

Chapter Three

Investigation, Trial, and the Handling of Evidence

"The first thing I said when Senator Kennedy was killed, when he was shot, was that we are not going to have another Dallas here. And so that is the reason that we handled this in the very, very careful fashion that it was handled. This thing probably got 100 times the care that the typical homicide would get." Los Angeles Chief of Police, Edward M. Davis

"My purpose in causing the work product obtained in this case to become a matter of public record is to facilitate full disclosure as to all questions which may be the subject of legitimate public concern."

Former Los Angeles District
Attorney Evelle J. Younger
(May 28, 1969)

However careful the investigation of the assassination of Senator Kennedy, the available facts suggest that it was not without mistakes. And however loud the original promises about "full disclosure" of the results, few if any of these promises have ever been kept. If the investigation was as careful and competent as officials have always claimed, however, it is hard to see what they could lose by honoring these original pledges, and their failure to do so becomes especially mysterious. It has also limited the knowledge of the American people about an event that changed their lives.

In the period following Sirhan's trial, neither doubts about the quality of the investigation, nor concerns about the availability of the evidence were widespread. About a month after Sirhan's conviction, District Attorney Younger held a press conference at which

he reviewed the case, discussed some of the issues it had posed, and congratulated the parties involved. "At this date," he said, "no credible evidence has been presented to any law enforcement agency concerned with the assassination of Senator Robert F. Kennedy which lends credence to the supposition that any other person other than Sirhan B. Sirhan bears any criminal responsibility for that tragic event. (N-Munir)

Younger alluded to the 65 witnesses the prosecution had called at the trial, and mentioned that there were 199 other witnesses who had not been called to testify by either side. "At the conclusion of the case," he said, "the interviews with those witnesses were filed with the Superior Court as Exhibits 84,85,86,87,88 and 115 to become a matter of public record." Yet these interviews, available initially at the County Clerk's office at 50¢ a page, were later withdrawn from public access altogether. Years later, in fact, the office of the District Attorney would argue that release of information of this kind would be impermissible on the grounds of privacy.

With Younger at the time of his press conference was Deputy Chief of Police Jack Collins, present to "explain the procedures established for the review of the material compiled by S.U.S." "The Los Angeles Police Department," Younger said, "has agreed without reservation that the interests of the public and law enforcement are best served by full disclosure of the results of the comprehensive investigation which they have conducted." A few days later Younger was questioned about the issue of too many bullets which had been posed by Lillian Castellano in the article of May 23. Without answering directly, Younger

FBI diagram of the lobby (second) floor of the Ambassador Hotel. In addition to the Kennedy celebration, a Referty event was held in the Venetian Room, and a Cranston event in the Palm Court.

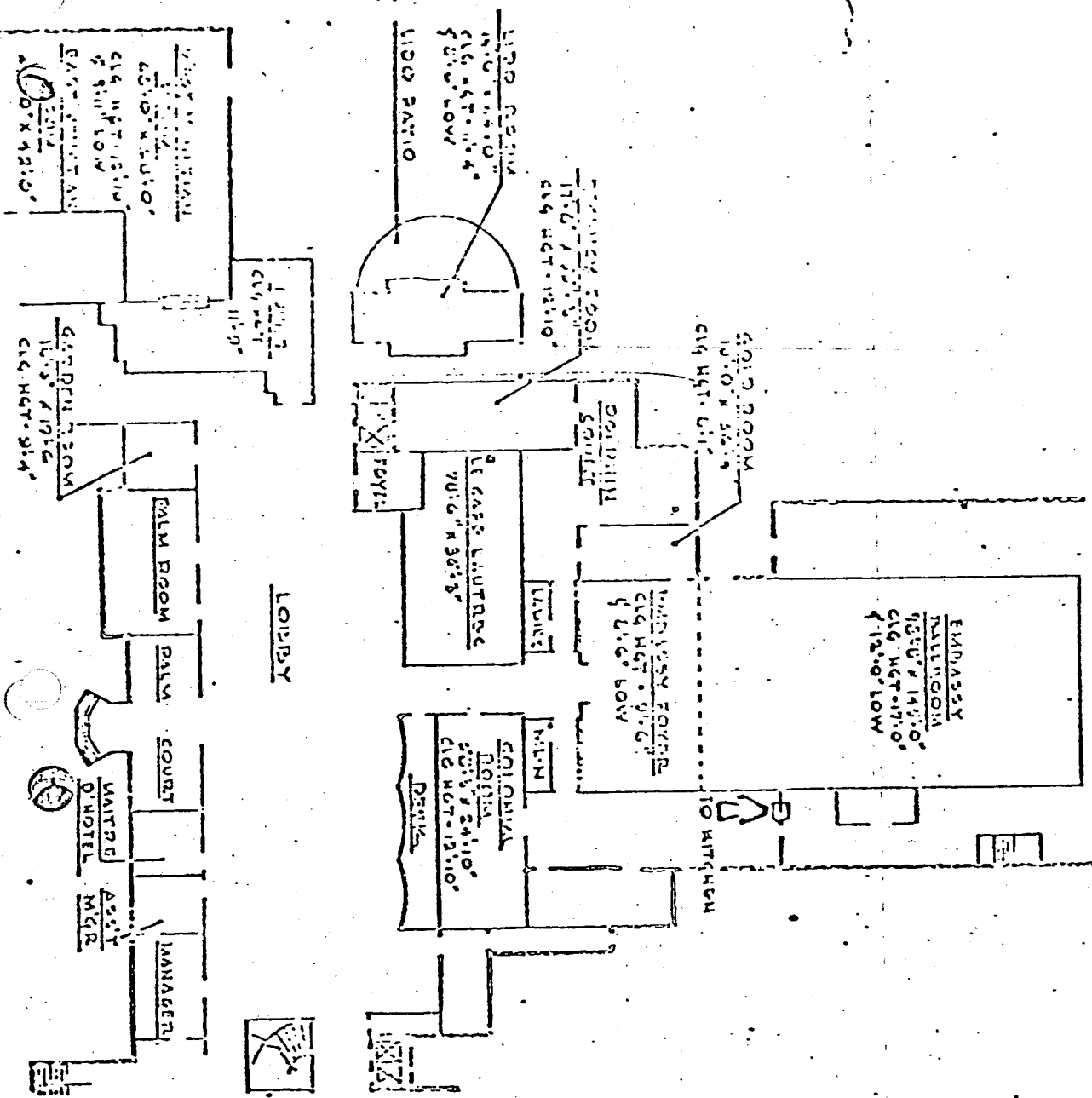
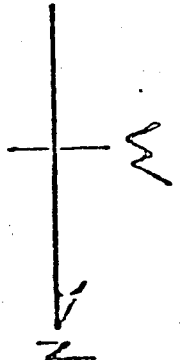


Photo E-1



Los Angeles California
 LOBBY FLOOR

referred again to the depth and magnitude of the official investigation, and promised again that its results were going to come out. Not only had all the questions been answered, he suggested, but there were "tons" of information still to be released. An open-door policy certainly seemed to be in effect.

In his book, Special Unit Senator, published in January of 1970, Chief of Detectives Robert Houghton was effusive in the same vein. He was amazed, Houghton said, at the sheer bulk of the material and information accumulated by S.U.S. There were four file cabinets of reports and documents alone, containing "more than fifty thousand pages of documentation and material evidence." (H-303) At the end of the investigation this material was locked and transported for safekeeping while the Sirhan case went up on appeal. Even the court record alone ran to _____ pages, and it weighed a total of _____ pounds. It was reported that Sirhan's new defense team had to hire a truck to transport it. All of this information, Houghton said, had been "boiled down" into an official ten-volume report of the investigation, two copies of which were kept in Los Angeles with one being sent to the Attorney General's office in Washington. A distillation of this size did not seem unreasonable, especially in view of the fact that the published evidence of the Warren Commission ran to 26 volumes. Since the Warren Commission volumes were published, moreover, it did not seem unreasonable to think that access would be permitted to this report. What else could District Attorney Younger have meant in his press conference statement?

In the years since 1969, however, the availability of this evidence has waned as interest in it has grown. Neither excerpts of the report nor information from it, nor even its table of contents has ever

been made public. Almost no one but officials knows how this report is organized or what it contains. In the furor and contention which have arisen since the trial, many questions have been raised and many charges and assertions traded. At last even a team of firearms experts was flown to Los Angeles to re-examine the bullets which had been taken into evidence. Yet the simple and easy procedure which has almost never been permitted is to undo the padlocks and allow an investigator, journalist or critic as much as a peek at sections of the official report.

In the absence of any "official" version of the case, however, the public was offered a semi-official one, Chief Houghton's account of the assassination and investigation, Special Unit Senator. Houghton was the Los Angeles Chief of Detectives at the time of the shooting and had the ultimate authority over the investigation of all felonies and misdemeanors in the city. Vacationing in Yosemite Park at the time Kennedy was shot, Houghton did not even hear of the event until more than a day afterwards. On the morning of June 9, having raced back to Los Angeles, he chaired the inter-agency meeting at which the first general review of the case took place. Personnel were appointed in the days following this meeting, a force of over 40 men was selected, and separate headquarters were established in Parker Center, the main police headquarters building in Los Angeles. "Special Unit Senator" continued in existence not only for the seven months prior to the trial, but during it and even for a few months after its end. Houghton's book is the closest thing available to an official account of its life.

In view of repeated suggestions by Los Angeles law enforcement officials that critics of the investigation have only been interested in publishing books and making fortunes, it is useful to note that the

SPECIAL UNIT SENATOR

* * * * *

The Investigation
of the
Assassination of
Senator
Robert F. Kennedy

* * * * *

ROBERT A. HOUGHTON, Chief of Detectives,
Los Angeles Police Department,
with Theodore Taylor

The first book published on the case after Sirhan's trial was by the police official with overall responsibility for the investigation. "Drawn from the files of the Los Angeles Police Department," the book was nonetheless criticized for inaccuracy.

first book published on the case came from the supervisor of the official investigation. And in view of their later protestations that any release of investigatory information would jeopardize the privacy of individuals, it is also worthwhile to review the record of the Houghton book in this regard.

Houghton and co-author Theodore Taylor apparently had access to the entire records of Special Unit Senator in compiling their book. They did not hesitate to use them. (N) In the area of polygraph tests, for example, not only was the LAPD very unsparing in the use of this device, but Houghton was not at all reluctant to cite the results. In at least fourteen cases he describes the use of lie detector tests, stating in eight that the individuals involved were lying and suggesting in four others that they either lied or changed their stories. (N) In seven of these cases the persons involved were names specifically and in two other cases the names of the persons at issue were readily available. Since authorities have since vociferously opposed the release of much less personal material it is odd that their protests were not audible at the time of Chief Houghton's book. In addition to reporting the lie detector results and quoting from the transcripts of the questions and answers, Houghton relied on a wide variety of other reports and documents as well, including the tapes of Sirhan's initial interview with the police and details of other interviews conducted during the course of the investigation. Though many of these disclosures must have been unpleasant at best to the individuals involved, the judgement was apparently made that such factors were outweighed by the public's right to know. Only later, apparently, was this priority shifted.

Beyond the questions of personal privacy and privileged access to files, however, were others about the accuracy and completeness of the book and about what it revealed of the official investigation. Although in later years officials tended to dismiss any mention of conspiracy as deranged, Houghton took this possibility quite seriously and devoted considerable space to describing the various leads which were pursued. Questions of physical evidence and of the precise physical circumstances of the shooting, though not ignored, received proportionately less attention. Omissions and debatable interpretations occur in both these areas. More important, however, even with the limited factual information currently available, it is clear that there are a number of serious factual errors as well. These are hardly reassuring either about the accuracy of those portions of Houghton's account which cannot be checked, or about the official investigation as a whole.

Although the police investigation of the murder expanded very quickly, Sirhan's legal defense got to a much slower start. At 12:45 on June 5, approximately 30 minutes after the shooting, the police "emergency control center" system, a special system for dealing with law enforcement emergencies, was activated. The suspect, known only as "John Doe," was taken into custody, where he spent the next six hours fencing verbally with police interrogators and frustrating their efforts to extract any information from him. His identity, in fact, did not become known until the following morning, when his brothers discovered his picture in the paper and notified the Pasadena police. In the first hours after the shooting, scores of police had been activated, and by 2:30 a.m. all the interrogation rooms at Rampart Station would be full. Whatever the legal counsel the suspect would later secure,

they would be almost totally dependent on the evidence developed beginning in these early hours. The side by which it was developed, obviously, was that of the prosecution.

Sirhan was first arraigned at 7:40 on the morning of the shooting, represented at that time only by the public defender's office. Bail was set at \$250,000. Later Sirhan would be represented by American Civil Liberties Union lawyer A.L. Wirin, and later still by Los Angeles attorneys Russel Parsons (N) and Luke McKissack. It was only in December, in fact, that Sirhan's chief trial counsel, Grant Cooper, was able to enter the case. The trial of Sirhan began on January 7.

During this seven month period, the police and prosecution had not been inactive. The months of heaviest activity for Special Unit Senator had been June and July, with the volume of work beginning to taper off in August. By August 30 (H-243), in fact, plans were already being made for the reduction and phasing out of the unit and the return of the officers involved to normal duty. By autumn, the vast preponderance of investigative work had been finished, and Special Unit Senator was rounding out its case with the prosecution team at a time when the Sirhan defense had not yet moved into second gear. In calling for a fresh investigation in later years, attorney Grant Cooper would publicly regret that the evidence subsequently developed about the circumstances of the shooting had not been available to him at the time of the Sirhan trial. His late start in the case and the nearly universal, unquestioned assumption that Sirhan was the only gunman precluded any inquiry into other possibilities from the start.

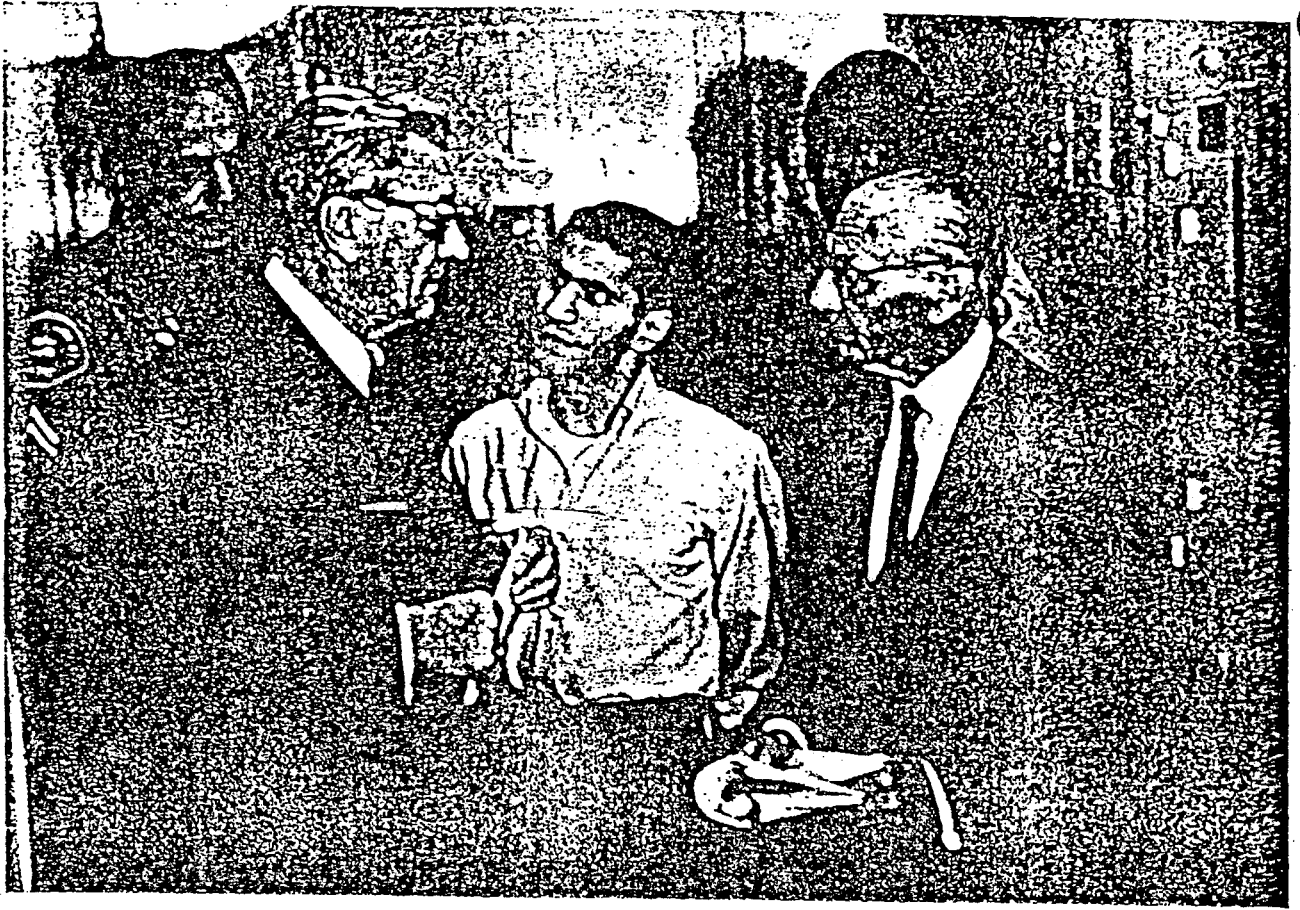
By January 24, 1969, the Sirhan Jury was completed, and the prosecution case ended on February 26. The defense began to present its case

on February 28, and on April 9, final arguments were began. On April 17, Sirhan was found guilty of first degree murder and on April 23 the jury recommended that he be sentenced to death. A U.S. Supreme Court ruling on _____ struck down the death penalty and had the effect of commuting Sirhan's sentence to life. It was announced in 1975 that he will be eligible for parole in 1986.

On June 5, the Sirhan case got off to an inauspicious start, as Los Angeles Mayor Sam Yorty publicly proclaimed Sirhan the murderer. He also released the address of Sirhan's home, commented publicly on the contents of Sirhan's diary, and announced that Sirhan was a member of "numerous Communist organizations, including the Rosicrucians." (K-97) Though rebuking Yorty for violating Sirhan's presumption of innocence, Attorney General Ramsey Clark acted early as well to dampen talk of conspiracy. Information at this point was still in a confused state, even with respect to such questions as the wounds Senator Kennedy had sustained. At an early morning press conference Chief of Police Thomas Reddin was photographed demonstrating a wound to Kennedy's head in front of the ear. There was also confusion about the number of wounds, and the number given out most frequently was two.

On Friday, June 7, 1968 the Foreman of the Los Angeles County Grand Jury convened his panel at 9:00 a.m. Donald L. Ostrove made the following opening statement to the congregated jurors:

"On June the 5th, 1968, at approximately 12:20 a.m, the suspect, Sirhan Bishara Sirhan, shot Senator Robert F. Kennedy and five other individuals, Paul Schrader, Irwin Stroll, William Weisel, Elizabeth Evans and Ira Goldstein at a gathering at the Ambassador Hotel following the primary elections...



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2

/16. Sirhan in custody. (From official records)

be killed. Since the prosecution had its suspect, and one who had undeniably been shooting, there was no absolute requirement that they prove conspiracy. The defense had even less interest in conspiracy possibilities since they had no suspicion at all of a second gun and since they knew that conspiracy would normally imply calculation and design, which were antithetical to Sirhan's defense. In the months after the shooting possibilities of conspiracy had been probed by some, but not with results which commended them to either of the parties at the trial. These possibilities, then, were hardly even aired at the trial which occurred.

This, however, was not the only respect in which the adversary system of the courtroom failed to provide an impetus for a thorough examination of the evidence. In fact, a pretrial agreement^{was entered into} by the defense and the District Attorney's office to exchange a plea of guilty to first degree murder for a sentence of life imprisonment. In this manner, the defense would be assured that Sirhan's life would be spared and the prosecution would be assured of winning a first degree conviction, something they would not be assured of if Sirhan's psychological defense were successful. Such an arrangement would have eliminated the need for any trial at all and even less evidence would have become available than actually occurred. This plea bargain was only upset when Judge Walker refused to accept it, insisting that this case, unlike that of James Earl Ray, be tried in the open and resolved by a jury.

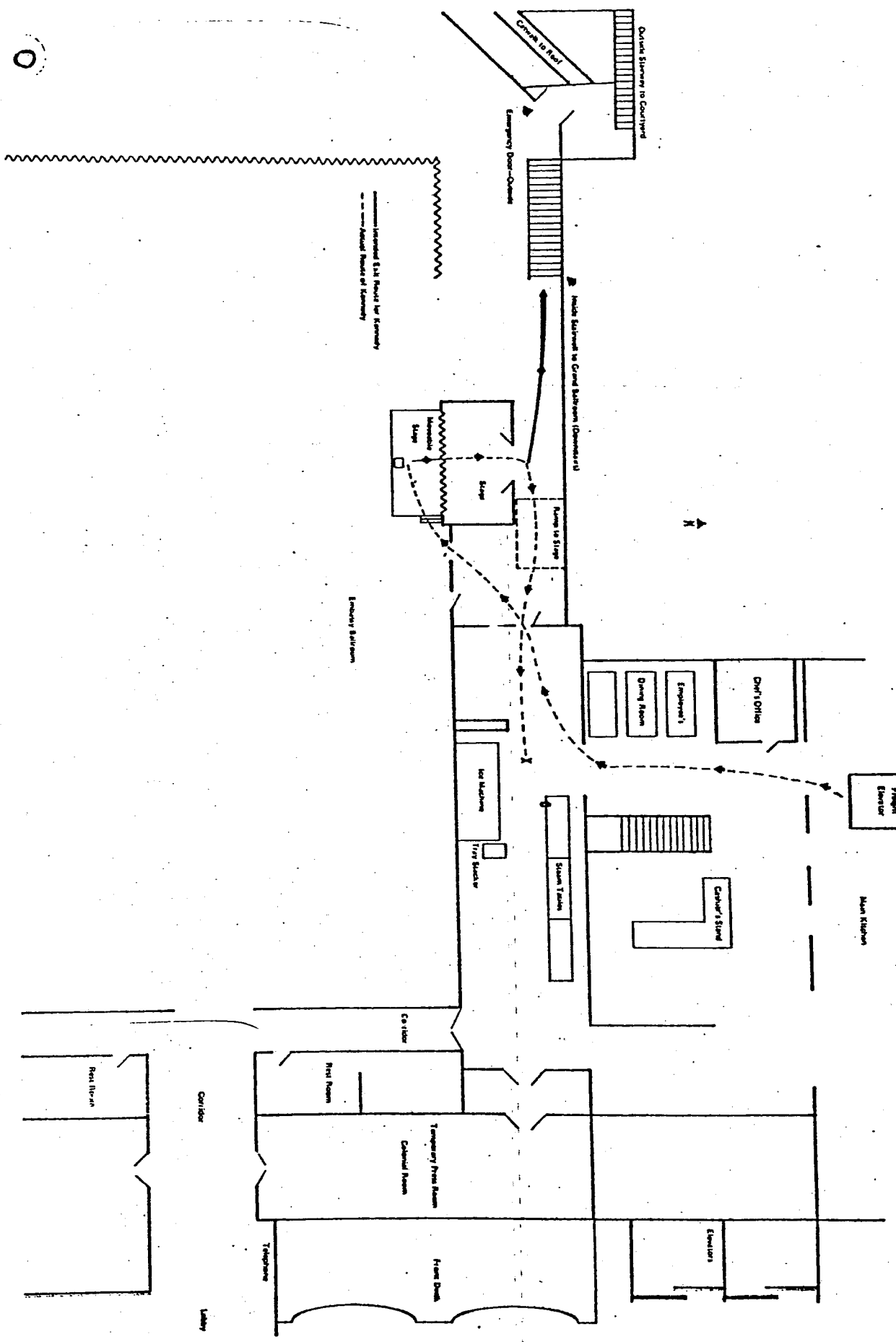
During the course of the trial as it developed consideration of evidence which would later become crucial was neglected or abandoned due to the overlapping interests or assumptions of prosecution and defense. Years later, former Assistant District Attorney Lynn Compton

would write that "second gun" questioning was absurd, claiming that the issue had been resolved when the original verdict was decided "on the merits." In fact, however, no second gun possibility was remotely considered at the original trial.

In spite of the bungling of the issues which would later become paramount, they nonetheless cast their shadows during this period, some of them in curious ways.

The only witness to testify at the Grand Jury on the question of muzzle distance was Los Angeles coroner Thomas Noguchi, who placed the distance of the fatal shot at approximately three inches from the Senator's head. After the session, as Noguchi later related, he was approached by a Deputy District Attorney who adverted to the discrepancy with eyewitness testimony that the gun distance was several feet. Asking if Noguchi were sure about the distance, he suggested that if revisions were needed it would be best to make them soon. Since Noguchi's estimates had been based on the scientific evidence, however, no revisions were considered. By the time of the trial, moreover, subsequent tests had been made, and the estimate was reduced to a distance of one inch. (4180) This finding was subsequently corroborated in the trial testimony of police expert DeWayne Wolfer.

Shortly after giving this testimony, Noguchi found himself under attack and was suspended from his post as coroner, based on charges of professional misconduct. With strong backing from a number of medical colleagues, however, Noguchi took the matter to court, winning a complete reinstatement. Although some of the original charges had even attempted to discredit the autopsy which had been performed on Senator Kennedy, in May it was stipulated by Noguchi's adversaries that this had been a superior autopsy. In spite of this fact, some observers have discerned



The Embassy Ballroom area on the second, or lobby, floor of the Ambassador Hotel. Kennedy's route to and from his victory speech is shown.

FIGURE 1.2

518



Doorway next to the Embassy Room stage, leading into the Embassy Room from the area to the west of the pantry. Kennedy passed through this door on his way to make his victory speech.

2

219

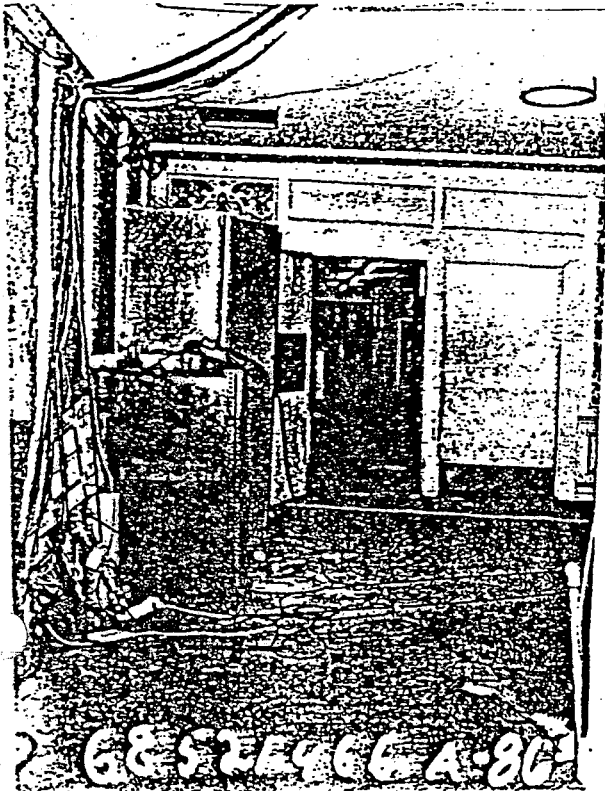
by accident.. That line of reasoning had been exploded four years earlier by the representative of the District Attorney's office itself.

On the issue of gun muzzle distance, the prosecution at least adverted to the eyewitness testimony before dismissing it. Even this was not done, however, in the case of the issue of when Sirhan's gun arm had been grabbed. Karl Uecker had testified that he had wrenched the arm away after the second shot, (N) thus raising serious doubt as to whether four shots could have struck Kennedy from Sirhan's gun. When questioned about this later, Uecker reaffirmed his original account. In the prosecution summation before the jury, however, it was asserted that Sirhan's arm was restrained only after the fourth shot.

Not only was Sirhan's defense generally uninterested in physical evidence and eyewitness testimony, but they even resisted the submission of this material into evidence because of the feeling that it might inflame the jury. Thus, although a film had been prepared by the prosecution dealing with visual aspects of the shooting, the defense objected to its use and the film was never shown. Aspects of the autopsy findings and photographs taken at the autopsy were likewise objected to by the defense, although these objections were not sustained. Having already explicitly conceded what they believed to be the case - that Sirhan had fired the shots that killed Robert Kennedy, the defense regarded any further details in that regard as superfluous, emotionally charged, and detrimental to their psychological defense. Facts were even conceded by the defense which prosecution witnesses themselves were unable to testify to. During the testimony of DeWayne Wolfer, Sirhan's lawyers offered to stipulate that the fragments of fatal bullet removed from Kennedy's head (4144) had been fired from Sirhan's gun. Remarkable as was Wolfer's testimony on bullets, however, even he admitted that the fatal bullet had been too badly damaged to be positively

1.8
FIGURE 1.7

Chapter I. Figure 8



View of the swinging doors to the pantry from the back of the Embassy Room stage. As Kennedy exited the stage he turned right, moving in the direction shown in the photo.

3.15

linked with any gun. Given concessions of this kind, it is hardly necessary to add that opportunities to press and cross-examine Wolfer on such points were passed up.

On May 16, 1969, following Sirhan's conviction and sentencing, a special proceeding was convened by trial judge Herbert V. Walker. This hearing was a most peculiar and irregular one. Present were Judge Walker, Judge Charles A. Loring, two representatives of the prosecution, two representatives of the County Clerk's office, a court reporter, and Judge Walker's secretary. The meeting was held in Loring's chambers, and no defense counsel were present, invited to be present, or even informed that the meeting was to take place. Months later, chief defense counsel Grant Cooper was provided with a transcript of the meeting, which, he said, "leaves me simply astonished." (N) Before this meeting occurred, Cooper had filed a brief requesting a new trial for Sirhan and other relief, and arguments on this motion had been scheduled for May 21. In an affidavit filed later, Cooper listed succinctly the causes for his alarm:

"I am, of course, disturbed that the question of how certain Exhibits, marked for identification, or received in evidence, were to be treated for purposes of appeal, was discussed in my absence (see pp. 2-33.) I am further perplexed as to why the police department and the District Attorney's Office "abstracted from the file" (p. 6, line 13) some materials pertaining to their assessments of various witnesses with whom they conducted interviews and why some items of investigation were regarded too secret that they were barred from anyone, except the District Attorney, the F.B.I. and the Los Angeles Police Department (pp. 5 - 8). But above all, I am appalled to learn that during that secret session, on May 16, 1969, the District Attorney's Office, an emissary from the Los Angeles Police Department, and the Trial Judge discussed the grounds for new trial, with the Judge indicating implicitly, but nevertheless clearly, that the case was going up on appeal.- an event which would never transpire if the motion for new trial, yet to be argued on that date, were granted." (pp. 3-4)

No police were in the pantry at the time of the shooting, nor even in the hotel itself. This in itself is an oddity, and one which is not explained by the fact that the Kennedy campaign had not requested police protection (H-173). On that particular night, not only were there overflow crowds of Kennedy supporters and a candidate for President of the United States in the hotel, but victory celebrations for the Republican and Democratic candidates for United States Senator from California. The Ambassador Hotel, in fact, had hired _____ additional employees for this night in order to cope with the massive extra business. Not only was this a very large assemblage of people, but also a potentially volatile one. A reasonable number of fire marshalls were on the scene, and one of them was only a few yards away at the time of the shooting. But no one was present from the LAPD.

It would probably be unreasonable to expect that a complete list could be compiled of all the persons present at the time of an event as chaotic as the shooting. If the list is short, moreover, no one can be sure wheter it was off by 5 persons or 15 or 30. But some of the omissions from the official pantry list are particularly curious. Richard Harrison, for example, was a photographer who was standing to the north side of one of the steam tables, near the pantry's east end. Wehn Sirhan emerged from behind the tray stacker and the shooting began, Harrison ducked, then stood up again, and took one of the first photographs in existence after the crime, a photo which shows Sirhan with the gun still in his hand. Although he was not only present but took a photograph, Harrison is not listed as having been in the pantry. Likewise, a three man crew was present from David

Official LAPD List of Victims and Witnesses in the Ambassador

Hotel Pantry. (taken from Kaiser, Appendix A, p. 543, and alpha-
betized.)

1. Aubry, Richard (51)
2. Barry, William (39)
3. Beilenson, Anthony (34)
4. Beilenson, Doris (26)
5. Bennett, Ronald (36)
6. Bruce, Rae (3)
7. Burns, Frank (46)
8. Casden, Robin (31)
9. Cesar, Thane (43)
10. Cetina, Gonzalo (30)
11. Clark, Sonia (8)
12. Cummings, James (11)
13. Dean, Larry (29)
14. DiPierro, Vincent (33)
15. Drew, Richard (37)
16. Dutton, Fred (32)
17. Elmcre, Ralph (27)
18. Evans, Elizabeth (V-5)
19. Freed, Evan (49)
20. Gallivan, Jack (61)
21. Goldstein, Ira (V-3)
22. Griffin, Booker (65)
23. Guy, Virginia (55)
24. Hamill, Pete (53)
25. Hardy, Capt. (25)
26. Healy, Robert (70)
27. Heath, Thadis (23)
28. Holme, Barbara (22)
29. Jackson, Larry (19)
30. Jayne, David (5)
31. Jones, Joseph (66)
32. Kadar, Gabor (2)
33. Kawelec, Stanley (56)
34. Kennedy, Robert (V-1)
35. Klase, Robert (63)
36. La Guerre, Michelle (9)
37. Lawn, Constance (54)
38. Lee, Muriel (67)
39. Locke, Suzanne (13)
40. Lubic, Richard (44)
41. Mamey, Norman (7)
42. Mankiewicz, Frank (10)
43. Minasian, Edward (50)
44. Mooney, Geonine (12)
45. Mulligan, Gloria (21)
46. Murray, Barbara (14)
47. Murray, Dave (69)
48. Panda, Ronald (4)
49. Patrusky, Martin (41)
50. Perez, Jesus (47)
51. Plimpton, Freddy (52)
52. Plimpton, George (58)
53. Rich, Timothy (24)
54. Rich, Walter (17)
55. Romero, Juan (45)
56. Rosen, Rick (62)
57. Rothstein, Allen (1)
58. Royer, Judy (59)
59. Rubin, Barbara (28)
60. Schrade, Paul (V-2)
61. Schulte, Valerie (42)
62. Sirhan, Sirhan (D)
63. Stroll, Irwin (V-4)
64. Sullivan, Aquiline (15)
65. Timanson, Uno (64)
66. Toigo, Robert (16)
67. Uecker, Karl (48)
68. Unruh, Bradley (20)
69. Unruh, Jesse (35)
70. Urso, Lisa (57)
71. Wayne, Michael (60)
72. Weisel, William (V-6)
73. West, Andy (18)
74. Willaman, Earl (6)
75. Witcover, Jules (68)
76. Witker, Kristi (38)
77. Yaro, Boris (40)

Wolper productions, men who were working on the filming of "the Making of the President." One of the few audio tapes in existence during this period was recorded by them, but none of these individuals are listed either. A man named Richard Levy was also present and also was not listed. And if there was in fact a "girl in a polka dot dress" standing next to Sirhan just before he moved forward and began firing, her name, needless to say, is not listed either. But the most disputed case of an individual missing from the list is that of Donald Schulman.

A courier for KNXT TV, Schulman was interviewed shortly after the shooting as a witness who had seen it happen. His account was carried on television the same night, and portions of it were reported by radio and in the press as far away as the East Coast and in Europe. In statements he gave to at least two reporters in the minutes following the shooting, Schulman spoke of a security guard or guards firing back at Kennedy's assailant. The key segment of one of these interviews follows:

Reporter - I'm talking to Don Schulman. Don, can you give us a half-way decent report of what happened within all this chaos?

Schulman - O.K. I was - a - standing behind - a - Kennedy as he was taking his assigned route into the kitchen. A caucasian gentleman stepped out and fired three times - the security guard - hit Kennedy all three times. Mr. Kennedy slumped to the floor - they carried him away-- the security guards fired back - as I saw - they shot the - a man who shot Kennedy - in the leg. (N) - he - a - before they could get him he shot a - it looked like to me - he shot a woman - and he shot two other men. They then proceeded to carry Kennedy into the kitchen and - I don't know how his condition is now...

Reporter - I was about six people behind the Senator. I hear about six or seven shots in succession - now - is this the security guard firing back?

Schulman - Yes - a - the man who stepped out fired three times at Kennedy - hit him all three times - and the security guard then fired back - hitting ---

Reporter - Right

Schulman - Hitting him, and he is in apprehension.

And the same evening in the news report on the assassination, the following segment was broadcast less than an hour after the shooting:

Dumphy - Don Schulman, one of our KNXT employees witnessed the shooting that we have been telling you about. Kennedy was walking toward the kitchen, that was his route out of the ballroom, a man stepped out of a crowd and shot Kennedy, Kennedy's bodyguards fired back, the suspect was shot in the leg, the suspect now in custody at the Ambassador Hotel. Don Schulman of KNXT tells us that Kennedy was shot three times, he was taken into the kitchen to await doctors, and an ambulance, as we told you just a moment ago, an ambulance from Central Receiving picked him up.

On occasion, the Los Angeles authorities have denied even that there was another gun in the pantry. They have always denied that it was fired. Yet whether or not Schulman's report that it was fired is conclusive, there is little doubt that he was at least in the pantry at the time. This also is denied by the police, and Schulman was omitted from the official list of Ambassador witnesses. Jeff Brent, the reporter to whom Schulman gave the interview originally quoted, was also in the pantry at this time. Brent also was omitted from both the official lists.

The import of the Schulman account cannot be clear in the absence of other information. His original statement may be subject to the limitations eyewitness testimony often has, and cannot be taken as conclusive. In 1971, in fact, when the matter of Schulman's testimony became a public issue, a police Board of Inquiry alleged that Schulman had been interviewed two months after the assassination and that his statement was substantially different. This allegation would have been

more convincing, however, had the transcript of the interview cited been made public. Moreover, Schulman, like other witnesses, has stated that he gave the same account to officials as he did at later times - but that they had showed no interest.

As time has passed and the controversy has continued, Schulman's memory of the shooting has receded, although he has never denied the reports he gave on the assassination morning. What is astonishing, however, is the massive indifference of the authorities to such a potentially explosive account. "Not one of the persons present observed a second gunman firing a weapon," stated the board of inquiry report. Since the pantry was crammed, and since all eyes would naturally be focused on the first apparent gunman, such a result would not be remarkable. A close range shot, moreover, might well have been concealed between the victim and the shooter. Finally, since the authorities find eyewitness testimony so uniformly erroneous in other cases, it is difficult to fathom their extreme confidence that any other gun would automatically have been detected. Witness estimates of distances might be wrong, apparently, but if these same witnesses could not say for sure that other things happened in the pantry, they obviously must not have.

Within minutes after the shooting, Schulman's observations were a matter of public record. They may have been mistaken or embellished or confused. They may also have been accurate. The Los Angeles authorities would have been better advised to have confronted this problem directly, rather than attempting to wish the inconvenient witness out of existence.

[REDACTED]

[REDACTED]

If, as Schulman asserted, there was a security guard in the pantry, this would be nothing exceptional. If he had fired his gun at Kennedy's attacker, that would not have been surprising either. There was in fact a guard near Kennedy during the shooting, and he did in fact draw his gun. Any exhaustive investigation would naturally examine such occurrences and if they proved innocuous, they would not have been embarrassing either to the authorities or to the guard involved. Yet one of the most peculiar aspects of the official investigation is the extraordinary lack of interest in this circumstance, and the startling series of misstatements about it which the authorities have repeatedly emitted.

Sixteen guards were employed by the Ambassador Hotel on the night of the shooting, some of whom had been hired by a local guard service in Simi. One of these guards was the man in question, who worked for Lockheed Aircraft in Burbank during the day and did moonlight work for the guard service on off hours. According to the story which he later told, he had arrived home from his regular job at Lockheed at 4:30 p.m. Around 4:45, he received a call from his employer at the guard service, asking him to work at the Ambassador that night. He agreed, and left for the hotel shortly thereafter, arriving at approximately 6:05 that evening. He reported to the head security officer and was given the first of a series of assignments.

Shortly before midnight that evening Robert Kennedy emerged from his fifth floor suite to address his followers and claim victory. Taking the freight elevator down to the second floor, Kennedy and his entourage walked through the Ambassador kitchen and through the west end of the pantry. Passing through the swinging doors to the pantry

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at which the security guard was stationed, Kennedy proceeded toward a door to the left, which opened onto the Embassy Room. Following his speech Kennedy exited through the rear of the Embassy Room stage and turned to his right toward the swinging doors. The guard was still stationed beside them, gun in holster, and when Kennedy passed beside him, moving toward the Colonial room, the guard proceeded with him on his right. He walked next to Kennedy up to the edge of the first steam table, clearing people away, he later recounted, with his right arm. At that point Sirhan emerged and began to fire.

Although these facts are known and documented, as late as 1975 the District Attorney of Los Angeles was denying that any guns besides Sirhan's had been present in the pantry, (N) even though this claim had been flatly contradicted by a police board of inquiry report filed more than three years before. (N) And in a written account issued by District Attorney's office in July of 1975, the claim was made that "no gun other than Sirhan's had been observed by any witnesses." As the persons who issued it must have been aware, this statement also was flatly untrue.

"I was kneeling at Senator Kennedy's right side after he fell to the floor," eyewitness Richard Lubic recalled. "I saw a man in a guard's uniform standing a couple of feet to my left behind Senator Kennedy. He had a gun in his hand and was pointing it downward." Lubic added that he had told these facts to the authorities at the time of the original investigation.

Others saw this gun as well. After helping subdue Sirhan, Kennedy's bodyguard, Bill Barry, saw the guard with a drawn gun and told him to put it away. (K-29) Karl Uecker saw it as well, mentioning that he was glad that the gun hadn't been fired, as it might have hit him instead

In any case, the authorities could hardly have been ignorant of the fact that a gun had been drawn since the guard himself had mentioned it when questioned later that morning. It is difficult to believe that seven years afterwards authorities would still be attempting to wish this gun into obscurity.

The guard later stated that the gun he was carrying that night was a .38 in contrast to the .22 which Sirhan had used. Incredibly, however, although the gun was observed at the time of the shooting, and the guard himself was interviewed later that morning, no record exists that this weapon was ever examined by police, either at the initial interview or even in the following weeks and months. In spite of the fact that a second gun was drawn in Kennedy's immediate vicinity when he was shot, not even the most casual interest in it was ever exhibited by authorities from the time of the shooting through the completion of Sirhan's trial. The guard requested not to be called as a witness, and no mention of either him or his gun ever occurred in court.

This was not the end of the confusion about this particular gun, however. In the fall of 1969 the guard was interviewed by journalist Ted Charach, the investigator who was the first to become concerned about this area of the case. Based on Charach's information and persistence, the question of this guard's role and of why it had been largely ignored by officials became a matter of public concern. Part of this concern centered on the kind of gun the guard might have been carrying that evening.

In contrast to other witness statements, the assertion by the guard that his gun had been a .38 was apparently accepted by the authorities at face value. (N) In October of 1971, moreover, the District Attorney of Los Angeles, again accepting the guard's word without any effort to obtain independent corroboration, stated flatly that although the guard had once owned a .22 pistol, he had sold it the February before the assassination. In fact, however, as was proved by a receipt of sale later obtained, the gun was actually sold in September, 1968, three months after the assassination. (SG-145) Since the gun was never examined or booked into evidence on the morning of June 5, no definitive means existed for determining its identity. (N) Yet the authorities who confidently stated that the .22 revolver in question had been sold in February, 1968, had neglected even to check with the individual to whom it had supposedly been sold. Later they were confronted with the discrepancy in their account. Hard as they were at times on witnesses making inaccurate statements, however, the District Attorney's office lightly dismissed this discrepancy as a "mere failure of recollection." (Q12, P18)

Any investigation of a case of this kind would logically be concerned with the deployment ^{and activities} of the 16 guards stationed at the Ambassador that night. Questions of crowd control and security arrangements were enormously important in examining logistical issues relating to Sirhan and the possibility that he might have had accomplices. But based on the little we know of this investigation, it was extremely careless.

Three of the security guards, wrote Loughton, "'observed' Sirhan loitering in the pantry area before Kennedy passed by, but none of them

it is also incorrect. According to official interviews, at least one guard was assigned to this location in the hours preceding the shooting. This was the same guard who was at Kennedy's side at the time he was shot.

However disturbing and unsettling they may be, such official errors do not of themselves justify any conclusions about the role of the guard in question. They do, however, shed considerable light on the care with which his role was examined by authorities. Since the identities of the persons in the pantry during the shooting are unknown, how can one be sure how many unrecorded individuals might have been there? If the reconstruction of the activities of one important figure were so inept, how can one have confidence in the care or accuracy of similar police accounts? If no guns were collected at the scene and seven years afterwards officials were still attempting to deny that one of them had been observed, how can one be certain that there may not have been other unknown guns in the pantry as well?

Some of the evidence from the scene of the crime that should have been taken into custody was not. None of the other guns present at the time were checked, for example. Of the evidence which was recovered, moreover, much was either destroyed or allegedly mishandled. The figure most prominent in handling the physical evidence in this case was LAPD criminalist DeWayne Wolfer. As interest in the

case has expanded from conspiratorial and psychological issues to the questions of physical evidence and its handling, Wolfer's role has become a matter of greater importance and attention. This shift in concern has accelerated as information about Wolfer's handling of the case has increased.

Two hours after the shooting, Wolfer was on the scene and directed the collection of evidence, photography, and initial attempts at bullet pathway reconstruction. At the Grand Jury two days later he was called to give expert testimony on firearms questions. Wolfer's work is at the heart of almost all of the physical and scientific examination in the case, (N) and is, thus, the foundation for the conclusions officially reached in these areas. Insofar as the case hangs at present on these examinations, it hangs on the credibility and competence of DeWayne Wolfer.

Upon first learning of Wolfer's role in the case, Pasadena criminalist William Harper contacted Sirhan's counsel, advising them not to accept unquestioning the findings which Wolfer might present. Harper had given testimony in opposition to Wolfer's in previous cases, and had a low opinion of the level of Wolfer's expertise. In particular, Harper felt strongly that scientific testimony and conclusions should be substantiated as much as possible by precise records and by objective demonstrations. Without these, he believed, the findings of "experts" could only be taken on faith, and independent checking by the court, the defense, or other experts would be rendered more difficult. Not only did Wolfer's work conspicuously lack this degree of rigor, but without it, Harper knew, crime laboratories often developed

a tendency to supply whatever evidence or conclusions were required by the prosecution, lacking the administrative insulation necessary to insure the independence and integrity of scientific work. These concerns of Harper's were shared by other criminalists as well.

Wolfer received his B.A. degree in 1952 and began work with the LAPD the same year. At the time of the Sirhan trial he was a criminalist assigned to the crime laboratory of the Scientific Investigation Division. In 1971, however, two years after his testimony in the Sirhan case, Wolfer was a candidate for appointment as chief forensic chemist of the Los Angeles Police Force, the director of the entire crime laboratory. Learning of this development, Los Angeles attorney Barbara Warner Blehr filed a civil service action to block Wolfer's appointment on the grounds that he was "completely unqualified for the position." (N-5/28) Blehr's letter not only attacked Wolfer's work on the Sirhan case, but cited two other cases as well, relying on evidence developed by Harper and other criminalists, including a former head of the LAPD crime laboratory. Listing a number of basic precepts of firearms identification, Blehr then documented cases in which these precepts had not been adhered to. "I find it very hard to believe," she wrote, "that a man of the professed expertise of Mr. Wolfer could violate four of the basic precepts of his profession in a single case by sheer accident. I am more inclined to believe that these violations were made in response to an overzealous desire to help the cause of the prosecution. The choice seems to be rank incompetence on the one hand or morbid motivation on the other." (N-p.3)

The action by Blehr was filed in May and precipitated a considerable controversy, both about Wolfer and about the final conclusions

in the Sirhan case. Investigations were launched by both the Police Department and the District Attorney's office. A Grand Jury investigation was set in motion concerning the integrity of the exhibits in the Sirhan case. (N) And Wolfer sued Blehr for libel, asking a judgement of \$1 million. (N)

In October, 1971, the results of the police and District Attorney's investigations were made public almost simultaneously. Both endorsed Wolfer's expertise, attributing certain key discrepancies to "clerical errors," and clearing the way for Wolfer's appointment. A written report was issued by the police board of inquiry, citing a number of documents as "support evidence" and dealing explicitly for the first time with certain aspects of the Kennedy assassination. Unfortunately, however, these documents were not made public and in many respect the report raised more questions than it answered. The Grand Jury made no indictments, but did express "reservations" about aspects of the handling of certain evidence, laying the groundwork for later official claims that the evidence could never be reliably checked. These findings, however, were later massively contradicted by two separate independent studies, one by a special task force appointed by the Chief Administrative Officer of Los Angeles County, and another by a special committee of judges appointed by the then presiding judge of the Superior Court. (W-4,27,1-28) According to the latter study, for example, "our committee found nothing to indicate that the handling and storage of exhibits in the Sirhan case impaired the integrity of exhibits." (W-28) Wolfer's suit against Blehr was dismissed on legal grounds in 1972, but not before a 256 page deposition was taken from Wolfer as evidence, containing some new information about the

A serious distinction exists in forensic testimony between an "expert witness" and a "witness who is expert in his field." A witness may be expert in some areas, but unless his competence is demonstrated in the area at issue, his testimony may prove valueless or worse. Serious evidence exists, however, that Wolfer has testified more than once in areas beyond his competence, citing false credentials of expertise in order to buttress the conclusions offered. When, in 1975, a re-examination of the bullet evidence in this case was ordered by Los Angeles Superior Court, the seven experts involved were unable to substantiate any of Wolfers key 1968 findings. And shortly thereafter, a court ruling in another case concluded not only that the testimony Wolfer gave had been false, but that the statements he had made concerning his professional qualifications were also inaccurate. Thus, the controversy concerning this police expert, which began even before the Sirhan case, shows no signs of dying out.

A number of problems exist in considering the evidence examination in this case, apart from the fact that these issues were not subject to scrutiny and testing until after the trial was complete and the initial testimony was taken. The testimony from Wolfer which does exist is often quite unclear and ambiguous, at times bordering on incoherence. At times the statements seem to shift in midstream, leaving doubt at the end as to the cumulative meaning of two confused or contradictory segments. Secondly, on the few occasions when Wolfer has been available for questioning, the Blehr deposition and the 1975 hearing in particular, he had failed to review the matter at hand in advance, resulting in lapses of memory which rendered testimony on critical points virtually valueless. A standard response was "Here today, I don't recall," or

"It's a matter of record." If indeed records existed on most of these points, they might suffice to fill the gaps. But although the Robert Kennedy assassination case was presumably the most important one on which Wolfer ever worked, the records and documentation which he retained were extremely sparse. (N) In addition, these records have only gradually become available, and his work log and other key records were only released in 1975. Finally, the meaning of whatever evidence, records, or testimony does become available is subject not only to mistakes, but to what are described as "clerical errors." Against such a backdrop, even an incomplete story of the handling of physical evidence in this case is pieced together only with difficulty.

It is known, for example, that Senator Kennedy's suit coat contained at least five bullet holes, three holes of entry and two of exit. Questions have been raised, however, about the tests to which Wolfer subjected these holes. In order to determine nitrite patterns and information on bullet entry and exit, he performed what is known as the "Walker H-Acid test" on the relevant areas. This is referred to as a "destructive test" because it substantially destroys the evidence being examined. Unlike other tests, therefore, it cannot be reliably repeated. Other methods were available for testing Kennedy's coat which would have left the evidence intact. One of the questions subsequently raised was why none of these were ever used.

An "Analyzed Evidence Report" submitted on June 7 stated that Kennedy's suit had been received the same day. (N) Yet in Wolfer's work log for June 6, the entry appears at 10:00 a.m.: "Infrared studies of Kennedy's coat." Since Wolfer could hardly have conducted infrared studies before the coat was received, the June 7 notation is presumably

a clerical error. Moreover, there is no notation in any of the references to Kennedy's coat that not all of it was received, yet at some undetermined point the left sleeve disappeared. Wolfer was questioned about this in October of 1971, but the reply was inconclusive:

Q - Now, it is my understanding that the left coat sleeve of Senator Kennedy's coat and also his left shirt sleeve and the cuff link from that left sleeve are missing; is that correct?

A - To my knowledge, I wouldn't know, here today. I would say that at the time I had the coat, I believe, it was all there; but I don't say, here today, I don't know.

Q - Would your notes help you to refresh your recollection on that?

A - No. There is photographs of the coat in its original condition.

Q - Was it intact?

A - Well, I would have to look at the photographs. Here today, I don't know -- no, the coat wasn't intact, as I recall, here today.

Q - It was not?

A - No, as I recall -- it was a long time ago -- but as I recall the coat had been cut off of him.

Q - Was the left sleeve there?

A - As I recall, it was; but I don't know, here today.

Q - Do you have those photographs of the coat?

A - No, I have no records of anything in the case.

(Blehr Deposition, pp. 217-218.)

Because the coat had been cut in removing it from Senator Kennedy, Wolfer had sewn it partially back together. If it had been missing a sleeve at the time it was examined, one would supposed that some notation might be made of this, or at least that the examiner would remember it. Yet although Wolfer studied Kennedy's coat for over five hours according to his work log, no record exists on this point, and Wolfer couldn't remember about it. At the time of the trial the sleeve was missing, and no way exists for determining if it might have contained any bullet holes.

Questions about Wolfer's handling of evidence could be listed at greater length and some of these are discussed in Chapter 5. On Wolfer's Analyzed Evidence Report of June 11, 1968, for example, the gun H18602 was listed as having been obtained that same day, though the date at which it had been received was elsewhere reported as June 10. On the work log for June 14, Wolfer makes the notation "clean fatal bullets." Yet there was only one fatal bullet in his possession, and its value for comparison purposes was almost nil. "Cleaning" presumably would only remove organic matter adhering to the bullet, but according to the expert panel which examined the bullets in 1975 there was more organic matter on this bullet than on the Kennedy neck bullet, which was not recorded as having been cleaned. Routine photographs of evidence bullets were made on June 12 and June 14, but only one official photomicrograph of bullet comparisons was made, and that one proved to be inconclusive. Nowhere were records kept of bullet weight, numbers of lands and grooves, width of land impression, or similar basic categories of data. However much at issue were Wolfer's tests in the days after the assassination, moreover the work log of this period was not made available until its release was ordered by a court in 1975.

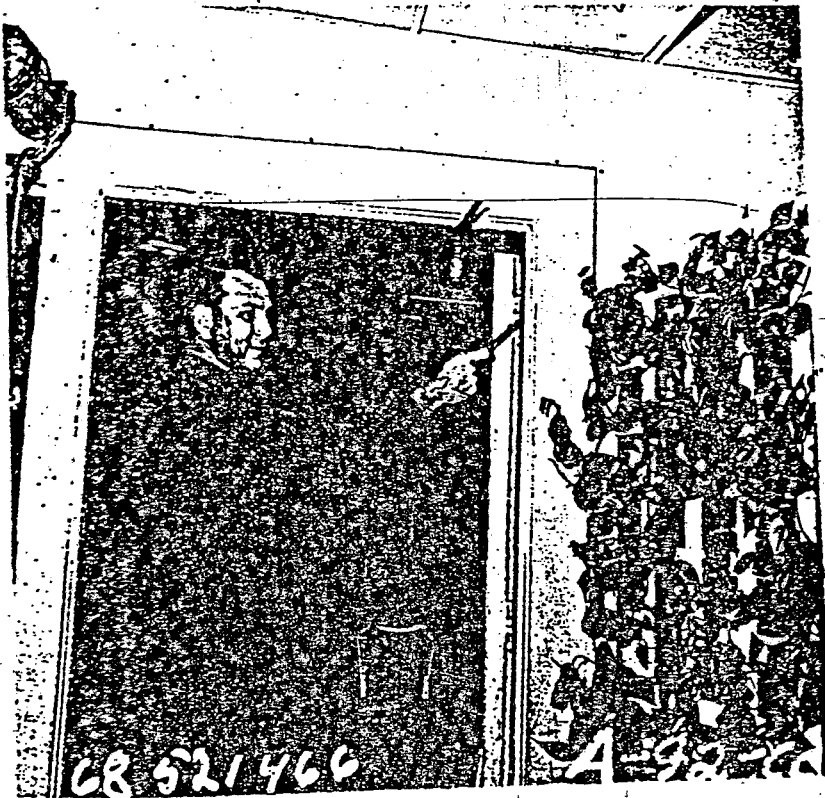
When, in 1969, questions were first raised about the number of bullets fired during the assassination, answers were not forthcoming, but reference was made to the "tons" of material which would soon become available. This material, it was implied, could be triggered like a rockslide, burying in masses of documen-

tation the carping questions of thoses who misguidedly criticized the official investigation. Whatever else they may have contained, however, the t ns of material included no reports on the crime scene investigation by the criminalist most directly involved in the issue of extra bullet holes. The weight of all of his reports, in fact could be measured much more easily in ounces.

Though very fond of citing and praising their evidence, however, authorities have been much more circumspect about producing it for inspection. →

7-31-10

Chapter I. Figure 10



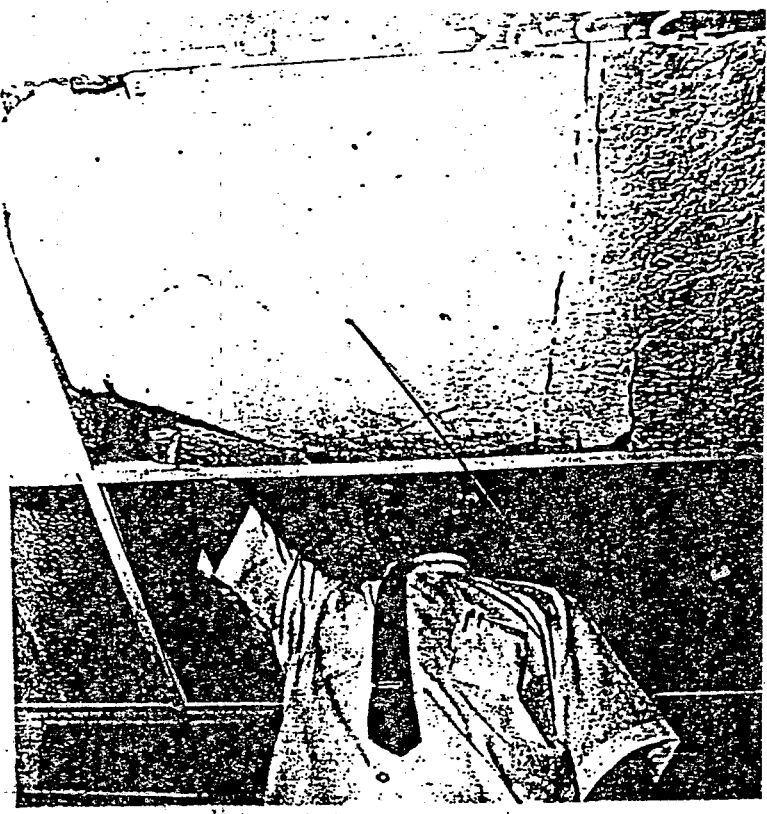
Wolfer points to unidentified mark or object during his crime scene examination on the morning of the shooting. The area being examined is the north door frame of the swinging doors at the west end of the pantry.

3,31-34

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~~7-28~~

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A probe is passed through an apparent bullet hole in ceiling panel "C-6". This photograph was taken during the police examination of the crime scene on the morning of the shooting.

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reports had been submitted to the court. "However," the Post concluded, "neither the panels themselves nor any analytical data on them had been introduced into evidence during the trial." (H)

In the summer of 1975, hearings were held before the Los Angeles Police Commission, and solemn arguments were heard about this and other evidence. Here the police took the position that to release any evidence whatever, even ceiling panels or reports on physical evidence, would somehow constitute an invasion of privacy. Strained as this argument appeared to be, the Commission apparently found it persuasive, for they voted unanimously to bar direct access to every scrap of official information. Offers to work out a formula which might protect the privacy of individuals while sacrificing the privacy of wood and ceiling panels met with no reply.

The dispute about this evidence continued, however, and attempts by Paul Schrade, CBS, and others to disrupt the privacy of these panels went on. (H) Finally, in late summer, a startling new account of the panels and door frames suddenly emerged. The privacy of the panels, it turned out, could never be disturbed, because the panels themselves had gone on to a better world. On June 27, 1969, an official order had been given for the ceiling panels and the door jamb to be destroyed.

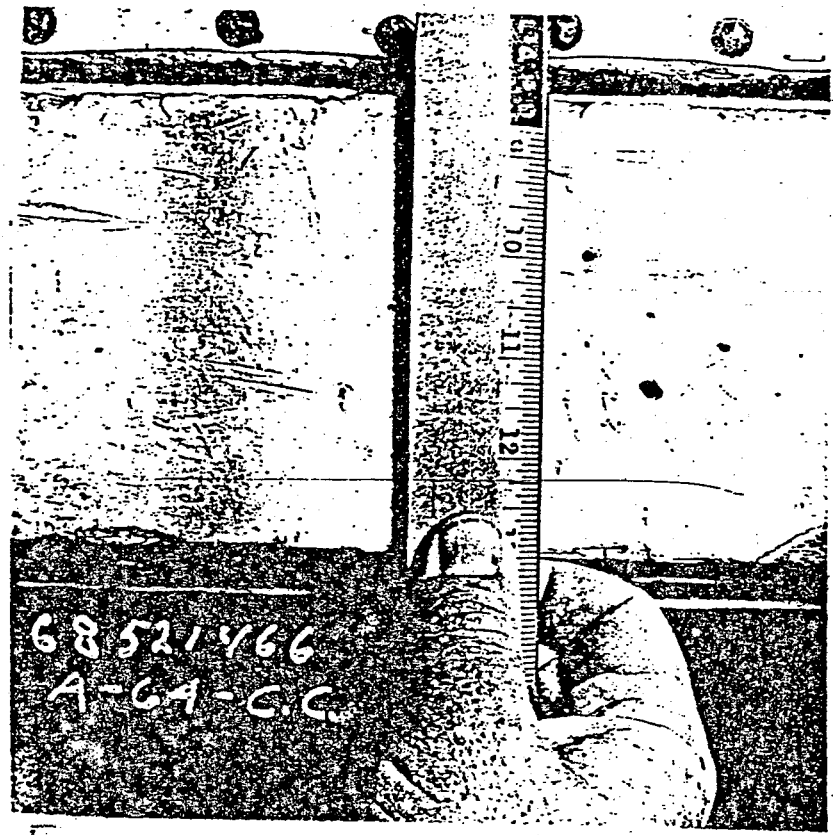
According to one police spokesman, the evidence was destroyed because it "was too large to fit in a card file." (H) It was also asserted that no harm had been done ~~IN ANY WAY~~ since it was unimportant anyway. Furthermore, there was considerable confusion as to who had ordered the destruction. Councilman Yaroslavsky of the Los Angeles City Council introduced a bill for an investigation of the matter, which passed 10-1. He was promptly criticised by the

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FIGURE 1.18

Chapter V. Figure 1.18

Castle Clinton



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Holes in the center divider of the swinging doors are measured on the morning of the shooting. Pencil markings by officials around the largest hole are barely visible.

3.34

thorities." In the course of the report, on page ten, the following statement appeared: "An inspection of the ceiling tiles removed from the pantry and study of the schematic diagram showing the trajectory of the bullets fired by Sirhan refute the contention advanced by Mr. Harper." The first oddity about this statement is the implication that tiles which had become insignificant in 1975 were apparently important enough to refute criticism in 1971. A second question relates to how precisely the Board had gone about re-examining the panels in 1971 if they had been destroyed two years earlier. However open to question the schematic diagram cited by the Board, it did at least possess the redeeming attribute of existence. But if our current information is correct, the ceiling panels cited did not exist. If the three board members studied reports or documentation instead of the panels themselves, then where are these reports? And if they studied neither panels nor reports, what was the basis for their claim that "an inspection of the ceiling tiles... refute(s) the contention advanced....?"

Such, then, is the record of the Sirhan investigation and trial. Evidence was destroyed and records were neglected. Reputed "clerical errors" cloud the documentation which was preserved. Information was promised and then withheld. A trial was conducted in which neither of the two critical questions - that of Sirhan's guilt and that of the possible involvement of others - was contested. Major errors and omissions were made in examining the evidence of the circumstances of the shooting. And yet the Chief of Police of Los Angeles has claimed that "100 times the care" was taken on this case as on "the typical homicide." It is not likely that this observation will make the citizens of Los Angeles feel more secure.

Los Angeles Times for injecting "politics" into the issue, and by Police Commission President Sam Williams, who seemed considerably more upset at the prospect of evidence being released than of it being destroyed. There were, however, some questions about the destruction which appeared to have been left unanswered.

The door frames and ceiling tiles were both booked into evidence, and Chief Houghton, in Special Unit Senator, clearly implies that the "155 items of booked evidence" were still in existence. "Evidence too large for the (filing) cabinets," he added, "has been recorded by photography." (H-303.) Yet not only were the panels said to have been destroyed, but no photographs, S-rays, analysis reports, or scientific notes could be located either. Had a storage area been sought for such evidence, moreover, a minimum of checking would have revealed to the Police that a special room had been set up in the District Attorney's office where memorabilia from the Sirhan investigation had been collected. Not only was this area bigger than a card file - or even a bread-box - but the discovery of even additional unused storage space in the greater Los Angeles area should not have been beyond the capabilities of the detectives of the LAPD. Clues to such locations abundantly existed, but the leads were apparently never pursued.

Another puzzle about the destruction of evidence related to the report of the official police board of inquiry on Wolfer. Released on October 11, 1971, and signed by three police officials, the report dealt with the criticism of Wolfer which had been submitted, encompassing, it said, "an academic review of criminalistic procedures, a study of the transcripts of the concerned cases, reevaluation of the evidence, and statements and opinions of outside au-