Flaws in RFK-Sirhan Case Cry for Fresh Look

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By Allard K. Lowenstein

Almost nobody has noticed, but the ficial theory of the assassination of en. Robert F. Kennedy has fallen part.

These are the most troublesome roblems raised by the evidence now vailable:

1. The autopsy establishes that ennedy was shot three times at int-blank range. The bullets enter- l back to front. The fatal bullet ntered Kennedy's head behind his ght ear from a distance of 1 to 1½ nches.

These facts are not in dispute, yet credible witness places the gun of rhan Sirhan — the man convicted Kennedy's killer — in a position to ave fired these bullets. The consen- us of eyewitness testimony places rhan's gun 2 to 3 feet in front of nnedy. Pete Hamill (the writer), rank Burns (a Los Angeles attor- y) and others who saw the shooting close range are unequivocal on is point: That Sirhan's gun was ver close to the place from which ne bullets were fired that inflicted ne wounds described in the autopsy. Karl Uecker and Richard Lubic re two of the people closest to the tual shooting. (Uecker was assist- nt maitre d' at the hotel where the noting occurred; Lubic is an inde- pendent television producer.) This is what they saw:

UECKER: *"There was a distance of at least 1½ feet between the muzzle of Sirhan's gun and Kennedy's head. . . There is no way the shots described in the autopsy could have come from Sirhan's gun."*

LUBIC: *"The muzzle of Sirhan's gun was 2 to 3 feet away from Kennedy's head. It is nonsense to say that he fired bullets into Kennedy from a distance of 1 to 2 inches, since his gun was never anywhere that near to Kennedy."*

These witnesses told these facts to the authorities at the time of the original investigation into the assassination.

2. Leading ballistics experts have examined the relatively undamaged bullets (or technically proficient photographs of these bullets) that were removed from Kennedy's neck and William Weisel's stomach. These experts report that it is very unlikely that these two bullets could have been fired from the same gun. William Harper, a leading California criminalist whose findings raised the first serious questions about the ballistics evidence in the case, concluded:

". . . Two guns were being fired concurrently in the kitchen pantry of the Ambassador Hotel at the time of the shooting. . . It is extremely unlikely that any of the bullets fired by the Sirhan gun ever struck the body of Kennedy."

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A panel of experts analyzed the ballistic evidence at the convention of the American Academy of Forensic Sciences in Chicago in February. The experts agreed that this evidence required a reopening of the investigation, and that reliable scientific measures could be taken that would help clear up at least some of the confusion.

One member of the panel, Prof. Herbert MacDonell, a world-renowned authority in forensic pathology, stated flatly, "The bullet removed from Kennedy's neck could not have come from Sirhan Sirhan's revolver."

MacDonell based this conclusion on a study of the cannelures on the bullets recovered from Kennedy's neck and Weisel's stomach. "Cannelures" are concentric rings formed in a bullet's surface and running around its circumference. MacDonell reports that the Kennedy bullet, a .22-caliber long-rifle minimag, has one cannelure, while the Weisel bullet has two. The eight empty cartridge cases taken from Sirhan's Iver-Johnson revolver were made by the Cascade Manufacturing Co. of Lewiston, Idaho, which has informed MacDonell that it has never manufactured any .22-caliber long-rifle bullets with one cannelure.

3. Bullets from a gun test fired by the Los Angeles Police Department criminalist, DeWayne Wolfer, were entered into evidence at Sirhan's trial as Exhibit 55. Wolfer testified that these bullets matched the bullet that was recovered from Kennedy's neck, and that therefore the bullets that hit Kennedy could only have been fired by the gun he had test fired. The serial number of that gun, inscribed in Wolfer's handwriting on Exhibit 55, is H18602. The serial number of Sirhan's gun is H53725.

Wolfer says this discrepancy is the result of a "clerical error." Requests to test fire (or refire) H18602 brought the information that that gun had been destroyed by the LAPD. Requests to test fire (or refire) H53725 have been refused.

Thus, at this time, it is impossible to discover whether Sirhan's gun, H53725, has ever been test fired. But the sworn testimony of Wolfer is that the bullets that killed Kennedy were fired by a different gun, H18602, and no other gun in the world.

4. Sirhan's gun could and did fire eight bullets. One bullet was recovered from each of the five bystanders who were shot in the pantry. Two bullets were recovered from Kenne one, shattered, from his head fatal bullet), and the other, discu above, from his neck. Thus, sev the eight bullets that Sirhan c have fired have been recovered eighth bullet is officially describe "lost in the ceiling interspace."

Another bullet exited Kenn chest, and still another pa through the right shoulder pad o jacket. The LAPD removed t panels from the sound-pane below the ceiling and booked the evidence because they contained let holes.

The official explanations of eight bullets caused all this dan are varied and confusing. Bu matter how many theories ar vanced, one fact is inescapabl only eight bullets were fired, one let had to enter one of the cei panels, bounce off the floor ab exit through another ceiling pa and end finally in one of the byst ers.

The official position is that the let removed from the head of a stander, Mrs. Elizabeth Evans, this. Mrs. Evans had lost her s and was stooped over to retriev when she was hit in the forehead b bullet from the ceiling that t progressed into her scalp. This bu weighed 39 grains when fired. Thi one grains were removed from M

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Evans' head, and an additional fragment is still in her scalp.

It should be added that at the time of the assassination at least one more bullet was reliably reported to have been found in the pantry. An AP wirephoto taken on June 5, 1968, shows two policemen examining what the AP caption describes as a "Bullet Found Near Kennedy Shooting Scene." It is located in a door frame that was booked into evidence by the authorities. The LAPD and the office of the district attorney now say this report was inaccurate.

5. The local authorities have tried to reinforce their version of events by continually repeating two statements they know are false:

A. "No one saw any other weapon," as Joseph Busch, now the Los Angeles district attorney, has put it to *Stern* magazine and others. In fact, Busch knows there was at least one other gun in the pantry, that it was drawn, and that it was located in the area from which the bullets that hit Kennedy were fired.

Richard Lubic is among those who saw that gun: ". . . I saw a man in a guard's uniform standing a couple of feet to my left behind Kennedy. He had a gun in his hand and was pointing it downward."

The man that Lubic saw "in a guard's uniform" was a part-time security guard who had been hired by the Ace Guard Service of Van Nuys, Calif. The guard has subsequently acknowledged that he was standing just behind Kennedy, that he was carrying a gun, and that he drew it "to protect Kennedy." He denies having fired this gun.

B. Busch has repeated on national TV and elsewhere the odd statement that every witness saw Sirhan kill Kennedy — a statement that should be compared with the testimony of eyewitnesses summarized in item 1 above.

Perhaps even more revealing than these general misstatements about the eyewitness testimony is Busch's reply when asked to name one such eyewitness. "Karl Uecker," he said on NBC's *Tomorrow* show. He told *Stern* magazine, "We have a witness who saw that Sirhan's weapon was right at Kennedy's head. . . Karl Uecker. He's our man."

I have included an excerpt from Uecker's statement with the general summary of eyewitness testimony. But in view of Busch's description of Uecker as "our man," it may be useful to quote Uecker's statement in full:

> *"I have told the police and testified during the trial that there was a distance of at least 1½ feet between the muzzle of Sirhan's gun and Kennedy's head. The revolver was directly in front of my nose. After Sirhan's second shot, I pushed his hand that held the revolver down, and pushed him onto the steam table. There is no way that the shots described in the autopsy could have come from Sirhan's gun. When I told this to the authorities, they told me that I was wrong. But I repeat now what I told them then: Sirhan never got close enough for a point-blank shot, never."*

It is worth noting that Uecker has raised still another problem. At least four bullets hit Kennedy or his clothing. If Sirhan was "pushed onto the steam table" after firing two shots, it is difficult to see how he could have fired four shots that hit Kennedy. The six other bullets Sirhan fired would have had to hit other targets, since he could hardly have shot Kennedy from behind at point-blank range while he was struggling on the steam table.

II

If the Los Angeles authorities want their theory to regain any credibility with people who know the facts, they will have to deal with this eyewitness and ballistics evidence, which to date they have ignored, concealed or distorted. They seem to believe that repeating misstatements will make them come true, or that awkward questions can be made to go away by impugning the questioners.

Like many others, I tried for a long time afterward to avoid anything connected with the assassination of Kennedy. The loss was too staggering, and it was hard enough to move ahead without making matters even more difficult by picking at a scar too close to the heart. Furthermore, the facts seemed obvious, and in the context of those times there seemed no reason to question the obvious.

During my term in Congress, I continued to refuse to listen to questions about any of the assassinations. I believe we all are indebted to those people who researched these questions and kept them alive during that long period before revelations about other matters finally made some of us realize how closed-minded we had been about the assassinations.

Even when I finally began to look into the evidence, I found myself hoping that the local authorities would provide satisfactory explanations for the troublesome problems that arose.

And I was reluctant to get into a public discussion that I knew would cause more pain for the Kennedy family, which, God knows, had suffered enough.

For these reasons, I met privately with the authorities over the course of a year before I was willing to accept the fact that such private efforts were futile.

It was at that point that I joined with Paul Schrade to raise questions publicly. Schrade, a United Auto Workers official who was working in the Kennedy campaign, almost lost his life during the shooting in the hotel pantry. He is a man of rare quality and spirit. We believed that the force of our questions would arouse enough public concern to encourage official cooperation in a quest for adequate answers.

It is now apparent, however, that no matter how grave the questions, and no matter who asks them, the officials most directly concerned are determined to stonewall as long as they can. Their misstatements grow more strident, and they are dug in to resist any effort to explore the problems posed by the evidence. They will continue to say that the case is closed because Sirhan was convicted and there is no "new" evidence, as if old evidence becomes irrelevant if one simply suppresses or ignores it until it has aged.

Of course, stonewalling involves the risk that failure compounds one's difficulties. But, by definition, stonewalling does not fail if it succeeds — that is, if aggressively trumpeted falsehoods dissuade further investigation, the falsehoods go generally undetected and no one realizes there has been any stonewalling. So the present policy of the Los Angeles authorities is a gamble, but it is a gamble at reasonable odds. For there will be no outcry for a new investigation if people do not know the facts that warrant an outcry — and they cannot know these facts if there isn't adequate media coverage. If there is no public outcry, few people in positions of influence will risk their reputations to press for reopening the case. (My wife says I am now in transit from "former congressman" to "current kook").

Which takes us full circle: How can we get a fresh, independent investigation if the facts that demand such an investigation are stonewalled into nonexistence?

The reason most frequently given for the absence of coverage is a variation on the official excuse for inaction: facts about this case, however significant, are not "new." Sometimes this seems to mean that if a newsboy's insomniac grandmother once heard something on a late-night talk show in Dubûque, the rest of the public can't find out about it unless they happen to know her.

But even this reasoning cannot explain why developments that merit front-page treatment in Europe go virtually unreported in the United States. Few Americans have heard, for example, about the conclusions of the panel of ballistics experts cited above, or know about the plea of four of the bystanders who were shot, or have seen the statements of the witnesses closest to the scene of the murder.

Recently, several *Stern* magazine reporters conducted an extended investigation. Their findings were detailed in a cover story entitled, "The Real Murderer (of Robert Kennedy) Is Still Free." Those findings were not reported in the United States.

Given these experiences, it's hard to think of anything that will get much media attention, short of someone confessing on the Capitol steps. And meanwhile, the American public has no way to discover that a crime that changed the course of our history is unsolved, with all the potentially enormous significance that fact may hold for the future of the nation.

If the stonewalling succeeds, we will be compounding the tragedy of Robert Kennedy's murder. For what commands the reopening of this case is not curiosity, nor devotion to abstract concepts of justice, nor sentimentalism about Kennedy. What commands the reopening of this case is the grisly question of whether disasters may loom ahead that could be averted if we found out more about disasters already past.

III

Since the weight of the evidence now available conflicts so sharply with the official version of what happened, a number of widely accepted scientific tests have been proposed to help resolve these conflicts. These include the following:

1. Test fire the Sirhan gun (HS3725), and convene an independent panel of ballistics experts to compare the test-fired bullets with the bullets recovered from Kennedy's neck and Weisel's stomach.

2. Administer Neutron Activation Analyses to the seven recovered bullets to help determine if they were all fired from the same gun.

3. Submit the three ceiling panels that have bullet holes to expert examination to determine if the bullet holes are entry or exit holes.

4. Produce the shoulder pad of Kennedy's jacket to determine if the bullet that went through it entered from the front or from behind.

5. Submit the door frame described in the June 5, 1968, AP wirephoto to expert examination to determine if the hole in it was in fact caused by a bullet; and produce the policemen in that wirephoto to explain why they said they were pointing to a bullet, if in fact they were not.

I have been assured by ballistics authorities that the inquiries described above should provide valuable and possibly definitive information if the items to be studied have not been tampered with.

The local authorities refuse to take these steps on the grounds that Sirhan's trial resolved these issues. But that trial, as they well know, did not deal with these issues at all, since Sirhan's attorneys asserted that he alone had killed Kennedy and based his defense solely on Sirhan's mental state. Grant Cooper, Sirhan's chief counsel in the trial, has said he would have conducted a very different defense had he known then what he knows now. Sirhan himself wants a new trial.

But the basic problem is not a narrow legal one. Sirhan was not an innocent bystander improperly imprisoned. He was shooting when Kennedy was killed, and five persons were struck by bullets he fired. Four of these persons, who have special reason to hold no brief for Sirhan, have expressed dissatisfaction with the present state of the case and have asked that it be reopened.

If the problem were simply an individual's innocence or guilt, the judicial process would be the logical and proper way to resolve it. But Sirhan could be found innocent in a trial, and we would still not know who was responsible for the assassination of Kennedy. Or he could be found guilty, and we would not know if he had acted alone.

An independent investigation committed to seeking out all the facts, wherever they may lead, is clearly the best way to proceed at this point. Rep. Henry Gonzalez of Texas has introduced a resolution calling for the creation of a select congressional committee to reopen the investigation into the assassinations of President Kennedy, Sen. Kennedy and Dr. Martin Luther King Jr., as well as of the attempted assassination of Gov. George Wallace. It seems to me that this resolution deserves support.

The first steps for a fresh investigation of the assassination of Sen. Kennedy have been outlined above. They are uncomplicated and require very little effort.

These steps might obviate the need for further investigation, or they might show beyond a reasonable doubt that the official theory is defective; one would think the authorities would be as eager as anyone else to find out which. The fact that they are not cannot be allowed to close the matter.

That, if nothing else, the American people should have learned from the events of the last two years.