



Book Review:
An Open and Shut Case

By Lisa Pease

An Open and Shut Case is an indispensable volume for those with a serious interest in the Robert Kennedy assassination. While some of the information—and especially some of its core conclusions—are based on evidence that has been called into serious question, about which I will have more to say below, there is more than enough interesting and solid work here for this book to warrant a place on your shelves.

The book's title comes from a quote from the Police Chief Edward Davis, who said the RFK assassination case was clearly "an open and shut case," based on the eyewitness and physical evidence in the case. That's true, of course, but not for the official story. As *An Open and Shut Case* clearly shows, the eyewitness and physical evidence are absolutely consistent with two facts: at least two guns were fired in the pantry, and Sirhan's gun did not fire any of the shots that hit Senator Robert Kennedy.

The book is the product of a collaboration between Robert Joling, J.D., who has studied this case for years, and Philip Van Praag (the last name rhymes with "Craig," not "bog"), who is much newer to the case and focused primarily on a newly surfaced recording from the pantry. Joling is a past president of the American Academy of Forensic Sciences (AAFS) and was a licensed attorney for 57 years, 40 of which he devoted to criminal and civil trial work, including some homicides. Van Praag has spent 45 years working in the audio field, with 35 of those years devoted to magnetic media.

The book's authors met through the work of a third person, Brad Johnson, a producer at CNN International. Brad has been looking into this case for years, and has attempted to collect every possible video and audio recording of the assassination of Robert Kennedy. When he stumbled upon evidence of a recording made in the pantry at the time of the shooting, he tracked down a copy and searched for a qualified sound engineer to examine it. Johnson found Phil Van Praag, and Van Praag's findings about this recording are detailed in the first chapter of the book.

Just after midnight on June 5, 1968, Robert Kennedy finished his acceptance speech, having just won the California primary in the race for the Democratic Party's nomination for the presidency. Kennedy exited the Embassy Ballroom of the Ambassador Hotel in Los Angeles and crossed east through the pantry area, an almost hall-like room, on his way to speak to the press in the Colonial room. Sirhan Bishara Sirhan (pronounced "Sear hahn") stepped forward and fired a gun. Kennedy was taken to the hospital, where he died a day later. Five other people were also wounded by bullets, but none fatally so.

The most famous of those wounded in the pantry, Paul Schrade, RFK's union chair and an officer with the United Auto Workers union, contributed the Foreword to the book. Schrade opens with a quick summary of the case, and of his own initial rejection of the "conspiracy theories" about a second gun, which sprouted up within days of the assassination.

Schrade had his eyes opened to the conspiracy aspect of the case by Congressman Allard Lowenstein (D-NY), who visited him at his home in 1974. Lowenstein took Schrade to visit Lillian Castellano and Floyd Nelson, two early and excellent researchers in the case. They showed Schrade solid evidence that more than eight bullets were fired in the pantry. Schrade joined their efforts, and, with the help of others, including the LA County Board of Supervisors and CBS, obtained an order for a court-appointed panel to re-examine the evidence. I'll call this panel the Wenke Panel, for convenience, after the Judge who ordered it. A large part of the book focuses on the work of the Wenke Panel, and the final conclusions of the authors depend on the Wenke Panel's findings, a problem to which we'll return later.

There are many anecdotes and interesting items learned firsthand by the authors which make this book truly "new," and not just a retelling of the evidence of others. For example, Joling details how a personal acquaintance who worked for the CIA called him at one point, when Joling, as president of AAFS, had set up a special committee to review the firearms evidence in the Robert Kennedy case. His CIA associate said the Agency did not like what he was doing, and ordered him to stop. Joling became upset with his contact's "'hoity-toity' attitude and demanding demeanor" and forcefully but politely told him he was not interested in the CIA's "'Sunday School' games" and asked the person never to contact him again. Another time, Joling found a bug on his home office phone. Joling recounted other incidents of obvious harassment from people whose connections he could only suspect. He noted these only occurred at the height of his direct involvement with the case, and ended after the Wenke Panel concluded its work. Both Phil Melanson and Jonn Christian had accounts of being threatened, which are included here as well. The obvious question is, if there was no conspiracy, who was so intent on keeping these people from pursuing their work in the case?

The most important new piece of evidence discussed in the book is the Pruszyński recording. While most people are familiar with the famous audio piece in which a reporter describes the aftermath of the shooting ("Get the gunŠ get the gunŠ take his thumb and break it if you have to!"), this new tape was lost to history until Brad Johnson, a producer for CNN International, rediscovered it by noticing a listing of it in the California State Archives record finding aid. And, unlike the other recordings, this one had captured the period of the shooting. Stanislaw Pruszyński, a print journalist, had inadvertently left his hand-held recorder and microphone on as Kennedy exited the stage and entered the pantry. Brad searched for a sound engineer willing to use his expertise to analyze the tape. He found Van Praag.

The first chapter in the book deals with Van Praag's work with this recording. The tape, according to Van Praag, shows at least thirteen distinct sounds, and

possibly more, that match the sound pattern of gunshots. As the realization sets in that Kennedy has been shot, screams may have covered additional shot sounds. Since Sirhan's gun could only hold eight bullets, this is prima facie evidence of two or more shooters.

In addition, Van Praag noted that there were two pairs of sounds where the shots were too close together to have been fired from the same gun. Van Praag's assertion that the two shots were fired too close together was tested on a 2007 Discovery Times cable TV special. A noted firearms expert could not pull the trigger on the Sirhan gun fast enough to make either of the double shots.

In addition, Van Praag found that five of the shots, including one in each pair of the "double-shot" sounds, bore a distinctly different sound signature from the other shots. Van Praag sought a second gun that would leave the bullets marked in the same way as the Sirhan gun. The only gun known (to the authors) to have the same rifling characteristics as the Iver Johnson 55 Cadet in evidence for the crime was an H&R 922. Curiously, this is the exact model the guard Thane Eugene "Gene" Cesar owned. Cesar later claimed he had sold it before the assassination, when he had actually sold it after.

Cesar is a likely candidate for being a second shooter because the medical evidence shows RFK was shot four times, all from within a distance of one to four inches. The fatal shot, a shot behind Kennedy's right ear, was made from a distance of not more than one and a half inches. The only person near enough to have made those shots, per the testimony of Cesar and others, was Cesar. Cesar held Kennedy's right elbow in his left hand and was pulling him gently through the pantry. Kennedy stopped and talked to a few people, and was just turning front again to continue on his path when he was hit.

Van Praag tested the same kind of gun that Cesar was using and found some remarkable correlations to the shot sound patterns on the Pruszyński tape. Van

Praag dismisses the notion that these sounds could have been balloons or firecrackers, as those have a sharp attack but die off quickly, unlike bullet shots, which register a more symmetrical signature. In addition, Van Praag recorded some test shots from the same distances that Pruszyński was at various points during the recording, a crucial point other tests have not duplicated. Pruszyński was about 40 feet away as the shooting began, and then entered the pantry in the middle of the shooting.

Van Praag is quick to point out problems with the tape. It was "enhanced" by the FBI to improve sound clarity. The tape is also out of sequence in a couple of places, suggesting the tape was likely edited. But the tape also contains some sound segments that authenticate it as having been made at the Ambassador Hotel that night, as they can be matched up to other audio from that night, and the sequence containing the shot sounds appears to be unedited and in its original order.

The chapter on the sound evidence may be hard to follow for those not versed in sound technology. Maybe I was just tired when I read it, but I found Van Praag's in-person presentation at the June 2008 COPA conference in Los

Angeles much clearer. Having seen the presentation, the text makes more sense to me now than it did on my first reading of it.

One chapter seems to have no purpose other than to attempt to discredit Sgt. Paul Sharaga of the Los Angeles Police Department (LAPD). Sharaga claimed that, within a few minutes of the shooting, as he was setting up a command post at the southern end of the Ambassador Hotel, an older Jewish couple told him they had seen a girl in a polka dot dress run by with another man and that the girl was saying "We shot Kennedy." Sharaga has often been used to buttress Sandy Serrano's account of the same thing—a girl and a guy running down the back staircase in a state of glee, with the girl saying, "We shot him, we shot him." When Sandy asked, "Who did you shoot?" the girl responded, "Senator Kennedy" and kept running.

The book makes clear that the authors believe Sandy Serrano was telling the truth as she knew it, and includes in an appendix the transcript of her awful interrogation at the hands of Lt. Hank Hernandez, who had worked for Agency for International Development, a well-known CIA front in Latin America. But the authors question Sharaga's veracity, as the tapes of the radio communication do not show any communication from Sharaga regarding a girl in a polka dot dress. Still, as the authors note, it's possible Sharaga had a second avenue of communication available.

The authors also fail to note that the LAPD did, in fact, put out an APB for a girl in a white dress with black polka dots, which wasn't cancelled until days later. Since the LAPD clearly didn't believe (or didn't want to believe) Sandy Serrano or Vincent DiPierro, two witnesses with provocative accounts (DiPierro claimed a girl in a white dress with dark polka dots was chatting with and possibly even holding Sirhan until just before the shooting began), it seems likely that the APB went out because of other accounts, possibly Sharaga's.

In addition, Sharaga noted that when he said his suspect description was different from that of the suspect in custody and urged the dispatcher to continue to repeat his different description (of a tall, thin blonde man), Inspector Powers came on the radio and shut Sharaga down, saying that Rafer Johnson and Jesse Unruh had said there was only one shooter and not to "get anything started on a big conspiracy." The authors ignore that Sharaga had that part right, and cut off the transcript before that exchange.

The authors make a direct insinuation that Sharaga's account is not reliable because, they say, when Powers implied that the "we shot him" statement might have been something like "he was shot," Sharaga didn't interject anything to correct him. Why should he? Sharaga didn't hear the exchange, and it would be considered disrespectful for a lower level officer to argue with the Inspector over the airwaves. They suggest that Sharaga's silence lowers his credibility. I disagree. They also point to the missing mention of a girl in a polka dot dress in the early traffic. But why did the police put out the APB for a girl in a polka dot dress? Whose account *did* they believe?

I asked Van Praag if there was any possibility the police tapes had been altered.

He declared that impossible, given that there were several tracks recording at the same time, and that no editing had been done.

So perhaps Sharaga was indeed communicating through a second channel, something the authors themselves suggest, but discount, because no evidence for that has surfaced. But absence of evidence is not necessarily evidence of absence, and while Sharaga's initial report regarding a girl in a polka dot dress never surfaced, that doesn't mean it didn't happen. I've spoken to Sharaga and found him to be an honest, unembellishing witness. Given how the LAPD burned, lost, and otherwise destroyed evidence of conspiracy in this case, I think there's an explanation we simply haven't found yet that will reconcile Sharaga's account with the extant evidence.

And since the authors never really looked into the girl in the polka dot dress (this is evident by the fact that they say she was wearing a black dress with white polka dots, when over 20 witnesses reported a suspicious girl in a white dress with dark or black polka dots), the authors missed the fact that Serrano's account also appears to have been corroborated by at least two additional witnesses not counting Sharaga. And when I talked to Sharaga, he told me he never even heard of Sandy Serrano until years later. I continue to find his account credible, and wonder where the rest of the story will ultimately lead.

The best and weakest part of the book is, unfortunately, the same part—the ballistics discussion. The book spends a great deal of time and gives full credibility to the findings of the Wenke Panel.

The panel did discover a couple of layers of deception, and for that they are to be commended. They were given a photomicrograph and told that it showed a comparison of the Kennedy neck bullet to a test bullet. The panel found instead it was a comparison of the Kennedy neck bullet to that of another victim, William Weisel. In other words, one of the pieces of evidence used to convict Sirhan was thrown into serious question by this finding.

The panel also found that Sirhan's gun could not be matched to any of the bullets recovered in the pantry, but since two of the victim bullets at least matched each other, there was no evidence of a second gun.

Lowell Bradford, a forensic expert chosen by CBS to be a part of this panel, also noticed something unusual. The test bullets came from an envelope marked with the wrong gun number. The Sirhan gun was number H53725. The test bullets came out of an envelope in which the gun number was listed as H18602. (The LAPD responded that was a clerical error, and that the bullets had, indeed, been fired from gun H53725.)

So the panel concluded that the LAPD had been playing fast and loose with the evidence. But had the panel looked at the evidence as closely as Lynn Mangan, Sirhan's former neighbor and longtime researcher, did, they would have found something much more important, which would negate all their conclusions: not one of the bullets had the original markings etched into them at the time of recovery.

When bullets are retrieved from victims in a crime, the police scratch initials and other markings so they can later prove those bullets were the ones they claimed them to be. This ensures the bullets cannot get accidentally or deliberately switched.

But markings are only useful if people actually check for them later. If no one checks, the wrong bullet can be introduced into evidence. And that is exactly what appears to have happened with the three bullets the panel matched to each other—the Kennedy neck bullet, the bullet from William Weisel, and the bullet retrieved from Ira Goldstein.

The purported Kennedy bullet should have had "TN31" marked on its base, placed there by Thomas Noguchi, who confirmed his markings in court, explaining that he always used his initials and the last two digits of the autopsy case number for such markings. But the "Kennedy" bullet the Wenke Panel examined had "DWTN" on its base, calling into serious question whether any conclusions based on this bullet have any relevance, since this bullet can not be linked to any bullet recovered from the pantry victims. The markings on the Weisel and Goldstein bullet the Wenke Panel examined also do not match the markings recorded into the official record when the bullets were first recorded.

In other words, no conclusions from the 1975 panel are relevant, because the bullets the panel examined do not appear to have been the ones fired in the pantry! I'll even suggest the substitution was deliberate, since the bullet marked DWTN was clearly supposed to indicate it had been signed by Thomas Noguchi, but Noguchi stated under oath he always uses his initials and the autopsy case number. So someone seems to have deliberately mismarked this bullet, hoping no one would notice. And had it not been for Lynn Mangan, they might have gotten away with it.

In addition, according to a letter Larry Teeter (Sirhan's attorney at the time) sent the California State Archives that was provided to me by Lynn Mangan (as part of the "Robert F. Kennedy/Sirhan Evidence Report" she put together with Adel Sirhan, Sirhan Sirhan's brother), on August 3, 1994, Mangan, Teeter, and Adel took Lowell Bradford to the California State Archives to reexamine the bullets. Bradford noted that it was impossible to read the markings on the base of the bullets, as grease had obscured the markings on the ends of the bullets. Bradford stated the grease could further damage the bullets, prompting Teeter's letter to the Archives asking that the grease be removed. Bradford was adamant, says Teeter, that the grease was not on the bullets when he viewed them in 1975. "There goes your evidence, down the drain," Bradford said, per Teeter.

Unfortunately, the authors do not appear to have been aware of this problem when they wrote their book. And that's a big problem for the authors, as their thesis re the shooting in the pantry is woven inextricably to their mistaken supposition that Cesar had to have shot not only Kennedy, but Weisel and Goldstein too, since the three bullets the panel examined matched each other.

The authors suggest that Cesar was firing almost by reflex, without even realizing he was firing. While I feel that argument strains credulity on the face of it, it's also completely unnecessary if Cesar did not, in fact, shoot Weisel or

Goldstein. And there is no evidence that he did, once you discount the seemingly irrelevant conclusions of the Wenke Panel.

Without the Wenke Panel's limitations, you have a much more plausible scenario: Cesar fired the shots that hit Kennedy and probably at least one that entered the ceiling tiles, as all of the four shots that hit Kennedy were from a distance of one to four inches (the neck bullet having entered from a distance not greater than one and a half inches) and in a back-to-front direction. In addition, all the shots were at an upward angle, and in two cases, very steep upward angles, so whoever made those shots may well have missed and hit the ceiling instead. If that was the case, it would match Van Praag's analysis showing five shots that didn't match a separate eight shots.

Another part of the ballistics discussion focuses on the cannelure issue. Cannelures are ring-like groove markings on bullets. Different bullet types from different manufacturers have different numbers of cannelures. If bullets with different cannelures were found in the pantry, that would be good evidence of a second gun, because a shooter typically fills a gun from a single box of bullets, so the bullets found in the pantry should have all had the same cannelures if they all came from the same person.

In 1974, a panel at the American Academy of Forensic Sciences discussed Ted Charach's film "The Second Gun" and Pasadena criminalist Bill Harper's photographs of the bullets. Harper's photos showed a different number of cannelures between the Kennedy bullet and the Weisel bullet, indicating two different guns were likely used.

Lowell Bradford, the expert CBS picked to join the Wenke Panel, concluded after examining the bullets presented to the Wenke Panel that the bullets did have the same number of cannelures, and that this was detectable in color photos and by direct examination, but not detectable from the black and white photos Harper had used. But what we don't know is, which bullets did Harper originally photograph? If Harper was given the actual bullets to photograph, and we know that Bradford was given substitutions, it's possible both were correct, but were looking at different bullets. In other words, I think Harper's conclusions should stand unless disproven by an examination of the actual bullets from the pantry, not the ones Bradford examined as part of the Wenke Panel.

As I noted, the ballistics discussion is both the best and worst part of the book. The worst parts are those that rely on the Wenke Panel's findings, which, for reasons stated above, appear irrelevant. But it's also the best section because authors present a great deal of information showing Dwayne Wolfer's mishandling of the evidence in careful detail.

The authors also did a fine job on the witness section. They present a table showing the closest witnesses, and their estimates of where Sirhan's gun was relative to Kennedy, and the LAPD's conclusions that each of those witnesses were wrong, because if even one of them was right, that meant Sirhan didn't kill Kennedy, and that was clearly an untenable position for the LAPD to take.

The book is also filled with interesting personal accounts, primarily from Bob Joling, as he had followed this case with great diligence for many years, and knew many researchers. For example, Joling describes how he worked with Lowell Bradford and Dr. Mike Hecker, who had analyzed the famous "Nixon tapes" to examine three other audio tapes made in the pantry. Hecker concluded the tapes showed conclusively there were ten shots fired. Joling thought this was solid evidence, and had Hecker sign an affidavit to that effect. But then they found out that these tapes were not made simultaneously, and all of them started immediately after the shots were fired. Hecker then rescinded his identification of the sounds as gun shots.

Ironically, Joling's experience of having once been burned didn't make him twice shy when it came working with Van Praag. And that's my only fear. While Van Praag's work seems logical, I'm no sound expert, and I do not feel I am personally in any position to judge the veracity of his analysis. It sure fits into the story as we know it so far. It would make sense if it were true.

The book is certainly easy to read, and clearly presented. So long as you understand that some the material is incorrect (such as the girl wearing a black dress with white polka dots) and outdated (anything gleaned from the Wenke Panel bullet comparisons), there is still much to recommend here.

One final caveat: the book makes reference to a DVD and lists items which can be found on the DVD. But the book being sold currently does not come with a DVD, because the rights to some of the video clips they wanted to use were too expensive to make distributing the DVD feasible. So just know that if you get the book, you will not, as of this review, get the DVD with it.

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