KPFK broadcast brings out new material

Did Sirhan kill Kennedy? Was there a 2nd gunman?

ART KUNKIN

Last week the mystery surrounding the assassination of Robert Kennedy in Los Angeles was once again in the public eye with the broadcasting by radio station KPFK of original interviews and material developed by Theodore Charach in his unrelenting probe of RFK's death for a film he is making on the subject.

As *Free Press* readers will remember, the controversy ultimately hinges around the question of whether Sirhan was the only one firing a gun in the pantry of the Ambassador Hotel. The Los Angeles police department and their experts issued a report presumably accounting for the eight bullets in Sirhan's gun. Critics, however, have pointed to the fact that photographs are in existence showing investigators removing bullets from areas of the pantry not listed in the police accounting for their eight bullets and along lines of fire not possible from Sirhan's position. In short, they say there were more than eight bullets fired, therefore more than one gunman.

Also the critics say that the investigation was badly bungled by police experts, evidence mishandled after the crime, and that Sirhan was not close enough to Kennedy or at the right angle to have fired the critical shots. Although the police have backed the opinions of their investigators, Charach has presented material from other criminalists which charges police criminalist DeWayne Wolfer of violations of procedure in investigating Kennedy's assassination.

This conflicting material consists of affidavits from criminalist William W. Harper (which the *Free Press* prints here for the first time anywhere), a letter from Marshall Houts, editor in chief of *Trauma Magazine*, a publication dealing with medicine, anatomy and surgery, to California Attorney General Evelle J. Younger, and an interview by Theodore Charach with Gene Caesar, a private guard at the scene of Kennedy's assassination who had his gun drawn and had the opportunity of firing it, although the official investigation somehow did not ask the questions which would have developed this material. When Caesar candidly answered Charach's questions revealing his right wing political stance and the fact that his gun was drawn, Caesar was obviously unaware that Charach was seeking to poke holes in the official attitude toward the assassination.

In statements broadcast last week over KPFK, in a program produced by Charles Waite, a person alleged to be Caesar and who speaks of his presence in the pantry as an Ace Guard states that Nixon is "trying to out-do Johnson ... I definitely wouldn't have voted for Bobby Kennedy, 'cause he had the same ideas as John did and I think John sold the country down the road. He gave it to the commies ... He literally gave it to the minority ... He says, 'Here, you take over ... I'm giving it to you, you run the white man.' ... One of these days, at the rate they're going, there's going to be civil war in this country ... It's going to be the white against the black, and the only thing I'd say is the black will never win."

This obviously right wing man with a gun was then asked by Charach the following question:

CHARACH: Now, let's clarify again this important point. You tell us you originally drew your gun after raising yourself from your fall. The LAPD report confirms you reached for your gun instantly. And the FBI reports say you are on the kitchen floor, scramble to your feet before drawing your gun. The true version ....

CAESAR: I had it out of my holster. I had it in my hand ... when the shots were fired I reached for my gun and that's when I got knocked down.

The letter from Marshall Houts to Attorney General Evelle Younger on June 26, 1971, says in part:

"Dear Ev:

This is an elaboration of our discussion last night at .... As I indicated then, I have no personal interest in this matter but do have a deep academic and professional interest over Wolfer's horrendous blunders in the past and those he will commit in the future if he continues on in his present assignment ....

I know all of the men who have stepped forward to speak in this present civil service proceeding. They are all men of great integrity and professional competence whose sole concern is in the elevating the field of criminalistics to a professional status .... The idea that these men who are national leaders in criminalistics are out to 'get' Wolfer because of motives of 'professional jealousy' is totally absurd. They are deeply grieved over his unconscionable antics since these bring discredit to their profession ....

Wolfer suffers from a great inferiority complex for which he compensates by giving the police exactly what they need to obtain a conviction. He casts objectivity to the winds and violates every basic tenet of forensic science and proof by becoming a crusading advocate. This is rationalized as being entirely legitimate since the accused is guilty anyway ....

I will not elaborate on the details of the three cases under consideration by the civil service board (Sirhan, Kirschke and Terry) other than to say that real experts of integrity who have examined portions or all of the evidence are appalled at what Wolfer did .... By all means, don't let a group of police 'experts' in firearms identification, who might be suggested to the civil service board by Wolfer, give Wolfer a coat of whitewash .... I'll be glad to run in and talk to you about these matters if you wish. If I can do anything else for you, please let me know. (Signed) Marsh."

Evidently the whitewash did happen and Charach is still pursuing this matter, bringing new evidence to the public, planning legal actions and a release of his film which will hopefully result in re-opening the official investigation of RFK's death. And no one should take this lightly because, as the *Los Angeles Times* noted last August 16 in a lengthy article on the possibility of a second gunman in the Sirhan case, "It is Charach who three years ago began the personal crusade that led to the present investigative tangle over what to most people had appeared to be an open and shut political murder case."

Sworn affidavit by Criminalist Harper

I, WILLIAM W. HARPER, being first duly sworn, depose as follows:

1. I am a resident of the State of California and for approximately thirty-seven years have lived at 615 Prospect Boulevard in Pasadena, California.

2. I am now and for thirty-five years have been engaged in the field of consulting criminalistics.

3. My formal academic background includes studies at Columbia University, University of California at Los Angeles and California Institute of Technology where I spent four years, including studies in physics and mathematics with the major portion devoted to physics research.

4. My practical experience and positions held include seven years as consulting criminalist to the Pasadena Police Department where I was in charge of the Technical Laboratory engaging in the technical phases of police training and all technical field investigations including those involving firearms. I was, during World War II, for three years in charge of technical investigation for Naval Intelligence in the 11th Naval District, located at San Diego, California.

After my release from the Navy, I entered private practice as a consulting criminalist. Extending over a period of 35 years I have handled roughly 300 cases involving firearms in homicides, suicides and accidental shootings. I have testified as a consulting criminalist in both criminal and civil litigations and for both defense and prosecution in both State and Federal Courts. I have qualified as an expert in the courts of California, Washington, Oregon, Texas, Nevada, Arizona and Utah. I am a Fellow of the American Academy of Forensic Sciences.

5. During the past seven months I have made a careful review and study of the physical circumstances of the assassination of Senator Robert F. Kennedy in Los Angeles, California. In this connection I have examined the physical evidence introduced at the trial, including the Sirhan weapon, the bullets and shell cases. I have also studied the autopsy report, the autopsy photographs, and pertinent portions of the trial testimony.

6. Based on my background and training, upon my experience as a consulting criminalist, and my studies, examination and analysis of data related to the Robert F. Kennedy assassination, I have arrived at the following findings and opinions:

A. An analysis of the physical circumstances at the scene of the assassination discloses that Senator Kennedy was fired upon from two distinct firing positions while he was walking through the kitchen pantry at the Ambassador Hotel. *Firing Position A,* the position of Sirhan, was located directly in front of the Senator, with Sirhan face-to-face with the Senator. This position is well established by more than a dozen eyewitnesses. A second firing position, *Firing Position B,* is clearly established by the autopsy report. It was located in close proximity to the Senator, immediately to his right and rear. It was from this position that 4 (four) shots were fired, three of which entered the Senator's body. One of these three shots made a fatal penetration of the Senator's brain. A fourth shot passed through the right shoulder pad of the Senator's coat. These four shots from Firing Position B all produced powder residue pat-

terns, indicating they were fired from a distance of only a few inches. They were closely grouped within a 12 inch circle.

In marked contrast, the shots from *Firing Position A* produced no powder residue patterns on the bodies or clothing of any of the surviving victims, all of whom were walking behind the Senator. These shots were widely dispersed.

Senator Kennedy received no frontal wounds. The three wounds suffered by him were fired from behind and he had entrance wounds in the posterior portions of his body.

B. It is evident that a strong conflict exists between the eyewitness accounts and the autopsy findings. This conflict is totally irreconcilable with the hypothesis that only Sirhan's gun was involved in the assassination. The conflict can be eliminated if we consider that a second gun was being fired from *Firing Position B* concurrently with the firing of the Sirhan gun from *Firing Position A*. It is self-evident that within the brief period of the shooting (roughly 15 seconds) Sirhan could not have been in both firing positions at the same time.

No eyewitnesses saw Sirhan at any position other than *Firing Position A*, where he was quickly restrained by citizens present at that time and place.

C. It is my opinion that these circumstances, in conjunction with the autopsy report (without for the moment considering additional evidence), firmly establish that two guns were being fired in the kitchen pantry concurrently.

D. There is no reasonable likelihood that the shots from *Firing Position B* could have been fired by a person attempting to stop Sirhan. This is because the person shooting from *Firing Position B* was in almost direct body contact with the Senator.

(please turn to page 37)

(continued from page 17)

This person could have seen where his shots would strike the Senator, since the fatal shot was fired (muzzle) from one to three inches from the Senator's head. Had Sirhan been the intended target, the person shooting would have extended his arm beyond the Senator and fired directly at Sirhan. Furthermore, two of the shots from *Firing Position B* were steeply upward; one shot actually penetrating the ceiling overhead.

E. The police appear to have concluded that a total of eight shots were fired with seven bullets accounted for and one bullet unrecovered. This apparent conclusion fails to take into account that their evidence shows that a fourth shot from *Firing Position B* went through the right shoulder pad of the Senator's coat from back to front. This shot was fired from a distance of approximately one inch according to the testimony. It could not have been the shot which struck Victim Paul Schrade in the forehead since Schrade was behind the Senator and traveling in the same direction. The bullet producing this hole in the shoulder pad from back to front could not have returned by ricochet or otherwise to strike Schrade in the forehead. This fourth shot from *Firing Position B* would indicate 9 (nine) shots were fired, with two bullets unrecovered. This indication provides an additional basis for the contention that two guns were involved, since the Sirhan gun could have fired only 8 (eight) shots.

F. The prosecution testimony attempted to establish that the Sirhan gun, and no other, was involved in the assassination. It is a fact, however, that the only gun actually linked scientifically with the shooting is j second gun, not the Sirhan gun. The serial number of the Sirhan gun is No. H53725. The serial number of the second gun is No. H18602. It is also an Iver Johnson 22 cal. cadet. The expert testimony, based on matching the three test bullets of Exhibit 55 in a comparison microscope to three of the evidence bullets (Exhibit 47 removed from the Senator, Exhibit 52 removed from Goldstein and Exhibit 54 removed from Weisel) concluded that the three evidence bullets were fired from the same gun that fired the three test bullets of Exhibit 55. The physical evidence shows that the gun that fired the three test bullets was gun No. H18602, not the Sirhan gun. Thus, the only gun placed at the scene by scientific evidence is gun No. H18602. Sirhan's gun was taken from him by citizens at the scene. I have no information regarding the background history of gun No. H18602 nor how the police came into possession of it.

G. No test bullets recovered from the Sirhan gun are in evidence. This gun was never identified scientifically as having fired any of the bullets removed from any of the victims. Other than the apparent self-evident fact that gun No. H53725 was forcibly removed from Sirhan at the scene, it has not been connected by microscopic examinations or other scientific testing to the actual shooting.

H. The only reasonable conclusion from the evidence developed by the police, in spite of their protestations to the contrary, is that two guns were being fired in the kitchen pantry of the Ambassador Hotel at the time of the shooting of Senator Kennedy.

I. From the general circumstances of the shooting the only reasonable assumption is that the bullet removed from victim Weisel was in fact fired from the Sirhan gun. This bullet is in near perfect condition. I have, therefore, chosen it as a "test" bullet from the Sirhan gun and compared it with the bullet removed from the Senator's neck. The bullet removed from the Senator's neck, Exhibit 47, was one of those fired from *Firing Position B*, while the bullet removed from Weisel, Exhibit 54, was one of those fired from *Firing Position A*, the position of Sirhan. My examinations disclosed no individual characteristics establishing that Exhibit 47 and Exhibit 54 had been fired by the same gun. In fact, my examinations disclosed that bullet Exhibit 47 has a rifling angle approximately 23 minutes (14%) greater than the rifling angle of bullet Exhibit 54. It is, therefore, my opinion that bullets 47 and 54 could not have been fired from the same gun.

The above finding stands as independent proof that two guns were being fired concurrently in the kitchen pantry of the Ambassador Hotel at the time of the shooting.

J. The conclusions I have arrived at based upon my findings are as follows:

(1) Two 22 calibre guns were involved in the assassination.

(2) Senator Kennedy was killed by one of the shots fired from *Firing Position B*, fired by a second gunman.

(3) The five surviving victims were wounded by Sirhan shooting from *Firing Position A*.

(4) It is extremely unlikely that any of the bullets fired by the Sirhan gun ever struck the body of Senator Kennedy.

(5) It is also unlikely that the shooting of the Senator could have accidentally resulted from an attempt to shoot Sirhan.

Dated: December 28, 1970.

William W. Harper

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

s.

On this ..... day of December, 1970, before me appeared, personally, WILLIAM W. HARPER, known to me to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same.

Notary Public in and for said County and State.

(Seal)

Notes on People Vs Sirhan

Assume that Sirhan had escaped from the scene of the Kennedy assassination with the gun without being seen by any eye witnesses. Assume also that the autopsy and medical reports and other physical evidence were the same as we find them today. What effect would these circumstances have had on the investigation? Would the police have been searching for one assassin or for two?

Upon completion of the autopsy it would have been immediately evident that the Senator had been fired on by some gunman in close proximity to him and to his right and rear.

It was also apparent at this time, or very shortly thereafter, that the five additional victims were following the Senator and to his rear. Had the gunman, after shooting the Senator, turned to his left and fired apparently indiscriminately into the crowd of his followers. If so, why?

The Senator was the "target" victim. The shooting of the additional victims would certainly have to be considered as accidental. No one could reasonably believe that Schrade, Stroll, Goldstein, Evans and Weisel had been deliberately chosen for elimination as well as the Senator. The trajectories of the shots wounding these accidental victims necessarily came from a position ahead of the Senator, not from behind him.

These circumstances would suggest to any experienced homicide detective, as well as to any criminalist, that two guns were involved and two gunmen had to be tracked down.

Multiple-gun shootings are not a rarity in police work. When bullets of different calibers are removed from victims and/or found at the crime scene, it is obvious that more than one gun is involved. When all recovered bullets are the same caliber the conclusion that a single gun is involved must not be hurriedly reached.

The capture of Sirhan with his gun at the scene resulted in a total mesmerization of the investigative efforts. The fact that all recovered evidence bullets were the same caliber further contributed to the general euphoria. The well established teachings of criminalistics and forensic pathology were cast aside and by-passed in favor of a more expedient solution and, unfortunately, an erroneous over-simplification.

January 1, 1971 — William W. Harper