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## REQUEST TO LOS ANGELES COUNTY

### GRAND JURY

#### I. Request

The undersigned individuals and organizations hereby request that the Los Angeles County Grand Jury exercise its authority pursuant to Cal. Pen. Code §§ 917, 919 and investigate certain aspects of the assassination of Senator Robert Kennedy and the subsequent law enforcement investigation. As described in detail below, this investigation would focus on: (1) Any and all additional suspects in the shooting who may have acted independently of or in concert with defendant Sirhan Sirhan; (2) Any willful or corrupt misconduct by officers in the investigation of the assassination. It is the considered and knowledgeable belief of the undersigned parties that such an investigation, performed rigorously and objectively, is made essential by the recent availability of important new evidence relating to this historical case.

[Signature of Individuals or  
Groups Joining in Request]

-Inquiry and Accountability  
Foundation (?)

-Prof. Philip Melanson (?)

-Paul Schrade (?)

-Gregory Stone (?)

-Robert J. Joling (?)

-Dr. Cyril Wecht (?)

-Dr. John H. Gordon (?)

-(Major RFK associate)(?)

-ACLU (?)

-(Major News Organization) (?)

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## II. Legal Authority for Investigation

Pursuant to Cal. Pen. Code § 917, the investigative grand jury for the County is charged with making inquiry into "all public offenses committed or triable within the county" and to "present them to the court by indictment." Senator Kennedy's assassination qualifies as such an offense. Although this murder was committed in 1968, the crime of murder does not carry a Statute of Limitations. Thus, pursuant to Cal. Pen. Code § 799, investigation and prosecution of the crime may be commenced at any time. Likewise, the conviction of Sirhan Sirhan as one of the murderers of Senator Kennedy is not a limiting factor. As discussed in this Request, the evidence presently available from official sources themselves establishes a rebuttable presumption that more than one weapon was fired during the assassination. This presumption has not been seriously rebutted by the relevant law enforcement agencies, which have instead attempted to evade these issues, and related issues of past official malfeasance. The identity of the other possible crime scene shooter(s) has never been seriously investigated by official agencies (nor has the reason for the firing of possible extra shots). Section 799 allows the investigation of this individual.

In addition, grand Jury investigation is authorized and warranted under Calif. Pen. Code § 919. Section 919(c) provides that "the grand jury shall inquire into the willful or corrupt misconduct in office of public officers of every description within the county." This request sets forth that preliminary evidence which demonstrates gross and intolerable misconduct by certain officers during and after the investigation of the RFK assassination.

## III. Preliminary Evidence Supporting Grand Jury Investigation

The issues posed in this request were never litigated at the 1969 trial of Sirhan B. Sirhan, which occurred long before recent disclosures of official investigative records and consequent crucial interviews with law enforcement personnel. Various official inquiries into the case which occurred from 1971 to 1977 were either restricted by a narrow technical mandate or compromised by an obvious conflict-of-interest by the "investigating" agencies. Notwithstanding the failed institutional record on these matters, the fundamental evidence questions upon which new evidence has recently surfaced have been known and recognized for some time.

### A. Evidence of More Than One Gun

The only apparent assassin investigated previously by law enforcement agencies was Sirhan Sirhan. Nonetheless, the balance of official evidence presently available suggests that more than one

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gun must have been discharged during the assassination. No grand jury investigation has ever been made into the identity of such a second weapon. An investigation into this matter is required by the following data, developed, in large part, by official law enforcement records or from law enforcement sources.

1. More bullets were apparently fired during the assassination than could have been carried in Sirhan's gun. The gun wrested from Sirhan's hand following his apprehension was an Iver Johnson Cadet model .22 caliber revolver. All eight chambers contained expended cartridges, making the firing of up to eight Sirhan shots plausible. Nonetheless, more than eight bullet holes and wounds were reported following the shooting.

a) The formal FBI report of the crime scene describes four "bullet holes" and two additional "reported" bullet holes or marks in locations at the west end of the Ambassador Hotel pantry where the shooting occurred. Since these holes reflect bullets beyond those eight which could have been carried in Sirhan's gun, this report, if correct, establishes that at least one additional gun was fired. The existence of one or more of these excess bullet holes, some with bullets reportedly embedded in them, has been confirmed by law hotel employees and citizens who were present at the crime scene. Significant new evidence from law enforcement personnel, corroborating these findings, is presented in a Washington Post newspaper article, dated May 13, 1990.

b) The presence of more than eight bullets is further suggested by the wounds suffered by bystanders at the time of the assassination. Mrs. Elizabeth Evans was hit by a bullet which police claim ricocheted off the ceiling. Closer examination, however, shows that Evans was hit by an upward moving bullet - apparently additional to the eight bullets accounted for in the police version. The bullet which struck victim Paul Schrade in the forehead is also unlikely to have been fired, as the police account alleges, by a shot which passed through Senator Kennedy's suit coat or body. This shot also, therefore, would require a ninth bullet.

2. The angle, distance of entry, and time of the shots which struck Senator Kennedy are inconsistent with eyewitness descriptions of Sirhan's location and movements during the shooting.

a) Uncontroverted scientific evidence clearly establishes that all four shots which struck Senator Kennedy or his clothing were fired from approximately one inch, and no more than a maximum of six inches, from the body. According to the eyewitnesses cited by the police and Sirhan prosecution as most reliable, however, Sirhan's gun was never closer than 1½ to four feet from Senator Kennedy. If both the eyewitness and scientific data are correct, Sirhan did not fire the shots which struck Senator Kennedy.

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b) Eyewitnesses have testified that Sirhan was in front of the Senator at the time of the shooting. The uncontroverted autopsy and police findings, however, show that the four shots which struck the Senator or his clothing were fired from the right rear.

c) A seven member firearms panel was assembled in 1976 at the direction of Los Angeles Superior Court to re-fire Sirhan's weapon and perform other limited scientific tests. Their findings refuted the official police testimony at Sirhan's trial that only Sirhan's gun and no other could have fired the intact bullet reportedly recovered from Senator Kennedy. This finding overturned a fundamental pillar of the crime scene evidence adduced at the trial.

d) Eyewitnesses testified that Sirhan's gun arm was restrained effectively after his second shot. Four separate shots struck the Senator or his clothing.

3. No effective police investigation has ever been performed concerning other weapons besides Sirhan's that may have been present at the crime scene or in the vicinity of Senator Kennedy.

a) At least one such weapon was clearly present directly adjacent to Senator Kennedy at the time of the shooting. Official claims notwithstanding, no substantial police investigation was ever made of this individual, a security guard, or of various contradictions and problems in his statements about the episode. Other important evidence of guns or the possible firing thereof was also unconsciously ignored or suppressed by official investigators. The dismissal of all such basic crime scene issues by police began a mere hour and a half after the shooting itself.

## B. Evidence of Improper Police Investigation

The handling of the crime scene in the RFK assassination case, as well as specific pieces of evidence and of individual witnesses, demonstrates either willful misconduct or gross negligence and incompetence by investigating officials. The grand jury has the responsibility to investigate such conduct, particularly in a case of supreme national importance. Below are listed some established facts which support the necessity for such an investigation:

1. Evidence at the crime scene, including that bearing on the presence of additional bullets or guns, was destroyed or suppressed by police. Relevant reports or documentation were likewise destroyed or were never compiled.

a) 2,400 photographs of the crime scene, including those that may have shown additional bullet holes, were inexplicably destroyed by police personnel in August 1968. Among the assembled photographs now missing from police records are several possibly vital or irreplaceable ones taken during the shooting itself by a student photog-

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rapher. Approximately half of the 99 photographs evidently taken of the initial crime scene examination by the official police photographer are also missing.

b) Key physical evidence from the crime scene was destroyed or lost by LAPD officials. In particular, numerous evidence packets, reportedly labelled "bullets," "projectiles," or "projectile damage" were taken from the crime scene by police personnel and never booked into evidence or heard of again. These items presumably included reported bullet fragments recently identified by one LAPD officer who participated in the crime scene examination.

c) Other important physical or documentary evidence from the official investigation is also unaccountably lost, missing or destroyed.

2. Incomplete, inadequate or improper tests were performed on the evidence in this case.

a) A Walker-H-acid test was performed on Senator Kennedy's suit coat by the police forensic specialist assigned to the case. This was an inappropriate test because destructive of the physical evidence being examined and because equally good or better alternative tests existed.

b) No effective or well-documented investigation was ever performed of Sirhan's weapon by the police. Since the initial police scientific investigation, experts appointed by Superior Court have refuted many of the conclusions of the LAPD examiner.

3. Recent statements by a law enforcement officer on the investigating team impeach sworn testimony made by his supervisor concerning the initial investigation.

a) According to the statements of an assistant in the Scientific Investigation Division in 1968, unreported bullets were fired from Sirhan's gun at the time of the initial examination of the gun. This testimony conflicts with past statements under oath by his supervisor and suggests gross and unconscionable irregularity in the handling of the physical evidence in this case.

4. Eyewitnesses offering testimony conflicting with the official theory of the case were intimidated or ignored during the police investigation.

a) Sandra Serrano, Walter Buckner and other witnesses were subjected to blatantly coercive tactics during polygraph interviews by a top investigative official. Ms. Serrano, who had earlier testified concerning suspicious individuals entering and exiting the hotel (a story that was corroborated by another witness) was subjected to brutal direct intimidation until she agreed to modify her story.

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b) According to the police officer who headed the LAPD Command Post at the Ambassador Hotel in the hours after the shooting, his official report on the events of that morning was suppressed and a fraudulent report of an interview which never occurred inserted in the official files. An important evidence lead which this officer reportedly forwarded was never followed up and the names and testimony of the civilian witnesses involved are absent from the official files.

## IV. Requested Investigation

In order to determine whether there was another gunman at the shooting and whether the investigating officers are guilty of intentional misconduct or gross dereliction of duty, the following investigative activities, at a minimum, are warranted on the part of this grand jury:

1. Photographic and film study by experts to locate any and all evidence concerning additional bullet holes. Of particular value would be any photographs which may be located of specific suspect physical locations in the hours before the shooting.
2. Reconstruct bullet flight paths to determine whether Evans and Schrade shots are consistent or inconsistent with a possible one-gun scenario of the shooting. Simulate purported Evans ricochet shot under controlled conditions to test its plausibility.
3. Perform Neutron Activation Analysis and possibly gas chromatography combined with Mass spectrography on evidence bullets and gun powder residue.
4. Determine muzzle velocity of Sirhan's gun. Possibly re-fire gun in this connection to determine penetration of .22 hollow point bullets fired therefrom into wood.
5. Subpoena all relevant records from Ambassador Hotel or parent corporation. Possible on-site investigations or tests at hotel prior to its current projected destruction.
6. Advanced acoustical testing on available sound tapes of the period of the shooting to determine the number of identifiable gunshot sound impulses which can be distinguished. (Similar acoustical tests were performed by the House Select Committee on Assassinations concerning audio evidence in the John Kennedy assassination.)
7. Examine available records concerning 1975 "pantry raid" by officials at the crime scene to determine if any of this data has relevance or value concerning the number of bullets fired in the shooting.

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8. Recover and assemble all documentation on initial investigation to determine what, if any, destruction or alterations of evidence and/or reports was made.

9. Secure testimony from the following witnesses:

## Law Enforcement Officers

- a. DeWayne A. Wolfer (supervisor of LAPD crime scene and ballistics examination)
- b. William J. Lee (Wolfer's assistant)
- c. Alfred C. Greiner (writer of FBI report citing four additional "bullet holes" and two "reported" bullet holes" at crime scene)
- d. Richard Fernandez (FBI photographer who photographed these holes and other crime scene locations)
- e. Dudley D. Varney (key police investigator on related matters)
- f. Raymond M. Rolon (LAPD supervisor at Ambassador Hotel; reported being told of recovery of bullet from wood)
- g. Kenneth E. Vogl (uniformed police officer in reconstruction; reported seeing bullet fragments on floor)
- h. David Butler (assistant to Wolfer and Lee at scene; reported recovery of evidence labelled "projectiles" or "bullet damage")
- i. William A. Bailey (FBI Special Agent at crime scene; reported seeing two bullet holes in center divider)
- j. Robert Pickard (FBI Special Agent at crime scene)
- k. Charles Collier (official LAPD crime scene photographer; reported seeing bullet holes in wood or walls at crime scene)
- l. Unidentified officers in crime scene photographs (may have vital additional information on crime scene activities and findings)

## Non - Law Enforcement Witnesses

- a. Dr. Thomas T. Noguchi (performed RFK autopsy and related tests; participated in crime scene reconstruction on 6/11/68)
- b. John R. Clemente (examined crime scene on day after shooting; reported seeing bullet holes in wood)
- c. John M. Shirley (same as Clemente)
- d. Angelo DiPierro (hotel maitre' d; reported seeing the base of a bullet in the pantry center divider following shooting)
- e. Karl Uecker (assistant maitre' d; reported seeing holes in center divider following shooting which had not been there previously)
- f. Martin Patrusky (hotel waiter; reported being told by police officers that two bullets were removed from pantry center divider)
- g. Scott Enyart (student photographer during shooting; his film confiscated by police and later lost or destroyed)

**CONFIDENTIAL**Eyewitnesses to Shooting

- a. Karl Uecker (cited by police as key witness; placed Sirhan's gun muzzle 1½ to 2 feet from RFK)
- b. Frank J. Burns (cited by police as key witness; placed Sirhan's gun muzzle 1½ to 2 feet from RFK)
- c. Martin Patrusky (cited by police as key witness; placed Sirhan's gun muzzle approximately 1 to 3 feet from RFK)
- d. Juan Romero (cited by police as key witness; placed Sirhan's gun muzzle approximately 3 feet from RFK)
- e. Jesus Perez (cited by police as key witness; no known official or unofficial estimate of distance of gun muzzle)
- f. Lisa Urso (witness questioned by officials in 1977; placed Sirhan's gun muzzle several feet from RFK)
- g. Edward Minasian (trial witness to shooting; placed Sirhan's gun muzzle approximately 3 feet from RFK)
- h. Richard Lubic (trial witness to shooting; placed Sirhan's gun muzzle 2 to 3 feet from RFK's head)

Eyewitnesses with Possible Knowledge Bearing on Other Gun(s)

- a. Dr. \*\*\*\*\* (reported seeing concealed gun leave crime scene area; states that he was told to forget about this by FBI interviewers)
- b. \*\*\*\* (reports seeing drawn gun at crime scene)
- c. \*\*\*\*\* (reports seeing drawn gun at crime scene)
- d. Thane Eugene Cesar (was standing next to RFK at time of shooting; reports drawing gun but not firing it)
- e. Donald Schulman (reported in taped interview following shooting that security guard(s) at scene "fired back")
- f. \*\*\*\*\* (security guard in crime scene area)
- g. \*\*\*\* (security guard in crime scene area)

10. Evaluation of relevant physical, eyewitness and scientific evidence, as enumerated above, should be performed by an expert and impartial flight path reconstruction panel, as proposed in 1975 by victim Paul Schrade but opposed by L.A. District Attorney and state Attorney General.

V. Resources Available to Grand Jury

In order to conduct this investigation, the following resources, at minimum would be available to the grand jury:

1. California State Archives' collection of existing police records and Sirhan trial transcript and exhibits.
2. Uncensored FBI records of 1968-69 investigation. A censored version has been released to the public pursuant to Freedom of Information Act requests by Gregory Stone, Prof. Philip Melanson and Bernard Fensterwald.



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3. Los Angeles District Attorney records on RFK assassination. Opened to public in 1985.

4. RFK Assassination Archive, Southeastern Massachusetts University. North Dartmouth, MA 02747.

5. Inquiry and Accountability Foundation. Executive Director: Gregory Stone. P.O. Box 85065, Los Angeles, CA 90072.

6. Cosgrove/Meurer Productions, 4303 West Verdugo Ave., Burbank, CA 91505. Conducted intensive recent reinvestigation of assassination issues for May 16 television segment on RFK case on NBC's "Unsolved Mysteries."

7. Former LAPD sergeant Paul Sharaga, chief of LAPD Command Post at Ambassador Hotel following RFK assassination. \*\*\*\*\*  
\*\*\*\*\*.

8. Dan E. Moldea, investigative reporter, author of major articles on RFK assassination. 3921 Fulton Street, N.W., Washington D.C. 20007.

9. Forensic Science Experts:

- a. Robert J. Joling (past president, American Academy of Forensic Sciences)
- b. Cyril Wecht (past president, American Academy of Forensic Sciences; consultant on RFK autopsy)
- c. Thomas T. Noguchi (former L.A. County Coroner; performed RFK autopsy and participated in crime scene reconstruction)
- d. Lowell W. Bradford (member, 1975 firearms examination panel)
- e. Charles V. Morton (member, 1975 firearms examination panel)
- f. Vincent P. Guinn (expert in Neutron Activation Analysis)

VI. Final Statement of Reasons Supporting Independent Reinvestigation by Grand Jury

No question has ever existed that Sirhan Sirhan was present at the murder scene, shooting to kill Senator Kennedy. His conviction at trial, however, based on a partial selection of evidence in official possession at the time, and subsequently withheld by officials, does not resolve many glaring and fundamental questions which still persist in this case. Notable but not exclusive among these is the issue of whether another gun was fired during the shooting. Previous official "re-inquiries" of the case have been either narrowly circumscribed or conducted by those very officers and agencies whose work should be evaluated. There is, thus, an imperative public need for the presently requested investigation.

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Moreover, it is neither necessary nor appropriate that the grand jury be guided in the proposed investigation by an official prosecutorial agency. Cal. Pen. Code § 1936.5 allows for the appointment of special counsel and special investigators. In this case of unique historical importance, it is essential that such appointments be made and a competent investigation conducted as soon as possible.

Respectfully submitted,

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