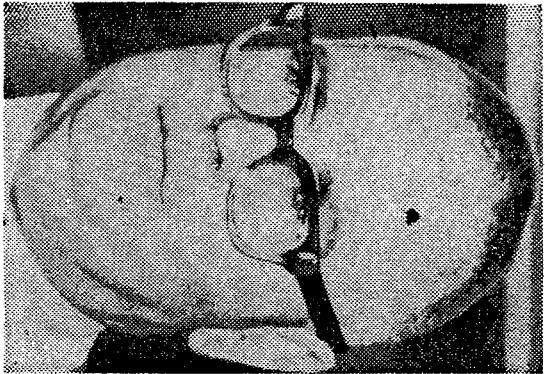


NEW QUESTIONS

THE DEATH OF RFK

By RALPH BLUMENFELD



JOHN HOWARD
'Sirhan is guilty.'

ARTICLE V: The DA's Story.

Q. Did you kill Senator Robert F. Kennedy?

A. Yes, sir.

—Sirhan Bishara Sirhan to defense counsel Grant Cooper at trial, 1969

NOW THIS GUY sat in the witness stand—sat in the courtroom and said he killed the guy," says prosecutor John Howard, six years later. "That's a pretty good lawsuit to a prosecutor."

Howard, now Chief Deputy District Attorney of Los Angeles, was one of the three courtroom prosecutors who helped convict Sirhan.

He sat in his spare, functional office in LA's Criminal Courts Building on April 30, a big, gray-haired man in his 60s, wearing



DeWAYNE WOLFER
Tests 'proved' it.



JOSEPH P. BUSCH
'Eyewitnesses saw it.'

maroon double-knit slacks and short-sleeved checked shirt, talking about firing a handgun that the Sirhan case *is* 'proved' . . . that Sirhan's guns and bullets be re-tested.

"If you strip everything away," Howard said, "it looks like a guy went in there with a gun, shot a guy, shot five other people. They wrestle the gun out of his hand while he's still shooting other people, and they hold him there and he's arrested—unless everyone is lying.

"You have in that room [the Ambassador Hotel kitchen-pantry] maybe 116 people who know something about it—that there wasn't a tank there, there wasn't a bazooka. Some cannot identify the individual, some saw it. No one can count the shots. It was emotional. You hold a guy there. You arrest him and he says, 'I shot the son of a bitch.'"

"That's as cold turkey a lawsuit as I've ever seen in 28 years. We have a lot of guys up for life imprisonment with a lot less evidence.

"Now all of a sudden someone says why

don't you refire the gun, or whatever. That's completely crap."

Under what circumstances, if any, would you refire the gun at this point?

"Ordered by a court. That's where you try a lawsuit, in court."

If the American Academy of Forensic Sciences asked for access to the evidence for examination by a panel of experts?

"It would have no meaning—the only thing that has meaning is what occurs in a courtroom," Howard said. "I wouldn't care if they take a ouija board and do those things, it wouldn't make any difference . . . Before you do anything like fire the gun, you'd have to have some doubt that Sirhan is guilty, and there's no doubt of that."

But lately, some of the witnesses in the pantry on June 5, 1968, have expressed some doubts: four of the wounded victims have called for a reopening of the case, and two of the closest witnesses insist Sirhan was never at point-blank distance from Kennedy, as indicated by official autopsy studies.

Witness Karl Uecker told the German magazine Stern last Feb. 2: "The revolver was directly in front of my nose . . . I have always said these shots could not have been fired by Sirhan." Witness Richard G. Lubic, told The Post, May 1: "That gun was about this far [two feet] from Kennedy's head,

not one inch . . . To this day, I don't believe Sirhan killed him."

To District Attorney Joseph P. Busch, as to many policemen, witnesses are notoriously unreliable—on some days. "The inability of people to relate what they see is a frailty of human nature," Busch said in an interview on the Sirhan case last Dec. 15. Yet the next day, Busch issued this mimeographed statement, his last public utterance on the subject:

"The basic fact remains that a number of eyewitnesses saw Sirhan shoot Robert F. Kennedy and did not see anyone else fire a gun in the pantry.

"Scientific tests verified the fact that Sirhan's gun fired the bullets which killed Senator Kennedy."

One of the LAPD's scientific tests was a Trajectory Study reported by Crime Lab chief DeWayne Wolfer on July 8, 1968. The report enumerated Sirhan's eight bullets—three in RFK and five in the wounded victims—but mentioned the directions of only two bullets. These traveled upward, hitting the ceiling sound-panels, with one reported "lost" in the interspace.

The other, Wolfer said, penetrated a sound-panel in the ceiling, hit the "plaster ceiling" above it and ricocheted down through another inch-thick vinyl sound-panel before striking witness Elizabeth Evans in the head, 30 feet away. Several critics have questioned the "energy" of the Evans bullet after it hit the ceiling. They wonder whether the downward path of the ricochet is evidenced by an exit hole in the sound-panel. If not, they theorize, then a ninth bullet must have struck Mrs. Evans, suggesting a second gun.

Last April 12, in a letter to DA Busch, The Post asked for copies of Wolfer's bullet-

nole analysis on the ceiling panels, and was told that the records could be viewed only at the DA's office. On April 30 The Post visited Busch's office and was told by Deputy DA Dinko Bozanich that the office did not have Wolfer's records available.

"Such reports must exist, but if we have them I can't find them," Bozanich said. "But I'm sure the LAPD has them. Why don't you ask them?"

At the LAPD, Crime Lab chief Wolfer declined to be interviewed. A spokesman for the LAPD, Commander Peter Hagan, refused to answer any questions about the case. Hagan added that the report on the ceiling panels had been submitted to the court. However, neither the panels them-

selves nor any analytical data on them had been introduced into evidence during the trial.

And except for trial evidence, Busch's office said, every police record in the Sirhan case is in the hands of the LAPD.

Hagan explained the LAPD's refusal to comment: "We know there is a lot of muck-raking going on. And we knew that at the time. When we investigated that case we went into it with the spectacle of Dallas, and we said, 'This is not going to happen here.'" Asked if there is any written material to support Wolfer's conclusions on the ballistics issues, Hagan said: "There is nothing that hasn't been submitted to court. We're not hiding anything."

"We think that Sirhan Sirhan killed this guy because we got it on TV, and several witnesses there, and there was nobody else around that we saw or the TV camera saw."

But the actual shooting wasn't on TV, Hagan was reminded.

"Oh, yes, it was," he said.

★ ★ ★

In DA Busch's Dec. 16 statement (he later declined interviews) he indicated that refiring Sirhan's gun would be futile and possibly inconclusive because "the physical integrity of both the gun and the original bullets is now in question due to the lax handling of the Los Angeles County Clerk's Office and the access by unauthorized persons to these exhibits."

The "physical integrity" issue had arisen as far back as 1971, after Pasadena criminalist William W. Harper had examined the bullets in the clerk's office with written authority from Sirhan lawyer George Shibley. Harper was attempting to duplicate the alleged "positive identification" DeWayne Wolfer had testified to after comparing the one intact bullet from Kennedy's body with one recovered from witness William Weisel.

Harper and two other nationally known firearms identification experts, Herbert MacDonell and Lowell Bradford, have concluded that the RFK and Weisel bullets did not match, thus giving impetus to a two-gun theory.

Busch convened a 1971 grand jury on charges of "tampering" by Harper, and its verdict was that some "reservation" existed about the "integrity of the ballistics exhibits," although since the exhibits themselves

were by then in Supreme Court custody, "we were unable to substantiate these reservations."

Arthur G. Will, the county's Chief Administrative Officer, then issued a lengthy critique of the grand jury findings, concluding that there was "no substantial evidence of unauthorized handling" of the bullets.

Since Wolfer had made no photographs of the bullets in 1968, evidence of deterioration by "air oxidation" as also suggested by Busch's office cannot be substantiated either. But MacDonell and Bradford, who saw 1970 and 1971 bullet photographs, said they showed no oxidation.

Oxidation "does not occur under normal conditions in storage," MacDonell said. "I would not expect it to occur in the storage of evidence." Harper said the bullets were

(MAGAZINE PAGE ONE) 25

Post Daily Magazine

good for "a minimum of 20 years," and that if Sirhan's gun were enclosed in "any kind of a wrapper" it is equally safe from "climatic conditions."

Bradford told The Post that Sirhan's .22-caliber revolver might have been subject to "lead buildup" in the barrel during the test firings, as often deposited by .22 bullets, making it difficult to discern their individual characteristics. But if that happened, Bradford said, then Wolfer's "positive identification" of the bullets needs re-checking.

★ ★ ★

Deputy DA Bozanich suggested that Harper's photographs of the bullets would be inadmissible in court. Harper's photographs were made with a portable (16-lb.) Hycon Balliscan camera in the County Clerk's office. The prosecution's evidence was developed by Wolfer's use of a more powerful (150-lb.) comparison microscope in the Crime Lab. But Wolfer made no photomicrographs to put into evidence.

Harper, Bradford and MacDonell point

out that: a) if Wolfer had made photomicrographs, the bullet issue might not have arisen, and b) if the bullet identifications were as clearly "positive" as Wolfer testified, they would show up even in Balliscan photographs.

All three of these forensic scientists are pressing for photomicrographs of the bullets now. Bradford said confirmation of a "positive identification" would take 30 minutes—if it in fact exists.

Critics of the prosecution case are no less critical of Sirhan's defense team—Grant Cooper, Emile Zola Berman and Russell Parsons—for not having made an issue of Wolfer's "errors" during the trial. Cooper himself has said that if he knew what he knows now, he would have conducted a far different defense.

DA Busch, however, turned down a request for a re-examination of evidence by a subsequent Sirhan lawyer, Roger S. Hanson, in 1972, with the observation that Hanson was making "an unwarranted reflection upon both the integrity and expertise of Mr. Sirhan's previous counsel."

★ ★ ★

On television and in print, Busch has been given to comments such as: "People out here think all of this is just a crock!" And he appears to have powerful support. Sirhan's chief prosecutor, former Deputy DA Lynn Compton (who is now a judge), wrote a letter to the Los Angeles Times last Dec. 19 questioning the motivations of former Long Island Congressman Allard K. Lowenstein in attempting to get the Sirhan case reopened. The newspaper ran an editorial urging that the case be laid to rest.

And Evelle Younger, who was District Attorney of Los Angeles when Sirhan was convicted, is now Attorney-General of California. Younger has kept out of this controversy in recent months, but long ago expressed his contempt for conspiracy theories in assassinations.

Busch and his chief deputy, John Howard, both entered the DA's office in 1952, fresh out of law school. It was the first and only job for both of them. They were No. 2 and No. 3 under Younger, and when Busch became No. 1, Howard became No. 2. But Howard is not diffident about defending the Sirhan evidence.

"Now if you want to refire the gun," Howard said, "refight the War of 1812—that's all interesting, but it doesn't matter. Sirhan is guilty. Sirhan said he was guilty. If he isn't guilty, it's the sweetest frame in the world."

IN THE WEEKEND MAGAZINE:

The Coverup Theory.