.

Harper had begun his work after reading "Special Unit Senator" by former L.A.P.D. Chief of Dectectives Robert Houghten. Harper had been puzzled due to an apparent inconsistency over a slug too large to have come from Sirhan's small revolver.

In the first of what was to become many 1970 visits to the criminal exhibits section of the County Clerk's Office, Harper found that the large slug was a nearly flattened .22 bullet. And after many months of testing, weighing, photo-micrographing with a Balliscan camera, as well as studing Coroner Noguchi's massive autopsy report on Senator Kennedy, Harper developed these essential criticisms of Wolfer's work.

a. At least two of the bullets removed from the pantry, one from Kennedy's body (Exhibit 47), and the other from wounded ABC newsman William Weisel (Exhibit 54), did not match each other and thus could not have been fired from the same gun.

b. Wolfer stated at trial that bullets fired from the same gun will have matching individual characteristics, while bullets from two guns of the same make will match only in class characteristics. The absence on the two bullets of any "phase marks" - usually the investigators initials - to serve as guideposts in lining up the points where bullets matched, indicated to Harper that Wolfer matched the bullets down to class characteristics but not as far as individual characteristics.

c. There was a difference of 14% in the rifling angles of the two bullets - again pointing to a conclusion that they came from different guns.

d. While Exhibit 47 and Exhibit 54 bullets did not match each other, neither did any one bullet match any of the three bullets contained in an envelope labeled Exhibit 55. It reported to contain three test bullets fired from Sirhan's gun after his arrest. But the serial number of the gun firing the three bullets was given as H18602 while the serial number of Sirhan's gun was H53725.

e. At the Sirhan trial, it was concluded that Paul Schrade, standing behind Kennedy, was hit in the forehead by a bullet that went through the shoulder pad of Kennedy's coat. That would have had to have been a shot fired from in front of the two men, as both men were in one line of fire. But lab analysis of Kennedy's coat revealed the hole through the shoulder pad was a back to front shot as Wolfer himself testified, and that a bullet lodged in the ceiling, after striking Schrade, was never recovered. Harper felt this unrecovered bullet that went through Kennedy's shoulder pad could possibly have been a ninth bullet.

Preliminary to a complaint and affidavit filed by Godfrey Isaac and Charach, Harper had written to Charach in a letter that "multiple gun shootings are not a rarity in police work. The capture of Sirhan with his gun at the scene resulted in a total mesmerization of the investigative effort. The well established teachings of criminalistics in forensic pathology were cast aside and bypassed in favor of a more expedient solution and unfortunately, an erroneous simplification."

Harper admitted during the 1971 investigation that he had compared these bullets to each other (People's 47 and People's 54), but that he had not compared them to the test bullets in Exhibit 55. Moreover, his comparison was by means of photographic blowups, and not by means of the traditional and more authentic comparison examination use of microscopic camera equipment. Harper stated in his 1971 interview with District Attorney investigators that he wanted the opportunity to do further studies, to use a comparison microscope and compare evidence (victim) bullets to the test bullets in Exhibit 55, and perhaps examine a new set of test bullets taken from a new test firing of Sirhan's gun. Then, and only then, did Harper feel that he could make a final judgment.

Complaint Filed by Attorney Godfrey Isaac and Theodore Charach

On June 25, 1971, a complaint for disclosure of information (C-6027) was filed by Godfrey Isaac and Theodore Charach with the County Clerk's Office. The complaint alleged that criminalist DeWayne Wolfer had committed errors, and that the L.A.P.D. and Chief Davis had surpressed information regarding the murder of Senator Kennedy. Additionally, it was argued in the complaint that the surpression of evidence had been an attempt by officials involved in the Kennedy investigation to cover-up their own inadequacy. However, the L.A.P.D. Board of Inquiry on the Wolfer matter in its October 11, 1971 report to Chief Davis, found that the above mentioned complaint was without substance or foundation.

The police department memorandum stated that all evidence had been submitted for review to the District Attorney at the time of the original investigation and trial. Not one item of evidence had been withheld from the proper authorities, and that the case had been completely reviewed by the District Attorney's staff, the L.A.P.D. and the F.B.I. Several agencies had complete exposure to all phases of the investigation. The defense attorneys, and their investigative staff, had availed themselves of all the evidence and witnesses' statements. Moreover, the memorandum stated:

a. The only gun fired in the pantry at the time the Senator was shot was that belonging to Sirhan Sirhan; a .22 caliber revolver, Serial number H-53725. Two other guns, both .38 caliber, were displayed (not fired) by uniformed guards Thane Cesar and Jack Merritt.

b. The finding by Officer Wolfer that a bullet removed from the Senator's sixth cervical vertebra had compared with a test bullet fired from Sirhan's gun, and this was attested by Wolfer before the Grand Jury and at the time of trial.

c. The Sirhan gun, Serial #H-53725, was entered into evidence on June 7, 1968, before the Grand Jury along with four test bullets.

d. The second weapon, serial #H-18602, was secured from the Property Division, Parker Center, on June 10, 1968.

e. The bullets from Sirhan's gun had six grooves. At the time of the autopsy, Dr. Noguchi, after removing a bullet from Senator Kennedy's sixth cervical vertebra, noted that the bullet had five grooves. As Dr. Noguchi stated, this was done immediately after his removing the bullet, while wearing surgical gloves and away from the operating table where the lighting was poor. Dr. Noguchi admits not being a ballistics expert and that his examination was only cursory. (Taped interview with District Attorney Investigator, July 28, 1971.) It should be added that in hearings conducted by Supervisor Baxter Ward in May, 1974, concerning the assassination of Robert Kennedy, Dr. Noguchi admitted that he had made a mistake in his earlier 1968 statement that the particular bullet, People's Exhibit #47, had only five grooves. Dr. Noguchi publicly corrected his mistake at this May 1974 hearing by stating that the bullet had six grooves.

Eyewitness Testimony: Charach's Statements of Such Testimony

The Isaac-Charach complaint alleged that prosecutors David Fitts and Lynn Compton had falsely informed the Sirhan jury that Karl Uecker, the first key witness for the prosecution, had stopped Sirhan after the fourth shot. Charach stated that Uecker had told the press the morning of the assassination and in subsequent L.A.P.D. and F.B.I. interviews, that he, Uecker, did prevent Sirhan from getting past him, and that he, Uecker, was moving with

Bobby Kennedy after the presidential candidate finished shaking hands with busboy, Juan Romero, and that Kennedy was facing Uecker, in the direction of the Colonial Room. Charach argued that Kennedy was walking face to face with Sirhan, and that Uecker absolutely halted Sirhan during the significant pause, after the second shot. Charach furthur states that this testimony of Uecker was supported 100% before the Grand Jury by banquet captain, Edward Minasian, who stated that Sirhan could not have been firing at Kennedy after the second shot, and that the muzzle of Sirhan's gun was three feet in front of Kennedy. Charach felt that the admission by chief defense counsel, Grant Cooper, that Sirhan had killed Kennedy (the only significant defense presentation at trial being that of diminished capacity), and the stipulation by defense counsel on many vital points, prevented, according to Charach, the public from getting the full proof. Charach further felt that the People did not prove their case beyond a reasonable shadow of doubt. Additionally, Charach felt that Mayor Sam Yorty contributed to the mesmerization of the investigative efforts by reading at a press conference Sirhan's diaries, and saying "We know, of course, he killed Kennedy", and then releasing prematurely the Sirhan diaries to the media.

Trial Testimony of Eyewitnesses Relative to Charach's Statements

Charach's statements, and those stated in the Isaac-Charach complaint of 1971, appear to be in conflict with trial testimony. Several witnesses testified at trial as to Sirhan's physical position while shooting.

Frank Burns Testimony

Los Angeles Attorney Frank Burns, who was right behind Kennedy at the time of the shooting, testified at the trial that, as Senator Kennedy was shaking hands with the busboys, that he, Burns, stopped and turned in the same direction Kennedy was turning so that Burns was standing right off Kennedy's right shoulder as Kennedy was shaking their hands. Burns stated at trial that he "heard the noise, the ripple of what was a gun, and it sounded like firecrackers." In answer to the question of what direction Burns faced, Burns replied, "I was facing the same way that the Senator was, directly west of north looking about that way." (Trial transcript page 3398).

Valerie Schulte Testimony

Kennedy aide, Valerie Schulte, was less than six feet from Kennedy at the time of the shooting. Her trial testimony stated that she was approximately two people behind Senator Kennedy following him down through the door into the kitchen area (the "door" referred to are two double doors). Schulte repeated that Kennedy was about two yards in front of her. She followed him past the ice machine. Schulte then testified that she noticed Kennedy stop, turn to his left and back, and that "he shaked the hands of the kitchen help which were lined up, assembled to his left, and at that time, the crowd behind him kept moving and I was somewhat pushed to the right and forward." Additionally, Schulte testified that "the Senator turned something more than 90° angle facing roughly something west of north where there were people standing." Schulte continued that "I noticed he extended his hand. And at this time I noticed an arm extending with a gun and heard shots and observed the shots."

Boris Yaro Testimony

On June 7, 1968, Boris Yaro, a photographer for the Los Angeles Times, who was three feet behind and to the right of Senator Kennedy, made the following statement to the F.B.I. "I was about three feet behind Kennedy and to the right of him trying to find his head in my camera viewfinder when I heard what I though were two explosions. My first thought was 'some jerk has thrown some fire-crackers in here.' All of the sudden the two or three people that had been blocking my view of the Senator disappeared leaving me with a full view of what was happening. The Senator and the assailant were a little more than silouettes, the Senator was backing up and putting both of his hands and arms in front of him in what would be best described as a protective effort. The suspect appeared to be lunging at the Senator, I don't know which hand the gun was in - I didn't realize it was a gun until he started firing again - this time I could see the flashes from the short barreled muzzle - I heard no sound from either man - I felt powder from the weapon strike my face - I knew it was gun then. I thought I heard three shots, but in retrospect, I know it is more, however. All of the sudden the firing stopped and some men jumped the suspect and there were cries of 'get him, get the gun' - much shouting." It should be added that several of Yaro's photographs appeared on the front page of the Los Angeles Times on June 5 and June 6, 1968. None of these photographs, however, showed Sirhan actually firing at Senator Kennedy.

Karl Uecker Testimony

Karl Uecker, the assistant maitre d' of the Ambassador Hotel, was leading Senator Kennedy to the pantry and was within two feet of him at the time of the shooting. His trial testimony included the following: "He broke away from me. He shook hands." In response to a question at trial of how far would Uecker be from the Senator at that time, Uecker responded, "Well, just as far as my hands can reach from here, a matter of a foot, more or less, two feet." "At that time, he shook hands with the last man and I looked over there and I was kinda watching and this guy was coming close... He (Kennedy) was shaking hands and I talked to him and then I turned to my left and my right and I felt something moving in between the steam table and my stomach.

I was very close to the steam table. The next thing I heard was something like a firecracker and I turned my head to the left and I slid over again and I heard something like a shot, and Mr. Kennedy was falling out of my hand, and his upright arm, and he was turning and then I realized there was somebody following me with a gun." (Reporter's transcript pages 3095-3096).

Edward Minasian Testimony

Mr. Edward Minasian, a hotel employee, was within five feet of Robert Kennedy. His trial testimony was as follows: "We were walking. I could tell the Senator's right shoulder was very close to my left shoulder and when he reached a certain point I observed the Senator shaking hands with the hotel personnel in the same area in which he was standing. This was immediately in front of the first steam table. At this time, I moved several steps closer to him. There was several people with whom he was shaking hands with. I don't recall their names. As I walked toward him, in my peripheral vision, I observed someone running in the direction in which we were walking. This person was running from east to west. He was running toward the Senator and me and the next thing, as I looked up, I saw a revolver extended but I couldn't get a very close look at the person, but I saw the arm extended with the revolver and he had reached around Mr. Uecker. Mr. Uecker was standing almost immediately against the service table. The party who was running reached between the steam table or service table (one and the same table) and Uecker, with his arm extended, and I saw the explosion of the shells and I saw the Senator raise his arm pratically in front of his face and then the second shot went off and after the second shot, why, I jumped across this area between myself and Uecker and attempted to grab, and grabbed a hold of him, the party, around the waist and at the top of the leg. We had him pinned up against the service table." (Reporter's transcript pages 3154, 3155, & 3156).

Martin Petrusky Testimony

Martin Petrusky, a waiter at the Ambassador Hotel, was within five feet of Senator Kennedy when he was shot. He testified at trial that "at that point we had stopped and the Senator was shaking hands with the people that were standing along the way. He started to move a little and when he got towards Mr. Perez over there he started to turn, and all of the sudden there was like a firecracker going off, then there was another one, then there was a pause. Then all of the sudden there was rapid fire. I saw Karl (Uecker). I ducked down and I saw Karl swinging around and grabbing him around the neck." In response to a question of grabbing "who", Minasian replied, "Sirhan."

Question from Deputy District Attorney:

"Is that the same person you had talked to earlier in the evening?"

"Yes sir."

Petrusky further stated that he grabbed him around the neck and with hand extended, he held his arm, which at that time you could see the gun in his hand. (Reporter's transcript page 3387).

Eyewitnesses, all within eight feet of Senator Kennedy, described his position as "west of north, walking in an easterly direction, stopped, turned to the left and back to shake hands with the kitchen help." Face-to-face position would have put Kennedy looking easterly direction since all the trial testimony indicates that Sirhan was running into and firing into a westerly direction. Witnesses indicated that Senator Kennedy's position was facing west of north or northwest. This would logically put Sirhan's firing position to the right and somewhat to the rear of Senator Kennedy.

Autopsy Report

The autopsy report of Dr. Noguchi indicated on page two that gunshot wound #1 entered Kennedy in the right mastoid region in a "right to left, slightly to front, upward direction." (People's Exhibit 48). Gunshot wound #2, through and through, entered the right axillary (armpit) region and traveled through the right infra clavicular region in a right to left, back to front, upward direction. Gunshot would #3 entered the right axilary (armpit) region (just below gunshot wound #2 entry), traveling through the soft tissue of the axilla soft tissue of right upper back to the level of the sixth cervical vertebra just beneath the skin in a right to left, back to front, upward position. (People's Exhibit 47).

The paths of these three bullets, which entered Senator Kennedy's body are consistent with the Sirhan testimony of eye-witnesses. Dr. Noguchi's trial testimony revealed gunshot wound #1 to have a path angle of 10 to 15 degrees upward, gunshot wound #2 to have a path angle of 35 degrees upward, and gunshot wound #3 to have a path angle of 30 degrees upward. Dr. Noguchi concluded in his examination that Senator Kennedy's arm was raised 90° when gunshot wound #2 was inflicted, and that the Senator's arm was moving between shots #2 and #3. On page 4531 and 4532 of the trial transcript, Dr. Noguchi testified as follows: "My opinion, although there were different directions of the gunshot wounds, but the overall pattern of the direction of the three gunshot wounds, gunshot wound #1, #2 and #3 were in a position right to left, an upward direction, and this pattern is consistent with the wounds inflicted by shooting in the rapid succession... and also these wounds alone were not the factor in determining it. I think an examination of the clothing ought to be also taken into consideration."

1971 Grand Jury Investigation

In August 1971 the Los Angeles County Grand Jury commenced a formal hearing relative to internal procedures and security control in connection with the Grand Jury and trial exhibits received in evidence in the Sirhan case. In this five day hearing, thirty witnesses were examined under oath, and all witnesses detailed the security breakdown occasioned when a Superior Court judicial order establishing pre and post trial exhibit security was ignored or not implemented by the staff of the County Clerk's Office. The apparent violations of previously issued court orders by Superior Court Judges Arthur Alarcon (1968), and Herbert Walker (1969) restricting access to court exhibits to either counsel of record or by court order, prompted a Los Angeles County Inquiry based on findings of the Grand Jury investigation.

Chief Administrative Officer, County of Los Angeles Report Regarding the Department of the County Clerk; Analysis of Grand Jury Findings Relative to the Sirhan Case

In the fall of 1971, the Chief Administrative Officer of the County of Los Angeles initiated a comprehensive investigation of the operation of the office of the County Clerk. This particular action was in response to a report to the Board of Supervisors by the Grand Jury which contained various charges of mismanagement by the County Clerk in the handling of the exhibits in the Sirhan trial.

Arthur G. Will, Chief Administrative Officer of the County, directed the investigation into three major areas:

1. Analysis of the specific charges contained in the Grand Jury Report.

2. Evaluation of County Clerk management and effectiveness of the department in providing essential services.

3. In depth review of criminal division procedures and operations.

Arthur Will, Chief Administrative Officer, concluded that on the basis of his office review, it was his conclusion that the office of the County Clerk was being effectively administered by the present departmental management. However, Will felt that in the case of the Sirhan trial specifically, inadequate attention was given to the magnitude and importance of the trial by top management in the County Clerk's Office, and that the department needed to establish an effective mechanism for identifying cases of major significance. Also, Will felt there was a need to create appropriate procedures to ensure foolproof handling of all aspects of the clerk's responsibilities.

The summary of the findings highlighted the following:

1. The Grand Jury had felt that the Superior Court orders intended that the fragile ballistics evidence be specifically packaged but the County Clerk did not comply with this wish, resulting in doubts as to the integrity of the bullets entered as evidence in the Sirhan trial.

The C.A.O. task force found that no special instructions were given by the Court in this regard. Storage of the bullets in the custody of the County Clerk remained in the same package that they had originally been placed in by the L.A.P.D. This was consistent with the standard operating procedure of the storage of ballistics exhibits.

2. The Grand Jury had been very critical of the manner of enforcement of court-imposed restrictions on viewing and handling of Sirhan exhibits, particularly ballistics evidence, charging that the County Clerk had allowed unauthorized persons access to the exhibits, and had failed to keep an accurate record of visits to the exhibit viewing room and failed to provide adequate security and supervision over the Sirhan exhibits. The Grand Jury also noted that several pages of copies of notebooks of Sirhan's notes were missing.

In rebuttal, the C.A.O. task force found that the person who was permitted access to the ballistics evidence was admitted by the criminal division staff on the basis of telephonic and written verification that the person was a representative of defense. Allowing representatives of counsel to view exhibits had been standard operating procedure for the division. However, it was evident that furthur inquiry and consultation with the court would have been in order in this particular case. Furthermore, in reconstructing the events discussed in the Grand Jury charges, the C.A.O. task force found that the systems, records, and security measures in effect, at that time, were deficient. Improvements were implemented by the department.

3. The Grand Jury made a general statement criticizing the performance of upper and middle management of the County Clerk's Office and expressed concern regarding the operations of the divisions of the office. This was based on the charges relating to the care and handling of the Sirhan exhibits.

The C.A.O. task force found that the management and overall operation of the department was generally satisfactory.

The Court Order Re Exhibits

On June 7, 1968, a court order was promulgated by Judge Arthur Alarcon. His order continued into effect until May 20, 1969, at which time Judge Herbert Walker issued a court order which stated in substance that the original exhibits in the Sirhan case were not to be viewed except upon order of the court. This instruction did not apply to attorneys of record. Judge Walker's court order was preceded by a conference in his chambers on May 16, 1969, which was recorded by a court reporter. Three representatives of the County Clerk's Office, including Mr. Peter J. Talmachoff, Chief of the Criminal Division, were present during this conference in order that the views of the two superior court judges would be clearly communicated and understood. During the conference, and based upon the testimony relating thereto, it was demonstrably clear that both presiding Judge Charles Loring and Judge Herbert Walker also expected that the critical ballistics evidence in the Sirhan case was to be specifically packaged to preserve its integrity. This conference occured well after all of the exhibits had been introduced into evidence and had thus come into the care, custody and control of the Los Angeles County Clerk's Office.

But the C.A.O. task force found that the idea of special packaging for ballistics evidence was not clearly communicated to or expected of the County Clerk. An although the conference with the judges was recorded, the transcription was not prepared for circulation until July 26, 1971. The C.A.O. task force did state that it was unfortunate that Mr. Talmachoff did not question the lack of reference to special packaging in the court order since it was discussed in conference.

Conclusion Re Grand Jury Investigation of County Clerk's Office

There was no real evidence developed during the 1971 Grand Jury investigation that any tampering with exhibits actually occured, but investigators from the District Attorney's Office and from the Grand Jury were gravely concerned about the problem. The District Attorney's Office stopped short of saying that there was any tampering with the bullets or gun, but their investigators had concern about the possibility that it did occur.

1974 Hearings Conducted by Supervisor Baxter Ward

One of the most persistent critics of the manner in which ballistics evidence was presented at the trial of Sirhan was Los Angeles newsman Baxter Ward. In 1971, Ward often devoted a sizeable portion of his program on KHJ television to highlighting apparent discrepancies in trial testimony of various eyewitnesses, giving sizeable coverage to trial critics such as Theodore Charach and others critical of criminalist DeWayne Wolfer. In 1972, Ward was elected to the County Board of Supervisors and in 1974 commenced his own hearings to investigate ballistics evidence by virtue of his chairmanship of the Coroner's Department of Los Angeles County.

Prior to the May 1974 hearing, Ward asked his fellow supervisors for subpoena power to compel District Attorney Joseph Busch and L.A.P.D. criminalist Wolfer to appear before his hearing.

Prior to the hearing date in May, a series of Board of Supervisors meetings in April revealed a growing feud between Ward and Busch. Ward stated his quarrel with Busch was based on the belief that the District Attorney should "remove the cloud presently hanging over law enforcement in the Kennedy case by initiating a total review of the ballistics evidence, including refiring of the gun used by Sirhan." Additionally, Ward stated to Busch, "I remind him that I made this same basic proposal back in 1971 when the bullet controversy first developed. In fact, it was my persistence in this matter in a three month broadcast series in 1971 that led to the total estrangement between Mr. Busch and me."

Ward insisted that his hearing was to deal with doubts raised by certain criminoligists that bullets used as evidence in the Sirhan murder trial did not match up.

Busch, who described the proposed hearing into the bullet dispute as "ridiculous", stated that he would not appear at the hearing and cited government code sections in the Los Angeles County Charter challenging the authority of a Supervisor to conduct legislative hearings into essentially a criminal case. Additionally, he felt that Supervisor Ward was using the issue of the Sirhan case as publicity to capture public notoriety during his campaign for the Democratic nomination for Governor that spring.

Mac Donell Affidavit

In addition to the original affidavit of William Harper of December, 1970, Ward's hearings were to highlight the affidavit and personal testimony of criminalist Herbert Mac Donell, director of the Laboratory of Forensic Science in Corning, New York. Mac Donell had examined the same 1970 photograph taken by Harper of the bullets removed from Senator Kennedy's neck and victim Weisel. Ted Charach had delivered these photographs to Mac Donell in 1973. Essentially Mac Donell made two conclusions.

First, Mac Donell stated the bullet removed from Senator Kennedy and the bullet removed from Weisel could not have been fired from the same weapon. Mac Donell claimed the two bullets were of different manufacture or were manufactured by the same firm under different conditions of manufacture. All eight cartridge cases removed from Sirhan's gun were manufactured by Omark-C.C., and all had two cannelures. Mac Donell stated the location of the cannelures on the Weisel bullet showed it could have been a part of a cartridge in the Sirhan revolver. However, Mac Donell concluded the Kennedy bullet had but one cannelure, and therefore could not have been Omark manufacture and, therefore, could not have been a part of one of the cartridges taken from the Sirhan revolver.

Additionally, Mac Donell stated that his detailed examination of the Hycon Balliscan camera photomicrographs taken by Harper of the Kennedy and Weisel bullets showed "a difference of nearly 1/2 a degree in rifling angles." Also, Mac Donell felt there was a lack of agreement between any of the identifiable individual characteristics that appeared on the two bullets. Overall sharpness of the Kennedy bullet suggested that it was fired from a barrel whose rifling was in far better condition than the one from which the Weisel bullet was fired. Finally, Mac Donell stated that he felt two guns had been fired.

It must pointed out that both Harper and Mac Donell were working only from pictures taken by a special camera called a Balliscan. Even though this camera is an acknowledged diagnostic aid in ballistics, criminalists agree that the most reliable evidence comes from actual microscopic examination of the bullets. Additionally, Harper had stated under oath to the Grand Jury in 1971 that he had "stong reservations regarding the present utility of the physical evidence for microscopic re-examination because of the way the evidence had been initially handled by the police agency and thereafter maintained, in the same manner, by the Clerk's Office."

Preparing to hold his hearings in May, 1974, Ward publicly stated that he did not challenge the conviction of Sirhan, but had many questions about evidence, particularly ballistics evidence. Ward stated, "In my opinion, there is no question as to Sirhan's involvement and the finding of his guilt, and he should be maintained in prison for the balance of his life." Ward added, "that he (Ward) had no knowledge or particular suspicion that Sirhan did not act alone. But I still feel that a case of this importance should not leave unresolved as many specific charges as are being made in this case."

District Attorney Busch challenged the authority of Supervisor Ward to hold such a hearing, but Ward relied on the advice of County Counsel John Larson that as Department Charman of the Coroner's Department, it was appropriate for Ward to hold such a hearing and inquiry. Ward laid a preliminary foundation for his hearing by telling other Board of Supervisor members that he, Ward, had met with County Clerk William Sharp and discussed the previous charges against Sharp and his office by the District Attorney and the County Grand Jury in 1971. Ward stated that he was satisfied with Sharp's response and, felt that the integrity of the exhibits he would examine at his hearing were satisfactory. He then stated, "There is a cloud over law enforcement in the County of Los Angeles that can only be dispelled by a proper inquiry." (Board of Supervisors Meeting April 23, 1974). Additionally, Ward quoted from a book entitled "Inside the Crime Lab", which stated "critics claim that it is scarcely possible to imagine a case so botched up in the physical evidence collection, preservation, analysis and testimony as was the crime lab work by the L.A.P.D. Ballistics Forensic Division in the Bobby Kennedy killing." Ward used this allegation at the Board of Supervisors Meeting on April 23, 1974, to justify his attempts to subpoena District Attorney Busch and DeWayne Wolfer to appear for his May, 1974, hearing.

May 13, 1974 Hearing

Ward prefaced his hearing with statements by Mr. Roy Ito and Mr. Eskanos, both members of the 1971 Chief Administrative Office task force. Both Eskanos and Ito testified that there was no substantial evidence of unauthorized handling of original exhibits. They stated that they disagreed with the Grand Jury findings that there was an unfortunate lack of conern for the integrity of the exhibits. Additionally, Ward inserted into the record a statement by the 1971 Presiding Judge of the Superior Court, Charles Loring. Judge Loring stated that, "Despite considerably adverse publicity (in 1971) during the course of these investigations, our committee found nothing to indicate that the handling and storing of the exhibits in the Sirhan case impaired the integrity of the exhibits."

Affidavit of William Harper Read Into the Record

William Harper could not participate in the May 13, 1974, hearing. Portions of Harper's previously sworn affidavit prepared on December 28, 1970, were read into the record. In this affidavit Harper stated that, "During the past several months (in 1970) I have made a careful review and study of physical circumstances of the assassination of Senator Kennedy. In this connection, I have examined physical evidence introduced at the trial, including Sirhan's weapon, the bullets and shell cases. I have also studied the autopsy report, the autopsy photographs and pertinent portions of the trial testimony."

"Based on my background and training, upon my experience as a consulting criminalist, and my studies, examinations, analysis of the data related to the Kennedy assassination, I have arrived at the following findings and opinions:

"No test bullets recovered from the Sirhan gun are in evidence. This gun was never identified scientifically as having fired any of the bullets removed from any of the victims.

"Other than the apparent self evident fact that gun #53725 was forcibly removed from Sirhan at the scene, it has not been connected by microscopic examinations or other scientific testing to the actual shooting.

"In fact, my examinations disclosed that the bullet, Exhibit #47, has a rifling angle of approximately 23 minutes (approximately 14%) greater than the rifling angle of Bullet Exhibit #54.

"It is therefore my opinion that Bullets #47 and #54 could not have been fired from the same gun."

1974 Lowell Bradford Testimony

Immediately after reading the Harper affidavit into the record, Ward called criminalist Lowell Bradford to testify. Bradford had served as the Head of the Santa Clara County District Attorney's Crime Laboratory but he was no longer in that capacity at the time of the hearing.

Like other critics, Bradford was looking at photographs of Bullet Exhibit #47 and Bullet Exhibit #54 originally taken by Harper in 1970. Ward asked for conclusions regarding the number of cannelures in Exhibit 47, the Kennedy bullet, as compared to Exhibit 54, the Weisel bullet. Bradford replied: "Notice that the photograph of #47 portrays an image which appears to be one knurled cannelures, whereas photo 54 has an image which appears to portray two cannelures."

Ward then questioned Bradford about the possibility of bullet tampering or damage. Specifically, Ward had requested photographs be taken of the two controversial bullets, 47 and 54, photographs taken at his request in April, 1974. Ward asked Bradford if he had examined the new 1974 Balliscan photographs and compared them for any changes that might have occured in the quality of the specific markings on the bullets, (the bullet photos of 1970 taken by Harper, and the bullet photos of 1974 taken at Ward's request). Bradford replied, "I could find no significant changes in the types of marks which would be useable in identification between the two sets of photographs."

Ward implied that he had raised that question to Bradford for the reason that it had been suggested in some quarters that that age could have a serious effect on the quality of the bullets and their integrity for examination. Ward felt that two-and-a-half years time had passed since the assassination and the time the bullets were first photographed by Harper in 1970. Additionally, there was an even longer period, roughly three-and-a-half years that elapsed between the Harper photographs and the Ward photographs. And when asked if he had found no consequential deterioration, Bradford answered, "That is correct."

Asked if he had compared the rifling angles of photographs #47 and #54, Bradford stated that he could not discern any differences between the rifling angles of the two photographs. Ward asked Bradford that based on the individual characteristics of the spent bullets, did he attempt to make a positive identification of the photographs of People's Exhibit #55 and 5B (the seven Wolfer fired test bullets) and the Kennedy bullet, 47, and the Weisel bullet, 54. Bradford replied that he determined that the class characteristics, the number of marks from the rifling and the general dimensions, were consistent on all the bullets, but that he could find no evidence of any specific identification mark which would be necessary to identify one bullet as having been fired from the same weapon.

Ward then stated, "So in the crucial analysis to determine if the bullets were fired from the same weapon, you did not find sufficient characteristics on which to base that conclusion?"

Bradford, "That is correct."

Ward than asked, "So it was impossible, you would state, therefore, that the characteristics were not present to identify the same gun as having been used for all of the bullets?"

Bradford answered, "That is correct."

Finally, Ward asked Bradford what Bradford thought should be done to resolve the questions being raised and Bradford replied that the only manner of resolving all of the questions was to conduct a thorough examination of all of the evidence. When asked by Ward if the Sirhan gun should be refired, Bradford answered, "Yes."

1974 Testimony of Criminalist Herbert MacDonell

In the fall of 1973, and prior to the hearing of May, 1974, Herbert MacDonell had examined Balliscan photographs of spent bullets that had been taken by William Harper in 1970. Specifically, MacDonell was looking at bullets #47, the Kennedy bullet, and #54, the Weisel bullet. Thereafter, MacDonell also had access to the other photographs taken under Ward's direction in April, 1974. At the hearing, when asked by Ward if he had arrived at any conclusion as a result of his examinations of the several photographs MacDonell replied, "An examination of the photograph of Trial Exhibit #47, as Lowell Bradford has just testified, demonstrates the appearance of one cannelure which is toward the top center of the exhibit labeled 'Harper-Kennedy.' The Harper-Weisel photograph gives evidence of two cannelures."

And when asked if he could find any difference in the physical characteristics of the bullets in the Harper photographs of 1970 and the Ward photographs of 1974, MacDonell replied, "No."

When asked if he had arrived at any conclusions as a result of comparison of the rifling angles in the photographs of Exhibits 47 and 54, MacDonell stated, "That Exhibit 47, the original Harper photograph, has approximately up to half a degree or 30 minutes difference in the angle of rifling between the Weisel bullet." Ward asked if this was a serious difference. And MacDonell replied, "No." MacDonell then stated that since he did not have the negative of the photos taken by the Balliscan camera, it was really impossible to make any estimate. However, he did conclude that the difference in rifling angle was less than one-half degree or less than 30 minutes. He did suggest that additional measurements be made on the test fired bullets.

Ward then asked if he was suggesting that the bullets were not fired from the same gun, and MacDonell answered, "I am suggesting that they were not fired from the same gun based upon the photographic evidence." And when asked whether he was able to make any positive identification of the bullets as compared to each other, MacDonell replied, "I could not positively identify them as being fired from the same weapon."

Finally Ward, in summary to MacDonell stated, "You leave me with the impression that the cannelures are different, manufacturer of the weapon is different, and that you are incapable of finding the specific characteristics that would directly relate one spent bullet, 47, Kennedy, with another, 54, Weisel." MacDonell replied, "That is correct.

Testimony of Dr. Noguchi

Supervisor Ward then called Dr. Noguchi to give his conclusions regarding the proximity of the murder weapon to the three gunshot wounds in Senator Kennedy. Noguchi stated, "As to muzzle distance, in my opinion, in the headwound, right mastoid, it was three inches from the right ear, slightly one inch to the edge of the right ear. The gunshot wound #2, that's a very close wound, I would not be able to tell because we did not have an opportunity to study the Senator's jacket, but I would say that's very close, nearly a contact wound, that means, the muzzle was very, very close. Gunshot wound #3 was about the same, very close."

Previous to this testimony of Dr. Noguchi, Ward read into the transcript the trial testimony of Valerie Schulte, Vicent DePierro, and Edward Minasian, all of whose testimony stated that the Sirhan weapon was a few feet from Senator Kennedy at the time of shooting the Senator.

With this foundation laid in the transcript, Ward then asked Noguchi regarding the proximity of closeness between the muzzle and the Senator's body. Ward questioned that Noguchi's testimony indicated one inch, one-and-a-half inches, to three inches, virtually point blank range, whereas the trial testimony indicated two or three feet being the muzzle distance. Ward asked Noguchi, "When did you become aware that this was a point blank range? Was it before the trial?" Noguchi replied that it was on Friday, June 7, 1968, that he testified at the Grand Jury as to muzzle distance.

Ward then stated in the record that the "District Attorney's Office has witnesses who placed Sirhan five or six feet in his body distance from the Senator, and muzzle distance two or three feet away. Was the District Attorney's Office aware of the discrepancy between the testimony of their witnesses of the muzzle distance as opposed to your findings?"

Noguchi mentioned the concern of one Deputy District Attorney about the apparent discrepancy and then replied, "I do not know whether they (the District Attorney's Office) knew or not."

Response of District Attorney Busch, June 1974

In a letter to Supervisor Peter Schabarum, District Attorney Busch stated that he thoroughly deplored Supervisor Ward's entire course of conduct in his May, 1974, hearing. He stated that Ward had acted outside the scope of his jurisdiction under the guise of conducting Board business to initiate an allegedly impartial inquiry into the Sirhan matter. Additionally, Busch felt that Ward's hearing was a skillfully drafted scenario designed to establish predetermined findings and conclusions that the Los Angeles Police Department and/or the District Attorney's Office failed to thoroughly investigate the possibility of a second gunman, if not actually engaged in techniques to cover-up such a possibility. In short, Busch felt that Ward had unjustifiably shaken public confidence in both of the law enforcement agencies.

Busch further stated that the Ward hearing lacked all the characteristics of the adversary process, and was specifically designed to provide no opportunity for anyone to cross examine any of the witnesses, whose appearance and testimony was carefully orchestrated. Moreover, Busch felt that the inherent weakness in the Ward procedure was the selectivity in presentation of issues and the projection of an image or impression which had no basis in fact.

Busch was extremely critical of Ward for creating the "illusion of the possibility of a second gun." Busch felt an obvious starting point was to create a conflict between eyewitness accounts and physical evidence regarding muzzle distance. Busch felt that whenever a number of persons see an event, it is axiomatic that there will be different accounts in regard to different detail. Furthermore, when placed in the context of a victory celebration at the conclusion of a long day, the probability of discrepancy is enhanced. Thus, in such a situation, Busch felt it was relatively easy to select a few witnesses whose recollection was inconsistent with irrefutable evidence.

Busch continued, in his letter to Schabarum, that, "In order to implement this cornerstone of his strategy, Mr. Ward created the image of conflict by placing into the record very brief portions of statements by three persons. When these statements were compared with the statements of the Coroner, which is precisely the same testimony given by the Coroner during the Sirhan trial, Busch felt a conflict was readily produced. But the existence of such conflict required one to assume that these three isolated accounts fairly represented the statements of the many other persons who witnessed the tragedy. Nevertheless, Busch concluded that Ward, by this technique, laid the ground for further inquiry regarding the physical evidence. Busch also expressed his displeasure in that the Ward hearing raised questions as to what the prosecution failed to do with respect to its investigation of physical evidence. Busch felt that such a technique might have the purpose of disclosing ineptitude, but that it also raised a question when no question in fact existed. To Busch, this represented a smoke screen of irrelevent issues.

Finally, Busch felt the witnesses introduced by Ward to establish that the County Clerk had effectively preserved the physical evidence were totally inconsistent with the findings of the Los Angeles County Grand Jury in 1971. Busch felt the Grand Jury had conducted and arrived at its findings only after an intensive hearing conducted under oath, and this hearing included the testimony of members of the Clerk's Office actually involved in the matter.

Busch concluded that it was regrettable to him that the Board of Supervisors had provided Ward with the springboard of governmental authority to articulate his previously formed conclusions dating back to his days as a newscaster in 1971.

1975 Report of the Select Committee of the American Academy of Forensic Sciences

This committee, composed of three members of the American Academy of Forensic Sciences; Thomas Johnson, James Osterburg and Ralph F. Turner, stated in a July 2, 1975, report that "legitimate forensic questions in the Robert F. Kennedy case have been raised." The committee felt that there was more than a reasonable possibility that these questions could be answered if there was a new re-examination of the physical evidence in the case.

In reviewing the steps leading to the committee's report, the President of the Academy of Forensic Sciences, Robert J. Jolling, issued a statement that was later incorporated as an affidavit in the petition filed by Paul Schrade for the inspection, examination and testing of the ballistics exhibits (filed in the Los Angeles Superior Court in August, 1975).

In his affidavit, Jolling stated that he was currently the President of the American Academy of Forensic Sciences. Additionally, Jolling is an attorney admitted to the practice of law before the United States Supreme Court as well as in his state of residence, Arizona. Jolling acknowledged that he had informally contacted Ralph Turner and asked Turner to serve as the chairman of the Ad Hoc committee which would review the Robert F. Kennedy case. This was early 1975. Jolling was acting in his capacity as President of the American Academy, (and was appointing a select Ad Hoc committee) with Ralph Turner as Chairman. This committee had been formed after a showing of the Ted Charach film, "The Second Gun", at the full session of the American Academy of Forensic Sciences in Chicago. Attending that session, and viewing the film, were panel participants Lowell Bradford, Vincent Guinn, Godfrey Isaac, Herbert MacDonell, and Thomas Noguchi.

The Ad Hoc committee reviewed numerous materials that had been under discussion in previous hearings concerning the Sirhan case. The committee recommended that a panel of recognized and qualified persons having expertise in firearms examination and identification be assembled to review the ballistics evidence as well as the trial and Grand Jury transcripts of the Sirhan case. Although not making any formal accusation against the District Attorney's Office or the findings of the court and jury, the Executive Committee of the American Academy of Forensic Sciences stated in its July 13, 1975, report that such a re-examination of the evidence would be "of value in clarifying the circumstances of the death of Robert Kennedy."

Emergence of such a respected organization as the American Academy of Forensic Sciences as a potential critic of the Sirhan investigation added further substance to the growing demand to re-open the case. On Sunday, July 13, 1975, the influential and respected Los Angeles Times ran a major feature article written by William Farr and John Kendall headlined: "Robert Kennedy Case Still Stirs Question: Pressure to Reopen Assassination Inquiry Includes Gun, Bullet Holes."

Death of Joseph Busch

To compound the problem, District Attorney Joseph Busch had tragically died June 27, 1975, from a sudden heart attack. Chief Deputy District Attorney John Howard became Acting District Attorney, and immediately assumed the role of protaganist in the growing demand to reopen the investigation. Ironically, in one of his last conversations before his death, Joe Busch had told Times reporter William Farr he was seriously considering petitioning for the appointment of a Special Master by the California Supreme Court to review the ballistics and firearms evidence in the Sirhan case. Busch was, of course, concerned about the integrity of the exhibits, as one of his first jobs upon being appointed District Attorney in late 1970 was to oversee the 1971 re-investigation of the Sirhan matter, and the Grand Jury investigation of the County Clerk's Office concerning unauthorized access to the exhibits.

Additionally, and more important, the District Attorney's Office was most concerned that if the Sirhan case was to be reviewed, it should be done in a court of law, where the rules of evidence would apply, where sworn testimony would be taken on the integrity of the exhibits, and where the right of cross examination and presentation of evidence was guaranteed. The District Attorney's Office was most concerned that a proposed California Legislative Ad Hoc Committee investigation into the Sirhan matter might balloon into a circus-like atmosphere complete with television, ongoing interviews and commentary, with an "any theory you can do, I can do better" atmosphere. Both Busch and Howard had discussed the possible appointment of a Special Master in a judicial forum. In the early weeks of July, Acting District Attorney Howard had assigned Deputy District Attorney Dinko Bozanich to review the statutes and procedure permitting an application to the State Supreme Court for the appointment of a Special Master.

Schrade Petition

Later that same month, one of the wounded victims on the night of the assassination, Paul Schrade, filed a civil law suit for personal injuries suffered the night of the shooting naming Sirhan and ten John Does as defendants. The nature of this civil suit was that Schrade was presently seeking to establish the identity of the person or persons who caused his injury. As parallel action to the civil matter filed in Superior Court in early August, 1975, Schrade filed an application for an order authorizing the inspection, examination, and testing of several ballistics and firearms exhibits in the Sirhan case. Application for inspection and testing was filed in Department 1, before Judge Robert Wenke, Presiding Judge of the Los Angeles Superior Court. It was Schrade's contention that certain exhibits in the criminal proceedings against Sirhan could furnish evidence and information necessary for his pending personal injury action in another superior court. Schrade contended that he had recently learned certain "facts" which supported the conclusion that persons other than Sirhan might have been involved in the assassination of Senator Kennedy and in causing his own injury. He felt that such an examination and testing of the exhibits would give factual information essential to achieving proper discovery information in his personal injury action.

As a corollary to both civil law suits, Schrade, through a third attorney, filed an action seeking injunctive relief compelling the Los Angeles Police Department to reveal the ten-volume summary of the Robert Kennedy investigation, the so-called Special Unit Senator File.

In support of his application to inspect, examine, and test the various ballistics, firearms, and clothing exhibits, Schrade filed:

a. supporting affidavits of Robert Jolling, who as President of the American Academy of Forensic Sciences, added credibility to the advocacy of re-examination and testing;

b. the declaration of William Harper stating that based upon his 1970 examination and his more recent examination of the bullets, shell cases, and the Sirhan weapon, Harper felt that the only reasonable conclusion from the evidence developed by the police was that two guns were fired in the kitchen pantry;

c. a partial transcript of Supervisor Ward's May, 1974, Hearings highlighting the testimony of criminalist Herbert MacDonell; wherein MacDonell relied on Harper's and Ward's balliscan photos, which suggested to MacDonell a difference in cannelures and the possibility of two guns;

d. a partial transcript of the 1974 Baxter Ward Hearing in which Los Angeles County Coroner Thomas Noguchi stated that the muzzle of the Sirhan weapon was "very, very close" to Senator Kennedy;

e. the report of the Ad Hoc Committee of the American Academy of Forensic Sciences which outlined potential testing procedure;

f. a 1969 statement by then District Attorney Evelle Younger outlining the investigation into the conspiracy theory and his conclusion that the jury had found Sirhan guilty as charged;

g. and the lengthy and definitive Los Angeles Times article by Farr and Kendall reviewing the Sirhan controversy.

Schrade also argued that the right to inspect the exhibits was meaningful only if the exhibits were tested. He underscored this argument by stating that mere visual inspection of the exhibits would not give him the information he legitimately needed and sought in his personal injury action. Therefore, the court having the power to authorize the tests, should grant Schrade such a motion. Schrade emphasized the unique order of Presiding Judge Loring in 1972, that all exhibits in the Sirhan case were to be retained "forever because of the historical nature and importance of the case." Schrade stated that the court anticipated that important future use might be made of the exhibits, therefore, the right to inspect and test such exhibits was inherent in this 1972 order.

Schrade's memorandum characterized the District Attorney's Office as "repeatedly refusing all requests to reopen the investigation." The statement avoided mention of the several on-going investigations in 1971 and 1974, and the fact that the District Attorney's Office had publicly stated its willingness to conduct an investigation protected in a judicial forum where rules of evidence and cross examination would apply.

CBS Application to Inspect and Test Exhibits

Almost simultaneous with the filing of the Paul Schrade application, was an application filed by CBS before Presiding Judge Robert Wenke seeking an order for the inspection and examination of the various ballistics and firearms exhibits in the Sirhan case.

The exhibits sought to be inspected and examined were identical to those petitioned by Schrade. The major difference between the two petitioners before the court was that CBS relied upon the declaration and affidavit of criminalist Lowell Bradford to specify the procedure and substance for scientific examination of the exhibits. Additionally, CBS phrased its application for inspection and testing on the rather unique argument of "the public's right to know."

CBS broadly sought a scientific examination of all of the firearms exhibits, including the expended bullets, the cartridge cases, the live cartridges and the Sirhan weapon. CBS argued that evidentary value in these exhibits would be forthcoming by scientific comparison, and would verify whether or not particular expended bullets had come from one gun or from more than one gun. Like Schrade, and criminalists Harper and MacDonell in their supporting affidavits for Schrade's petition, CBS did admit in its memorandum of points and authority that one possible result from the examination and testing might be an inconclusive determination whether the bullets had come from a certain gun.

CBS argued that under the First and Sixth Amendments, which guarantee free press and a right to a fair trial, petitioner, as a representative of the news media, had a right of public scrutiny of the administration of justice. Additionally, CBS argued that exhibits introduced in a criminal trial were part of the public record, and restrictions of access to such records prevented publication about them. Therefore, First Amendment guarantees would be denied by restricting access to the information. CBS admitted that the scientific examination requested in their petition was for the purpose of gathering information to be used in a news documentary for nation-wide broadcast on the subject of the assassination of Senator Robert Kennedy, and that the testing and examination of the exhibits were needed to supply necessary information to be used in the documentary.

Declaration of Lowell Bradford: CBS Petition

Bradford briefly listed a series of questions and public controversies concerning the Sirhan matter, stating the problems concerning bullets and the weapon. He reviewed the pretrial and trial proceedings, and stated that the issue that the bullet which entered Senator Kennedy's body had come from the Sirhan weapon (and in the hands of Sirhan), had never actually been argued at trial. Furthermore, alleged Bradford, there had been no pretrial discovery contesting this conclusion (Sirhan weapon firing the bullets), and at trial, Bradford continued, there was no cross examination of the scientific testimony offered concerning firearms identification evidence. It should be remembered that, at trial, the major defense, and perhaps the only defense, was that of diminished capacity.. Defense attorneys Grant Cooper and Emile Zola Berman actually stipulated to the introduction of the mismarked envelope in the hands of Wolfer. It was the defense attorneys' intent to keep as much ballistics evidence and photographs away from the eyes of the jury for fear of prejudicing the minds of the jurors with photographs of the slain Senator .

As part of his declaration in the affidavit, Bradford next stated the conclusions of forensic scientists Herbert MacDonell and William Harper. Essentially, Bradford restated the MacDonell position concerning gross differences between cannelures on Kennedy bullet, 47, and Weisel bullet, 54, and the Harper position concerning differences in pitch of the rifling (angle of the grooves left by barrel rifling) which indicated that both the Kennedy and Weisel bullets had been fired from different barrels.

Additionally, Bradford, in his declaration, cited Harper's previous statements that Harper had failed to find individual identification characteristics on all the test bullets fired from the Sirhan gun when compared with the Kennedy bullet, Exhibit 47. In so doing, Bradford based his statements on previous statements of Harper and MacDonell, both of whom had based their statements on photographs taken by Harper in 1970 and at the request of Baxter Ward in 1974. Bradford concluded that "on the basis of this examination (of the photographs and conclusions of MacDonell and Harper) as well as a review of available information concerning the firearms identification evidence introduced in the Sirhan trial and related proceedings, it is my opinion that there is reasonable cause for a scientific re-examination of all of the firearms identification evidence." But, unlike Harper and MacDonell, Bradford was not specifically stating that he had observed any definite differences in bullets, cannelures, or evidence of a second gun.

Bradford merely stated a summary of the previous allegations of a second gun and evidentary discrepancies in his declaration and affidavit. These were:

1. A conclusion concerning cannelures and rifling pitch contradicts the proposition that all of the bullets fired at the scene were from one gun.

2. The conclusion about these critical differences in cannelures are verifiable from photographs and appear to have merit, but such an examination of photographs is not as determinative as an examination of the original object.

3. The conclusions concerning differences of rifling pitch are based on a set of measurements that statistically appear to have merit, but the result should be tested because the quantative differences which have been found are close to the limit of precision of the method used in determining these differences.

[Here it is obvious that Bradford is hesitating, in making absolute declaration of a second gun. He equivocates in the similar manner as he did in the Baxter Ward Hearing in May, 1974.]

Bradford's declaration continues by pointing out lack of written notes and documents relating to the prosecution's exhibits on firearms and ballistics. Bradford states that "on the public record there is no examiner's notes, no pretrial discovery information, no demonstrative exhibits, no explanation of the exact examination methodology used in the case, no statement of the basis for the opinions rendered that give an indication of identification." The previous District Attorney Office's investigation concerning the ballistics evidence in 1971 and 1974 had failed to discover any such written documents or notations. Bradford felt that "a complete independent re-examination of the bullet identification evidence would do much to restore public faith and confidence in the ability of modern science to resolve problems of scientific fact in law enforcement."

Additionally, Bradford called for a very thorough examination and test procedure. Bradford readily admitted that a non-verification of the bullet comparison through the lack of individual identifying characteristics would in-and-of itself not exclude the possibility that Sirhan's gun had fired the Kennedy bullet, nor would it actually determine that it did. In other words, Bradford was honest to admit that his elaborate test procedure might produce more doubts rather than settle the question resolving ballistics and firearms identification.

As a prerequisite to any test procedure, Bradford (as did the other criminalists, including Jolling), called for a classical bullet identification comparison using the comparison microscope with a stereoscope microscope. Such an examination would verify bullet comparison of the Kennedy bullet with the test bullet. Bradford asked for a very thorough examination of individual characteristics, and a very thorough comparison of all test bullets with the evidence bullets.

Additionally, Bradford stated after examining both the Harper and the Ward hearing photographs, that the bullets did not appear to have suffered deterioration from oxidation, or handling, and that there was a good opportunity to verify bullet identification.

Bradford also called for additional tests if the bullet comparison of the Kennedy bullet to a test bullet fired from the Sirhan gun could not be established. These additional tests included micromeasurements of the bullets. This procedure would be an analysis of the pitch of the rifling, and the bullet diameter. Bradford reasoned that there were minute differences in the dimension among manufacturers of .22 caliber bullets and, if bullets were fired from two different barrels, each from a different manufacturer, it would be possible to discover class differences between the two bullets.

Bradford also asked for the possibility of chemical tests on bullets. These tests would help determine the presence and amount of trace metal in the bullets themselves. Commonly used trace metal tests concerned energy x-ray analysis and neutron activation analysis. Bradford asked that samples be removed from bullet lead about the size of a pinhead. This lead would be removed from the nose of the bullet, and such samples would be sent to the Physics Department of the University of California at Irvine, where Dr. Vincent Guinn would conduct such examinations.

A further test advocated by Bradford dealt with powder residue composition analysis by gas chromatography. This ballistics examination would utilize a new methodology recently developed by the Aerospace Corporation of El Segundo. Bradford felt this method would demonstrate the differences in composition of a single burned particle of ammunition powder. Specifically, if particles of powder could be removed from the Robert Kennedy coat, from the autopsy specimens and from fired cartridge cases from the Sirhan gun, the method of analysis could then determine whether all three powder residue sources were consistent with each other and whether or not there was any significant differences which would indicate the presence of a second gun.

In his final request for the test firing of the Sirhan weapon, at the conclusion of his declaration, Bradford admitted, "That it is a wellknown fact among firearms examiners, and a fact of my own experience, that a small percentage of .22 caliber guns have the capability of producing successively fired test bullets that identify with each other on a basis of microscopic characteristics of individuality. Failure of test bullets to identify with evidence bullets is so prevalent with .22 caliber guns that microscopic identification are expected in less than 20% of the cases examined." Bradford was merely stating obvious facts that would be readily revealed when the seven ballistics experts conducted their own independent examination and testing in September and October of 1975.

Hearings before Judge Wenke, August 1975

The re-testing of the Sirhan weapon, and the re-examination of all bullet evidence, were ordered by Presiding Judge Wenke in September, 1975. Although the court order was related to the petitions of Paul Schrade, and CBS, several parties and counsel were before the court in this unique proceeding.

Additionally, Judge Wenke instructed all counsel to formulate an examination and test procedure, and submit such test for the court's approval. Judge Wenke was, in effect, requesting counsel to negotiate the ground rules and parameters for the forthcoming ballistics examination.