

(DRAFT)

(Preliminary Summary)

May 29, 1986

RFK Assassination Disclosure and Standards - LAPD Materials

On the basis of even a partial review of the edited Los Angeles Police summary report on the assassination of Senator Kennedy, certain basic facts are evident about the redaction practices employed:

-Much of the information released is new and some is of value in connection with the case. In major respects, however, the information withholding practices used in the report [REDACTED] fall far short of adequate disclosure and outside the standards traditionally used in similar cases, such as the Warren Commission on the JFK assassination or the House Select Committee on Assassinations on the JFK and Martin Luther King assassinations. This is apparent from even a cursory review of comparable materials released in this case and in others.

-Present withholding policies also fall short of the identification of witnesses provided by Robert Houghton, former chief of detectives of the LAPD, in his 1970 book on the case, Special Unit Senator. Houghton's greater appreciation of the national importance of the case and of the requirements of effective disclosure is illustrated by the fact that many of the names provided by him in 1970 (e.g. Sandra Serrano, Jeanne Herrick, John Antoine Khoury) are still being deleted by the Los Angeles Police and City Attorney's office in 1986.

-Present withholding standards reverse prior policies of the LAPD and District Attorney's offices themselves. Material on over 150 witnesses was entered into the record of Sirhan's trial, including many persons (e.g. Bert Altfillisch, Peggy Osterkamp, John Fahey) whose names are excised in the recent LAPD release. Not only were the witnesses identified, but far more detailed substantive information concerning the relevant facts was likewise put on record. No known negative repercussions attended the release in 1969 of material still being excised in releases in 1986. Eighteen years after the shooting, the LAPD is also anachronistically withholding, on false grounds of privacy, the names of prosecution witnesses (e.g. Alvin Clark, Everett Buckner, Vincent DiPierro) who testified on the record at Sirhan's trial, or at the Grand Jury two days after the assassination.

-Information released by the Federal Bureau of Investigation on this case pursuant to Freedom of Information Act requests is more forthcoming with respect to individual witnesses (e.g. Tom Rathke, Kathy Fulmer, Henry Carreon), and, in most cases, other facts as well. In one section of the LAPD report (pp. 852-1226), the names of less than 30% of 1500 significant witnesses interviewed are given; this compares with FBI identification of roughly 90% of their key interview subjects.

-While some of the names excised in the LAPD material can be deduced because they are already on record, in most cases this is impossible. Even when feasible, such identification is often difficult or time-consuming. Witness identities are essential to the

evaluation of the case, however, particularly because direct witness statements often add to or contradict the officially reported accounts. In most instances of excision, moreover, it is evident even from available information that the facts provided are not of a sensitive or confidential nature. (e.g. Routine deletions encountered include such persons as former Sirhan high school teachers, persons who heard information on radio broadcasts and reported it to the police, people who engaged in target practice on a pistol range on the same day as Sirhan.)

-Only two explanatory notations ("privacy" and "governmental privilege") are cited next to specific deletions, which range in length from a single word to several consecutive pages. A more detailed breakdown of categories could easily be done, and would aid both in understanding the contents of the report and in evaluating the legitimacy of specific excisions.

-In many cases, evaluating the legitimacy of a specific information excision is difficult or impossible, given an absence of the full information. As suggested above, however, most redactions of witness names are unconvincing on their face. While some "governmental privilege" redactions may be justified, internal evidence suggests that far more are made than are necessary for ongoing law enforcement purposes.

-In the explanatory letter from the Los Angeles City Attorney's office which accompanies the report no attention is given to the issue of whether "governmental privilege" for these documents has been waived in whole or in part, due to past selective access given to private parties. This issue was raised several times before

the Police Commission but deferred for future consideration.

-In some instances, contradictory practices of excision are applied to the same information when it appears in different sections of the report. For example, a name may be deleted in one section (e.g. Ted Charach, Harold Weisberg) and left in elsewhere.

-The City Attorney's office letter accompanying the documents states that a "tremendous burden" would be entailed in looking "beyond the four corners of the Kennedy Report to determine if a fact included in the report had already been publicly released." (pp. 3-4) Even assuming that the LAPD has no knowledge of controversies or literature concerning the assassination of Senator Kennedy, or of the witnesses and exhibits at Sirhan's trial, some material is deleted (e.g. Serrano network television interview the night of the shooting) which even on its face was public at the time. More importantly, in comparison with the task of redaction, identifying the basic information about the case in the public domain is a very minor task. There is no evidence in the recently released documents of familiarity even with the three major published books about the assassination. Indexes are available for all of these, and one of them, Special Unit Senator, was authored by the LAPD chief of detectives who managed the investigation.

-The indexes contained within the report were withheld in their entirety on the grounds that making them available, even in part, would pose an undue administrative burden. Such indexes are of great importance in using lengthy documents of this kind; the rationale for their total withholding is unpersuasive.

-No evidence exists of meaningful practical consultation

with outside scholars, archivists, or subject-matter authorities in the redaction process. Although enlistment of outside help was promised in Police Commission public sessions, policy deliberation and practical work were apparently limited entirely to police and City Attorney office staff. Some experts and interested citizens testified before the Police Commission or sent recommendations directed to specific points. None of these persons were consulted on practical redaction matters and most of the relevant recommendations were ignored.

-The withholding practices in the summary report seem in important respects to reflect a premise that observations or judgments adopted by the police are ipso facto correct, and therefore beyond any need of independent verification. In fact, many important errors of official findings and practice in this case are already well-documented. More importantly, however, the guiding principle of accountability in such matters is the reverse of that premise: that disclosure requires not merely the form but the reality of independent oversight and knowledge.

The assassination of Senator Kennedy is the most important crime which ever occurred in the State of California. Fundamental controversies have long surrounded the case, and 18 years after the event over 90% of the relevant police files remain withheld. The application of the redaction standards described above to the 50,000 pages of primary police documents would gravely compromise the value of public disclosure and strikingly depart from the relevant

precedents and policies in comparable cases. The standards require evaluation, and scholars and relevant experts should be involved, as promised, in the planning, administration and review of disclosure work.