

SUNDAY MORNING, JULY 13, 1975

# Robert Kennedy Case Still Stirs Questions

## Pressure to Reopen Assassination Inquiry Includes Gun, Bullet Holes

BY WILLIAM FARR and JOHN KENDALL

Times Staff Writers

Pressure is growing to reopen the Robert F. Kennedy assassination case and address again the question, "Was Sirhan Bishara Sirhan the lone gunman?"



**KENNEDY COAT**—Skeptics ask what became of the sleeve and wonder how many bullet holes might be in it if it were found.



**SIRHAN'S GUN**—This is .22-caliber 8-shot revolver fired by Sirhan B. Sirhan at Sen. Robert F. Kennedy. Dispute arose over serial number on the weapon.

Times photos

To most Americans, it must seem as if that question has been answered: that Sirhan acted alone at 12:15 a.m. June 5, 1968, when he emptied a revolver at Kennedy in the pantry of the Ambassador Hotel.

The 42-year-old senator, shot down in triumph after winning California's Democratic presidential primary, died about 25 hours later. Sirhan was convicted, sentenced to death, then given life in prison.

Not everyone is satisfied, however, with the answer provided early in 1969 at Sirhan's three-month trial. To a few conspiracy buffs, the answer that Sirhan acted alone was never satisfactory.

Now, there is a growing chorus of those who do not talk about conspiracy, but rather call for reexamination of apparent anomalies in the physical evidence collected in the case.

Just before his death on June 27, Dist. Atty. Joseph P. Busch had considered ways to reopen aspects of the case, possibly through a special master appointed by the California Supreme Court.

Busch had not changed his opinion. He still firmly believed Sirhan was the lone gunman. But, associates said, he recognized a possible need to restore public faith that nothing about the case remained untold or undiscovered.

In recent weeks and months, some of the nation's best-known newspapers have published stories examining doubts raised about the assassination.

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Ted Charach, a Los Angeles-based Canadian-born journalist who early questioned the official version of the Kennedy assassination, has produced and toured the nation with a film documentary called "The Second Gun."

Germany's Stern Magazine recently offered its answer to whether there was a second gunman in an RFK assassination article entitled "The Real Murderer is Still Free."

Rep. Henry B. Gonzalez (D-Tex.) introduced a measure in Congress last February to establish a select committee for a broad investigation of the assassinations of John and Robert Kennedy, the Rev. Martin Luther King and the attempted assassination of Gov. George C. Wallace. He has 39 cosponsors for the bill.

Allard K. Lowenstein, a former congressman from New York, who is now working as an aide, on a temporary basis, to Gov. Brown, demands that a panel of impartial experts be permitted to:

—Refire Sirhan's gun to check challenged evidence offered by DeWayne Wolfer, head of the Los Angeles Police Department's Scientific Investigation Division.

—Examine bullet holes in soundproofing ceiling panels from the pantry and in the right shoulder-pad area of Kennedy's coat to determine the number and the direction of bullets which struck them.

—Analyze evidence bullets through a neutron activation process to determine whether all the bullets were fired from Sirhan's gun.

—Read the illustrated, 10-volume summary of the LAPD's investigation of the Kennedy assassination.

To some, perhaps many, Lowenstein's demands may seem startling—if not excessive—when considered in juxtaposition with the LAPD's most intensive investigation ever and Sirhan's three-month trial.

Certainly, to prosecutors who helped convict Sirhan, to police officers who investigated the case, it is ludicrous to question whether Sirhan was the only gunman.

Was there ever a plainer case?

Perhaps 90 to 100 persons were jammed in the Ambassador's pantry when Sen. Kennedy was shot. Close friends and associates were in nearly physical contact with him.

Suddenly, Sirhan rushed across the room, screamed an oath, reached past an assistant maitre d' escorting Kennedy and fired at the senator.

Sirhan was captured. His gun was seized and his captors protected him from enraged members of the crowd.

Not a single person who was in that crowded pantry now says anyone beside Sirhan was seen firing a gun. A television film runner once

said he saw a guard fire a weapon, but he has since backtracked.

At the trial, Sirhan admitted he shot Kennedy, and his attorneys focused attempts to save his life on grounds of diminished mental capacity.

So what—authorities may well ask now—are media types, conspiracy buffs and publicity seekers talking about? It's simply ridiculous to say anyone but Sirhan was firing in that pantry.

Skeptics say, on the other hand, that it is precisely because everyone was so certain that Sirhan was the lone assassin that the present situation was created.

They say evidence introduced in the trial was not subjected to rigorous cross-examination and eyewitness testimony which appeared to conflict with the prosecution's case was discounted or ignored.

To understand what the doubters are questioning and authorities are answering, it is perhaps best to consider the complicated circumstances in sections.

## THE GUNS

Sirhan's gun was an Iver-Johnson .22 caliber 8-shot Cadet Model with a short barrel. Number H53725. Sirhan paid a few dollars for it second hand. The wiry, 5-foot, 3-inch Jordanian refugee fought fiercely to keep it.

To cries of "Get him!" "Get the gun!" some of those near Kennedy grappled with Sirhan. Karl Uecker, a hefty, 190-pound assistant maitre d', wrestled Sirhan to a table top and hit his gun hand against it.

Bill Barry, the senator's bodyguard who had been escorting Kennedy's wife, Ethel, fought through the crowd and twisted the revolver from Sirhan's hand.

Criminalist Wolfer testified about the gun two days later at a grand jury hearing.

His expert testimony was that a bullet removed from the area of Kennedy's sixth cervical vertebra and another taken from William Weisel's abdomen had been fired by the Iver-Johnson revolver.

Four of seven test bullets which Wolfer indicated were fired from Sirhan's gun and reclaimed were introduced as Exhibit 5B.

At Sirhan's trial—months later—Wolfer again said that Sirhan's gun had fired the Kennedy and Weisel evidence bullets. Three test bullets used for comparison were introduced as Exhibit 55.

The envelope holding the bullets was marked with the gun serial number—H18602. That's correct—H18602, not H53725, the number of Sirhan's gun. The wrong number was not discovered until nearly two years later.

Pasadena criminalist William W. Harper, a sometime critic of Wolfer's

work, noted it in November, 1970, while checking physical evidence in the case at the county clerk's office.

Over several months, Harper visited the office more than a dozen times to examine and photograph the evidence bullets. His photographs represent possibly the most serious current challenge to the "lone gunman" theory. But more about that later.

In an affidavit dated Dec. 28, 1970, Harper, now 72, concluded that two .22-caliber guns were involved in the Kennedy assassination.

He surmised further that the senator was killed by a shot fired from a position other than Sirhan's, and he considered it "extremely unlikely" that Sirhan even shot Kennedy.

Harper's conclusions, and attorney Barbara Warner Blehr's challenge to Wolfer's competence, filed with the City Civil Service Commission in May, 1971, prompted new inquiries by authorities in mid-1971.

Five months later, Busch declared in a press conference that Mrs. Blehr's charges were untrue and supported Wolfer. Next day, the LAPD did the same and Wolfer subsequently became head of the police crime lab.

Both the district attorney's office and a three-member board appointed by Police Chief Ed Davis said investigations of Harper's contentions showed the criminalist was wrong about a second gunman.

Harper had been mistaken, both insisted, in assuming that Kennedy was facing Sirhan when he was shot when, in fact, the senator was turned away, shaking hands and with his right side exposed to the gunman.

Both the DA and the LAPD explained the wrong serial number on Exhibit 55 as a "clerical error" made by Wolfer in confusing the number of a second .22 caliber revolver used for other tests.

Because Sirhan's gun had been introduced as evidence at the grand jury on June 7, 1968, authorities said, it was not available for muzzle-distance tests made by Wolfer on June 11.

Therefore, they said, Wolfer checked out another Iver-Johnson Cadet-Model .22 revolver—Number H18602—from the LAPD's Property Division on June 10, and used it next day to check the range at which Kennedy had been shot.

When he later made out Exhibit 55 for the trial, Wolfer wrote H18602 on the envelope containing three test bullets instead of the number of Sirhan's gun, officials said.

Neither the DA nor the LAPD ever said publicly exactly how Wolfer made the clerical error. Did he copy it from a report? Did someone give him a wrong number as he once indicated in a deposition? If so, who was it?

To authorities, such questions are academic. Their point is that Wolfer

compared the bullets in the case, testified as an expert about the results before a judge, prosecutors and defense attorneys and that his testimony stands, despite the error.

The doubters point out, however, that when Wolfer testified that the bullet from Kennedy's neck and Weisel's abdomen came from Sirhan's gun his opinion was based—as far as trial evidence is concerned—on test bullets bearing the serial number of another weapon (H18602), which the police routinely destroyed in 1969.

To skeptics the wrong number raises the possibility that proper bullet comparisons were never made. They suggest Sirhan's gun may have been so badly damaged in the gunman's capture it could not be used to test-fire bullets for comparison.

The Times obtained a Superior Court order last week to view physical evidence in the case, including Sirhan's revolver. The weapon (H53725) appeared from superficial examination to be operable.

Newsmen representing The Times also found a notation on Exhibit 5B which tends to support the official contention that a clerical error is responsible for the wrong serial number on three test bullets introduced as Exhibit 5B at Sirhan's trial.

The serial number on 5B introduced at the grand jury—four of seven test bullets Wolfer said were fired from Sirhan's revolver—was H53725, the serial number of Sirhan's gun.

### THE BULLETS

Sen. Kennedy died in Good Samaritan Hospital at 1:44 a.m. June 6, 1968. Within two hours, County Coroner Thomas T. Noguchi began an autopsy.

Noguchi found that a bullet had entered behind Kennedy's right ear and shattered in the brain. Two others struck in the right armpit. One exited the right chest. The other stopped at the base of the neck. A fourth bullet passed through the shoulder-pad area of the coat.

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It was the bullet taken from the area of the sixth cervical vertebra that Wolfer identified as coming from Sirhan's gun. It was designated Exhibit 47 at the trial.

Five others in the pantry besides Kennedy were shot. Bullets or fragments were recovered from them all. The bullet in the best condition was removed from William Weisel's abdomen.

At Sirhan's trial, Wolfer also identified the Weisel bullet, designated Exhibit 54, as having been fired from Sirhan's gun.

The LAPD expert said he based his conclusions about Exhibit 47 and 54 on examinations under a comparison microscope of individual identifying marks common to them and test bullets fired from Sirhan's gun.

Wolfer's testimony about the evidence bullets was not challenged then. Sirhan's attorneys stipulated that bullet fragments from Kennedy's brain had come from their client's gun.

It was not until Harper's affidavit on Dec. 28, 1970, that anyone questioned Wolfer's identification.

Harper, a consulting criminalist for 35 years, photographed the Kennedy and Weisel bullets with the assistance of an engineer for a company which developed the Hycon Balliscan Camera.

The camera produces photographs of the entire circumferences of bullets by rotating them in phases in front of a lens. The photos then can be placed side by side for comparison.

In his affidavit, Harper declared that his examination had failed to disclose any individual characteristics establishing that the Kennedy and Weisel bullets had been fired from the same gun.

Furthermore, the criminalist said, his study disclosed that the Kennedy bullet has a rifling angle about 23 min-

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### ***Critics' findings on bullets riddled with 'unknown factors,' DA says.***

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utes or 14% greater than the rifling angle of the Weisel bullet.

Bullets are marked when they are spun by spiral rifling grooves built into a gun's barrel to stabilize a missile in flight. Harper measured these marks.

He went on to conclude, "It is, therefore, my opinion that bullets 47 and 54 could not have been fired from the same gun."

The LAPD's Board of Inquiry appointed to investigate the challenge to Wolfer's competence reported in October, 1971, that—when analyzed—the importance of Harper's 23-minute difference is "questionable."

Pointing out that a circle is divided into 360 degrees and a degree is composed of 60 minutes, the board noted the difference reported by Harper amounts to about one-third of a degree.

"When the difficulty of exactly aligning the two bullets is realized, the minute difference of 23 minutes loses its importance," the board concluded.

"The impossibility of the bullets being fired from the same gun must be established by a more reliable method if Mr. Harper's theory is correct."

At that time, the district attorney's office seemed content with the position that Harper simply could not positively identify bullets through photographs, a job for a comparison microscope.

So much for Harper's startling affidavit. Right?

Wrong! In November, 1973, another criminalist arrived at the same conclusion: that the Kennedy and Weisel bullets were not fired from the same weapon.

Herbert Leon MacDonell, a private expert and director of the Laboratory of Forensic Science in Corning, N.Y., signed an affidavit based on his study of the Harper photographs of the evidence bullets.

Prefacing his conclusions on conditions that the photographs are free of optical distortion and represent what they purport to, MacDonell introduced to the controversy a new element: cannelures.

Cannelures are knurled rings running around a bullet's circumference. They are placed there in the manufacture.

MacDonell noted the Kennedy bullet has one cannelure while the Weisel bullet has two, yet shell casings in Sirhan's gun identified the ammunition as long-rifle, mini-mags made by Omark-C.C.I. of Lewiston, Ida.

MacDonell discovered the importance of that fact in October last year when Omark reported to him that it had never manufactured long-rifle mini-mag ammunition with less than two cannelures.

Also, MacDonell said he had found a difference in rifling angles of "nearly one-half of a degree" between the Kennedy and Weisel bullets and had failed to find matching individual characteristics on the two missiles.

"Overall sharpness of the Kennedy bullet suggests that it was fired from a barrel whose rifling was in far better condition than the one from which the Weisel bullet was fired," he said.

If the Kennedy bullet has a single cannelure then, how did it get that way? Was a cannelure left out in the manufacture? Was one of the two cannelures wiped out in the firing? MacDonell considers both possibilities unlikely.

In response to questions posed by The Times, the district attorney's office last week challenged the findings of both MacDonell and Harper.

Positive identification of bullets as coming from a particular weapon rests upon microscopic study of the evidence by an expert using a microscope, not photographs, the statement said.

Furthermore, the DA maintained, both rifling angles and cannelures are not "significant" in the positive identification of evidence bullets.

"Clearly, the allegations of MacDonell are riddled with unknown factors and potentially unwarranted assumptions," the statement went on. "Thus his allegations do not even constitute a genuine question.

"The mere fact that newspaper and magazine articles characterize his allegations as posing a question does not alter this reality . . .

"The district attorney does not believe that the Sirhan gun should be fired or the bullets microscopically reexamined because the claims or demands of Harper, (Lowell) Bradford (a third criminalist) and MacDonell are totally devoid of substance and evidentiary merit."

Questions about apparent anomalies in the bullet evidence were studied by a special committee of criminalists appointed by Dr. Robert J. Joling, president of the American Academy of Forensic Sciences.

That three-member group was to report possible recommendations this weekend in St. Louis at a meeting of the academy's executive committee.

### THE EYEWITNESSES

The experts are certain. Sen. Kennedy was shot from a distance of one to three inches behind the right ear and one to six inches beneath the right arm.

The greater numbers are the outside limits, according to LAPD's Wolfer and Coroner Noguchi. Actually, they estimated the muzzle distances were nearly contact.

Nearly contact. In a room crowded with 90 to 100 potential witnesses, about 30 of them in Kennedy's immediate vicinity. You might imagine those circumstances offer poor material for controversy.

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Actually, to those who question the official version, eyewitness accounts of the shooting are cited as persuasive evidence that the full story has never been told.

Some of those near Kennedy have said the muzzle of Sirhan's gun never came close enough to inflict nearly contact wounds.

If they are correct, then who fired the shots that struck Kennedy at point-blank range—as the autopsy shows? A second gunman?

Police Chief Ed Davis recently refused to answer questions about the case on grounds that it had been settled at Sirhan's trial and in subsequent legal actions, including an appeal.

In 1971, however, the LAPD's Board of Inquiry relied on the absence of eyewitnesses to maintain:

"It is unrealistic at this time to theorize that a second gun was fired during the assassination. Many people witnessed this crime, but not one of those persons observed a second gunman firing a weapon."

To the doubters, that police assurance settled nothing. They point to statements by witnesses Frank Burns Jr., Richard Lubic, Karl Uecker and others to make their point.

Burns, a Los Angeles attorney and a friend of the late senator, testified that he was standing off Kennedy's right shoulder in the pantry when he heard the "firecracker" sound of the first shot.

He said Kennedy was facing "almost due north" in the east-to-west pantry shaking hands with hotel employees in white jackets.

Burns told The Times he was facing in the same direction as Kennedy and looking at the senator when the first shot was fired. He stated unequivocally that Sirhan's gun never came within three inches of the senator's head.

Richard Lubic, now an independent television producer living in the Los Angeles area, recalled that Kennedy had stopped ahead of him to shake hands.

"I saw Sirhan just pop up like a jack-in-the-box and yell,

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*Sirhan ' . . . was stabbing at the senator and pulling the trigger.'*

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'Kennedy, you son of a bitch,' and start firing," Lubic told The Times.

"I dropped down, and the senator fell right next to me. I asked him if he was hurt. He said, 'How is Ethel?' and he asked me, 'Are you OK?'"

"I know the gun was no closer than four feet, maybe three. After the senator fell, I looked up and saw an Ace security guard with his gun drawn, not pointed at Sirhan but pointing downward."

Karl Uecker was the first to grapple with Sirhan.

The assistant maitre d' had been escorting Kennedy west to east in the pantry toward the Colonial Room when the senator stopped, turned to the north and shook hands near the end of a steam table.

"I felt something moving in between the steam table

hands near the end of a steam table.

"I felt something moving in between the steam table and my stomach," Uecker testified at Sirhan's trial. "Then, I heard a shot which was something like a firecracker, a second shot and then I turned my head back again and I lost the senator.

"I looked, I saw what happened and was right in front of the man who had a gun in his hand."

Uecker said he grabbed for Sirhan's gun hand, seized the gunman in a headlock and bent him over the steam table while trying to push the weapon away from Kennedy.

In an interview with the district attorney's office July 15, 1971, Uecker recalled that when the shooting started Kennedy was facing him and he had grasped the senator's right hand to lead him from the pantry.

"I was pretty nervous at the trial, but I recollect that I grabbed the gun after the second shot—grabbed the gun and I just pushed it over there and pushed the gun down," Uecker said.

He estimated that the first shot was fired at least a foot and a half from Kennedy and said it might have been two feet away.

After living 15 years in Los Angeles, Uecker returned to his native Germany and now lives in Dusseldorf. Reached there last week by The Times, he still said that Sirhan's gun was "1½ or two feet away" from Kennedy.

Boris Yaro, a photographer for The Times, said he was standing about three feet to the right of Kennedy. He estimated that at the closest point the muzzle of Sirhan's gun was "less than a foot."

Yaro recalls that Sirhan lunged at the senator.

"Boom! Boom! Boom! It was like he was stabbing at Kennedy each time he pulled the trigger," Yaro said. "He was stabbing at the senator and pulling the trigger.

"The senator was backing up. He cringed. He turned. He put his hands over his face. As he backed up, he twisted and he turned, both ways.

"Later on, when you'd hear people say, 'Well, the angle of the bullet was this.' Well, for crying out loud, if anybody had seen how the senator was backing up they'd understand how there could be a bullet in the right side or a bullet in the left side just because of the way in which he turned."

The district attorney's office insisted last week that both physical evidence and eyewitness accounts at Sirhan's trial showed that Sirhan was in a position to shoot Kennedy at "virtually point-blank range."

In fact, the statement said, close scrutiny of Uecker's testimony discloses "the only reasonable interpretation" is that Sirhan must have been virtually at point-blank range when he started firing.

The DA suggested eyewitness accounts do not coincide in every detail because:

Not all witnesses have the same vantage point; no witness is necessarily more or less reliable than another; not all witnesses who testified at trial were asked about muzzle distance; not all witnesses were in a position to observe each and every detail.

"It must be understood that the context in which the investigation and trial were conducted did not emphasize reconciling purported eyewitness accounts as to muzzle distance," the statement said.

"Rather, the forensic opinions of Noguchi and Wolfer were accepted as definitively establishing the conclusion that Sirhan shot Kennedy at point-blank range.

"Questions posed today regarding purported discrepancies between various eyewitnesses assume that those eyewitnesses selected for illustrating the discrepancy are accurate as to every detail, including muzzle distance."

## HOW MANY SHOTS?

Five plus four equals nine.

It is just such arithmetic that led critics to question the official version that Sirhan was the lone assassin of Sen. Kennedy.

Sirhan fired eight shots. How is it that bullets were recovered from five victims other than Kennedy and four bullets either wounded the senator or passed through his clothing? That's nine.

The problem was complicated by disclosure that there were three bullet holes in soundproofing ceiling panels hung in the pantry.

Nine plus three equals twelve.

Then, there was that Associated Press photograph taken June 5, 1968. It showed two policemen looking at what the caption said was a bullet found in a door frame at the scene.

Twelve plus one equals 13.

None of the equations or answers greater than eight is

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correct, according to authorities. What happened was that some bullets made more than one hole, they say.

The LAPD's criminalistics section offered its explanation in a "Trajectory Study," dated July 8, 1968, and later produced a schematic drawing supporting these conclusions:

Bullet No. 1—Entered Kennedy's head behind the right ear and was later recovered from his head.

Bullet No. 2—Passed through the right shoulder pad of RFK's coat, traveled upward and struck Paul Schrade in the forehead.

Bullet No. 3—Entered the senator's right rear shoulder about seven inches from the top of the shoulder and came to rest at the sixth cervical vertebra.

Bullet No. 4—Entered Kennedy's right rear back about one inch to the right of Bullet No. 3. Then, it traveled upward and forward, exited in the right front chest area, pierced a ceiling tile and was "lost somewhere in the ceiling innerspace."

Bullet No. 5—Struck Ira Goldstein in the left rear buttock.

Bullet No. 6—Passed through Goldstein's left pants leg, struck the cement floor and entered Irwin Stroll's leg.

Bullet No. 7—Struck William Weisel in the left abdomen.

Bullet No. 8—Struck the plaster ceiling, ricocheted and hit Elizabeth Evans in the forehead.

As for the AP picture, Wolfer once made a statement in a deposition that a door frame had been booked as evidence and examined but the hole in it was not made by a bullet.

Neither the pantry arithmetic nor Wolfer's explanation have satisfied skeptics, however. They will question how eight bullets could have made "all those holes."

William W. Harper was one of the first to formalize his doubts about the number of bullets fired and the paths they took.

The Pasadena criminalist propounded a theory in an affidavit, dated Dec. 28, 1970, that Kennedy had been fired upon from two positions.

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Firing Position A, he said, was located directly in front of the senator—to the east—with Sirhan face-to-face with Kennedy.

"This position is well established by more than a dozen eyewitnesses," Harper said.

Firing Position B, according to his affidavit, was in close proximity to Kennedy, immediately to the senator's right and rear.

Harper concluded that the nature of the three wounds suffered by Kennedy—right to left, back to front and upward—and a fourth shot through the right shoulder-pad area were fired virtually point-blank from Position B.

Since Sirhan could not have been at once in front of Kennedy and also to his right rear it is manifest that two guns were being fired in the pantry, Harper maintained.

If the "two-position" theory was right and Kennedy was face-to-face, Harper pointed out, something was wrong with the LAPD's account of Bullet No. 2—the Schrade-shoulder pad bullet.

Schrade was standing behind Kennedy in the pantry and could not have been struck in the forehead by a bullet.

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let traveling from back to front, in the opposite direction, he reasoned.

If then Schrade was not struck by the shoulder-pad bullet, but by another, Harper observed, at least nine shots were fired in the pantry, not eight—barring split bullets.

It followed that since Sirhan fired only eight shots, there must have been another gun.

Both the district attorney's office and the LAPD said in their 1971 investigation that Harper was in error because his theory was based on a false premise.

They quoted eyewitness testimony that when Sirhan started firing rapidly from the east of Kennedy the senator was not face-to-face with him.

Rather, they said, Kennedy had turned 90 degrees away from Sirhan and was shaking hands with hotel employees on the north side of the pantry. Therefore, they said, Sirhan was in a position to inflict the back-to-front wounds suffered by the senator.

Naguchi told The Times recently he thought Kennedy's wounds were consistent with the position in which the senator and Sirhan were placed by authorities, provided the muzzle distance was point-blank.

Critics disagree. They contend Kennedy's wounds could not have been inflicted from Sirhan's position or that a bullet could have passed through the shoulder-pad area and hit Schrade.

Schrade himself says he does not understand how he could have been shot in the way authorities said.

Responding to questions last week, the district attorney's office supported the LAPD's version of the path of the shoulder pad or Schrade bullet.

The DA also said prosecutors had relied upon a summary of the bullet paths and a later schematic in prosecuting Sirhan.

"It must be remembered that there never was any indication of any other person firing in the pantry," the statement said.

The left sleeve of Kennedy's coat is missing, and skeptics question that, too. They ask how many bullet holes might be in the sleeve if it were found.

When Wolfer was asked that question once in a deposition, he reasoned that there would be no holes in the sleeve because the bullets would have had to go somewhere in the pantry and none was found.

## THE GUARD

Question: You drew your revolver?

Answer: After I get (sic) up off the floor.

Question: Did you fire a shot?

Answer: No.

Thane Eugene Cesar, now 33, gave those answers to the district attorney's office July 14, 1971, in an interview about the Kennedy assassination.

Cesar was a moonlighting guard for Ace Guard Service in Sepulveda the night Kennedy was shot. He had escorted the senator into the Ambassador pantry.

When Kennedy stopped to shake hands near the first steam table, Cesar said he was "maybe two or three feet, maybe a little farther" away, to the senator's right rear.

"I seen the flash," he said. "I didn't see the actual gun. I just seen a red flash. And at the time, in my mind, I feel I seen an arm sticking out between the cameramen . . ."

When the shots were fired, Cesar said, he ducked and was knocked to the floor.

"And when I finally got up to my feet, I pulled my gun and I seen whoever done the shooting. There were a lot of guys on him, had him subdued.

"I put my gun back and went through the swinging doors to get help from some of the guys working there with me. About three of us came back in."

Because of his position in relation to Kennedy, the 5-foot, 11½-inch, 210-pound Cesar was named as a "suspect" in a lawsuit filed on Sirhan's behalf with the Califor-

### *Witness 'not 100% sure' he saw a security guard pull and fire gun.*

nia Supreme Court last Jan. 10 by Beverly Hills attorney Godfrey Isaac.

Isaac's action for a writ of habeas corpus and writ of error coram vobis was rejected without comment by the court last Feb. 13.

The suit charged that authorities had "systematically and deliberately ignored" Cesar as a suspect. It said:

"For reasons known only to the Police Department, Cesar's gun was never examined to determine if it had been fired, nor did the prosecution call Cesar to testify before the grand jury or at the time of trial of Sirhan Bishara Sirhan.

"Furthermore, Cesar had owned a nine-shot .22-caliber Cadet revolver, serial number Y13332, which he sold on

1968 to Jim Yoder in Arkansas."

Sept. 6, 1968, to himself. Cesar told the district attorney's office in 1971 that on the night of the assassination he was armed with a .38-caliber revolver. The LAPD has agreed that was so, but, so far as is known, police never have said publicly how that was determined.

Cesar said at one time he owned an H&R nine-shot, .22-caliber revolver with a two-inch barrel, but that he had sold it to Jim Yoder of Blue Mountain, Ark., sometime in February, 1968, he thought.

Q. Did you own that .22 on the night of the Kennedy assassination?

A. No.

Q. And the only gun you were carrying on you that night was a .38-revolver that you carried on your possession on moonlight jobs.

A. Yes.

When The Times tried to contact Yoder by telephone in Arkansas, his wife said the retired Lockheed employe had suffered a second stroke and said: "Besides, he has been pestered enough about that gun."

"What else could he tell you anyway? I even took the receipt down myself to make photostats of it and sent it out to the police in Los Angeles and that fellow Charach," she said.

"The receipt speaks for itself. It has the date and everything right on it."

The date on the receipt received by Charach, producer of the documentary "The Second Gun," was Sept. 6, 1968, the same as used by Isaac in the Sirhan suit.

The district attorney's position expressed last week was that regardless of the date Cesar sold his .22 revolver it does not detract from the conclusion that Sirhan was the lone gunman.

"Mere failure to recollect by Cesar on this point does not translate into a conclusion that he killed Kennedy and deliberately lied about the caliber of the gun he had in the pantry . . ." the DA's statement said.

After the assassination, Donald Schulman said he had seen a security guard pull a gun and fire in the pantry.

But, when questioned by the district attorney's office on July 23, 1971, Schulman, a former film runner for KNXT, said he was "not 100% sure" he saw a guard shooting a gun that night.

Cesar has not been available to The Times for comment. Attorney Garland J. Weber, who once represented Cesar, said his former client had recently moved. He promised to pass a message to Cesar.

On one occasion, however, Cesar defended himself against allegations that he was a right-wing radical who hated the Kennedys.

Cesar told the district attorney's office in 1971 that he had voted for George C. Wallace, didn't "have a lot of love for blacks," and would have handled the Watts riot "a little different."



## OPEN KENNEDY CASE INCREASING

But, he said, he was a registered Democrat and did not think of himself as a right-wing radical.

"As a man," Cesar said, "I thought he (Kennedy) was all right. As to politics, I didn't particularly like him. I would have told him to his face."

Cesar was asked whether he would be willing to take a polygraph test. He agreed to the DA's proposal, but one was never given.

### IS THERE A SOLUTION?

Seven years after the assassination, the questions and the demands for answers persist. Can the questions ever be conclusively answered? Will someone in official capacity take steps to erase the doubts?

The pressure on authorities to deal with the dilemma began slowly mounting last December when Lowenstein held a press conference here.

Essentially, Lowenstein posed the same questions that Charach has been tenaciously nursing for five years. But

one powerful added ingredient at the press conference was the release of a statement by four of the five persons who were wounded in the pantry that night when the senator was shot.

Paul Schrade, Ira Goldstein, William Weisel and Irwin Stroll made this joint statement:

"Four of us who were wounded in the assassination of Robert Kennedy have become convinced of the need for a new investigation of this case. Until now, we have strongly resisted all efforts to question the obvious and official version that Kennedy's death and our being wounded involved only one gunman."

The four shooting victims said Lowenstein had raised serious questions "about the substantial discrepancies and gaps in evidence which have created grave doubts in our minds about the official version."

Lowenstein has escalated the pressures by supplementing his public statement with extensive private lobbying in both Washington and Sacramento.

"My intent all along was to get the authorities to reopen the case, and I still fervently feel that the best route would be for the district attorney's office to take steps that would bring about an official reexamination," Lowenstein said.

"But if the DA continues to refuse to take a completely new look at this thing, we have some alternatives, and one of them would be to have the whole matter taken before a legislative hearing."

One possible forum, according to Lowenstein, would be congressional hearings he feels will result from the resolution introduced Feb. 18 by Rep. Gonzalez.

"The resolution has 39 cosponsors, and I think that hearings will be held sometime in the fall," Lowenstein said. "But maybe if the authorities in L.A. do what they should, there won't be the need for Congress to go into it."

Lowenstein's lobbying efforts have also had their impact in Sacramento where Alan Sieroty, chairman of the Assembly Criminal Justice Committee, is giving the Robert Kennedy assassination considerable thought.

"There are several of us in the Assembly taking a hard look at the Bob Kennedy assassination investigation," Sieroty told *The Times*.

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"I've talked to some of the people who were involved in that sad night and I'll be discussing the situation with the district attorney's office to get their views on how some of these questions might be cleared up."

At this time there are no definite plans for legislative hearings, but Lowenstein says:

"This issue just isn't going to go away and I'm confident that it will be taken up in Congress or the state Legislature if the Los Angeles authorities do not reopen the case."

Acting Dist. Atty. John Howard, who was one of the three prosecutors in the Sirhan trial, said his office would oppose any move to make the Sirhan case the subject of legislative hearings.

But Howard did not close the door to pursuing some other avenue that would lead to a resolution of the matter. In a formal policy statement prepared for The Times, he said:

"It always has been the position of the district attorney that if the Sirhan case is to be reviewed it should be done in a court of law.

"We would oppose putting the matter before a legislative body, but we are discussing the feasibility of seeking a judicial forum, where the rules of evidence would strictly apply and where sworn testimony could be taken on the integrity of the exhibits."

Howard is aware that Busch, shortly before his death, had decided to take some steps on his own initiative to put the matter back before a court.

"What we are discussing now are the mechanics of just how to accomplish that, should we decide to make that move," Howard said.

Howard also is aware that the decision may not be his since he is simply acting district attorney and may be replaced within a matter of weeks.

That factor has injected a new aspect of uncertainty because the selection of Busch's successor will undoubtedly have a bearing on future policy where the Sirhan case is concerned.

Virtually everyone involved in the controversy agrees that the most substantial question centers on the Sirhan gun and the bullets. When and if the case is reopened, the refiring of the gun will have top priority.

Why have authorities resisted refiring the weapon? Why not just do it and put an end to all the speculation about the bullet evidence?

The attitude of the district attorney's office and the Police Department and the courts to date is summed up by this statement from acting Dist. Atty. Howard:

"... If you take a step like refiring the gun, you would have to have some doubt that Sirhan is guilty. It has been our feeling that the evidence is so overwhelming that there is no doubt."

The resistance to refiring the weapon is based, at least in part, on the concern that the District Attorney's office has about the "integrity" of the ballistics exhibits.

When the district attorney's staff conducted its 1971 investigation, refiring of the Sirhan pistol was considered.

Dep. Dist. Atty. Dinko Bozanich, who now handles inquiries on the Sirhan case, said that thoughts about firing the gun were "set aside when it was discovered that serious questions surrounded the handling of the Sirhan trial exhibits by the clerk's office."

This position was bolstered by the following finding by the 1971 Los Angeles County Grand Jury:

"Because the exhibits under the custody of the county clerk's officer were handled, examined and photographed by unauthorized persons, and mishandled by county clerk's personnel, there exists a reservation on the part of the grand jury relating to the present integrity of the ballistic exhibits . . ."

Critics of the investigation claim that this is a false issue used by the district attorney's office to divert attention from key questions.

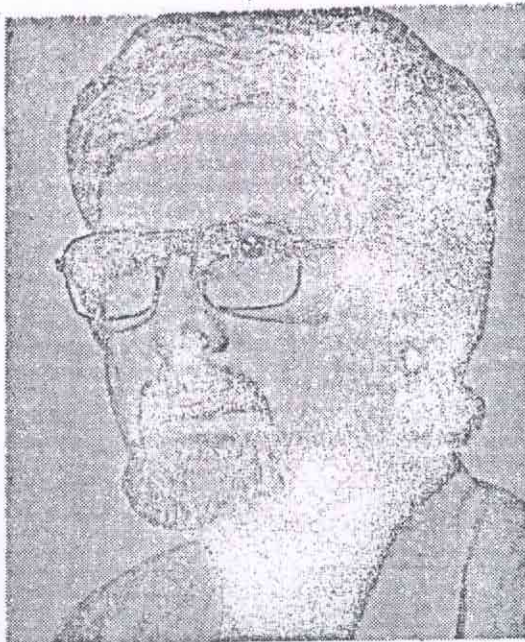
There was no evidence developed during the 1971 grand jury investigation that any tampering with exhibits actually occurred, but investigators remain gravely concerned about it.

"What if someone put a pencil in the barrel of the gun, just for instance?" Howard asks. "That could affect the result of the bullet comparisons."

Howard also worries that the bullets may have "deteriorated" in the seven years interim since the assassination, because of handling and air-oxidation.

But Lowell Bradford, retired director of the Santa Clara County Laboratory of Criminalistics, does not think deterioration is a factor.

He has viewed the Balliscan photos of the bullets taken by Harper five years ago and the coroner's office in conjunction with Supervisor Baxter Ward's hearing on the Sirhan case last year.



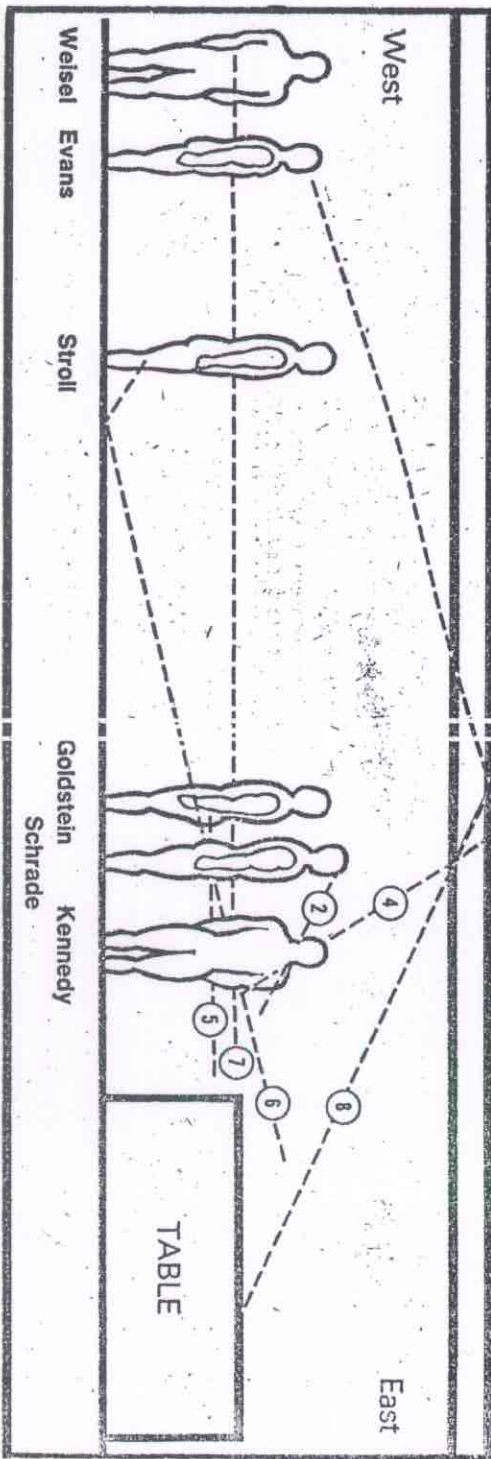
**GUNSHOT VICTIM**—Paul Schrader, one of several persons hurt in attack on Sen. Robert F. Kennedy, discusses evidence from assassination.

Times photo

Bradford described the bullets as having "beautiful identification marks with no apparent change" between the time the photos were taken in 1970 and 1974.

And so the debate goes on. It seems certain that it will not be stilled until the gun is refired and perhaps not even then.

The critics say the refiring will reveal the truth, but Howard isn't so sure, as is obvious from his comment, "God help us if all the bullet comparisons are inconclusive after refiring the gun. Then someone will probably come up with a third gun theory."



**WHERE BULLETS WENT**—Drawing shows trajectories of six of eight bullets fired by Sirhan Sirhan from near the steam table. Omitted from drawing, bullets #1 and #3 (as numbered by LAPD criminalistics section) lodged in Sen. Robert Kennedy's body.

## Why Not Refire Gun?

Why not refire Sirhan Sirhan's gun to end the speculation about whether the bullet that killed Robert Kennedy came from that weapon?

To many, that seems a simple solution. But the District Attorney's office maintains it really isn't that simple and that it might not provide a solution.

"Besides, if you take a step like refiring the gun, you would have some doubt that Sirhan is guilty. It has been our feeling that the evidence is so overwhelming that there is no doubt," said acting Dist. Atty. John Howard.

Howard concedes that respected criminalists have raised some speculation that the bullet which lodged in Kennedy's neck could not have been fired by the same gun that sent a bullet into the stomach of William Weisel during the shooting spree in the Ambassador Hotel pantry.

"However, their findings are based on photographs and the only accepted method of bullet identification is under a comparison microscope," Howard said. "Their findings are questionable in value and obviously inadmissible in court."

Another major factor in the district attorney's resistance to refiring the weapon is the concern over the integrity of the exhibits. Howard cites the findings of a 1971 Los Angeles County Grand Jury to support this concern:

"Because the exhibits under the custody of the county clerk's office were handled, examined and photographed by unauthorized persons, and mishandled by county clerk's personnel, there exists a reservation on the part of the grand jury relating to the present integrity of the ballistic exhibits . . ."

The district attorney's office stops short of saying that there was any tampering with the bullets or gun, but investigators have grave concern about the possibility it did occur.

In addition to this concern, Howard cites the possibility that over a period of seven years there could be some deterioration of the bullets.

"Twenty-two caliber bullets are always tough anyway and through the handling and air oxidation, identifying characteristics might be altered," Howard said. "So, the bottom line is that refiring the weapon might raise more questions than it answers."

But Howard insists he is keeping an open mind on the matter and says that his staff is discussing the possibility of "getting this thing into some judicial forum where a court might order refiring of the gun."