

# CONFIDENTIAL

P.O. Box 85065  
Los Angeles, CA 90072  
November 27, 1990

Mr. Ira Reiner  
Los Angeles District Attorney  
210 West Temple Street  
Los Angeles, CA 90012

Re: People v. Sirhan, Case No. A 233 421;  
Case reinvestigation

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Dear Mr. Reiner:

The major official disclosures in recent years by the District Attorney's office and other agencies concerning the Robert F. Kennedy assassination have added significantly to available public knowledge of that event. In the past some of the undersigned or the Inquiry and Accountability Foundation have been in touch with your office concerning matters of disclosure, access or evidence disposition and storage. The purpose of the present letter, however, is to address the current confusion of the case evidence itself in the context of new factual developments of recent months.

As the assassination of Senator Kennedy was the most important crime ever handled by Los Angeles law enforcement, we believe that the issues which it presents require the priority attention of the District Attorney. Determination of such matters at lower levels is incommensurate with the gravity of this event, and also risks the cursory repetition of previous positions as a substitute for impartial reassessment. An instance of the latter difficulty was the mis-characterization in May by the D.A. press office of the major evidence disclosures at that time as not being new. Expressions of that kind merely sidestep the pressing concrete problems of the present case evidence.

The undersigned have all been concerned for some years about the unresolved factual issues posed by this case, and we have followed these matters with care. Although we speak here only for ourselves, these concerns are widely shared among scholars, journalists and others knowledgeable about the assassination. They reflect in large measure the fuller case understanding brought about by the official disclosures mentioned above and by subsequent and continuing research and investigation.

The basic issues of the Robert F. Kennedy assassination, stated simply, are today in major disarray. It is not reliably known whether Senator Kennedy was killed as a result of a conspiracy nor is it reliably known whether one or more weapons were involved in his shooting. Based on the evidence presently on the public record, there is today a substantial possibility that another gun besides Sirhan's was fired. Unless this problem is resolved in either direction by serious investigation, the assassination will be permanently consigned to fundamental historical doubt.

The evidentiary basis for these comments is touched on more fully in the items enclosed, but specific reference to one pressing crime scene issue is necessary here. This issue like others never arose at the time of Sirhan's trial, and was addressed, when at all, only grudgingly and incompletely after it later emerged.

Senator Kennedy was shot on June 5, 1968, but the number of guns and bullets discharged in the shooting has become a matter of increasing uncertainty over time. Sirhan's Iver Johnson revolver held a maximum of eight shots; two bullets were recovered from Senator Kennedy, one apiece from each of the the five other victims, and an eighth was reported by police to have been "lost somewhere in the ceiling interspace." (Wolfer LAPD "Employee's Report," July 8, 1968) Substantial problems exist with official explanations of how even the acknowledged victim wounds and ceiling area bullet damage could have been caused by only eight shots. (See, e.g., Lowenstein Saturday Review and Moldea Regardie's articles, enclosed.) Any additional bullets identified or recovered from walls, doors or fixtures at the scene would clearly establish that more than one weapon was fired in the shooting.

Among the uncontroverted facts bearing on this matter are the following:

- 1.) The official FBI report concerning the crime scene specifically identifies four "bullet holes" and two "reported" bullet holes or marks in the area of the double doors at the west end of the Ambassador Hotel pantry. (FBI Report, June 9, 1968, p. 48. Emphasis added, as with all underlined quotations below.) Disclosed only in 1976 under the Freedom of Information Act, this report was subsequently corroborated by former FBI Special Agent William Bailey, who was assigned to the pantry in the hours following the shooting. The latter reported that he and other agents at the scene noted "two small caliber bullet holes in the center post of the two doors leading from the preparation room (pantry)." He added, "There was no question in any of our minds that they were bullet holes and not caused

by food carts or other equipment in the preparation room." (Bailey Statement, 11/14/76)

2.) The chief of LAPD's Scientific Investigation Division team at the scene, Officer DeWayne Wolfer, reportedly claimed to be uncertain, four full days after the shooting about whether recovered door frame boards "contain holes through which bullets passed." (Houghton, Special Unit Senator, p. 98) Information furnished by the LAPD three days later in connection with further photo captioning by the FBI addressed the key door frame locations but inexplicably failed to state whether the holes either were or were not caused by bullets. (FBI report, June 15, 1968, pp. 105-154) The presence or absence of bullets in wood should normally have been immediately ascertainable at the crime scene. The reason for such ostensible continuing confusion on this elementary point has never been made clear.

3.) The four "bullet holes" denoted in the FBI report were marked for evidence identification by a deputy from the Los Angeles Sheriff's Office contingent dispatched to the hotel pantry shortly after the shooting. In contrast to other personnel in the LASO group, however, this deputy, Walter Tew, is nowhere named nor are his observations noted in the police assassination files released in 1988 by the California State Archives. Tew's identity became publicly known only this year. Despite ongoing questions concerning the number of guns fired in the assassination, no known contact was made with him on this matter by local authorities prior to his death in 1988.

4.) Several Ambassador Hotel employees and others have identified one or more bullet holes in the areas denoted in the FBI photographs:

Hotel carpenters Wesley Harrington and Dale Poore reported their belief that the holes in the pantry center divider (FBI photograph E-3) which they observed on the morning of the shooting appeared to be "bullet holes." (Harrington and Poore depositions, 12/16/75)

-John Shirley and John Clemente, two visitors to the hotel on the day after the shooting, noticed and photographed what they identified as "two bullet holes," surrounded by inked circles with numbers and letters "in the wooden jamb of the center divider" between the swinging doors. (Shirley statement, 3/23/69)

-Hotel maitre d' Angelo DiPierro recalled seeing the base of "a small caliber bullet" in the same center divider, an object which he said had not been there previously. "There is no question in my mind," he

reported, "that this was a bullet and not a nail or any other object." (DiPierro statement, 12/1/75)

-Hotel waiter Martin Patrusky reported being told by police during a crime scene reconstruction a few days after the shooting that "they had dug two bullets out of the center divider." He said that he was "absolutely sure" that an officer had said this. (Patrusky statement, 12/12/75)

-In a newly available official oral history interview with the California State Archives, former assistant maitre d' Karl Uecker, the man who first grabbed Sirhan's arm, states that he observed two new holes on the morning of the shooting in this location, an area which he passed numerous times each day. He insists that he had never seen these holes before and describes them as "shots." (Uecker interview, 4/13/90)

5.) According to Dr. Thomas Noguchi, the Los Angeles Coroner at the time, when he asked Officer Wolfer six days after the shooting where bullets had been found in the pantry area, he was directed to the ceiling above and to "several holes in the door frames of the swinging doors leading into the pantry." Dr. Noguchi states that he ordered that photographs be taken of him pointing to these holes. (Noguchi statement, 12/12/75)

6.) No detailed account appears anywhere in the disclosed LAPD records of the crime scene examination directed by S.I.D. on the morning of the shooting. Measurements reportedly performed by the departmental surveyor of "the location of bullet holes, etc." (La Vallee interview report, 9/27/68) likewise are absent from the disclosed official records. (Many of the sequentially-numbered LAPD photos of the crime scene appear to be missing.) Descriptive records are missing of the examinations reportedly conducted on crime scene evidence items or of how it was finally concluded that the holes in the two wooden frames booked were not caused by bullets. No testimony has been adduced to corroborate Mr. Wolfer's sparse account of these matters. According to LAPD records, these frames and two pantry ceiling tiles containing bullet holes were destroyed by police in June, 1969.

7.) Law enforcement officers at the crime scene contacted during the past year by investigative reporter Dan Moldea have provided further testimony of apparent bullets, bullet holes or bullet fragments in the area. (See Washington Post article, "RFK's Murder: A Second Gun?," May 13, 1990, enclosed.) In particular:

-Thomas Beringer, an L.A. Deputy Sheriff assigned to the scene following the shooting, reported seeing "one person trying to take a bullet out of the wall with a knife... for a souvenir." He added that the man was stopped and that the hole in question was "a definite bullet hole."

-Charles Collier, the civilian police photographer at the scene, reported the existence of bullet holes "in the walls in the pantry." He noted that "a bullet hole looks like a bullet hole if you've photographed enough of them."

-David Butler, a member of the S.I.D. team working under Mr. Wolfer, reported the recovery of "bullets" from wood and bullet "fragments" from the floor. He also reported that small evidence packets labelled "firearms evidence," "bullet evidence" or the like were assembled on a table in the pantry. None of these are recorded among the 155 items of booked evidence.

-Kenneth E. Vogl, a uniformed patrolman enlisted in the crime scene search, stated that one or more "fragments" of bullets were encountered on the floor, and that he was ordered to point to them for photographs. Asked how sure he was that these were bullet fragments, he stated, "There's no doubt." No such recovery of bullet fragments is reported in official records, however.

-Raymond A. Rolon, a former sergeant who was one of the LAPD supervisors at the hotel reported that during a tour of the kitchen area that morning he was shown in a door frame what were identified to him as "bullet holes."

Other personnel interviewed by Moldea recalled more general impressions concerning bullet holes or bullets at the crime scene. Like other witnesses cited above, none of these officers was apparently aware of the implications of his observations. These statements are all new because local authorities had never previously canvassed the law enforcement personnel at the scene in connection with the ongoing questions concerning extra bullets.

8.) A newly rediscovered newspaper account of the shooting aftermath adds specific and wholly independent corroboration of the evidence of extra bullets cited above. Published in the June 6, 1968 edition of the Chicago Tribune, the article was written by veteran reporter Robert Wiedrich, who was dispatched to the Ambassador Hotel by his editors on the morning of the

shooting. Describing the scene and activities in the pantry the article states:

On a low table lay an eight foot strip of molding, torn by police from the center post of the double doors leading from the ballroom... Now the molding bore the scars of a crime laboratory technician's probe as it had removed two .22 caliber bullets that had gone wild."

The implications of this contemporaneous report were never apparently noticed prior to its recent rediscovery more than twenty years after publication. Wiedrich reports that he cannot now recall whether he saw or was merely told of the removed bullets. How does it happen that this independent journalistic description of bullet recovery corresponds to the specific reports of many other sources?

Even if the above-cited evidence is not regarded as definitive, it amply demonstrates that the issue of the number of guns fired in the assassination should be thoroughly and impartially reexamined.

This evidence is strengthened, moreover, by other aspects of the crime scene events touched on in the enclosed items. It is known, for example, that at least one other gun was in Senator Kennedy's immediate vicinity during the shooting. This gun was not checked at the time nor was there satisfactory investigation of other possible guns or accomplices in the area. The key firearms identification testimony adduced at Sirhan's trial was overturned in subsequent tests (see below). And although official scientific conclusions agreed that the four shots which struck Senator Kennedy or his clothing were fired from a distance of one to six inches, eyewitness accounts state overwhelmingly that Sirhan's gun never came closer than 1½ to three feet. Of the five prosecution witnesses cited by police as having the best view of the shooting (LAPD Summary Report, p. 594) not one has placed Sirhan's gun within the range from which the shots were fired which struck Senator Kennedy.

None of these issues was contested at Sirhan's 1969 trial, at which time it was uniformly assumed that Sirhan was the lone gunman. The fact that they remain open, though no longer "new," attests to the insufficiency of the response when these and related questions became known in the 1970s.

Three major items are sometimes cited in questioning the need for serious reinvestigation of crime scene issues:

1.) The 1975 firearms examination. As a result of legal initiatives by shooting victim Paul Schrade, a group of firearms experts was empanelled in 1975 to examine evidence bullets and fire Sirhan's gun under the supervision of Superior Court. Contrary to some initial news accounts, the panel found no evidence either to support or preclude the firing of a second gun, as summarized in their reports and subsequent testimony. The examiners did, however, overturn major aspects of Mr. Wolfer's firearms work and none of them could confirm his Grand Jury and trial testimony matching Sirhan's gun with the intact bullet reportedly recovered from Senator Kennedy. Some of the panelists concluded that certain of the victim bullets could be matched with each other, while others could not arrive at that judgement. The mandate of the firearms panel did not include appraisal of crime scene layout or damage, eyewitness testimony, or bullet flight paths. Questioned in court following their work, the examiners affirmed the legitimacy of such inquiries based on serious evidence.

2.) The 1975 "pantry raid." On the evening of December 18, 1975, local law enforcement personnel entered the Ambassador Hotel kitchen area, examined certain crime scene fixtures cut out and removed some, and filmed portions of these proceedings. A report of subsequent testing filed later, however, stated only that no projectile damage could be "demonstrated." All of the relevant fixtures were or should have been removed by the police crime scene investigators in 1968, but no critical appraisal was presented of that inspection in relation to the remedial episode in 1975. With respect to the samples of underlying wood or plaster examined, there is no demonstration that both were present in 1968, or, if they were, that a ricochet hollow point bullet would have come in contact with either of them. Given such limitations, the results of the "pantry raid" are, at best, inconclusive.

3.) The Kranz Report. In 1975, Acting D.A. John Howard appointed attorney Thomas Kranz as a "Special Counsel" with partial responsibility for District Attorney's office activities regarding the firearms proceedings. In March 1977 Kranz submitted a 135-page report on the case, which was extensively discredited at a May 1977 hearing before the County Board of Supervisors and in an extended written response (enclosed) requested by the supervisors of former U.S. Congressman Allard K. Lowenstein. Though criticizing some aspects of the police investigation, the report is pervaded by elementary errors and omissions, as is demonstrated in the Lowenstein response. It repeatedly misstates eyewitness and expert accounts, for example, and misquotes even the key FBI reference to "bullet holes." It presents little information not otherwise on the public record and makes no

significant contribution to substantive understanding of the case. Yet even Mr. Kranz stated following the report's completion that he did not oppose further investigation.

These episodes unfortunately fail to resolve either the "old" or the "new" evidence issues concerning the number of guns fired in the shooting. What is relevant to the truth, of course, is neither the "newness" of significant evidence nor any catalogue of official actions, but whether the evidence in question can be accounted for satisfactorily.

While the present letter is addressed primarily to crime scene matters, we do not wish to imply that serious problems are absent in other sectors of the case. Such problems are apparent in the published literature (see enclosed short bibliography from the California State Archives) and have increased as a result of the disclosures of recent years. Despite the professionalism of much law enforcement work in this case, moreover, a gross breakdown in standards is clearly evident in some key episodes of the available history. (See, e.g., enclosed items concerning the questioning of witness Sandra Serrano and the report and subsequent observations of LAPD Command Post Supervisor Paul Sharaga.) Such a record shows, unfortunately, that minimal investigative performance cannot simply be assumed on central evidence issues of the case. If present crime scene mysteries reflect hidden investigative irregularities rather than the actual firing of another weapon, that needs to be known as well to clear the air.

Given the need for serious reinvestigation of the assassination, we believe that practical safeguards are imperative to insure that such an inquiry is impartial and free from institutional precommitments. A normal in-house review absent such safeguards would, in our judgement, be contrary to the interests of the investigating agency and open to valid questions concerning objectivity. For these reasons, we believe that a Grand Jury inquiry, Special Prosecutor, or similar approach, endowed with sufficient independence and resources, should be supported by the District Attorney's office. At a minimum, such an investigation should include the testimony of key witnesses further appropriate scientific work (such as neutron activation analysis) and a methodical flight path study of the bullets fired during the shooting.

The recent Washington Post story cited and the serious examination of related issues on the May 16, 1990 edition of NBC's "Unsolved Mysteries" attest to the continuing currency of basic questions about the assassination and to the failure of the disclosed official records to answer them. We appreciate that these questions may not have been formally posed to the



District Attorney's office during your tenure. They present, however, a signal opportunity for the D.A.'s office and others to advance the truth on a matter of vital national importance.

We suggest that a summary review of the issues posed herein be undertaken at once, if one has not yet taken place. Such an impartial assessment, we believe, will establish that these issues are glaring, fundamental, and capable of effective pursuit. If it is contended that this is not the case, however, we invite a detailed response as to how the evidence outlined above can be discounted, or why simple steps should not be taken to address the central problems which it presents.

Thank you for your attention to the important issues touched on above. Please do not hesitate to contact us in connection with any of these matters.

Sincerely,

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John H. Gordon, Ed.D., Former  
Member, Mayor's Advisory  
Committee Concerning the RFK  
Assassination Materials

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Paul Le Mat, Actor ("Melvin  
and Howard," "American Graffiti,"  
etc.)

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Philip H. Melanson, Ph.D.  
Professor of Political Science,  
Southeastern Massachusetts  
University

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Paul Schrade, Labor Chair,  
California, RFK Presidential  
Campaign

Gregory F. Stone, Inquiry  
and Accountability Foundation

Enclosures