

Background to Disclosure Questions

For the seventeen years since the assassination of Senator Robert F. Kennedy, the most important and comprehensive investigative files on that event, those of the Los Angeles Police Department, have been almost wholly closed to scholars, journalists, government officials and members of the general public. Not only have the files themselves been closed, but the more general information contained within them has usually been unavailable when sought. The July 30, 1985 meeting of the Los Angeles Board of Police Commissioners will address the question of future policies for release of information and materials from the police investigative record, and the terms of such release.

The release of information concerning the Robert Kennedy case is important because of the general needs for historical understanding of a watershed public event, because of the controversial questions of evidence and proof which continue to surround the case, because of issues of candidate security and law enforcement procedures and effectiveness in responding to political violence, and because of the principle of public agency responsiveness and accountability concerning citizen access to important, non-sensitive information. The police records of the case comprise over 50,000 pages of documentation, over 1700 photographs, records of booked evidence, and numerous hours of audio and video tape, compiled during an inter-agency investigation which lasted over 13 months. This investigation was reportedly the most extensive in the history of Los Angeles law enforcement, and the felony involved was probably the most important single crime ever to occur in California. Perhaps one percent or less of the work product of the police investigation is currently available.

Consideration of this issue by the Police Commission is in proximate response to requests for police information by Dr. Philip Melanson, professor of political science at Southeastern Massachusetts University, a scholar in the field of political violence and intelligence, and a director of his school's newly established Robert F. Kennedy Assassination Archive. Professor Melanson appeared briefly before the Police Commission during a recent research trip to Los Angeles and had corresponded with the Commission previously concerning its documentary information policies on the case. In past years, other scholars, journalists or private citizens have also contacted the Commission, seeking release of information concerning the assassination under a formal disclosure policy announced in 1975 following requests from CBS and others. To date, no known substantive material has become available on these requests, many of which dealt with rudimentary background concerning the primary facts of the case.

The lack of police data concerning the RFK assassination contrasts sharply with the voluminous disclosure which has occurred in comparable historical or assassination investigations, as well as with the past or present declassification of other bodies of material connected with this case. Less than a year after the assassination of President Kennedy, the Warren Commission published twenty-six volumes of detailed documentation concerning that event,

along with an interpretive summary report of 900 pages. Since 1964, hundreds of thousands of additional pages of police and other JFK material have been released, many in response to citizen requests under the federal Freedom of Information Act. Legislation currently pending before Congress would mandate the release of thousands of additional pages of JFK documentation from the 1977 House Select Committee on Assassinations - a committee whose charter did not, however, enable it to investigate the Senator Kennedy case.

Extensive files and records have also been released or published in the Martin Luther King case and in such other investigations as the Lindberg kidnapping, the Rosenberg spy case, the Alger Hiss case, the Senate Select Committee on Intelligence inquiries, the Rockefeller Commission investigation of the CIA, etc. There is no basic generic difference in the kinds of materials contained in these files and the law enforcement investigative records in the Senator Kennedy case. Several of the above materials are on file for routine examination by the general public at the FOIA-Privacy Act Reading Room at FBI Headquarters in Washington.

Apart from the critical records of the Police Department, most of the other major official holdings on the RFK case have been or are being made available to the general public at the present time. The transcript of Sirhan Sirhan's trial and other ancillary legal records have been publicly accessible for years. Substantial documentation from the files of the District Attorney's office is now open for review, and a filing guide to these items has been compiled and released. Nearly all of the official exhibits of the Sirhan trial are publicly available at the Federal Archives Center at Laguna Niguel, California, and an index of these materials is available. However, the Filing Guide to police data and the index to the ten-volume police report on the case are unavailable. The content and organization of police files and the identity of the specific categories of information which they contain are also not currently known.

In the mid-1970s, the Federal Bureau of Investigation released nearly 4,000 pages of its headquarters files on the case, pursuant to a Freedom of Information Act inquiry, and the FBI has recently embarked on the declassification of the additional 28,000 pages of its record, in response to a subsequent request. These materials will be duplicated and shipped to the requesters by the FBI, which has granted a waiver of fees on the grounds that "this information will meaningfully contribute to the public's understanding of the RFK assassination" and "will benefit the general public."

In 1969, the director of the LAPD investigation of the assassination and a collaborator authored a commercially-published book on the case "drawn from the files of the Los Angeles Police Department," and written "for the sole purpose of acquainting the American public with the facts of the investigation." Both this book, which supports official conclusions, and two major subsequent volumes - which forcefully challenge them - present important claims which are impossible adequately to evaluate on the information currently in the public domain.

Most of the evidentiary questions in dispute concerning the assassination relate to matters never raised or contested at Sirhan Sirhan's trial, which emphasized neither the possibility of conspiracy nor the detailed events at the crime-scene, but only Sirhan's state of mind as it related to

California's criminal law of "diminished capacity." Since the time of the trial, controversy has repeatedly emerged concerning both the events which occurred during the shooting - including the number of guns which were fired - and various questions about Sirhan's background, associates and movements, and hypnosis and conspiracy possibilities. No consensus exists concerning these persisting basic questions; much of the information critical to judgement on them is available only in the files whose release is currently being sought.

Along with questions of disclosure, the July 30 meeting may also take up the matter of preservation of the police documentation and evidence on the assassination. During the public inquiries on these matters in the mid-1970s, it was learned that controversial items of physical evidence booked by police from the shooting scene no longer existed, and that records of their examination and of specific official conclusions concerning them had likewise been destroyed. Other items of evidence or information also turned up missing, and it was explained that ceiling panels and door frames which reportedly contained bullet holes from the crime scene were destroyed because they were "too large to fit in a filing cabinet." Assurance has recently been sought that all official material existing in the case be securely preserved.

With respect to some categories of police materials, questions of sensitive or confidential information naturally arise, as with material from other agencies. These may demand special procedures or standards for screening information access, or other informational safeguards such as are routinely applied in similar cases. For broad categories of information, however, such as photographs of the crime scene, Sirhan Sirhan's movements, eyewitness interviews, property reports, etc., few if any issues of sensitive or non-disclosable information exist. The police files contain voluminous material of this kind, which exists nowhere else and is indispensable for even primitive understanding of many basic evidence matters.

Assurances have been given over the years that the police, as other, investigative records on the Senator Kennedy assassination would be substantially available to the public. The rationale for those assurances, as for the investigation itself and the pending information requests, was that the fullest possible understanding of this assassination is critical in order to avoid the recurrence of such national tragedies in the future.