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21 UNITED STATES DISTRICT COURT
22 CENTRAL DISTRICT OF CALIFORNIA

23		35	
24	SIRHAN BISHARA SIRHAN	36)	
25		37)	NO. CV-00-5686-CAS (AJW)
26	Petitioner,	38)	
27		39)	REPLY BRIEF ON THE
28	vs.	40)	THE ISSUE OF ACTUAL INNOCENCE
29		41)	
30	GEORGE GALAZA, WARDEN, et. al	42)	(28 U.S.C. section 2254)
31		43)	
32	Respondents	44)	Hon. Andrew J. Wistrich
33		45)	United States Magistrate Judge
34		46	

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 Pursuant to the decision by the Ninth Circuit in *Lee v. Lampert* this court has ordered
4 additional briefing as to petitioner's claim of actual innocence, which was disregarded in
5 Respondent's prior supplemental brief. Though, as a result of the Circuit Court ruling this
6 Court has ordered us to focus on the issue of petitioner's actual innocence, petitioner in no
7 way concedes his entitlement to statutory tolling based, amongst other issues, upon his
8 having reasonably, diligently pursued his rights but been frustrated by some extraordinary
9 circumstances which stood in his way, along with the issues of adequacy and defects in the
10 California Timeliness Rule. [Petitioner's Supplemental Brief ("PSB") pages 1 to 14]

11 It has now become explicitly clear that actual innocence is, as it should be, of
12 paramount importance compelling the Court's review of the substantive evidence of
13 petitioner's actual innocence after spending 43 years in prison.

14 To this point the *en banc* Court in *Lee v. Lampert* (Ninth Circuit) concluded:

15 In sum, we hold that a petitioner is not barred by the AEDPA
16 Statute of Limitations from filing an otherwise untimely habeas corpus
17 petition if the Petitioner makes a credible showing of "actual innocence"
18 under *Schlup v. Delo*. This construction continues the traditional equitable
19 rule that Congress did not disturb in passing AEDPA, is consistent with
20 AEDPA's underlying philosophy, and avoids serious constitutional
21 problems inherent in a contrary statutory interpretation." [2011 WL
22 3275947 (9th Circuit en banc OR.)]

23 Thus, for the first time in the long history of this case, Petitioner has been given an
24 opportunity to correct a miscarriage of justice and demonstrate, through evidence, previously
25 ignored, or only recently available, that he did not assassinate Senator Robert F. Kennedy.
26

1 constitutional error by submitting new reliable evidence, which surely must be viewed, in
2 context, with the previously available evidence not presented or developed at trial or before a
3 Judge in an evidentiary hearing.

4 In *Schlup*, the majority of the Court rejected what the minority saw as the more
5 stringent requirement of a “clear and convincing” standard as set out in *Sawyer v.*
6 *Whitley*, (505 US 333), and concluded that the evidence in *Schlup*, which was based upon the
7 sworn statements of eyewitnesses that Schlup was not involved in the crime, must prevail.

8 Thus, the Court held that “... under a proper application of either *Sawyer* or
9 *Carrier* , petitioner’s showing of innocence is not insufficient solely because the trial record
10 contained sufficient evidence to support the jury’s verdict.” (*id* at 331)

11 The Court, in applying the *Carrier* standard as the requirement for an
12 evidentiary hearing, made it clear that the Court must “... the probative force of the newly
13 presented evidence in connection with the evidence of guilt adduced at trial.” (*id* at 332) It
14 emphasized that the trial court is not required to test the new evidence (as Respondent here
15 proposes) by a standard appropriate for deciding a motion for summary judgment, but to the
16 contrary, explicitly stated that the District Court Judge’s function “... **is not himself to**
17 **weigh the evidence and determine the truth of the matter but to determine whether**
18 **there is a genuine issue for trial...**”(*id* at 332, emp. added)

19 In *Schlup*, the court said that there are three requirements that a *habeas*
20 petitioner must meet in order to qualify for the “fundamental miscarriage of justice” status,
21 namely: (1) new evidence of innocence;(2) nonharmless constitutional error ; and (3) that the
22 new evidence and nonharmless constitutional error, when viewed together, undermine the
23 court’s confidence in the verdict at trial so that “... a constitutional violation has probably
24 resulted in the conviction of one who is actually innocent.”(*id* at 327)[quoting *Murray v.*
25 *Carrier*, 477 US at 496]. The Supreme Court, in elaborating upon the interaction between the
26 new evidence of actual innocence and the nonharmless constitutional error aspect, necessary
27 to establish actual innocence stated:

28 A court’s assumptions about the validity of the proceedings that resulted in conviction are
29 fundamentally different...[where] conviction had been error free. In such a case, when a
30 petitioner has been tried before a jury of his peers, with the full panoply of protections that

1 our Constitution affords criminal defendants, it is appropriate to apply an extraordinarily
2 high standard of review.

3
4 [But where a habeas petitioner] accompanies his claim of innocence with an assertion
5 of constitutional error at trial...[petitioner's] conviction may not be entitled to the same
6 degree of respect as one that is the product of an error free trial. *Schlup*, 513 US at 315-16
7 (internal citations omitted).

8 Thus, where a federal *habeas* court is confronted, as here, with both a claim of "new
9 evidence of innocence" and allegations of "nonharmless constitutional error" its desire to
10 respect the finality of a state court criminal judgment should be at its lowest. *Calderon v.*
11 *Thompson* 523 US538, 557 (1986).

12 In the instant case, Petitioner presents both new evidence of innocence as well
13 as allegations of nonharmless constitutional error sufficient to undermine this Court's
14 confidence in the initial judgment of conviction and sentence. Though never able to present
15 before a Judge or jury, Petitioner has consistently focused on the State's failure to disclose
16 exculpatory ballistics and firearm evidence, a violation of Petitioner's due process rights
17 under *Brady v. Maryland*, 373 U.S. 83 (1963) (see the extensive discussion *infra*) and the
18 violation of Petitioner's Sixth Amendment right to effective assistance of counsel under
19 *Strickland v. Washington*, 466 U.S. 668 (1984). (see discussion *infra*.)

20 In comparison with the facts in *Schlup*, Petitioner respectfully submits that the
21 evidence herein, of actual innocence, in contrast to the evidence put forward by conflicted
22 defense counsel at trial, is explicitly stronger and more credible than that of the petitioner in
23 *Schlup* which convinced the Supreme Court to order such relief in that case.

24 In the instant case, Petitioner, not only has stronger eyewitness evidence,
25 establishing actual innocence,(see *infra*) than there was available in *Schlup*, but he also
26 submits scientific, forensic evidence which cannot be credibly refuted, along with the results
27 of a three year examination, by one of the world's foremost expert psychologists, which, in
28 the latter instance, establishes the involuntary nature of Petitioner's actions related to this
29 crime.(see discussion *infra*) With respect to the latter psychological evidence and the
30 Respondent's allegations of it being a "fantastic hypnotic automaton theory" (Respondent's
31 Supplemental Brief ((RSB)) P.11) Petitioner submits supporting evidence concerning the

1 historical record of such programed instances by one of the leading experts in this field. (see
2 discussion *infra*)

3 This new evidence, related to facts to be properly determined at a new trial or an
4 evidentiary hearing, Petitioner respectfully submits, consists of both exculpatory scientific
5 evidence – not available at the time of trial – trustworthy eyewitness evidence, ignored by
6 defense counsel at trial, and other physical and psychological evidence not presented at trial,
7 and therefore, as discussed below, satisfies the requirements under *Schlup*. (513 US at 324)

8 Respondent, in cursory fashion, denying its applicability, refers to the case of
9 *Lisker v. Knowles*, [463 F. Sup. 2d 1008 CCD Cal (2006)](RSB at 3) in which the District
10 Court found that new evidence, including forensic evidence, effectively met the *Schlup*
11 standard establishing a miscarriage of justice and actual innocence, thus dismantling the case
12 presented by the prosecutor at trial (*id* at 1018) and the Respondent then blithely asserts
13 without a detailed analysis or discussion, that Petitioner, in contrast, has failed to meet that
14 burden and demonstrate that he is actually innocent.

15 A closer examination of *Lisker* reveals why Respondent elected to only
16 summarily refer to it, before attempting to use a broad brush to contrast it with Petitioner's
17 case. As a matter of fact, Petitioner's evidence of his actual innocence is significantly
18 stronger than that presented by the petitioner in the *Lisker* case.

19 In both cases there was an admission of guilt, but in Petitioner's case, he was
20 told by defense counsel – who himself was conflicted with a pending federal indictment
21 hanging over him – that he was guilty and that the challenge for the defense was not to assert
22 his innocence but to focus on saving his life. In *Lisker*, the petitioner pled guilty in order to
23 obtain favored treatment in the penal system – certainly a lesser reason than that imposed on
24 Petitioner in the instant case who was convinced by his counsel that this was the only way to
25 avoid the death penalty.

26 In *Lisker*, the primary issues were that the defense did not develop initial
27 evidence with respect to weather conditions on the day of the crime, proof of a relevant
28 phone call, or discrepancy regarding shoe prints at the scene. Petitioner respectfully suggests
29 that there is no comparison in terms of material significance, with the evidence of actual

1 innocence of Petitioner, in the instant case (set out *infra*) , In both cases defense counsel were
2 deficient in fulfilling their Sixth Amendment obligations, by not using available evidence at
3 the time to obtain the fullest benefit for the defendant, by failing to investigate factual
4 indications of innocence and by not challenging questionable evidence put forward by the
5 State. An examination of the *Lisker* case, however, in contrast with the instant case, in terms
6 of these aspects, clearly indicates that Petitioner’s conflicted counsel (there is no indication in
7 the record that defense counsel in *Lisker* had any conflict) performed far worse in violation
8 of Petitioner’s Sixth Amendment rights.

9
10 **1. The *Schlup* Definition of “New Evidence” In The Ninth Circuit**

11 For the avoidance of doubt, and in the face of differing interpretations by Circuit
12 Courts of Appeal as to what is considered ”new evidence” of actual innocence for gateway
13 purposes, under the *Schlup* ruling, Petitioner wants to ensure that the Ninth Circuit definition
14 is clear.

15 The issue is whether the new evidence of actual innocence is “newly
16 discovered” evidence or “newly presented” evidence. In the former instance, the evidence is
17 required to have been discovered after trial, whilst in the latter, “new” means all evidence
18 that was not presented to the fact finder even if available at the time. That would mean
19 evidence that was not ” presented” (the word actually used by Justice Stevens in *Schlup*
20 instead of “discovered” [*Schlup* at 324] even if available, at trial or a subsequent evidentiary
21 hearing. Building on *Schlup*, Justice Kennedy, writing for the majority in *House v Bell*, 547
22 U.S. 518; 126 S. Ct (2006) stressed that in evaluating gateway claims a *habeas* court’s
23 inquiry is not limited *solely* to “new reliable evidence...that was not presented at trial (*id*
24 126 S.ct. at 2077). He did not, however expound upon what should be the limits.

25 The law in the Ninth Circuit is clear and beyond any doubt. *Griffin v*
26 *Johnson*, 350 F3d 956,961 (9th Cir. 2003) The definition of new evidence for the purposes of
27 actual innocence in *habeas* proceedings such as Petitioner’s before this Honorable Court
28 requires only that the evidence not have been presented to a fact finder at trial or subsequent
29 evidentiary hearing. This includes those instances where a witness would have testified but

1 not been asked by counsel, of either side, to provide a particular piece of evidence which
2 would then be viewed as not having been “presented” at trial.

3 The newly presented evidence rule in effect in the Ninth Circuit involves
4 evidence that was not presented before a fact finder because of the conduct of petitioner’s
5 trial counsel, decisions made by the petitioner, or evidence excluded by a judge. In the instant
6 case, the overwhelming reason for the exculpatory evidence not having been presented was
7 due to the conduct of Petitioner’s conflicted counsel. (see the extensive discussion *infra*)

8 In the instant case, the exculpatory evidence being put forward by Petitioner
9 actually involves evidence that is both newly discovered (therefore satisfying the more
10 restrictive standard) and newly presented, never having been put to a trier of fact. In the latter
11 case it should be clear beyond any question that the test is that the evidence being proffered
12 was not tested at trial or at an evidentiary hearing. Since there has never been an evidentiary
13 hearing, in the instant case, we are referring only to evidence not adduced at trial. No other
14 airing will suffice. In other words evidence put forward to a Grand Jury, other investigative
15 bodies, in prior petitions, or magazine or newspaper articles do not count for the purposes of
16 exclusion under the law of the Ninth Circuit. The reason for this requirement of presentation
17 before a finder of fact is well founded. Only in those circumstances is a Judge, and or jury,
18 able to assess a witness’s demeanor and manner.

19 In this case Petitioner presents two types of newly discovered exculpatory
20 evidence. First, is the scientific/forensic analysis of the Pruszyński tape recording made at the
21 time of the shooting but only capable of being scientifically analyzed with the advances of
22 technology some 35 years later. The second, are the results of interviews and testing of
23 Petitioner, (utilizing tests and measurement devices, many of which were not previously
24 available) conducted over a period of three years by one of the world’s foremost experts in
25 hypno programming, Harvard psychologist, Dr. Daniel Brown.

26 The newly presented exculpatory evidence of actual innocence, also admissible
27 under the law in the Ninth Circuit involves: (1) the testimony of witnesses, who either were
28 not called to testify at the trial or whose testimony did not include, or excluded the

1 exculpatory evidence; and (2) introduction of exculpatory documentary evidence not put
2 forward at trial.

3 **B. Petitioner's Evidence Of Innocence Is Sufficient To Establish The**
4 **Probability That No Reasonable Juror Would Vote to Convict**

5 In the instant case, contrary to Respondent's assertion, conflicted defense
6 counsel virtually ignored the most significant conclusions of the late arriving autopsy report
7 which showed that the victim was shot four times from the back at close, powder burn range
8 with the fatal bullet fired at 1-2 inches behind his right ear, and that the bullet taken from the
9 victim's neck was never matched to the Petitioner's gun, or that the slug entered into evidence
10 was shown conclusively to have the marking ("TN 31") placed on it by the Medical
11 Examiner, Dr. Thomas Noguchi, who removed it.

12 Despite Respondent's assertions (RSB at 8-9) defense counsel also ignored
13 the relevant facts in the statements of 12 witnesses, most of whom were not heard by the
14 Judge and jury at the trial. Independently of each other, they unanimously placed Petitioner
15 in front of the Senator, and at varying distances away, and at all time, during the five seconds
16 when the shots were fired. (See Exhibit A and discussion *infra*) In addition, neither jury nor
17 Petitioner were informed that there were five witnesses who, also independent of each other,
18 not only stated that they saw Petitioner's hand pinned to the steam table, but that this control
19 over petitioner's gun hand was effected **after he fired his second shot**, (See Exhibit B.) thus
20 confirming the fact that he had no control over his shooting hand after discharging that shot.
21 (see discussion *infra*) For ease of reference, Exhibits A and B, contain all available sources
22 of the relevant witness accounts, not developed by either prosecution or the defense for the
23 Judge and jury, which Petitioner has been able to locate.

24 Finally, as noted above, Petitioner, eventually learned that his trial counsel
25 ignored, and the jury never learned, the fact that there was actually no match of the bullet,
26 recovered from the neck of the victim, or the different bullet introduced into evidence as
27 People's Exhibit 47, (see discussion *infra*) with his gun and that consequently, defense
28 counsel did not pursue the issue of a possible substitution of another bullet not bearing the

1 marking "TN 31" which is the marking placed on the slug by medical examiner Dr. Thomas
2 Noguchi. (see discussion of the neck bullet, Ex. 47 *infra*)

3 Contrary to Respondent's allegation, only the most speculative motive is asserted
4 with respect to motive, Petitioner's "displeasure" over the Senator's support for Israel.
5 "Displeasure" is clearly not a motive for assassination, and no sworn statements are provided
6 for the substantiation of this motive or any other alleged remarks by petitioner while under
7 stress.

8 The Respondent's allegations concerning Petitioner's alleged attendance at
9 various public appearances by the Senator as "stalking" is an uncorroborated conclusion,
10 particularly when Petitioner has stated that, despite any differences in policy, he would have
11 voted for the Senator; hardly the position of an assassin.

12 Petitioner has never denied being at the Ambassador Hotel on the evening of the
13 assassination, and he has also not denied being at the shooting range earlier that day. He was
14 a regular practitioner of target shooting. This activity is also discussed in detail below in the
15 Declaration, hereto, by Harvard psychologist Dr. Daniel Brown. (Exhibit H)

16 Respondent attributes a great deal of significance to Petitioner's admission of
17 guilt, as though, false confessions were unknown in the criminal justice system and
18 Petitioner's statements are analyzed in detail in the Brown report. (*infra*) In fact, it is
19 ludicrous that Respondent relies upon a statement in which Petitioner, script like, stated that
20 he had killed the Senator "... with 20 years of malice aforethought." (RSB at 5) What utter
21 nonsense. To accept that statement, or rely upon its accuracy, as Respondent appears to do,
22 means to accept as fact that Petitioner conceived this plan, at age 4, to kill Robert Kennedy,
23 who then was being graduated from college.

24 This reeks of desperation on the part of the Respondent.

25 As for Dr. Seymour Pollack's cursory opinion for the prosecution, Petitioner
26 submits it is more than explicitly dismantled by Dr. Brown's exhaustive examination. (*infra*)

27 As noted earlier, at the time, Petitioner was convinced by his defense counsel
28 that he should be concerned about saving his life, not considering his innocence. In
29 concluding that Petitioner did, in fact, fire eight shots from his weapon while standing in

1 front of the Senator and that five people other (RSB at 6) than the Senator were wounded,
2 Respondent, fails to acknowledge that after the second shot, Petitioner's shooting hand was
3 pinned to the steam table, and he had no control over where the remaining shots went, and
4 that during that five second period, the Senator was hit by three of the four shots fired at
5 powder burn range from behind. Respondent fails to explain how Petitioner could have
6 possibly fired four bullets at the Senator when his hand was pinned to the steam table during
7 the discharge of his last six bullets. The reason for this failure , this omission in Respondent's
8 argument is obvious. There is no reasonable explanation. Petitioner, simply, could not have
9 fired four shots at the Senator. To suggest otherwise goes beyond speculation. It is pure
10 fantasy.

11 Petitioner suggests that it is Respondent's position which is based on speculation,
12 and, as noted above, fantastic misrepresentations and the omission of evidence which clearly
13 indicate his innocence. In this context it is essential to examine the available evidence, of
14 innocence, with a degree of detail not present in the Respondent's Supplemental Brief.

15 **1. The Pruszynski Recording**

16
17 Subsequently, and currently before the court, is evidence developed by the high
18 standard, scientific, forensic analysis technique not available in 1968 of the Pruszynski tape
19 recording by audio engineer and computer technologist Philip Van Praag. Discussed in detail
20 in his Declaration hereto (Exhibit C). Mr. Van Praag first became aware of the recording in
21 June, 2005 and began to conduct an analysis of the sounds it contained at that time, using
22 laboratory grade playback and recording equipment. He engaged a 10 step process of
23 examination and analysis, the first two of which acquainted him with the overall recording
24 content.

25 The third process step involved a comparison of the Pruszynski recording with
26 several commercial broadcast and private audio/video recordings from that night at the
27 Embassy Room of the Ambassador hotel, in order to validate the sounds on the Pruszynski
28 recording and to gain a general understanding of the positioning of Pruszynski, Kennedy and
29 others heard on the recording during and immediately after the Senator's victory statement.

1 The fourth process step focused on re-establishing correct timing for the entire
2 gunshot interval on the Pruszynski recording which involved the synchronization of that
3 recording with broadcast recordings from just before the shooting. This provided a basis for
4 comparing Pruszynski's movements to the sounds of his recording, and the precise tracking
5 of his movements as he left the stage area and proceeded toward the kitchen pantry. (Process
6 step five)

7 Process step six involved detailed study of the video footage in the Embassy
8 Room which provided information about the recording equipment used by Pruszynski,
9 footage of him retrieving his equipment from the podium after the victory statement and
10 footage showing him leaving the pantry 24 minutes after the shooting.

11 Only then, having gathered all of this information and the dimensional data, as
12 well as the location of Petitioner and the Senator at the time of the shooting, did Van Praag
13 begin, in process step seven, a detailed examination of the shot sounds. This examination,
14 and the equipment used are set out in detail in Van Praag's Declaration (Exhibit C).

15 This examination and analysis revealed to him that 13 shots were fired (his
16 "first discovery") but he states that it is possible that the total number exceeded 13 because
17 loud screams from the people closest to the shooting could have possibly obscured the
18 reliable capture of additional shots. Since he knew that the number of shots exceeded the
19 capacity of Petitioner's gun (with no possibility for him to reload) it became evident that
20 more than one gun must have been fired. With multiple guns firing during a period of just
21 over 5 seconds, he realized that the spacing of some of those shots had to be close together.
22 With this analytical focus he found that within the 13 shots there were, in fact, two "double
23 shot" groups-his "second discovery". In other words there were two instances identified
24 wherein the two shots within each of those double shots were fired extremely close together,
25 specifically about 149ms apart for shots 3-4 and 122ms apart for shots 7-8.

26 Since Petitioner's gun was an inexpensive revolver (Iver Johnson Cadet 55SA)
27 it was highly unlikely that it could have been fired that rapidly.

28 At that point, he began an even more detailed analysis. (Process step eight)
29 Realizing that there was, at least, the possibility that the two guns might have been of

1 different makes and models he began to examine what is known as the shot waveform
2 envelopes more closely. He explained that a distinguishing characteristic of gunshots is the
3 presence of a trailing edge waveform “envelope” which follows the extremely short initial
4 impulse of the actual shot. This distinguishes gunshot sounds from other sounds like balloons
5 or firecrackers which the human ear might easily mistake for gunshots. As he examined the
6 frequency content of those trailing waveform envelopes he discovered an anomaly occurring
7 in 5 of the gunshot waveforms. The anomaly presented as a single frequency component, at
8 1600Hz, of a level not found in the other shot sound waveforms and it was present in one,
9 and only one, of each double shot pair. Van Praag refers to this as his “third discovery”.
10 Since it occurred in only five of the shots he discounted coloration from the pantry
11 furnishings or construction materials, or echoes, for the same reason. He noted that
12 Petitioner’s hand had been pinned to the steam table after his second shot and that,
13 subsequently, he was pulling the trigger from only that position.

14 Process steps 9 and 10 involved field testing (on two occasions) the Iver
15 Johnson, duplicating the distance between Pruszynski’s microphone and the guns (the tests
16 also involved the use of another 22 caliber revolver, the H&R 922 which had identical rifling
17 characteristics with the Iver Johnson Cadet 55SA) and utilizing the Steinberg Wavelab
18 computer software (the same software used to initially identify the frequency anomaly on the
19 Pruszynski recording). The results revealed that no frequency anomaly was found within the
20 Iver Johnson test firing, whether recorded from the front or the rear of that gun.

21 As a result of this exhaustive process Van Praag concluded as follows:

- 22 1. At least 13 shots were recorded as being fired during the period of just over 5
23 seconds.
- 24 2. These shots came from multiple guns being fired during that period of time.
- 25 3. In two instances (shots 3-4 and 7-8) overlapping or “double” shots were fired,
26 indicating a second gun being discharged.
- 27 4. The gunshot trailing waveforms revealed a frequency anomaly with respect to
28 5 of the shots, indicating that a second gun was fired, of a make and model
29 different from that which Petitioner fired. Test firings of an Iver Johnson Cadet

1 55SA (the make and model of Petitioner's gun) revealed no frequency anomaly
2 within the tested frequency.

3 5. In the pantry, Petitioner was firing from east to west, whilst another gun was
4 firing five of the shots from west to east.

5 It is important for this Court to understand that the capability to perform a
6 number of the technological processes described above, together with ability to perform other
7 of the described processes in the depth and with the degree of accuracy necessary to result in
8 definitive findings, such as those discovered by Philip Van Praag were not available in 1968.

9 Petitioner also respectfully submits that the use of techniques and
10 methodologies developed by Van Praag specifically for the task constituting advanced
11 computerized analysis of the sounds of the Pruszinski recording are light years ahead of
12 listening to the tape with the human ear, or, in the case of the Respondent's "experts" using
13 earlier, relatively primitive electronic filtering or other sound devices. The unsworn opinions
14 relied upon by Respondent (which include references to anti conspiracy book writers) simply
15 cannot be compared with Van Praag's processes. One such examination, conducted by
16 Phillip Harrison, a United Kingdom forensic audio examiner, hired by writer Mel Ayton, was
17 conducted without the examiner even knowing where Mr. Pruszynski was standing and most
18 significantly, what was the location of his microphone and how it was moving toward the
19 pantry, where the shootings took place. Harrison does not appear to be aware of the layout of
20 the pantry, its dimensions, or contents, or even that Petitioner's shooting hand was pinned to
21 the table after the second shot. In addition, he appears to be working from a dubbed copy of
22 one of Van Praag's masters.

23 **Harrison gives no indication of the scientific processes he utilized to**
24 **categorically rule out the possibility that there were more than 8 shots fired.**

25 These deficiencies, contrasted with the mandatory standards set out, and
26 followed, by Van Praag, inevitably bring Harrison's credibility into question.

27 Another, unsworn opinion, (also commissioned by Mel Ayton) put forward by
28 the Respondent is that of one Steve Barber, whose credentials are withheld from us. It
29 appears that Mr. Barber, largely relied upon listening to one of Van Praag's masters for his

1 conclusions. When he did employ a computer to examine the sounds, he is compelled to
2 admit the possible presence of an “echo” or a double shot which, of course, is what Van
3 Praag concluded in two instances. There is, however, no indication that Mr. Barber is any
4 more aware of the essential shooting scene details than was Mr. Harrison.

5 **Here, as well, Barber gives no indication of the scientific processes he**
6 **utilized to categorically rule out the possibility that there were more than 8 shots fired.**

7 In terms of good faith, and the interests of justice, the reliance of Respondent
8 also upon the unsworn opinion of a bookwriter like Mr. Ayton, who has consistently
9 supported the official opinion in such a case and the attempt to place articles into evidence
10 rather than introducing formal Declarations is worrying.

11 Petitioner respectfully submits that there is no indication that the analysis
12 methods relied upon by the Respondent contained the degree of sophistication sufficient to
13 adequately characterize the nature of the gunshots present in the Pruszynski recording.
14 Without that level of sophistication, particularly given the relatively poor quality of the
15 recording, any conclusion that only one gun was fired has no credibility.

16 If it were not for the fact that Petitioner who has spent 43 years in prison for a
17 crime of which he is innocent, and who now presents scientific evidence of his innocence,
18 the total inadequacy of the Respondent’s effort (RSB at 7) to deny the inescapable
19 conclusions resulting from the methodical 10 step technological process, would be laughable.
20 In these circumstances it is lamentable. Surely, Petitioner is entitled to an opportunity to have
21 all of this, never before available, evidence tested for the first time in an evidentiary hearing.

22 **CONCLUSION**

23 Thirteen shots were fired in the pantry during the five second period of the
24 shooting. Multiple guns were fired with overlapping shots (3-4), and (7-8) being
25 detected, indicating that a second gun was being fired. The gunshot trailing
26 waveforms revealed a frequency anomaly with respect to 5 of the shots, indicating
27 that a second gun was fired, of a make and model different from that which
28 Petitioner fired.

29

1 **2. The Eyewitness Evidence**

2 **a. Petitioner's Location Was In Front Of the Senator At All Times**

3 Petitioner respectfully submits that there are at least 12 eyewitnesses, most of
4 whose evidence was not been heard by the Judge or jury, who independently have given
5 statements which have clearly placed Petitioner in front of Senator Kennedy at the time of
6 the shooting, although, understandably, the estimates of how close he was to the Senator
7 vary. (Exhibit A). Respondent contends that this is not "new" evidence. (RSB at 8). Since
8 only 6 of the witnesses, referenced by Petitioner were called to testify at the trial Petitioner
9 suggests that the evidence of the other uncalled eyewitnesses is indeed new evidence in light
10 of the fact that their observations were not presented to the Judge and jury at the trial. In
11 addition, as discussed below, evidence adduced at trial on this issue as exemplified by an
12 examination of the trial testimony contained in Exhibit A, often did not deal in detail with
13 the location of the Petitioner so that the Judge and jury would not have been exposed to the
14 specific details about Petitioner's position.

15 Having said that it is significant that we examine the testimony of the few
16 eyewitnesses to which the Respondent refers. Their observations are surely more relevant to
17 the issues before this court than the Respondent's submissions of the unsworn flip flopped
18 opinion of another book writer –Dan Moldea- who for most of his history with this case
19 adamantly supported Petitioner's innocence, only to suddenly, and mysteriously, in light of
20 his extensive published research, change his mind. Petitioner suggests that it is telling that
21 Respondent leads off with this unsworn writer's opinion rather than focusing on eyewitnesses
22 who were there and actually saw what was happening.

23 Respondent states that Edward Minasian "... saw Petitioner moving toward
24 Senator Kennedy before firing two shots..." *id* at 9). In fact he saw no such thing. As he
25 reflected, Minasian realized, and so testified, that he saw no one coming toward the Senator.
26 He, himself, was between the Senator and Karl Uecker, and Petitioner was somewhere
27 behind Mr. Uecker, well in front of the Senator, Minasian explicitly said: "...If I said he
28 was running, I was mistaken. I could not see anyone".

29 (maryferrell.org/mffweb/archive/viewer/showDocdo?mode=search

1 Result&absPageld=104896 (hereafter “maryferrell.org.” TR 3176-3177). From an
2 evidentiary standpoint, in terms of what the Judge and the jury heard defense counsel did not
3 follow up and allow the witness to make it clear that the witness was placing Petitioner in
4 front of the Senator (so this fact may have been missed by the Judge and jury). Respondent
5 ignores the failure of both the prosecutor and, especially, the defense counsel, to make the
6 vital fact of Petitioner’s position clear to the jury.

7 Linda Urso, who does not appear to have been called to testify at the trial.
8 has stated that she saw Petitioner in front of the Senator, and thought he was going to try and
9 shake hands with the Senator until she saw a gun and the flash of the first shot. (Exhibit A)
10 However, even Respondent’s account concedes that this witness was describing Petitioner’s
11 position as being in front of the Senator. (RSB at 9)

12 Karl Uecker, according to the Respondent “... saw Petitioner rushing toward
13 the Senator.” (*id* at 9) It is not at all clear from where Respondent obtained this statement.
14 Uecker said nothing of the sort in his trial testimony. At that time he actually stated that: “
15 The first thing I saw before I started grabbing Sirhan, I saw his {Kennedy} right hand up and
16 turning.” (*id* at TR 3107-3108) He appears to be referring to the reflexive move of the
17 Senator, noted by others, when he raised his right hand in front of his face as though to
18 protect himself from being shot in the front, presumably by Petitioner, instead of from behind
19 by the second gunman, taking advantage of the distraction in front and ahead of the Senator.
20 In no other statement that Petitioner has found and attached hereto is there any indication that
21 Mr. Uecker saw Petitioner “rushing” toward the Senator. (see Exhibit A)

22 Defense counsel, once again in his cross examination of Uecker made no effort
23 to clarify for the jury the fact that Petitioner was always in front of the Senator with
24 absolutely no opportunity to fire 4 bullets at powder burn range from the rear of the Senator
25 at his back.

26 Respondent neglects to mention that Boris Yaro was looking through the
27 confined dimensions and potential distortions of a camera view finder in the act of being
28 focused, and not freely observing anything with his unhindered vision.

1 An examination of Martin Patrusky's testimony at the trial (maryferrell.org at TR
2 3381-3390) reveals no such statement under oath as referenced by the Respondent, although
3 Patrusky in an FBI interview on June 7, 1968, confirmed that Karl Uecker was between
4 Petitioner and the Senator. (*id*) At the trial, defense counsel, once again, ignored the vital
5 evidence of Petitioner's location. He had no questions for this witness.

6 If it is curious that the State did not call a number of other eyewitnesses, the
7 comments of who Petitioner has included in Exhibit A, hereto, it is appalling that defense
8 counsel saw fit to ignore this entire line of evidence which in light of this reality must now be
9 regarded as new evidence of innocence to be tested at a trial or an evidentiary hearing.

10 Respondent chastises Petitioner for not identifying the second shooter as though
11 it was his job to solve the crime. Respondent also cites non existent, confirmed evidence that
12 allegedly matched Petitioner's gun to the bullets recovered from victims; presumably
13 including the neck bullet retrieved from the Senator, marked "TN31" which, in fact,
14 Petitioner believes, was never tested against or matched with a test fire from Petitioner's gun.
15 (see the discussion *infra*) Defense counsel never attempted to conduct its own firearms
16 testing and neither did counsel appear to have requested the right to be present when the State
17 conducted its tests or, amazingly, even ask to review the test results. It serves the
18 Respondent's interests and purpose to refer to the multiple eyewitness statements as
19 "...inconclusive eyewitness testimony..." (RSB at 10) but it surely did not serve the cause of
20 justice for prosecution and defense to work together and deny the trial Judge and jury the
21 opportunity to weigh this evidence for themselves, which contrary to Respondent's bold
22 assertion (*id* at 8) did not happen. Petitioner urgently prays that this omission may be
23 corrected in the course of an evidentiary hearing to be ordered by this honorable Court.

24 Respondent also complains that Petitioner does not take into account the
25 movements of Petitioner and the Senator during the confrontation. (*id*) Of course they
26 moved their bodies. They were not stick figures, but none of the reported movements
27 materially change their basic positions –Petitioner in front of the Senator.

28 As for Petitioner's statements and belief, about his own culpability, held for a
29 considerable period of time, initially nurtured and reinforced by his conflicted defense

1 counsel, this issue will be extensively discussed below with the discussion supported by a
2 Declaration from Dr. Daniel Brown, who examined Petitioner during three year period.

3 CONCLUSION

4 Petitioner was at all times in front of the Senator and in no position to fire four
5 shots at him at powder burn range evidenced by the powder burns on his jacket
6 and the skin around his right ear.

7
8 **b. Petitioner's Hand Was Pinned To The Steam Table After The**
9 **Second Shot**

10 Respondent ignores the fact that immediately after the second shot (Witnessed
11 by Edward Minasian who leaped by Karl Uecker to grab Petitioner) [Exhibit B] Petitioner
12 was physically apprehended and his shooting hand was pinned to the steam table, where he,
13 in automatic fashion continued to pull the trigger. Uecker seems uncertain if that
14 apprehension took place after the second or third shot was fired but there is no doubt that it
15 was well before Petitioner was able to completely discharge his weapon with the result that
16 the random firing of what Uecker recalls were five or six additional shots caused bullets to fly
17 all over the pantry. (*id*)

18 In this frantic sequence of events Minasian grabbed Petitioner around the waist and Uecker
19 put him in a headlock (*id*).

20 The reason that Respondent ignores this factual evidence and the reason that it
21 was not developed at trial by either the prosecution or conflicted defense counsel, who was
22 only interested in conceding the guilt of his client at every turn, should be obvious.

23 It destroys the State's case.

24 Four bullets were fired at the back of the Senator, obviously from behind and
25 below him, (since all were discharged in an upward angle). No eyewitness ever indicated that
26 Petitioner's shooting arm and gun were other than in an horizontal position. (Exhibits A and
27 B) They were all fired at very close range –the fatal shot was 1-2 inches from his right ear-
28 with shots 2 and 3 fired in contact with the Senator's jacket or very (1/2 inch) close leaving
29 powder burns on his jacket near the right armpit and a fourth shot going through the shoulder

1 pad of his jacket, not touching his body. Aside from the host of witnesses who independently
2 contend that Petitioner was always in front of the Senator, when his hand was pinned to the
3 steam table after he fired his second, or, at most, third shot, when the first shot was likely the
4 one which grazed the forehead of Paul Schrade (also in front of Petitioner near the Senator)
5 there is no way he could have been in a position to fire four shots at close range, from behind
6 and below the target.

7 Petitioner respectfully submits that if this evidence had been presented at the
8 trial in conjunction with the findings of the Medical Examiner in his report (PSB Exhibit 1)
9 there is no way that a conviction would have resulted. It was never developed by either the
10 prosecution or the defense and, consequently, must be regarded as new evidence of
11 innocence available to be tested at a new trial or an evidentiary hearing.

12 CONCLUSION

13 Petitioner's gun hand was pinned to the steam table after the second shot. In
14 addition, intervening individuals were all over him rendering it impossible for
15 him to have fired the number of shots fired at the Senator from the position he
16 was in.

17 3. The Undeveloped Evidence in the Autopsy Report and Related Ballistics

18
19 Respondent contends that any evidence pertaining to the substance of the
20 Autopsy Report is not new since it also was presented at trial. (RSB at 8) Once again, this
21 contention ignores what testimony was elicited and what evidence the Judge and jury
22 actually heard at trial. In this instance, as in others (*supra*) Respondent asks us to assume that
23 an area of evidence is covered completely simply because it is touched upon by either the
24 prosecution or the defense, or both, in peripheral fashion.

25 As a matter of fact, during his testimony at the trial, Dr. Thomas Noguchi was
26 never shown or, asked about, the neck bullet he removed and marked on the base as "TN31".
27 (maryferrell.org TR 4503-4535) The alleged bullet was entered into evidence by the
28 prosecution as Exhibit 47 through the testimony of the LAPD'S Chief Criminalist De Wayne
29 A. Wolfer ("Wolfer") (maryferrell.org TR 4128). So, it is extraordinary that the Medical

1 Examiner who removed it and turned it over to an LAPD Detective (Bill Jordan) was not
2 shown the bullet for him to identify, before the jury, which was certainly necessary for chain
3 of custody purposes.

4 When he testified before the Grand Jury and the Board of Supervisors
5 (maryferrell.org RFK LAPD Microfilm Vol 122 p.300) he clearly identified the bullet he was
6 shown based upon the mark he put on the base upon removal. It is material that whenever Dr.
7 Noguchi was asked to identify the neck bullet he always did so based upon the presence of
8 his marking. He was not interviewed by the Wenke Commission and so, did not have an
9 opportunity to view the bullet they examined as being the neck bullet. At the trial, the
10 primary proceeding in the case, the prosecutor in direct examination and the defense counsel
11 in cross examination, uniformly, neglected to show him, or raise with him, the question of
12 this evidence bullet (Exhibit 47) which was lodged in, and recovered from, the Senator's
13 sixth vertebrae, even though he was asked to provide great detail about the range/proximity
14 and angles of the three bullets which were fired at the Senator.

15 He said that each of the three shots, which hit the body of the Senator (a fourth
16 went through the shoulder pad of his jacket without making contact with his body) were fired
17 at very close range, from right to left, in an upward angle. The fatal shot was fired at a
18 distance of 1-2 inches behind the right ear, from an upward angle of about 15 degrees, whilst
19 the other two were discharged in contact or at most a 1/2 inch distance back of the right
20 armpit. Travelling upward, initially, in almost parallel paths, one- at a 30 degree angle- exited
21 the body and the other -at a 35 degree angle- lodged in the sixth vertebrae, or neck. The two
22 non fatal body shots showed gun powder deposits embedded deeply in subcutaneous tissue of
23 both entry wounds and minute metallic fragments (maryferrell.org TR 4527-4532)

24 The evidentiary significance of this neglect has not been considered previously
25 and will be set out below in Petitioner's discussion of the *Brady* and *Strickland* violations
26 surrounding the conduct of the prosecution and his own conflicted defense counsel.

27 In his testimony before the Grand Jury, on June 7, 1968 Wolfer stated that he
28 test fired the Petitioner's revolver -Exhibit 7- after receiving it on June 5. He said that he
29 compared the neck bullet with a test fired bullet, from Petitioner's gun, and there was a

1 match. (maryferrell.org RFK LAPD vol. 97 p.75) He was not shown, or asked to identify,
2 the neck bullet with the marking TN31 placed on it by the Medical Examiner.

3 At the trial Wolfer , testified at 9:20 AM on February 24, 1969, (maryferrell.org
4 TR 4120-4428) and was used to enter into evidence all of the bullets and bullet fragments
5 recovered from the Senator and the other victims. Amongst the bullets he identified was the
6 State's Exhibit 47-the neck bullet which he did identify without referring, or being asked to
7 refer, to any marking at the base. Hence, since Dr. Noguchi was never asked to identify, or
8 anything else about Exhibit 47, even though he was the one who removed the bullet, there
9 was, previously, no way of it being confirmed that the bullet, entered into evidence, as
10 Exhibit 47, was in fact the one removed from the Senator's sixth vertebrae, by Noguchi, and
11 then marked TN 31. We would subsequently learn that it was not.(see discussion *infra*)

12 Petitioner respectfully suggests that this omission is a material evidentiary
13 deficiency and its presence is compounded by the failure of defense counsel not only to not
14 pursue the issue and require authentication of the bullet –a key element of the State's case-
15 but to stipulate the acceptance by the defense of the authentic identity of that bullet, and the
16 other bullets and fragments, when the State's ADA Fitts, admitted in Chambers to the court
17 that they were unable to provide a foundation for the bullets (*id* TR3967); hence the
18 voluntary offer of stipulation by conflicted defense counsel Cooper. Three days later, all
19 bullets are introduced, through Wolfer's testimony, by stipulation. (*id* TR 4129-4130).
20 Thus, Wolfer is never asked to describe the bullets he examined or to confirm that the alleged
21 Kennedy neck bullet he "matched" to Petitioner's test fired bullet bore the TN31 marking.

22 Petitioner's counsel not only stipulated to the admission into evidence of the
23 forensic ballistic evidence which was the basis of the State's case, and which evidence the
24 State knew might not be authentic, but did so without hiring his own firearms expert,
25 conducting his own testing, or even (so far as the record indicates) requesting an opportunity
26 to view the reports of the testing carried out by the prosecution.

27 Needless to say the stipulation also allowed for the admission into evidence of
28 the bullets removed from Ira Goldstein (Exhibit 52) and William Weisel (Exhibit 54) which
29 Wolfer stated also matched the neck bullet and Petitioner's gun. In other words, his

1 unchallenged conclusion was that bullets from Petitioner's gun, (People's Exhibit 6) and no
2 other in the world, had struck the Senator a point blank range, with one ending up in his
3 neck, and also hit two other persons several feet away from Petitioner. With respect to the
4 concept of magic bullets, considering the fact that Petitioner's hand was pinned to the steam
5 table after he fired his second shot (for both of which he had to reach around Karl Uecker,
6 who was in front of him, to get off . (see Exhibits A and B) This renders Petitioner a shooting
7 magician in his own right.

8 With the Court's indulgence (and without repeating the citations set out above)
9 the significance of the TN31 bullet requires a brief recapitulation of its history. It was
10 removed from the Senator's neck, marked TN31 but is booked into LAPD custody as item
11 #53 through the Property Report with no described identifying markings even though there is
12 a space on the LAPD Property Report for identification marks. This space is left blank for the
13 Kennedy neck bullet, though filled in for the Weisel bullet, noting its identifying initials
14 ("LMO"). Wolfer examines a bullet but does not note any markings, so there is no way of
15 determining if the bullet he was examining was the TN31 bullet. TN31 next appears at the
16 Grand Jury Hearing and is shown to Dr. Noguchi, who identifies it as the bullet he removed
17 from the Senator's neck. Exhibit 47 is introduced at trial as the neck bullet but there is no
18 confirming evidence that it is the TN31, bullet, either from testimony from Noguchi or
19 Wolfer. Prior to its admission into evidence ADA Fitts concedes that the prosecution lacked
20 foundation for the bullets and defense counsel willingly helps out by agreeing to stipulate to
21 the authenticity of all ballistic evidence including, Exhibit 47- the alleged neck bullet.

22 Wolfer's testimony, on September 16-18, 1975 before the Commission of Judge
23 Robert A. Wenke, which empanelled seven ballistics experts to re-investigate the firearms
24 evidence, was revealing. Aside from being evasive and not recalling a number of actions he
25 took, Wolfer is not asked to specifically identify the neck bullet (Exhibit 47) on the basis of
26 the markings contained and as noted above Dr. Noguchi is not interviewed. Though Wolfer
27 contends that he did fire the test bullets from Petitioner's revolver his contemporaneous daily
28 log covering his activities from June 5 through June 19 reveals no such test firing having
29 been conducted. (Exhibit D)

1 What does emerge is that the test shot envelope, containing three test fired
2 bullets, dated June 6, with Petitioner's name, which Wolfer entered into evidence at the trial
3 as Exhibit 55, contained the serial number of another gun he had obtained from the property
4 room, H-18602, ostensibly for sound and muzzle distance testing since Petitioner's revolver,
5 H-53725 was with the Grand Jury. This explanation is clearly not credible since a court order
6 could have been obtained (and previously had been issued) to allow the tests and so,
7 Petitioner submits, Wolfer must have had another purpose in bringing another, similar
8 weapon into the frame, quite possibly (if the label on the Exhibit 55 test shot envelope is to
9 be believed (and is not a bizarre clerical error) for producing test fired bullets.

10 As noted earlier, Wolfer testified, at trial, that he had matched Petitioner's gun
11 with the neck bullet, Exhibit 47. He also maintained that he found similar matches of test
12 fires from Petitioner's gun with the Goldstein (Exhibit 52) and Weisel (Exhibit 54) bullets.
13 Petitioner submits that this forensic evidence, the acceptance of which was accomplished in
14 collaboration with his own defense counsel after the prosecution candidly admitted they
15 lacked the necessary foundation for the bullet evidence, was largely responsible for the jury
16 decision to convict.

17 The Wenke Panel of Experts did not rule the possibility of a second shooter but
18 did not find evidence, in their work, to confirm it. The Panel explicitly contradicted Wolfer's
19 findings, unanimously rejecting them and concluding that they could not match test fired
20 bullets from Petitioner's gun-H-53725- with the Kennedy neck bullet, or the Goldstein and
21 Weisel bullets. He was wrong on all counts, but this evidence has never been heard by a
22 Judge or jury. Once again, Petitioner submits that if this evidence was put before a jury, no
23 reasonable juror would vote to convict.

24 The Panel did, however, curiously, conclude that the bullets from all three
25 victims were fired from the same gun – though not that of Petitioner.(Exhibit E)

26 How can this be? What does this mean? The picture becomes clearer and more
27 pieces fall into place when it becomes incontrovertibly evident that a substitution of bullets
28 must have taken place.

1 In producing the inventory for the Wenke Panel report, Panel member and
2 Administrator, Patrick Garland, described the Kennedy neck bullet provided to him by the
3 court clerk (Peoples Exhibit 47 in evidence at the trial) as follows:

4 “Contents:

5 1 copper colored coated bullet, hollow point ID mark “DW”(base) “TN” (base)
6 (Exhibit F)

7 Petitioner submits that this extraordinary contradiction means that the bullet in
8 evidence at the trial which was removed from the body of Senator Kennedy, which was
9 testified to as being matched with Petitioner’s gun, resulting in his conviction, was not, in
10 fact, the Kennedy neck bullet which Dr. Noguchi testified that he had removed before the
11 Grand Jury and the Board of Supervisors. “DW” “TN” was not the mark he placed on the
12 base. Thus, it is irrefutable that the prosecution’s case against Petitioner is completely
13 undermined and must fall away.

14 Additionally, if this were not enough, the Panel’s report lists the Goldstein
15 bullet it received from the court clerk (Exhibit 52) bearing the mark on the base of “6” when
16 an “x” was placed on the base by Dr. Max Finkel after removal in the hospital. (*id*)

17 Petitioner submits that pursuant to this Honorable Court’s Order that there be a
18 full briefing on all of the evidence related to factual innocence. For the first time in the long
19 history of this case it has been possible to provide new evidence. With respect to the facts set
20 out above it appears to be undeniable that a fraud has been committed upon the court, in the
21 absence of which it is more probable than not that no reasonable juror would have voted to
22 convict and no jury would have convicted.

23 It is clear that the prosecution’s Chief Criminalist lied to the jury when he
24 identified Exhibit 47, which was before them, as the bullet that the Medical Examiner
25 removed from the neck of Senator Kennedy. He also lied when he said there was a match
26 between that bullet, as well as bullets in Exhibits 52 and 54, when such a match was
27 impossible as the Wenke Panel of Experts confirmed. The prosecution had to know that there
28 had been a substitution of bullets in evidence but it is not Petitioner’s responsibility to
29 explain how this was arranged. Petitioner only knows that a second gun –since destroyed so

1 it could not be test fired- was brought into use by the LAPD 's Wolfer and it appears that
2 three bullets from the same gun may have been substituted for bullets removed from three of
3 the victims.

4 Petitioner has spent 43 years in prison as a result of this fraud. The seriousness
5 of the fraud upon the court requires in the interests of justice that this verdict should be
6 set aside and Petitioner should be set free, or minimally, given the opportunity through a
7 new trial or an evidentiary hearing, to test all of the new evidence set out herein.

8 CONCLUSION

9 No match was ever made between Petitioner's gun and the neck bullet removed
10 from Senator Kennedy. Similarly, no match was between Petitioner's gun and
11 the Goldstein and Weisel bullets in evidence (Exhibits 52 and 54 respectively).
12 The Kennedy neck bullet ("TN 31") was never introduced into evidence having
13 been substituted for by another bullet ("DW" "TN") which became People's
14 Exhibit 47. Similar substitutions for the original bullets were effected with
15 People's Exhibits 52 and 54. These substitutions amounted to a fraud upon the
16 Court.

17 **4. Petitioner Was Subjected to Extensive and Sophisticated Hypno** 18 **Programming and Mind Control Rendering Him An Involuntary In The** 19 **Crimes With Which He Is Charged** 20

21 In the instant case Respondent refers to the in depth, scientifically based
22 opinion of Dr Daniel Brown, regarding Petitioner's state of mind the night of the
23 assassination of Senator Robert Kennedy as "Petitioner's fantastic hypnotic automation
24 theory" (RSB at p.11) and continues to ridicule the concept of hypno-programming and mind
25 control throughout their brief, while offering no solid scientific evidence to back up their
26 claims.

27 Respondent would like this Court to believe that hypno programming/mind
28 control is a concept that has no credence in the scientific field and that Dr Brown's opinion

1 “has no support among most of his peers.” (*id.* at p13.). Nothing could be further from the
2 truth.

3 Respondent has failed to properly address, and tries to dismiss hypno
4 programming/ mind control as “these fantastic, scientifically-dubious, and self-serving
5 theories” (*id.* at p 11.), when in fact, they are practices which date back over a century and
6 contrary to Respondent’s claims, are widely accepted in the scientific field.

7 Respondent refuses to acknowledge that hypno programming /mind control is
8 not fiction but reality and has been used for years by the U.S. Military, Central Intelligence
9 Agency and other covert organizations. According to Alan Schefflin, a world renowned
10 expert in the field of mind control/ hypno programming, research has been conducted to
11 create multiple personalities for mind control purposes since the early 1940s and “by the
12 early 1950s, research was underway throughout the government to find any means possible
13 to influence a person’s thought and conducts.”) (Exhibit G, Declaration of Alan Schefflin at p
14 3-4.).

15 Though the practices of hypno programming/ mind control is hardly new, the
16 public has been shielded from the darker side of the practice. The average person is unaware
17 that hypnosis can and is used to induce antisocial conduct in humans. According to Schefflin,
18 “People who disbelieve, as I once did, the possibility, under certain special circumstances, of
19 enhanced control of the mind do so because (a) they sensibly fear, and thus do not want to
20 accept, the idea that it is possible to control the mind of another person, and (2) they are
21 unfamiliar with the extensive overt and covert scientific literature on this controversial topic.
22 However, those of us who for several decades have studied the scientific research on mind
23 control, and studied the literature on brainwashing, have become reluctant believers.” (*id.* at
24 p.5)

25 Respondent states that a “...broad consensus” exists in the scientific
26 community that “hypnotized persons retain ultimate control over their actions.” (*RSB* at p
27 12.) yet fails to offer any scientific evidence to support that claim. According to Dr. Brown,
28 “In this *post-Daubert* era to establish “broad consensus” would necessitate that the
29 respondent base opinions about “broad consensus” on appropriate statistical procedures,
namely a random sampling of the relevant scientific community about their opinions about
hypnotic undue influence with a known methodology, and appropriate statistical procedures

1 to minimize the error rate.” (Exhibit H at p. 7 referring to the case of *Daubert v Merrell*
2 *Dow Pharamceuticals, Inc.* 509 U.S. 579, [1993]) Respondent’s cited “experts” consist of a
3 British author, an APA media release and the sole opinion of a British researcher, Wagstaff,
4 who represents one school of thought on hypnotic effects. (*RSB* at P 12-13.)

5 None of Respondent’s cited “experts” offer a declaration to back up their
6 opinions and when Respondent cites an APA media release “Hypnosis makes it easier for
7 people to experience suggestions, but it does not force them to have these experiences.” (*id.*
8 at p 12-13.) Respondent conveniently omitted the next line of the same media release “**unless**
9 **amnesia has been suggested people remain aware...**”. (emp. added) Respondent gives
10 the court a different impression by failing to cite the entire passage. The entire meaning of
11 the media release conveys that certain individuals, through certain hypnotic suggestions, will
12 engage in acts outside of their perceived control and or awareness. Respondent’s convoluted
13 use of their experts’ opinions is discussed in detail below in the Declaration, hereto, by
14 Harvard psychologist, Dr. Daniel Brown. (Exhibit H).

15 Multiple studies, as far back as the 1890s, have illustrated that hypnosis can
16 and is used to induce antisocial conduct in unknowing individuals. Professor G. Stanley Hall
17 of Clark University conducted extensive hypnosis experiments at John Hopkins and stated
18 his results “leaves no shadow of doubt that a hypnotic subject can be made an unconscious
19 and innocent agent of crime.” (EXHIBIT G at 9, quoting Bell, “Hypnotism in the Criminal
20 Courts,” 13 *Medico-Legal Journal*, 351, 353 (1895)). In the 1920s, Dr. George H.
21 Estabrooks, who is considered to have conceived the concept of the “Manchurian
22 Candidate”, while working at Harvard University, began conducting experiments using
23 hypnosis to create multiple personalities. In the 1930s Estabrooks worked with the U.S.
24 military. In a bibliography found in the Colgate University Archive Files, he states “I became
25 involved in the military applications of hypnotism and spent my efforts in the field where
26 publication was frowned upon.” (*id* at p 13.). In 1968 in an interview with the Providence,
27 Rhode Island *Evening Bulletin* (May 13, 1968) Estabrooks, **not only admitted to being a**
28 **consultant for the FBI, the army and the CIA but stated that the possibility of hypnotic-**

1 **spies “is not science fiction.... This has and is being done. I have done it”.** (*id* at 14
2 emp.added)

3 Further studies showing that mind control/hypno programming and “coercive
4 persuasion” **can be and are used to induce anti-social acts and amnesia** are discussed in
5 detail in both the Brown Declaration (Exhibit H) and the Schefflin Declaration (Exhibit G).
6 Both Declarations strongly refute the Respondent’s premise that “hypnotized persons retain
7 control over their actions and, thus, cannot be programmed through hypnotism to commit
8 antisocial acts against their will.” (RSB at p 12.)

9 Respondent states that “Brown’s Declaration is hardly reliable” (RSB at p13.)
10 and “not based on an exact science.” (*id* at 12) yet since the *Daubert* case, contemporary
11 forensic psychological assessment strives to meet an acceptable standard of scientific
12 reliability and Brown’s detailed description of all the standardized tests he used while
13 interviewing Petitioner, certainly meets that requirement of reliability. (PSB AT 2-7)

14 Respondent states that Dr. Pollock, the prosecution expert at the time of the
15 trial, found “no evidence of a dissociative state at the time of the shooting,” (RSB at p13.) but
16 fails to elaborate upon the reason for such a mis-diagnosis. Today, there are a
17 “...combination of generally accepted, empirically-derived standardized structured
18 interviews, normative self-report and actuarial tests, independently compared to
19 accumulative evidence from medical records as the best approach to achieve incremental
20 validity (reliability in the legal sense). (Exhibit H, at1)

21 These tests are new and therefore were not available at the time
22 of trial. If they had been available, any impartial assessment by the prosecution and the
23 defense would most likely have drawn the same conclusions as did Brown; the Petitioner
24 had/has both a dissociative coping style and a dissociative disorder making him highly
25 susceptible to hypno programming/mind control and/or coercive persuasion.

26 Respondent’s claim that Brown “purports to be able to render opinions with
27 surprising certainty about Petitioner’s state of mind in 1968 based on interviews and
28 examinations between 2008 and 2010” (RSB at p13.) once again, shows Respondents one
29 sided view of the evidence presented. Respondent conveniently overlooks all the data Brown

1 relied upon -the lists of documents, (the complete LAPD and FBI documents including the
2 Corona Police Report), (maryferrell.org at 605-607) all eyewitness statements of those
3 witnesses in the pantry at the time of the shootings and a recent interview with Juan Romero,
4 the person closest to the Senator at the time of the shooting, as well as reading all the prior
5 psychological tests performed on Petitioner from the date of his arrest through the recent
6 psychological exam performed at by a psychologist at Pleasant Valley State Prison.
7 Respondent's claim is simply false and mis-leading.

8 Robert Kaiser, the journalist closest to the defense team believed that the
9 Petitioner was hypno-programmed and so did Dr. Simson –Kallas a psychologist at San
10 Quentin prison when the Petitioner arrived there. Dr.Simson–Kallas, was asked to interview
11 the Petitioner by the supervising psychiatrist because the supervising psychiatrist did not find
12 any evidence to support both defense and prosecution experts' opinions of paranoid
13 schizophrenia in the Petitioner. Based on what the supervising psychiatrist saw as a mis-
14 diagnosis by both defense and prosecution experts, he specifically asked Dr.Simson–Kallas
15 to conduct a careful and extensive evaluation of the Petitioner. After many hours
16 interviewing the Petitioner, Dr. Simson–Kallas not only concluded that there was no
17 evidence whatsoever for schizophrenia, he also concluded that the Petitioner might have been
18 programmed. (Exhibit H)

19 Petitioner's other expert, Alan Scheflin, actually spoke with Dr. Simson–
20 Kallas on the topic of Petitioner being a “perfect choice for being a programmed hypnotic
21 patsy.” (Exhibit G at p 28.) When asked to elaborate, Scheflin notes that Dr. Simson–Kallas
22 commented, that he became curious because Sirhan was unable to remember details of the
23 crime, unlike most killers he interviewed. He said that Sirhan's description of the events
24 appeared artificial, as if he was “...reciting from a book.” His description was more that of a
25 person who dreamed an event than that of a participant. Dr. Simson–Kallas told Scheflin,
26 Petitioner “...was put up to draw attention while experts did the work. Being an Arab, he
27 would be easily blamed. He was programmed to be there. He said to me that he actually liked
28 Kennedy, that he held no animosity towards him.” (*id.* at p29.)

1
2 **Dr. Simson–Kallas was the only psychologist that had no affiliation to**
3 **either the defense or the prosecution,who interviewed/examined the Petitioner around**
4 **the time of the crime and his findings support those of Dr. Brown. (See Exhibits H and**
5 **G.)**

6 Respondent cites the *Griffin* case, saying "...it is clear that the mere
7 presentation of new psychological evaluations... does not constitute a colorable showing of
8 actual innocence" (RSB at p 12.) but the difference between *Griffin*) and the present case is,
9 that in *Griffin*, no psychological evidence was offered or relied upon by the defense team,
10 whereas in the instant case Petitioner's conflicted defense team centered their whole case on
11 Petitioner's mental state and then, lead Counsel, Grant Cooper chose not to introduce said
12 evidence. Both the defense and prosecution believed that the Petitioner was highly
13 hypnotizable and both Dr. Pollack and Dr. Diamond hypnotized the Petitioner numerous
14 times while the Petitioner was held at the Los Angeles County Jail awaiting trial. Dr.
15 Diamond went as far as having Petitioner perform whilst under hypnosis ie climbing the bars
16 of his cell (February 8, 1969) or sticking a pin in his hand.

17 Respondent states: "Dr. Bernard Diamond, who had hypnotized Petitioner on
18 numerous occasions prior to trial, advised defense counsel that 'the jury would not believe
19 that Sirhan had been hypnotically programmed to kill.' " (*id* at p13.). This statement strongly
20 suggests that the defense team, having witnessed Petitioner under the effect of hypnosis, on
21 numerous occasions, believed that he might, in fact, have been hypno programmed, but due
22 to his conflict of interest, the extremely compromised lead defense counsel Grant Cooper, as
23 discussed *infra*, chose not to pursue this line of defense.

24 Respondent claims that "no reasonable juror would have believed these
25 fantastic, scientifically-dubious, and self serving theories" (*id.* at 11.) yet if a "reasonable
26 juror" had been properly educated/informed by defense counsel, with respect to the available
27 literature concerning crimes committed under hypnosis, as of that date, and, further, had been
28 instructed that The American Law Institute's *Model Penal Code*, section 2.01 (1962

1 emp.added), states that there can be no criminal liability if there is no voluntary act. Acts
2 which are not considered voluntary include “conduct during hypnosis or resulting from
3 hypnotic suggestion.” (ALI, *Model Penal Code*, section 2.01(2)(c) (1962 emp. added)

4 Thus, an hypnotic subject, acting under the control of a malevolent hypnotist,
5 engages in involuntary conduct which cannot be considered criminal because there is no
6 voluntary act, no *actus reus*. Petitioner believes, if properly instructed, a “reasonable juror”
7 would have had to consider the absence of his voluntariness with respect to the crimes
8 committed on that evening and therefore, no reasonable juror would have voted to convict
9 him.

10 Petitioner further believes that under the *Schlup* ruling, as discussed *infra*, the
11 new exculpatory evidence regarding the involvement of the CIA, U.S. Military and U.S.
12 Government in overt and covert experiments with hypno programming/mind control and
13 coercive persuasion, released under the Freedom of Information Act and obtained by
14 Professor Schefflin, and others, would be evidence that a ‘reasonable juror’ would both
15 understand and consider at a new trial or an evidentiary hearing.

16
17 CONCLUSION

18 Petitioner was an involuntary participant in the crimes being committed
19 because he was subjected to sophisticated hypno programming and memory
20 implantation techniques which rendered him unable to consciously control
21 his thoughts and actions at the time the crimes were being committed.

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24
25 **2. PETITIONER HAS SUFFERED NONHARMLESS CONSTITUTIONAL**
26 **VIOLATIONS OF HIS RIGHTS UNDER *BRADY V MARYLAND* 373 U.S. 85**
27 **(1963) AND *STRICKLAND V. WASHINGTON* 466 U.S. 668 (1984)**

28 **A. The Brady Violations**
29

1 Petitioner agrees that the *Schlup* gateway requires any new evidence to be
2 accompanied by nonharmless constitutional violations. Where a federal habeas court is
3 confronted *both* with a claim of new evidence of innocence *and* allegations of nonharmless
4 constitutional error, its desire to respect the finality of state court criminal judgments should
5 be at its lowest. Cf. e.g., Calderon v. Thompson, 523 U.S. 538,557 (1998) “In the absence
6 of a strong showing of actual innocence, the State's interests in actual finality outweigh the
7 prisoner's interest in obtaining yet another opportunity for review”. (citing *Murray v. Carrier*,
8 477 U.S. 478, 496 (1986)). At least one other circuit has held that “actual innocence” does in
9 fact toll the statute of limitations. *Malone v. Oklahoma*, 100 Fed.Appx. 795, 797 (10th Cir.
10 2004)

11 Petitioner here presents both “new evidence of innocence” as well as allegations
12 of “nonharmless constitutional error” sufficient to undermine this Court’s confidence in the
13 initial judgment of conviction and sentence. Petitioner also respectfully submits that since,
14 here, the new evidence of innocence combines with his allegations of nonharmless
15 constitutional error sufficiently to undermine the confidence in the original verdict and
16 sentence, then his claim of “actual innocence” should serve as an exception to AEDPA’s
17 statute of limitations because the state’s interest in finality is at a minimum in this case.

18 Throughout these *habeas* proceedings, Petitioner has consistently alleged
19 several *nonharmless constitutional violations*. *Petitioner focused at length on two*
20 *specifically in his Traverse before this Court: (1) the State’s failure to disclose exculpatory*
21 *ballistics and autopsy evidence, a violation of Petitioner’s due process rights under Brady v*
22 *Maryland, 373 U.S. 83 (1963); and, (2) violation of petitioner’s Sixth Amendment right to*
23 *effective assistance of counsel under Strickland v Wahington, 466 U.S. 668 (1984). Rather*
24 *than rebutting Petitioner’s Brady and Strickland allegations, Respondent instead seems to*

1 have argued that Petitioner suffered no prejudice because Petitioner confessed at trial and
2 that Petitioner has not been able to definitively prove the presence of a second shooter.
3 Instead of merely repeating previous allegations of *Brady* and *Strickland* violations,
4 Petitioner recounts them here to demonstrate how the *Brady* and *Strickland* violations
5 combined with hypnotic programming and Petitioner's high level of suggestibility to produce
6 a false confession.

7 **1. Petitioner Was Denied His Right To Due Process Under *Brady***
8 **Because The State Knowingly Introduced Into Evidence A Bullet It**
9 **claimed Had Been Removed From the Neck Of Senator Kennedy**
10 **And Withheld The Actual Neck Bullet From The Petitioner and The**
11 **Judge And Jury**

12 The first *Brady* violation derives from the state's failure to disclose a bullet
13 recovered from Senator Kennedy's neck. According to the autopsy report, Dr. Noguchi
14 extracted a bullet from Senator Kennedy's neck, marked the base of the bullet "TN 31" "for
15 future identification," and gave the bullet to Sergeant Jordan of the LAPD.(see PSB
16 Exhibit I Medicoolegal Investigation on the Death of Senator Robert F. Kennedy, Thomas T.
17 Noguchi, M.D., 24.) In his testimony before the Grand Jury, Dr. Noguchi is shown a bullet
18 for identification, states that it is the bullet he recovered from Senator Kennedy's neck, and
19 specifically mentions that it bears the "TN 31" mark he placed on it. (See discussion *supra*
20 and Ex. 15, p. 22, to Petition for Writ of Habeas Corpus, May 25, 2000, Grand Jury
21 Transcript.) At Petitioner's trial, People's Exhibit 47 was offered and received into evidence
22 as the bullet recovered from Senator Kennedy's neck. At that time Wolfer, testified that he
23 had achieved a ballistics "match" between a bullet Wolfer test-fired from Petitioner's
24 revolver and People's 47, the bullet recovered from Senator Kennedy's neck. (TR 4129-30.)
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1 As noted earlier, Dr. Noguchi was never shown or asked to identify People's 47
2 at trial. In 1974, Dr. Noguchi appeared before the County Board of Supervisors and is shown
3 a bullet. He identified it as the one that he removed from Senator Kennedy's neck and again
4 states that it bears the "TN 31" mark on the base of the bullet. (See earlier discussion *supra*)
5 In 1975, Superior Court Judge Robert A. Wenke (as noted earlier) appointed a panel of seven
6 experts to review Wolfer's conclusions. As a condition of the panel investigation, the court
7 required Wolfer to certify that the bullets to be placed before him in court were the ones he
8 examined in 1968. One of the experts, Patrick Garland, examines the bullet Wolfer certified
9 as the Kennedy neck bullet, and observes that the base of the bullet is mark "DW" "TN" on
10 the base, not "TN 31." (See *supra*, Inventory Incorporated in Court Order # 2.) Petitioner
11 has confirmed, for the first time, that Garland received the "DW" "TN" neck bullet, certified
12 by Wolfer, from the clerk of the trial court. (Exhibit F)

13 Thus on at least three separate occasions-the autopsy report, his Grand Jury
14 testimony, and his appearance before the County Board of Supervisors in 1974-Dr. Noguchi
15 identified the bullet he extracted from Senator Kennedy's neck by reference to the "TN 31"
16 mark he put on the base of the bullet. Conversely, Wolfer was never asked to describe the
17 bullet he examined at trial, and when he was asked to identify the bullet as the one he
18 "matched" to Petitioner's gun in 1975, the bullet bore the markings "DW" "TN." The only
19 reasonable inference is that the bullet thus disclosed to the defense as the Kennedy neck
20 bullet and introduced at trial as People's 47 was marked "DW" "TN," yet the Dr. Noguchi's
21 autopsy report, testimony before the grand jury, and appearance before the county board of
22 supervisors demonstrates that the Kennedy neck bullet was marked "TN 31." Consequently,
23 it is apparent that the real "TN 31" bullet that Dr. Noguchi Removed from Senator Kennedy
24 during the autopsy was never disclosed to the defense in violation of *Brady*, but even more

1 serious, Petitioner respectfully submits that a fraud was perpetrated upon the court since the
2 real Peoples Exhibit 47 was also withheld from the Judge and Jury.

3 Is this fraud, leading to a miscarriage of justice the responsibility of the
4 LAPD? Is the District Attorney's office blameless? In such a situation the law is clear. The
5 prosecution is a single entity for Due Process purposes. *Gilio v. United States*, 405 U.S.
6 150,154, 92 S. Ct. 763, 766 [1972] As the Supreme Court noted in *Gilio, supra*:
7 "As long ago as *Mooney v. Holohan*, 264 U.S. 103, 55 S.Ct. 340, 342, 79 L Ed.791 (1935),
8 this court made clear that deliberate deception of a court and jurors by the presentation of
9 known false evidence is incompatible with 'rudimentary demands of justice.'" This was
10 reaffirmed in *Pyle v. Kansas*, 317 U.S. 213, 63 s. Ct. 177, 87 L.Ed 214 (1942). In *Napue v*
11 *Illinois*, 360 U.S. 264, 79 S. Ct. 1173, 3 L.Ed 2d 1227 (1959), we said, '[t]he same result
12 obtains when the State, although not soliciting false evidence, allowed it to go uncorrected
13 when it appears. *Id*, at 269, 79 S.Ct. 1177. Thereafter, *Brady* at 1197, held that suppression of
14 material evidence justifies a new trial, 'irrespective of the good faith or bad faith of the
15 prosecution. See also, *Gilio v. United States, supra*, 405 U.S.153.

16 Respondent lamely attempts to characterize this seriously illegal effort as amounting to
17 a " potential discrepancy" in the markings (RSB at 17) which is absurd in light of the
18 following: the initial booking of the evidence bullet into the LAPD Property Room with the
19 identifying characteristics space left blank; the failure of Dr. Noguchi being asked to
20 identify the Peoples 47 at trial and, subsequently, by the Wenke Panel; and also the fact, as
21 Respondent acknowledges, that Wolfer was also not asked to publicly identify the markings
22 in any forum where he testified, including the trial. No, it is clear that the real Exhibit 47 was
23 knowingly suppressed and never introduced into evidence and the underlying reason for the

1 suppression, in violation of Brady, as the Wenke Report, makes clear, (Exhibit E) was that
2 the bullet removed from the Senator's neck could not be matched to Petitioner's revolver.

3
4 **2. The State Withheld And Destroyed Evidence That More Than Eight**
5 **Bullets Had been Found At the Scene**

6 The bullet removed from Senator Kennedy's neck is not the only piece of
7 ballistics evidence that the state suppressed in violation of Petitioner's due process rights
8 under Brady. Specifically, the state also suppressed evidence that more than eight bullets
9 were recovered at the scene, which evidence, it must be noted would support Phil Van
10 Praag's examination and analysis of the Pruszynski tape recording which concluded that 13
11 bullets were fired at the time of the assassination.(*supra*). Though it is not necessary to
12 enumerate them here (they are set out in Exhibit I) there is a long list of independent
13 eyewitnesses, some like FBI agent William Bailey, and LAPD Officers Charles Wright and
14 Robert Rozzi, who had investigative training, and who observed the existence what appeared
15 to be additional bullets in the pantry door jambs and the ceiling tiles. Both of these
16 repositories of physical evidence were destroyed by the LAPD on June 28, 1969 before
17 Petitioner's appeal had run its course. Bailey, the first FBI agent to arrive on the scene, gave
18 a written statement dated November 14, 1976, in which he wrote: "I...noted at least two (2)
19 small caliber bullet holes in the center post of the two doors leading from the preparation
20 room. There was no question...that they were bullet holes and not caused by food carts or
21 other equipment in the preparation room."(*id*) LAPD's Officer David Butler's recantation of
22 his earlier politically incorrect admission to writer Moldea about seeing Wolfer extraxt
23 bullets in the pantry (the original statement was given to Dan Moldea) is not surprising
24 given the position of his Chief, Darryl Gates who in late August, 1975 admitted that the

1 LAPD destroyed ceiling panels, containing three bullet holes and xrays and records of the
2 xrays, as well as the door jambs, because he believed that they "...proved absolutely
3 nothing." (maryferrell.org Wenke at 50).

4 On August 21, 1968, also before Petitioner's appeal had run its course, the
5 LAPD destroyed 2,410 photographs, some of which may well have shown the existence of
6 exculpatory bullets, without turning over copies to the defense as another clear violation of
7 *Brady*. Presumably, these also 'proved nothing' but under *Brady* copies should
8 unquestionably been provided to Petitioner for his examination. (*id.* Exhibits to Request to
9 the Los Angeles County Grand Jury at 429.)

10 Suffice it to say that none of the bullets, photos, ceiling tiles, or wood panels
11 recovered at the scene were ever disclosed to defense counsel; a clear violation of
12 Petitioner's Due Process rights under *Brady*.

13
14 **3. The State Withheld From the Defense and Then Destroyed The**
15 **Second Gun H 18602 As Well As Well AS Test Fired Bullets From**
16 **Said Pistol Which Were Available At the Time of Trial**

17 It is accepted fact that Wolfer placed some test fired bullets in an envelope
18 which he labeled "H18602". This test firing allegedly took place on June 6. (see discussion
19 *supra*)Wolfer contended –although his log does not support this contention- that he test fired
20 Petitioner's gun on June 5. The reason behind this second test firing has never been
21 explained.

22 Wolfer's statement that this was a clerical error is incredible. In addition, there
23 were test bullets obtained from an earlier test firing of H18602 by Officer Druly on March
24 22, 1967, (Board of Inquiry Transcript at 9) [a Board of Inquiry was convened by the LAPD

1 to investigate charges of misconduct by Wolfer]. Thus, there were in existence test fired
2 bullets from that revolver at the time of trial. It does not appear that the Wenke Panel of
3 Experts were ever provided with these bullets or even advised of their existence.

4 There has never been a satisfactory reason given for the bringing of this weapon
5 into the proceedings. Wolfer's claim that Petitioner's gun was with the Grand Jury and
6 unavailable is not credible. The prosecution had already obtained an Order on January 14,
7 1969 allowing them to have access for another reason (TR 701-702). Wolfer could easily
8 have obtained an Order for his purported purpose. His contention that he did not get the gun
9 until June 10 is also belied by the fact that he put the test fired bullets in the envelope marked
10 'H18602', dated June 6.

11 As to its continued availability for defense inspection Wolfer testified on
12 February 24, 1969, at the trial, that the gun was still available even though he knew it had
13 been destroyed in July, 1968 as reflected in the official records. (LAPD Property card for
14 H18602.) The LAPD later contended that it had not been destroyed until July, 1969. What is
15 relevant, for *Brady* purposes is the fact that this gun, and bullets from this gun which became
16 involved in the prosecutors' case were withheld from the defense and ultimately were thus
17 not available for the defense to conduct its own firearms tests.

18 It is not for Petitioner to be able to explain all of the inconsistencies associated
19 with this weapon, but it was Petitioner's right to have been able to examine this weapon and
20 the bullets it produced. The deprivation of this right, particularly in light of the irrefutable
21 substitution of bullets by the prosecution (discussed *supra*) renders this *Brady* violation
22 especially heinous.

23 **4. The State Prejudicially Delayed Turning The Autopsy Report Over**
24 **To The Defense**

1 In addition to the ballistics evidence that the state never disclosed, the State
2 also failed to disclose the autopsy report in a timely fashion. Petitioner's trial commenced on
3 January 7, 1969, and the jury was sworn February 5, 1969. As recently as December 23,
4 1968, the record affirmatively discloses that defense counsel had yet to receive a copy of the
5 autopsy report. (TR 154, 159.) There is no evidence in the record that the autopsy report
6 was ever disclosed to the defense. Defense investigator Robert Kaiser, however, did write a
7 memo to lead defense counsel Grant Cooper on February 22, 1969 (two days prior to the
8 testimony of the report's author, Dr. Noguchi), pointing out that the autopsy defined the
9 muzzle distance as being between one and two inches. (Ex. E, PSB Declaration of Robert
10 Kaiser, 1 ¶ 2.) According to Kaiser's declaration, it was his routine practice to do things
11 right away and that he would have written this memorandum either on the day he received
12 the autopsy report or at the latest two days after receiving it. (id. at ¶3.) The only reasonable
13 inference is that the autopsy report was disclosed to defense counsel no earlier than February
14 20th, 1969, fifteen days into a trial where the defense had already committed to a strategy of
15 conceding guilt and arguing diminished mental capacity to the jury in the hopes of securing a
16 lesser sentence.

17 There is every reason to believe that if Petitioner had received the Autopsy
18 Report when it became available to the prosecution , which Petitioner believes was in
19 September of the previous year, instead of some five months later, that its revelations about
20 the four shots being fired at close range in upward angles, behind the Senator, with the death
21 the fatal shot being fired 1-2 inches behind his right ear, he might not have agreed to the plea
22 being pushed upon him by his conflicted defense counsel. In such circumstances, timing
23 becomes a substantive consideration with delayed evidence becoming the equivalent of

1 evidence denied, since it was not made available to Petitioner when he required a0nd when,
2 under *Brady* he was entitled to have it; prior to making a decision to plead guilty.

3 **5. The State Suppressed Destroyed and Thus Denied To Petitioner The**
4 **Results Of The Blood Test Taken On The Night Of The Crime**

5 It is an accepted fact that Petitioner had four alcoholic drinks on the night of
6 the crime, shortly before their commission. After being arrested he was subjected to blood
7 test designed to ascertain the level of alcohol in his blood. This, of course, along with the
8 degree of hypno programming and the use of any chemicals therefore (discussed by Dr.
9 Daniel Brown *supra*) is relevant in terms of his state of mind.

10 Due Process, under *Brady* requires that such test results be preserved and made
11 available to Petitioner. Good faith with respect to the destruction of such exculpatory
12 evidence, should require that law enforcement policies ensure that no potential harm is being
13 done by the elimination of the report, and certainly, that the defendant receives a copy in
14 advance of the destruction. *People v. Hitch*, 12 Cal. 3d 642 (1974). Here, we have
15 administration of bad faith. It is clearly not acceptable for the Respondent to claim
16 inadvertence or routine practice. Such interference is particularly offensive in this case.

17 Petitioner is entitled to know which tests were performed on his blood and urine
18 and the results of those tests, the dates on which the result reports were destroyed and the
19 reason for such destruction. The materiality of blood test results in this case is beyond doubt.
20 for *Brady* purposes and also had a significant impact on his situation and state of mind. The
21 results could well have provided physiological support for a claim of unconsciousness .

22 A motion for the dismissal of charges was in order but not made. Minimally,
23 Petitioner is entitled to an evidentiary hearing in order to have answered his questions with
24 respect to these tests.

1 CONCLUSION

2 The litany of *Brady* violations, suffered by Petitioner in this case is
3 overwhelming. It constitutes a massive breakdown in the provision of Due
4 Process which was precisely what the *Brady* court sought to prevent. Any one
5 Of the five violations (*supra*) in and of itself would be sufficient to require an
6 evidentiary hearing if not a re-trial. Taken together, Petitioner respectfully
7 submits they constitute such a gross miscarriage of justice, well beyond what
8 was anticipated or required by *Schlup* .

9 The severity of Due Process denial in this case requires that the verdict and
10 sentence be set aside.

11 **B. Petitioner Was Denied His Right To Effective Assistance Of Counsel**
12 **Pursuant to The Sixth And Fourteenth Amendment And Under *Strickland*, As A**
13 **Result of Defense Counsel's Conflict of Interest and Or Incompetence, Which**
14 **Resulted In Multiple Harmful Acts And Omissions By Defense Counsel,**
15 **Resulting In A Miscarriage Of Justice Being Suffered By Petitioner**

16
17 **1. Lead Counsel's Conflict of Interest**

18 Grant Cooper, one of the nation's most prominent criminal
19 defense attorneys agreed to take on the defense of Petitioner on a *pro bono* basis after being
20 solicited by Robert Blair Kaiser, a writer, who had been a client of Cooper. Kaiser would
21 become a member of the defense team. Cooper had been president of the LA Bar
22 Association, and the American College of Trial Lawyers as well as a prosecutor for six years
23 at the LA County district attorney's office. He went on to build a very successful
24 criminal defense practice.

1 His one condition, for taking the case, was that Petitioner's case be postponed
2 until after a case he had taken on involving card cheating at the Friars Club in Beverly Hills.
3 He estimated that would be sometime in September. In that case Cooper was defending
4 Maurice Friedman, a Las Vegas hotel and casino developer who, with four others, had been
5 charged in federal court with a five year long conspiracy to cheat wealthy members of the
6 exclusive They had fixed gin rummy games by sending electronic signals to certain players
7 from peepholes in the ceiling. The victims included a number of Hollywood celebrities. One
8 of the defendants was Johnny Roselli, a notorious mobster, who, when he learned about the
9 scam, insisted on being cut in. It has been well established that Roselli had also been a CIA
10 operative involved in the Agency's efforts to kill Fidel Castro.
11 Cooper's proximity to Roselli is troubling.

12 Cooper agreed to take Petitioner's case subject to another attorney coming on
13 to handle the motion work in the early phases. On June 11 Petitioner signed a retainer for
14 Cooper who would bring on Russell Parsons as associate counsel.

15 Parsons' investigator was one Michael McGowan a former LAPD officer who
16 resigned from the force in 1965 after being arrested for theft and tampering with the U.S
17 mail. He received a five year sentence which was appealed by Parsons and on January 29,
18 1968 he was given three years probation, so, he was on probation when he became a member
19 of the Petitioner's defense team. Writer Shane O'Sullivan indicates that whilst on probation,
20 and in violation of the terms, he may have been still hiding a cache of stolen weapons. This
21 was likely known by the LAPD (whose detectives confiscated a number of the weapons)
22 who would then, obviously, be in a position to hold it over him. (*Who Killed Bobby*, Shane
23 O'Sullivan, Union Square Press, NY/London p.194, 2008).

1 Petitioner's experience with McGowan has been unpleasant as he attempted to
2 sell at auction confidential notes and drawings Petitioner thought he was writing for the use
3 of defense counsel but which McGowan kept for his own personal use. Petitioner's current
4 counsel had to obtain a court order blocking the sale. (*Sirhan Bishara Sirhan v. Michael*
5 *McGowan, cv 00-5686-CAS, 2011*).

6 Then, Grant Cooper's conflict arose as he found himself in difficulty for the
7 first time in his career. He was charged with illegally obtaining a transcript of the Grand Jury
8 testimony which was spotted lying on his counsel table in the courtroom on July 23, 1968. It
9 emerged that he was given the stolen transcripts by another lawyer in the case. Soon, he had
10 an indictment hanging over him as he proceeded to represent a mob front man and, behind
11 the scenes begin to prepare to represent Petitioner with the pending indictment, and his
12 future, in the hands of the prosecuting Task Force chief, U.S. Attorney, Matt Byrne. So,
13 Petitioner's defense team with lead counsel under indictment , with a decision on his fate to
14 be made at a future date, and its chief investigator on probation, was not off to a very
15 auspicious .

16 Initially, on August 2, Petitioner pleaded not guilty to murder and intent to
17 commit murder. On October 14, in order to accommodate Cooper's involvement in the Friars
18 Club case Judge Herbert V. Walker put the trial date back to December. From outset it is
19 clear that Cooper accepted the LAPD' s fix on the case and did not challenge them or
20 become adversarial in any way (*id* at 205). Cooper, influenced by investigator McGowan's
21 reports never questioned his client's guilt even though there were obvious issues raised by
22 the Grand Jury testimony, a copy of which had been with them for months. He visited
23 Petitioner for the first time on December 3 and stated that they were looking into pleading
24 guilty in order to avoid the death penalty. Petitioner acquiesced having been convinced that

1 he was guilty as charged. On December 10, Cooper met with the prosecutors in what appears
2 to have been a collegial discussion about the best way to implement the acceptance of
3 guilt. Thus, only one week into the case Petitioner's lead counsel was already colluding with
4 the prosecution, more interested in striking a deal than conducting an investigation of the
5 facts surrounding the crime.

6 In setting out the specific acts and omissions of his lead defense
7 counsel, *infra*, which Petitioner contends amounts to ineffective assistance of counsel under
8 *Strickland*, thus violating his Sixth and Fourteenth Amendment rights, Petitioner will not
9 repeat the internal citations set out *supra* which relate to the individual claims .

10 **2. The First *Strickland* Violation: The Delayed Delivery Of The Autopsy**
11 **Report**

12 It is generally agreed that the Prosecution received the Autopsy
13 Report from the Medical Examiner in September, but retained it, turning it over to the
14 defense near the eve of trial. Considering the information it contained. in particular, the fact
15 that the Senator had been fired at four times, at close powder burn range and from the rear,
16 with all shots fired in an upward angle and three hitting his body, the report was explosively
17 useful to the defense; if, that is, defense counsel was willing to use it.

18 Cooper was not. A motion for a mistrial based upon the surprise created by the prosecution's
19 failure to turn over the autopsy report at a meaningful time was not made or even considered.
20 Neither was a motion made for a continuance so that the results of the Medical Examiner's
21 findings could be considered and discussed. Instead the defense stayed on track with its
22 decision to accept guilt. It was a though the Autopsy Report, a primary piece of evidence was
23 insignificant.

24 Petitioner was denied effective assistance of counsel because his

1 counsel disregarded the potentially favorable evidence in the report for the defense and
2 deliberately refused to protect Petitioner's rights by seeking the assistance of the court in the
3 face of the prosecution's inexcusable delay in making the findings available in timely fashion
4 to his defense counsel. In effect, defense counsel collaborated with the prejudicial action of
5 the prosecution to the detriment of Petitioner's defense.

6 **3. The Second *Strickland* Violation: The Failure Of The State To Turn Over**
7 **Prior To Destroying The Results Of Petitioner's Blood And Urine Tests**

8 Petitioner was undeniably entitled to receive the results of the blood and
9 urine tests conducted with samples taken from him after he was arrested. They were not
10 made available and in fact were destroyed by a process described as routine. In Petitioner's
11 case this is a particularly harmful action because defense counsel was contemplating a
12 diminished capacity defense to avoid the death penalty. Petitioner had four alcoholic drinks
13 that evening and the test results could have been critically material to his mental condition
14 and the degree of involuntariness of his actions.

15 In the absence of these test results the defense suffered a serious setback.
16 Despite this reality and the arbitrariness of the decision to destroy the test results defense
17 counsel Cooper did nothing. Here, again, he could have put a motion forward for a mistrial or
18 a dismissal. Given Petitioner's inability to recall the shooting or the events immediately
19 surrounding it, such test results could well have provided a physiological basis for this lack
20 of memory. Not only did counsel not move for dismissal or a mistrial but he also neglected to
21 put forward any other request for sanctions which could have, for example, produced an
22 order precluding the prosecution from introducing evidence rebutting to Petitioner's claim of
23 intoxication by alcohol or drugs. Such a motion should likely have been granted if it was
24 made. It was not.

1 Petitioner was entitled to the information related to the results of such
2 tests, the dates on which they were taken and the dates on which the samples were destroyed,
3 as well as an explanation of the reasons for the destruction. The prejudice to Petitioner
4 derived from this gross ineffective assistance is blatantly obvious. The prosecution's conduct
5 amounts to one more example of the suppression of potentially exculpatory material evidence
6 and Petitioner's counsel is once more on the sidelines allowing it to happen to the extreme
7 detriment of Petitioner.

8 **4. The Third *Strickland* Violation: Petitioner's Counsel Stipulated To The**
9 **Admission Of the State's Ballistic Evidence Including The Substituted**
10 **Neck Bullet –People's Exhibit 47- Without First Conducting Any Tests**
11 **Of His Own, Or Examining The State's Test Results Record**

12 An ineffective assistance of counsel claim has two elements: (1) that counsel's
13 performance was constitutionally deficient; and, (2) that these deficiencies affirmatively
14 "prejudiced" the defendant. (*Strickland*, at 687). In addressing the deficiency prong, the
15 Supreme Court has stated that a convicted defendant "must show that counsel's
16 representation fell below an objective standard of reasonableness." (*id.*, at 687-88). The
17 Court declined to adopt "[m]ore specific guidelines" because "[n]o particular set of detailed
18 rules for counsel's conduct can satisfactorily take account of the variety of circumstances
19 faced by defense counsel or the range of legitimate decisions regarding how best to represent
20 a criminal defendant." (*id.* at 688-89).

21 To complement the generality of the "objective standard of reasonableness"
22 beneath which counsel's performance must fall in order to be considered constitutionally
23 unreasonable, the Supreme Court stated in *Strickland* that "[a] convicted defendant making a
24 claim of ineffective assistance must identify the acts or omissions of counsel that are alleged

1 not to have been the result of reasonable professional judgment.” (*id.* at 690). Petitioner has
2 alleged a variety of specific acts or omissions of counsel that were not “the result of
3 reasonable professional judgment,” and in particular focuses here upon counsel’s stipulation
4 to the authenticity of ballistics evidence, specifically People’s Exhibit 47, offered as the
5 bullet recovered from Senator Kennedy’s neck.

6 On February 21, 1969, in the middle of trial, defense counsel stipulated to the
7 authenticity of bullets yet to be introduced. (TR 3967.) Specifically, defense counsel
8 stipulated to the authenticity of what would become People’s 47, which Wolfer testified was
9 removed from Senator Kennedy’s neck during the autopsy and which Wolfer claimed to have
10 “matched” to a bullet test-fired from Petitioner’s revolver. It may be that there is often little
11 reason to question the authenticity of certain pieces of evidence, such as the state’s ballistics
12 evidence, and thus there may often be no error for counsel’s failure to contest, or even
13 counsel’s acquiescence in the admission, of that evidence. But, with respect, this is not such
14 a case where a strategic concession serves the defendant’s interests because (1) the defense
15 received no corresponding benefit for its stipulation;(2) the stipulation was not based in fact
16 and, (3) the decision was not made after a “thorough investigation.”

17 No court has specifically held that corresponding benefit for the defense, the
18 State’s ability to admit the evidence even in the absence of the defense’s stipulation, and a
19 thorough investigation are requirements that defense counsel must meet so as to render
20 effective assistance. Nevertheless, virtually every case rejecting counsel’s stipulation to a
21 piece of prosecution evidence as a basis for an ineffective assistance claim exhibits at least
22 one of these three characteristics.

23 The notion that a stipulation is a “strategic choice” to the extent that defendant
24 receives some sort of corresponding benefit is demonstrated by *Sanchez v. Hedgpeth*, 706

1 F.Supp.2d 963 (C.D.Ca. 2010). In Hedgpeth, the defendant had previously been convicted of
2 committing a lewd act with a minor, failure to register as a sex offender, and attempted
3 robbery. Defendant Sanchez was subsequently charged with, among other things, being a
4 felon in possession of a weapon. At trial, in an effort to keep the jury from hearing negative
5 facts about his prior convictions, defense counsel stipulated to the fact of the prior
6 convictions but did not reveal underlying factual bases for them. On petition for a writ of
7 habeas corpus, Sanchez argued this constituted ineffective assistance of counsel. The court
8 rejected this claim, reasoning that “the stipulation greatly benefitted Petitioner by keeping
9 facts about his prior conviction from being admitted into evidence.” (*id* at 1004).

10 In contrast with Hedgpeth, Petitioner here derived no benefit from counsel’s
11 stipulation to the authenticity of the ballistics evidence, in particular People’s 47. Conceding
12 the authenticity of the ballistics evidence did not keep the jury from hearing negative facts
13 about the petitioner, as in Hedgpeth. Nor did stipulating to the authenticity of the ballistics
14 evidence allow the introduction of favorable evidence for the Petitioner, see e.g. Little v.
15 Murphy, 62 F.Supp.2d 262, 276 (D.Mass. 1999) (counsel did not act unreasonably in
16 stipulating to the admission of witness statements that both revealed prior bad acts of the
17 defendant and impeached a prosecution witness). Lastly, this is not an instance where
18 counsel declined to contest an obviously authentic piece of evidence in order to preserve
19 credibility with the jury, e.g., U.S. V. Gaskin, 364 F.3d 438, 469 (2d Cir. 2004). Experienced
20 defense attorneys routinely stipulate to undisputed facts in order to maintain credibility with
21 the jury when challenging other aspects of the prosecution case. In the instant case
22 Petitioner’s declining to stipulate to the authenticity of the bullets would not have
23 compromised counsel’s credibility with the jury. Declining to stipulate to the authenticity of
24 a piece of evidence is not comparable to actively contesting it. The latter requires affirmative

1 steps, through objections and/or presentation of rebuttal evidence. By contrast, withholding
2 consent to an exhibit's authenticity requires only that counsel stand mute.(internal citations
3 omitted)

4 In contrast to *Armontrout*, and *Gaskin*, where the stipulation was undisputed,
5 in the instant case, the prosecution conceded that it could not establish a foundation for the
6 bullets it was attempting to admit. (TR 3967.) Despite the concession from the State that the
7 State was unable to authenticate a key piece of evidence, defense counsel saw fit to permit
8 the State to introduce it, anyway.

9 Perhaps the most important point about defense counsel's stipulation is that it
10 was not made after a reasonable investigation. When the State conceded to defense counsel
11 that they could not authenticate the fatal Kennedy neck bullet, this should have raised an
12 immediate red flag with defense counsel and caused him to investigate the situation. Instead,
13 defense counsel conceded the authenticity of the State's key piece of evidence despite being
14 on notice that it may not have been what the State claimed it to be.

15 Petitioner submits that a manifestation of ineffective assistance does not get
16 much worse than this decision by his counsel, Grant Cooper, to stipulate not only to the
17 admission of People's Exhibit 47 but to the entire array of ballistics evidence including
18 Exhibit 52 (the Goldstein bullet, which also had a different marking than the one placed on
19 the base by the doctor who removed it and Exhibit 55, the three bullets in the coin envelope
20 produced by Wolfer and marked by him as coming from a second revolver (H18602) with no
21 explanation as to the significance of that gun or the test fired bullets in the envelope.

22 Instead of going into detail in his cross examination about the range of
23 discrepancies and unanswered questions concerning the ballistics evidence Cooper ignored
24 the hard questions after he had volunteered to stipulate their admission. For example, in his

1 cross examination of the Medical Examiner who removed the neck bullet, during the
2 autopsy, he deliberately did not ask the witness, who was the initial holder of the evidence in
3 the chain of custody, to identify the bullet, which, as we know, he would not do because the
4 bullet in evidence –marked “DW” “TN”- was not the one he had removed and marked “TN
5 31”.

6 Gross ineffective assistance, on all fours with the *Strickland* criteria has been
7 visited once again upon Petitioner.

8
9 **5. The Fourth *Strickland* Violation: Petitioner’s Counsel Failed To Conduct**
10 **Any Investigation Of The State’s Case Or Consider Any Alternative**
11 **Defenses**

12 In addition to rendering constitutionally unreasonable assistance by
13 stipulating to the authenticity of the state’s ballistics evidence, counsel also was ineffective in
14 failing to investigate alternative defenses. Defense counsel in this case conducted zero
15 investigation into the facts surrounding it, taking at face value everything that the State
16 asserted. For example, after reviewing the ballistics evidence prior to Petitioner’s trial,
17 criminalist William Harper concluded that there was no ballistics match between Petitioner’s
18 weapon and the bullets recovered from Senator Kennedy and victims Weisel and Goldstein.
19 Robert J. Joling and Philip Van Praag’s book, *An Open & Shut Case: How a “rush to*
20 *judgment” led to failed justice in the Robert F. Kennedy Assassination viii (2008).* When
21 confronted with this evidence, lead defense counsel Grant Cooper did nothing except to
22 continue with his trial strategy of conceding Petitioner’s guilt so as to argue diminished
23 capacity. Cooper was again confronted with evidence that the ballistics that Wolfer and the
24 State claimed matched Petitioner’s weapon to bullets recovered from Senator Kennedy and

1 other victims when the prosecution conceded that they could not establish the authenticity of
2 that evidence. Not only did counsel decline to investigate this claim, but he actually made it
3 easier on the State by stipulating to the bullets' authenticity. Yet a third example of
4 counsel's failure to consider the alternative defense strategy that Petitioner did not fire the
5 fatal shot is that upon belatedly receiving the autopsy report indicating that Senator Kennedy
6 was shot from behind and that the gun that shot Senator Kennedy was no more than two
7 inches away, defense counsel declined to move for a continuance to investigate and possibly
8 alter his trial strategy.

9 In 1972, Cooper explained his decision not to investigate as follows:

10 "I did not retain an independent ballistics expert to analyze the slugs...
11 Had I any feeling that in a case of this importance, Mr. Wolfer either
12 willfully falsified his ballistics analysis or negligently, improperly, or
13 otherwise arrived at his conclusions, I would have hired an independent
14 ballistics expert....Because of my firm belief that Sirhan alone fired the
15 shots and that Mr. Wolfer was testifying correctly under oath I did not
16 have the bullets independently analyzed." (*id.* at 64).

17
18 Putting aside for the moment the implausibility that this is probably the first
19 time in the history of jurisprudence that a defense lawyer argued that a police officer would
20 not negligently misrepresent evidence, the statement is entirely implausible on its face.
21 Cooper had up to and during the trial at least three objective indicia that Wolfer had either
22 negligently or willfully misstated his conclusions: First, there is Harper's conclusion that no
23 match could be identified between Petitioner's weapon and bullets recovered from the
24 victims; second, there is the State's representation that they would be unable to authenticate
25 the bullets offered and accepted into evidence at trial; and third, there is the autopsy report,
26 which, had Cooper read it and followed through, would have shown him not only that the
27 bullet the State admitted as having been recovered from Senator Kennedy was not in fact so,
28 but also that it was literally impossible for Petitioner to have shot Senator Kennedy.

1 Defense counsel's failure to adequately investigate the possibility of a second
2 shooter goes well beyond his failure to hire an independent ballistics expert. As noted
3 earlier, counsel failed to request even the most rudimentary pre- or in-trial examination of the
4 bullet identification evidence, nor did he proffer any cross-examination of the State's
5 presentation of the ballistics evidence. When determining if counsel's acts or omissions are
6 constitutionally unreasonable, the Supreme Court has stated that the inquiry should be guided
7 by reference to "counsel's function, as elaborated in prevailing professional norms, is to make
8 the adversarial testing process work in the particular case." (*Strickland*, at 690). In failing to
9 make even the most basic investigation of the state's allegations against Petitioner, defense
10 counsel failed to "make the adversarial process work in the particular case."

11 There is a relatively simple explanation for why Petitioner's trial counsel failed
12 to "make the adversarial process work in the particular case." Discussed earlier was the
13 problem faced by defense counsel Cooper who had a felony indictment hanging over him
14 during Petitioner's trial. There can be no doubt that this conflict accounted for the extensive
15 ineffective assistance he provided to Petitioner and the extraordinary assistance he gave to
16 the State in the prosecution of their case against his client. It seems to have paid off for Mr.
17 Cooper. After the conclusion of Petitioner's trial and death sentence, the Government
18 withdrew the felony indictment against Cooper. The prosecutor who chose to withdraw the
19 felony indictment against Cooper was the U.S. Attorney, in Los Angeles who also had an
20 interest in the prosecution of Petitioner. There can be no reasonable doubt, in fact, it is an
21 easy and obvious inference that this conflict influenced, more precisely, determined Cooper's
22 lamentable trial performance.

23 **6. The Fifth *Strickland* Violation: The Introduction Into Evidence Of**
24 **Potentially Incriminating Evidence Against Petitioner By His Counsel**

1 Petitioner had, in his room at home, some writings which he appeared to have
2 made and kept in notebooks. They contained some inflammatory and potentially
3 incriminating statements about the Senator and taken face value would appear to provide
4 potential damage to the Petitioner's case, if they could be authenticated. Petitioner's
5 involvement with those writings have since been dealt with substantially by Dr. Brown and
6 there is now a greater understanding of their development and the inducement, including the
7 implantation of thoughts than was available at the time. Suffice it to say that at the time of
8 the trial some of this this material appeared to be pretty damning.

9 The prosecution, without any authentication of the notebook writings entered
10 some selections without any defense objection, or motion for a process of authentication.
11 Then, defense counsel Cooper went one better saying: "I intend, if your Honor please, to
12 offer everything in these notebooks. ...I am going to offer them all...". (TR 4953) He entered
13 the entirety of the writings into evidence and put Petitioner on the stand, as a witness against
14 himself, to authenticate them, which Petitioner very often could not do. Petitioner would
15 frequently look at a writing and refuse to incriminate himself by saying that he did not
16 remember writing those words, that he was not that kind of person, could not explain why he
17 might have written the words, or if he did write whatever the phrase was, he must have been
18 provoked. (TR 4991-5025) Incredibly, his counsel, Cooper, would argue with him and try to
19 force him to admit that he authored the writing. For example, with respect to one exchange
20 concerning some threats, Cooper insisted: "That is what you wrote, isn't it?" Petitioner
21 replied: "That is what I said, but it's not me, sir. It's not Sirhan right here who wrote that".
22 (TR 4991-4992).

1 In addition, Petitioner's counsel focused on violent sections of the writings, as
2 though he was a prosecutor attempting to build a picture of the defendant as a person
3 consumed with violence. For example, we see this exchange:

4 Did you have in mind on the 2nd of June, 1967 at some time killing the
5 President and Vice President of the United States of America?

6 Sir, if that is what I wrote and that is how I felt at the time I must
7 have been provoked to the point sir where I would have-I would have
8 blasted anybody."

9 This treatment of Petitioner is inexplicable. Issues of guilt and innocence aside,
10 defense counsel having admitted that Petitioner was guilty from the beginning of his
11 involvement with the case, this approach goes against developing any jury sympathy for a
12 diminished capacity plea. In a subsequent examination of Dr. Marcus, a court appointed
13 psychiatrist, concerning some writings of Petitioner when he was in high school (the "Muzzy"
14 writing) Cooper stated: "I make the avowal at this time that this happens to be [Sirhan's]
15 handwriting." (TR6791) He went on "... for the purpose of discussion that this was done
16 when he [Sirhan] was in high school...what would that mean to you?" (*id*) Dr. Marcus
17 responded:"It indicates that he is already thinking—his mind is already on the topic of
18 assassinations...so when he writes 'many more will come'...he is already thinking about
19 assassination in high school." (TR6791-6792) Cooper even obtains testimony from defense
20 psychiatrist, Dr. Diamond that: "I just found out from seeing some books which were in his
21 high school texts that even at that time in high school he was obviously obsessed already
22 with the idea of assassination."(TR 6896)

23 Who is the prosecutor here?

1 Petitioner's counsel was certainly functioning as a second prosecutor of his own
2 client. The writings had never been authenticated and were introduced by his own counsel,
3 without the slightest justification , stating that the writing was Petitioner's. There was even a
4 suspicion that a member of the defense team who had access to the room of Petitioner and
5 who had some legal difficulties hanging over him (McGowan) may have been involved in
6 fabrication. In any event, defense counsel's actions were outrageous and well beyond the
7 usual scope of ineffective assistance required under *Strickland*.

8 CONCLUSION

9 It is impossible to understand how any reasonable person would not be
10 appalled by the conduct of defense counsel Grant Cooper in representing
11 Petitioner. His legal assistance in this case was clearly provided to the State
12 and the prosecution not to Petitioner. He failed to file appropriate motions,
13 stipulated the introduction by the State of unauthenticated ballistics evidence,
14 introduced potentially damaging evidence, induced Petitioner to give
15 against himself , ignored the destruction of exculpatory evidence, did no
16 investigation of the case itself and totally failed to conduct proper cross
17 examinations of principal State witnesses.

18 It is true that he had a federal indictment hanging over him and this appears to
19 be a possible reason for this performance. As his previous, fairly
20 distinguished, career would indicate, his ineffectiveness in the extreme
21 cannot be explained away as incompetence. No, if any lawyer ever engaged
22 in a *faustian* deal to the detriment of his client it was this lawyer, in that
23 courtroom in early 1969.

1 **3. CONCLUSION AND REQUESTED RELIEF**

2 Petitioner respectfully submits that he has submitted substantial evidence of
3 actual innocence combined with nonharmless constitutional violations of the Sixth and
4 Fourteenth Amendments and the judicially established requirements of the *Carrier, Brady*
5 and *Strickland* cases. The foregoing establishes that the *Schlup* gateway requirements have
6 more than been and so after 43 years in prison Petitioner is clearly entitled to relief.
7 Petitioner suggests that the discussion and analysis of the evidence in the case and the
8 documented factual history, *supra*, where the record showed that the trial court clerk
9 delivered the substituted bullet in evidence at the trial to the Wenke Panel Administrator. The
10 way that evidence was handled irrefutably reveals that this key piece of evidence –the
11 Kennedy neck bullet- never made it to the courtroom for the consideration of the judge and
12 jury. This was due to the fact that substitute bullet with different markings than those put on
13 the real evidence bullet upon removal by the medical examiner, was the one admitted into
14 evidence. Petitioner has reluctantly concluded that this substitution of vital evidence
15 constitutes a fraud upon the court and mortally taints the proceedings. In such instances, the
16 verdict and sentence are, and must be, set aside.

17 Surely, it is beyond doubt that the primary public purpose and mission of the
18 Office of the State Attorney General is the pursuit of justice. It is not to continue in effect
19 unsafe verdicts and sentences, the perpetuation of imprisonment of demonstrably innocent
20 people, or the cover up of past errors or injustices. Petitioner’s counsel, over the course of
21 working on this case has developed a feeling of respect for the representatives of the AG’s
22 Office whose civility and sense of fair play has been noted.

23 In light of all of the above, including the formidable evidence of actual innocence
24 in combination with the horrendous violations of Petitioner’s constitutional rights, and the

1 difficulty of re-trying a case of this vintage, Petitioner sincerely requests that the Attorney
2 General join in a motion to this Honorable Court requesting that the verdict and sentence in
3 this case be set aside, the *writ* be issued and the Petitioner be set free. Petitioner fully
4 understands that he is likely to be deported to Jordan where he would hope to quietly live out
5 the rest of his life with family and friends, but at long last he would, at least, have received
6 long delayed justice.

7 Should the Attorney General not see her way clear to jointly participate in the set
8 aside motion, Petitioner respectfully requests that this Court set aside the original 1969
9 verdict and sentence and grant Petitioner his freedom or order a new trial. In the alternative,
10 Petitioner requests that an evidentiary hearing be ordered and scheduled by the Court.

11 Finally, if Respondent elects to submit a rebuttal to this Reply, Petitioner
12 respectfully requests the opportunity within the same time allotment to submit a sur-rebuttal.
13 Petitioner is grateful to the Court for extending its period to Reply as a result of counsels'
14 families difficulties, but prior extensions have not prejudiced the number of responses
15 allowed.

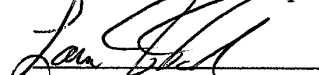
16 Dated: 20 November, 2011

Respectfully submitted,
William F. Pepper Esq.



Counsel for the Petitioner

Laurie D. Dusek Esq



Counsel for the Petitioner

Exhibit A

Petitioner's Location

TWELVE RFK SHOOTING
WITNESSES ESTABLISHING THAT
SIRHAN SIRHAN WAS IN FRONT
OF U.S. SENATOR ROBERT F.
KENNEDY WHEN SIRHAN FIRED
HIS GUNSHOTS IN THE PANTRY

EDWARD MINASIAN: SIRHAN WAS IN FRONT
OF RFK WHEN HE FIRED SHOTS

FROM MINASIAN'S LAPD STATEMENT ON JUNE 5, 1968...

A: “. . . someone reached around from the -- from the front, it would be to the Senator's left as he was facing him, and . . . I personally saw two shots fired . . . he came running -- he came running towards the Senator.”

Q: “From what -- from where?”

A: “From in front of us. From the direction in which we were walking.”

Q: “. . . And he stopped to shake hands and then this man came from his -- ”

A: “From his front left.”

Minasian 6/5/68 LAPD interview (from Pages 5 - 6 A.K.A. Pages 146 - 147 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99837&relPageId=146>

ALSO FROM MINASIAN'S FBI STATEMENT ON JUNE 7, 1968...

“I was leading the party, and was on the Senator’s right, about one step in front. After about fifteen feet inside the pantry door, I sensed the Senator was not as close as when we started into the pantry. I turned to my left, and observed the Senator shaking hands with hotel employees on his left. My partner, Karl Uecker, was on the Senator’s left, and about one or two steps in front of him. While the Senator was shaking hands I saw out of the right corner of my eyes someone darted behind my partner, and reached around him, with a gun in his right hand. Before I could react, he fired two shots . . . ”

Minasian 6/7/68 FBI statement (from Page 2 A.K.A. Page 368 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99655&relPageId=60>

ALSO FROM MINASIAN'S GRAND JURY TESTIMONY ON JUNE 7, 1968...

A: “ . . . as we were walking forward, and just as we reached the serving table section here, the steam tables, on the Senator’s left there was several hotel employees standing in this area, and the Senator noticed them and he stopped to shake hands. He turned to his left, and I proceeded to take an extra step or two, and I felt that he wasn’t as close as I -- as he was when we started walking. And I turned my head to the left again, and I took a step back towards him to stay a little closer to him -- and Karl Uecker did the same thing -- and it seemed to me just at that precise moment that I turned to my left, out of the side vision, my

Exhibit A

Petitioner's Location

TWELVE RFK SHOOTING
WITNESSES ESTABLISHING THAT
SIRHAN SIRHAN WAS IN FRONT
OF U.S. SENATOR ROBERT F.
KENNEDY WHEN SIRHAN FIRED
HIS GUNSHOTS IN THE PANTRY

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<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99655&relPageId=60>

ALSO FROM MINASIAN'S GRAND JURY TESTIMONY ON JUNE 7, 1968...

A: “. . . . as we were walking forward, and just as we reached the serving table section here, the steam tables, on the Senator’s left there was several hotel employees standing in this area, and the Senator noticed them and he stopped to shake hands. He turned to his left, and I proceeded to take an extra step or two, and I felt that he wasn’t as close as I -- as he was when we started walking. And I turned my head to the left again, and I took a step back towards him to stay a little closer to him -- and Karl Uecker did the same thing -- and it seemed to me just at that precise moment that I turned to my left, out of the side vision, my

peripheral vision, I noticed someone dart out from this area, dart out and lean against the steam table. And I saw a hand extended with a revolver, and I saw the explosion of the cartridges out of the -- out of a revolver.”

Minasian 6/7/68 Grand Jury testimony (from Page 159 of the transcript) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99840&relPageId=115>

AND FROM MINASIAN’S TRIAL TESTIMONY ON FEBRUARY 14, 1969...

A: “. . . out of my peripheral vision I observed someone running in the direction of which we were walking.”

Q: “From what direction would that be . . . ?”

A: “I imagine easterly. The person was running from east to west.”

Q: “Was the person a male or female?”

A: “Male.”

Q: “Was he running toward you and the Senator?”

A: “Yes. And the next thing, as I looked up I saw a revolver extended and I couldn’t get a very close look at the person, but I saw the arm extended with a revolver and he had reached around Mr. Uecker. Mr. Uecker was standing almost immediately against the steam table or service table and Mr. Uecker, with his arm extended, I saw the explosion of the shells and I saw the Senator raise his arm practically in front of his face . . . ”

Minasian 2/14/69 Trial testimony (from Pages 3155 - 3156 of the transcript) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99505&relPageId=230>

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LISA URSO: SIRHAN WAS IN FRONT OF RFK WHEN HE FIRED SHOTS

FROM URSO'S LAPD STATEMENT ON JUNE 27, 1968...

“ . . . she observed the Senator approaching. She stopped approximately in the middle of the room in the area between the first and second table and stood watching the Senator shaking hands with Hotel employees . . . She then recalled a male enter her field of vision approximately three to four feet from her (between her and the Senator) and about three to four feet to her left. She was looking at what would be the right rear of the person. She observed this person take his right hand, move it across his body in the area of his waist and then move his hand back across his body, extend his arm in an upward position and at this time she observed the gun and the flash of the first shot. She heard three shots that she recalled . . . ”

Urso 6/27/68 LAPD interview (from Pages 1 - 2 A.K.A. Pages 229 - 230 of the synopsis) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99845&relPageId=229>

AND FROM URSO'S FBI STATEMENT ON JULY 19, 1968...

“ . . . When KENNEDY came out of the Embassy Room and was in the hall of the kitchen LISA noticed, out of the corner of her eye, that a young man in front of her was reaching across his body with his right hand. She subconsciously thought he was getting ready to shake hands with KENNEDY, but when he continued the motion she had the thought that he was reaching for a gun. She then saw him bring his arm back out in front and up and he took a slight step forward. She is not certain that she saw a gun in his hand but she heard shots and saw flames coming from the tip of his hand. She recalls hearing three definite shots and

then there was chaos. There could have been more shots, the sound of which was covered by the outcries of the people in the room ”

Urso 7/19/68 FBI statement (from Page 1 A.K.A. Page 399 of the synopsis) can be accessed at: <http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?mode=searchResult&absPageId=1080263>

**JACK GALLIVAN: SIRHAN WAS IN FRONT
OF RFK WHEN HE FIRED SHOTS**

FROM GALLIVAN’S LAPD STATEMENT ON JUNE 5, 1968...

A: “I was ahead of the Senator and the immediate party and going ahead of them with my hand raised to direct the party to the press room. They were going from the big Embassy Room into another room that had been set aside for the print media, and they were going through the kitchen. I was, at the time of the shooting, ahead of the party with the suspect between me and the party As I was walking, I heard nothing until the shots I was faced towards the door, away from where the shots came. I spun around as I heard them and looked up ”

Gallivan 6/5/68 LAPD interview (from Page 39 A.K.A. Page 97 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99838&relPageId=97>

MARTIN PATRUSKY: SIRHAN WAS IN FRONT OF RFK WHEN HE FIRED SHOTS

FROM PATRUSKY'S LAPD STATEMENT ON JUNE 5, 1968...

A: “. . . and all that I seen was this guy standing from -- there's a tray rack on the opposite side of the steam table and all I seen was the guy moved over and looked -- there was like two people in front and the guy looked like he was smiling and he looked like he was going to shake hands with him and he reached over like this and then the firing just started . . . ”

Patrusky 6/5/68 LAPD interview (from Page 5 A.K.A. Page 26 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99838&relPageId=26>

AND FROM PATRUSKY'S FBI STATEMENT ON JUNE 7, 1968...

“After Senator Kennedy shook hands with Juan Romero I noticed a man pushing his way toward Senator Kennedy and Karl Uecker. I thought this man was going to shake hands with Senator Kennedy. He pushed himself around to the right of Uecker. This man leaned around the left side of Uecker's body and extended his hand toward Senator Kennedy. I do not know if this man extended his left or right hand. I immediately heard a sound like that of a firecracker. A second later I heard a series of sounds like fire crackers.”

Patrusky 6/7/68 FBI statement (from Page 2 A.K.A. Page 385 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99655&relPageId=77>

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**JUAN ROMERO: SIRHAN WAS IN FRONT
OF RFK WHEN HE FIRED SHOTS**

FROM ROMERO'S LAPD STATEMENT ON JUNE 5, 1968...

A: “. . . he just kept on walking, you know, sort of looking this way.”

Q: “Uh hum.”

A: “He took two steps and all of a sudden I just seen somebody jumping up, no jumping, you mean, you know, just going over, reaching over and the first time I notice him and then after a little while after it was over, after I was help -- I tried to help Kennedy to straighten up and everything -- I felt something like burning, like, you know, like when you throw out fire crackers and some -- ”

Q: “Powder burns?”

A: “Powder burns, something like that, I see it burn there, I saw it all.”

Q: “Uh hum, did you see the gun?”

A: “Yes, it was a small gun.”

Romero 6/5/68 LAPD interview (from Pages 31 - 32 A.K.A. Pages 54 - 55 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99838&relPageId=54>

ALSO FROM ROMERO'S FBI STATEMENT ON JUNE 7, 1968...

“. . . I was smiling and Senator KENNEDY was smiling. He held out his hand and I shook it. Senator KENNEDY kept walking for approximately one or two steps. I continued to observe him and I

noticed a man who was to my left and who was smiling and who appeared to be reaching over someone in an effort to shake Senator KENNEDY's hand. At about the same time I heard gunfire and I noticed that this individual was holding a gun in his hand, which hand not recalled, and that the gun was approximately one yard from Senator KENNEDY's head. I observed Senator KENNEDY placing his hands to his face ”

Romero 6/7/68 FBI statement (from Page 2 A.K.A. Page 380 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99655&relPageId=72>

AND FROM ROMERO'S TRIAL TESTIMONY ON FEBRUARY 14, 1968...

Q: “ . . . Something attracted you and you indicated over there; will you tell us what area?”

A: “There would be somebody right here, approaching here.”

Q: “Would that be the area from the front of the table marked ‘Serving Table, 15 or 16-D’?”

A: “Yes. And I thought there was a person that couldn't wait to shake his hand, and I thought I was going to be interested to watch it, and so I was watching it and I saw in his hand, this person -- and you know there were some people and I knew -- well, here is just another person that couldn't wait to shake his hand, so then I seen him put his -- he put his arm like that and he shot two shots and then I saw a gun and then I turned around and I seen he was right in front of him and I leaned down and put my hand to the back of his head and tried to give him some, whatever I could, aid, some aid; that is about all I could do.”

Romero 2/14/69 Trial testimony (from Pages 3188 - 3189 of the transcript) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99505&relPageId=263>

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**VALERIE SCHULTE: SIRHAN WAS IN FRONT
OF RFK WHEN HE FIRED SHOTS**

FROM SCHULTE'S TRIAL TESTIMONY ON FEBRUARY 18,
1969...

Q: "And 12-E, while you were there, what occurred?"

A: "I noticed an arm extended with a gun and heard shots and observed the shots."

Q: "Now, prior to seeing the arm extended and the gun had you seen the individual who extended his arm and held the gun at all, as far as you recall?"

A: "Before I noticed the gun, no."

Q: "At the time you were standing at the approximate position, 12-E, was your attention on the Senator where he was shaking hands with the people up here somewhat to the north and to the east of you as you were looking at something else?"

A: "I turned and I spotted the Senator and immediately switched to the arm again."

Q: "Where did you see the arm of the gun, please?"

A: "In reference to -- "

Q: "In reference to any of the objects which are here in the pantry, if you can say, approximately where was the arm and the gun?"

A: "Approximately here. I can't say exactly with reference to here, but approximately five yards from me, approximately three yards, something like that, from the Senator."

Q: "You have indicated generally the area around the southwest corner of the first serving table, that serving table that bears the legend 'serving table' on it, and is that true?"

A: "Yes, sir."

Schulte 2/18/69 Trial testimony (from Pages 3426 - 3427 of the transcript) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99506&relPageId=206>

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**KARL UECKER: SIRHAN WAS IN FRONT
OF RFK WHEN HE FIRED SHOTS**

FROM UECKER'S LAPD STATEMENT ON JUNE 5, 1968...

" . . . Uecker was holding Kennedy's hand. Has Kennedy's right hand. Kennedy had stopped to shake hand with dishwasher. Uecker again grabbed Kennedy's right hand with his left hand and pulled him out of the crowd towards the Colonial Room, was slightly to right and in front of Kennedy. Saw suspect standing directly in front of him holding gun in right hand. Fired 2 or 3 times at Kennedy . . . "

Uecker 6/5/68 LAPD interview (from Page 1 A.K.A. Page 186 of the synopsis) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?mode=searchResult&absPageId=1101206>

ALSO FROM UECKER'S LAPD STATEMENT ON JUNE 5, 1968...

A: " . . . and then he came back and I grabbed his hand again and pulled him through, through the crowd."

Q: "This is the Senator's hand you grabbed?"

A: "Yes, I grabbed his hand again and then at the time that it happened."

Q: "Where was this guy that had the gun the first time you saw him?"

A: "The first time I saw him, he was -- I was coming this way. He was standing on my left hand, coming this way and about -- about here, around here; this area here."

Q: "He was very close to you, then, the first time you saw him?"

A: "Right in front of me, right in front of me, you know"

Uecker 6/5/68 LAPD interview (from Pages 3 - 4 A.K.A. Pages 233 - 234 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99845&relPageId=233>

ALSO FROM UECKER'S GRAND JURY TESTIMONY ON JUNE 7, 1968...

Q: ". . . Mr. Kennedy got loose from your hand, and he shook hands with some individual, is that right?"

A: "Right."

Q: "Where were you at that time?"

A: "I was standing right in front of him. He was on the left side -- "

Q: "Then what happened after that?"

A: "After he finished shaking hand with one of the kitchen people there, with one of the dishwashers, I took his hand again, and we went few steps farther until we got on this corner here, where we have the heaters, the steam -- the steam heaters."

Q: "Those are tables that keep the food warm?"

A: "Right."

Q: "And are there three of them there in that pantry?"

A: "Three, right."

Q: ". . . What happened then?"

A: "He got loose of my hand again and shook hands again with one of the dishwashers. And then I took his hand again, and while I was pulling him, I was trying to get -- because too many people came behind

us at that time. Mr. Uno was in front of us -- Mr. Timanson -- and he was calling, waving over, and I was trying to get as fast through the kitchen area there, through the pantry, as I could. And while I was holding his hand, I was turning to my right towards -- to the Colonial Room where the press room was. At that time something rushed on my right side. I -- at that time I didn't recognize what it was, and I saw some paper flying. I don't even remember what it was, paper or white pieces of things. Then I heard the first shot and the second shot right after that, and Mr. Kennedy fall out of my hand. I lost his hand. I looked for him, and I saw him falling down. And I turned around again, and I saw the man -- right standing next to me. The arm, was holding the gun in . . . ”

Uecker 6/7/68 Grand Jury testimony (from Pages 142 - 143 of the transcript) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99840&relPageId=98>

AND FROM UECKER'S TRIAL TESTIMONY ON FEBRUARY 14, 1969...

A: “He shook hands with the last man here and I looked over there and I was kind of watching and this guy was coming close to the door again and, as I said before, I expected that some of them would be coming in here and a part of it -- and he couldn't get into the Colonial Room. He was shaking hands and I talked to him and then I turned to my left, to my right, and then I felt something moving in between the steam table and my stomach. I was very close to the steam table. Then the next thing I heard was something like a firecracker and I turned my head to the left and I slid over again and I heard something like a shot . . . ”

Uecker 2/14/69 Trial testimony (from Pages 3095 - 3096 of the transcript) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99505&relPageId=170>

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**FRANK BURNS: SIRHAN WAS IN FRONT
OF RFK WHEN HE FIRED SHOTS**

FROM BURNS' FBI STATEMENT ON JUNE 12, 1968...

“ . . . The one clear impression I have is of an extended arm holding a gun. This arm appeared to be next to the serving table and the gun would be about even with the front edge of the serving table . . . ”

Burns 6/12/68 FBI statement (from Page 3 A.K.A. Page 72 of the transcript) can be accessed at: <http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99659&relPageId=85>

**AND FROM BURNS' TRIAL TESTIMONY ON FEBRUARY 17,
1969...**

Q: “What happened when you got inside the pantry?”

A: “I was moving rather rapidly, moving to catch up with him as the Senator approached the edge of the serving table . . . Heard the noise, the ripple of what was a gun, and it sounded like firecrackers . . . It seemed just like a ripple of noise.”

Q: “When you heard the sound of gunfire what did you do?”

A: “The first thing I did was to look toward the sound, the noise and at that time all I really saw that I recall was an arm extended holding a gun. There were people there but in this area here, but right next to the serving table, right at this corner there was a hand stretched out with a gun in it and I very vividly recall seeing that . . . ”

Burns 2/17/69 Trial testimony (from Pages 3396 - 3399 of the transcript) can be accessed at: <http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99506&relPageId=176>

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**PETE HAMILL: SIRHAN WAS IN FRONT
OF RFK WHEN HE FIRED SHOTS**

FROM HAMILL'S LAPD STATEMENT ON OCTOBER 9, 1968...

“Witness was walking toward the Colonial Room, preceding Senator Kennedy, in the area of the West end of the ice machines. He had turned and was walking backwards, looking at the Senator. He described the Senator standing with his body facing in an Easterly direction and his head turned to his left in a Northerly direction. His right arm was across his body and he was shaking hands. He was standing approximately 2’ South of the South end of the first steam table and approximately 4’ West of the West edge of the table. The suspect was standing approximately 4’ to 6’ form the Senator, near the center of the same table. His right foot was forward and his right arm was extended with the gun in his right hand. Witness estimated the gun was about 2’ from the Senator. He indicated he could be off on the distances due to the circumstances. He heard the shots and it was then that he first saw the suspect in the above described position. However, he did not see the flashes from the gun nor the Senator being hit. His view of the suspect’s face was a left profile. He described the suspect as having a look of determined concentration on his face. He next saw the Senator with his right hand up in the air.”

Hamill 10/9/68 LAPD interview (from Page 1 A.K.A. Page 293 of the synopsis) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?mode=searchResult&absPageId=1108501>

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**BORIS YARO: SIRHAN WAS IN FRONT
OF RFK WHEN HE FIRED SHOTS**

FROM YARO'S FBI STATEMENT ON JUNE 7, 1968...

“The senator and the assailant were little more than silhouettes but the senator was backing up and putting both of his hands and arms in front of him in what would be best described as a protective effort. The suspect appeared to be lunging at the senator, I don't know which hand the gun was in . . . ”

Yaro 6/7/68 FBI statement (from Page 2 A.K.A. Page 371 of the transcript) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99873&relPageId=707>

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**NINA RHODES: SIRHAN WAS IN FRONT
OF RFK WHEN HE FIRED SHOTS**

FROM RHODES' FBI STATEMENT ON JULY 15, 1968...

“She grabbed LUCY SALINGER’s hand, who she stated was a KENNEDY volunteer and a Los Angeles resident, and together they ran into the kitchen passageway. She stated this area slanted downward in the direction they were running and that it was cluttered with all sorts of cables. She tried to focus her attention on the Senator’s head, thereby making it easier for her to determine his whereabouts. She had just left the entrance to the kitchen and noticed the Senator shaking hands with various kitchen employees and continue proceeding down the hallway when she suddenly heard a sound like a firecracker and she saw a red-like flash three to four feet from the left of the Senator’s head. She estimates that she was approximately ten feet from the Senator when she observed this. She instantaneously realized that she was there and that shots were being fired. She later recalled hearing eight distinct shots. Everything appeared to her like still frames in a stop-action movie. She recalls seeing the Senator’s head and suddenly everyone dropping to the floor. After the first shot the remaining ones sounded like a lighted string of firecrackers. They appeared to be very high in the air for when she saw the flashes she had to look up and the flashes appeared higher than the heads of the group of people in front of her. From her position, which was behind and slightly to the left rear of the Senator, the flashes were slightly to the left front of the Senator”

Rhodes 7/15/68 FBI statement (from Page 2 A.K.A. Page 366 of the synopsis) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99665&relPageId=69>

**RICHARD AUBRY: SIRHAN WAS IN FRONT
OF RFK WHEN HE FIRED SHOTS**

FROM AUBRY'S LAPD STATEMENT ON JUNE 5, 1968...

A: “. . . well, that's where he been shot, right there, I mean, I was up -- ”

Q: “Where were you at when you heard the first reports?”

A: “First reports, I was about, as I said, about five or six or eight -- six feet in front of him because -- ”

Q: “In front of him?”

A: “Yeah.”

Q: “In front -- this -- you mean this way? I mean, he was walking through the door, wasn't he?”

A: “He was walking through the door so, therefore, I was up at the first part of the steam table, I would say . . . whatever the length of that table, that is the length I was ahead of the Senator is a good way of measuring.”

Q: “Uh huh.”

A: “I was one length of the one steam table up, or big metal table, when the first -- and I turned, I thought it was somebody shooting firecrackers, I thought it was Chinese firecrackers. When I turned around then it was just a constant -- like then looked like ‘pow’ (*) ‘pow, pow’ just cracking like a little bag of potato chips or something (*) then -- then -- it was just like about six -- five or six shots, I guess, all told.”

Q: “Were you looking back when you heard the shots or you were looking -- ”

A: “I looked back when the people were shaking his hand, they were -- they were -- and that -- at that time this is -- he was sort of delayed so I just sort of wait because he was getting ready to go into the press room. The next area was the press room.”

Q: “. . . Maybe I missed part of this, but did you see the suspect fire the weapon at the Senator?”

A: “No, not until I turned around. I heard the first two -- two reports.”

Q: “(*)”

A: “I saw he -- I didn't even see the weapon because I saw, he looked like a -- just a little -- ”

Q: “Flash?”

A: “ -- flash, like a little spark from a -- ”

Q: “Did you -- did you see this guy with the flashes coming out of his hand?”

A: “Oh, yes.”

Q: “ . . . When you looked around, was he to your rear or to your side?”

A: “Yes, he was definitely to the rear.”

Q: “To your right rear or to your left rear, would you say?”

A: “Uh -- to my right rear because he had to be leaning up against the counter, see, that’s when I spun around this way, I turned to the right sort of impulsively, you know.”

Q: “He was -- ”

A: “When I thought about the firecrackers, I wanted, you know, and I turned around this way to my right.”

Q: “And how far would you say he was from you?”

A: “Oh, I don’t know. Again I had -- ”

Q: “Was he between you and Kennedy?”

A: “When I looked back at first -- oh, yes.”

Q: “He was between you and -- you say he was six or seven feet ahead of the Senator and the newsmen?”

A: “Yes.”

Q: “And he was between you -- ”

A: “Right.”

Q: “ -- is that right?”

A: “Yes.”

Aubry 6/5/68 LAPD statement (from Pages 7 - 16 A.K.A. Pages 10 - 19 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99837&relPageId=10>

For more on what these and other RFK assassination witnesses said, click here . . .

<http://rfkproject.homestead.com/What-The-Witnesses-Said.html>

Exhibit B

Pinning Down of Petitioner on Steam Table

FIVE RFK SHOOTING WITNESSES
ESTABLISHING SIRHAN SIRHAN
WAS PINNED DOWN AFTER
HE FIRED HIS FIRST GUNSHOTS

EDWARD MINASIAN: SIRHAN WAS GRABBED
IMMEDIATELY AFTER HE FIRED THE FIRST SHOTS

FROM MINASIAN'S LAPD STATEMENT ON JUNE 5, 1968...

A: “. . . all I saw was the arm extended with the gun and I saw, I personally saw two shots fired. Then at that time I saw Karl grab him and then I jumped across and we grabbed him . . . I saw the first two shots fired . . . at that time Uecker hit his arm and grabbed him hammer -- neck hold around his neck, and then I grabbed him from the left side . . . ”

Minasian 6/5/68 LAPD interview (from Pages 5 - 9 A.K.A. Pages 146 - 150 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99837&relPageId=146>

ALSO FROM MINASIAN'S FBI STATEMENT ON JUNE 7, 1968...

“ . . . I saw out of the right corner of my eyes someone darted behind my partner, and reached around him, with a gun in his right hand. Before I could react, he fired two shots. My partner grabbed the gunman in a headlock, and I grabbed him around the waist, and forced him up against a steam table. We could not control his gun hand until after he fired a number of shots in rapid succession . . . ?”

Minasian 6/7/68 FBI statement (from Page 2 A.K.A. Page 368 of the transcript) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99655&relPageId=60>

ALSO FROM MINASIAN'S GRAND JURY TESTIMONY ON JUNE 7, 1968...

A: “ . . . And I saw a hand extended with a revolver, and I saw the explosion of the cartridges out of the -- out of a revolver . . . There were two shots and -- I heard two shots . . . They were very, very deliberate shots. There was just a slight pause. It was a bang-bang cadence, and after the second shot, why, as I said, I saw the flash of the cartridges being discharged, and immediately there were several other people in that area behind the Senator, and I just pushed into Karl Uecker. And he -- we both made an attempt to get at the hand holding the gun, and we had him -- I was down low, pushing up against him. And at that same time I turned to my left and I saw -- well, there were some more wild type firing which was a more rapid fire than the first two, as they were struggling for the gun. I'm sure that's why the gun was going off . . . I know the first two were deliberate, and the others came in quick spurts, so -- ”

Q: “Were the first two or the first series, we will call them -- if there were two -- was that before anyone touched the suspect or the person shooting?”

A: "Yes, sir."

Q: "After that, people started grabbing?"

A: "Right."

Q: "And there were then shots fired after that, is that correct?"

A: "That's correct."

Q: "Were those shots fired in the general direction of the Senator?"

A: "I doubt it"

Minasian 6/7/68 Grand Jury testimony (from Pages 159 - 162 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99840&relPageId=115>

AND FROM MINASIAN'S TRIAL TESTIMONY ON FEBRUARY 14, 1969...

A: ". . . I saw the explosion of the shells and I saw the Senator raise his arm practically in front of his face and then the second shot went off and after the second shot, why, I jumped across this area between myself and Mr. Uecker and attempted to grab, and grabbed ahold of him, the party, around the waist and at the top of the leg. We had him pinned up against the service table . . . after the second shot is when I jumped across that corridor area there and both Mr. Uecker and I grabbed ahold of the person."

Q: "How many shots can you recall hearing before you grabbed ahold of this person?"

A: "The second shot. I say I didn't see the first explosion, but when I turned my head, just in the time it took to turn my head, the second shell went off and it was at that time that I jumped across the corridor."

Q: "Was there any additional fire?"

A: "Yes."

Q: "Was there a pause between the additional firing and what you have described as the second shot which you saw?"

A: "The first two, it seemed to me were in a bang-bang cadence. It

was quite rapid and then there was a pause after the second shot before I heard any more.”

Q: “When you say ‘a pause’ can you describe that in time sequence?”

A: “Possibly two or three seconds.”

Q: “Now, what occurred next? You had ahold of the defendant below the waist, is that a fair statement?”

A: “Yes.”

Q: “What occurred?”

A: “Then there was a large group of people surrounding him”

Q: “Now, directing your attention to the man that you helped pin against the steam table, do you see him in court today?”

A: “Yes, sir.”

Q: “Would you indicate him, please?”

A: “That is he with the blue tie and blue shirt.”

Q: “May the record indicate the defendant?”

Court: “It will so indicate.”

*Minasian 2/14/69 Trial testimony (from Pages 3156 - 3160 of the transcript) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99505&relPageId=231>*

**LISA URSO: SIRHAN WAS GRABBED IMMEDIATELY
AFTER HE FIRED THE FIRST SHOTS**

FROM URSO’S LAPD STATEMENT ON JUNE 27, 1968...

“ . . . She heard three shots that she recalled. After the first shot, she recalled the Senator move his right hand in the vicinity of his right ear and possibly stagger forward slightly or backward. She was not sure .

. . . She then stated that a group of men immediately began to scuffle with the suspect. She further stated she can recall that the suspect the men were struggling with, who was later apprehended, was the same man that crossed her field of vision and drew the gun that shot . . . ”

Urso 6/27/68 LAPD interview (from Page 2 A.K.A. Page 230 of the synopsis) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99845&relPageId=230>

AND FROM URSO’S FBI STATEMENT ON JULY 19, 1968...

“ . . . She recalls hearing three definite shots and then there was chaos. There could have been more shots, the sound of which was covered by the outcries of the people in the room. She saw Senator KENNEDY grab the back of his head with his right hand. People closed in on the young man and she lost sight of him, but knew the people were holding him down on a table . . . ”

Urso 7/19/68 FBI statement (from Page 1 A.K.A. Page 399 of the synopsis) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?mode=searchResult&absPageId=1080263>

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**MARTIN PATRUSKY: SIRHAN WAS GRABBED
IMMEDIATELY AFTER HE FIRED THE FIRST SHOTS**

FROM PATRUSKY’S LAPD STATEMENT ON JUNE 5, 1968...

A: “ . . . I seen Karl. Karl was holt -- pulling Kennedy through on --

Karl Uecker. He was pulling Kennedy through I think on the left side I think by his coat sleeve and all of a sudden I seen Karl reach out and grab the guy and Karl was holding him down, in a head lock down there, and he was waving the gun on the floor at the time, you know . . . back and forth and something like a piiiing noise came off the ceiling and I seen Eddie jumping down on top, hitting the guy. Eddie, you know, another captain, was jumping down on top of Karl and that and the next thing I knew they had the guy rushed over on the steam table, across the steam table . . . ”

Patrusky 6/5/68 LAPD interview (from Pages 6 - 7 A.K.A. Pages 27 - 28 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99838&relPageId=27>

ALSO FROM PATRUSKY’S FBI STATEMENT ON JUNE 7, 1968...

“ . . . This man leaned around the left side of Uecker’s body and extended his hand toward Senator Kennedy. I do not know if this man extended his left or right hand. I immediately heard a sound like that of a firecracker. A second later I heard a series of sounds like fire crackers. Karl Uecker swung about and grabbed this individual by the neck and I then heard more sounds like fire crackers . . . I saw a group of men grabbing a man who was lying face down on the steam table in the serving room. The muzzle of a gun was extending beyond the group and the gun was being waved around before some one grabbed it from the man.”

Patrusky 6/7/68 FBI statement (from Pages 2 - 3 A.K.A. Pages 385 - 386 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99655&relPageId=77>

AND FROM PATRUSKY'S TRIAL TESTIMONY ON FEBRUARY 17, 1969...

A: “. . . He grabbed him around the neck and with one hand extended he held his arm, which at that time you could see the gun in his hand.”

Q: “At that time did you hear additional shots?”

A: “Yes, sir.”

Q: “How many?”

A: “About five or six. I can't tell exactly.”

Q: “The arm was extended at that time?”

A: “Yes, sir.”

Patrusky 2/17/69 Trial testimony (from Pages 3387 - 3388 of the transcript) can be accessed at: <http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99506&relPageId=167>

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JESUS PEREZ: SIRHAN WAS GRABBED IMMEDIATELY AFTER HE FIRED THE FIRST SHOTS

FROM PEREZ'S FBI STATEMENT ON JUNE 14, 1968...

A: “. . . PEREZ stated that he was shaking the Senator's hand, or rather the Senator was just letting go of his hand after having greeted him, when he heard a noise which sounded to him like a gun shot or a fire cracker. He stated that he turned his head and saw the man later identified as SIRHAN SIRHAN, waving his arm with an object in his hand, which PEREZ recognized as a revolver. He stated he saw the individual with the gun fire several more shots just as several men grabbed him in an attempt to subdue him and take away the pistol.”

Perez 6/14/68 FBI statement (from Page 2 A.K.A. Page 242 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99641&relPageId=169>

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**KARL UECKER: SIRHAN WAS GRABBED
IMMEDIATELY AFTER HE FIRED THE FIRST SHOTS**

FROM UECKER'S LAPD STATEMENT ON JUNE 5, 1968...

“ . . . Uecker was holding Kennedy's hand . . . and pulled him out of the crowd towards the Colonial Room, was slightly to right and in front of Kennedy. Saw suspect standing directly in front of him holding gun in right hand. Fired 2 or 3 times at Kennedy. Uecker grabbed gun and suspect pushing gun and hand away suspect continued to fire . . . ”

Uecker 6/5/68 LAPD interview (from Page 1 A.K.A. Page 186 of the synopsis) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?mode=searchResult&absPageId=1101206>

ALSO FROM UECKER'S LAPD STATEMENT ON JUNE 5, 1968...

A: “ . . . First shot -- first shot or second shot must have been shortly one after another, you know, and I saw Mr. Kennedy falling down out of my hand (*) and he is still shooting. And then I hit his hand down and I don't know how many times he shot. I don't know. I couldn't even tell

you -- four times, five times, six times, it was -- but he was shooting another direction, I think, but I was trying to push the gun away from the crowd into the kitchen . . . I didn't even realize at the first shot that it was a gun but by the second shot, I turned around and saw Kennedy falling down out of my hand and then at the time that I realized it must have been a gun, then I grabbed him, you know . . . ”

Q: “He had the gun in his right hand?”

A: “In his right hand, yeah, because I kept him in my right hand and he was -- yes, in his right hand. He was trying to pull the right hand over again. I was trying to move that hand over.”

Q: “He was trying to get the gun back to where he could shoot people?”

A: “Right.”

Q: “And you were trying to prevent this?”

A: “Right.”

Q: “. . . Was he still firing?”

A: “He was still firing, yeah. Oh, yeah. Like I said, I don't know how many shots he shot, but I was trying to get his gun away and his arm away and I was pulling him on the side . . . ”

Uecker 6/5/68 LAPD interview (from Pages 2 - 8 A.K.A. Pages 232 - 238 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99845&relPageId=232>

ALSO FROM UECKER'S GRAND JURY TESTIMONY ON JUNE 7, 1968...

A: “. . . And while I was holding his hand, I was turning to my right towards -- to the Colonial Room where the press room was. At the time something rushed on my right side. I -- at that time I didn't recognize what it was, and I saw some paper flying. I don't even remember what it was, paper or white pieces of things. Then I heard the first shot and the second shot right after that, and Mr. Kennedy fall out of my hand. I lost his hand. I looked for him, and I saw him falling down. And I turned around again, and I saw the man -- right standing next to me. The arm,

was holding the gun in, push the arm down on towards the steam heater, and my right arm I took around his neck as tight as I could, and pressing him against the steam heater. In the meantime, somebody else came behind me and pushed me against the steam heater. The guy in front of me couldn't get loose. While I was holding the hand where he had the gun in, I was trying to get the point of the gun as far as I could away from the part where Mr. Kennedy was laying. From the left side, I was trying to push the gun away to the right side where I didn't see too many people, while he was still shooting . . . I was hitting his hand on the steam heater as hard as I could, with my left hand, I had him right here on the wrist, and hitting my left hand on the heater to get rid of the gun."

Q: "He has his gun in his right hand?"

A: "In his right hand, yes."

Q: "And you grabbed him with your left hand?"

A: "The left hand, yes, and had the right arm around his neck. I was standing there and he was shooting, and I could feel when he was turning his hand towards the crowd, that's why I pushed all over the steam table as far as I could, to almost to the end of the steam table."

Q: "Let me back up and go back. You could feel his hand with the gun in it turning, trying to turn the gun towards the crowd?"

A: "Towards the crowd or towards me, I don't know."

Q: "You kept pushing it away?"

A: "Pushing it away."

Q: "On the steam table?"

A: "Right."

Q: ". . . About how many shots did you hear altogether?"

A: "I couldn't swear on it, but I think it was -- there was six shots -- six -- could be seven. While I was hitting his hand on the steam heater, there was noise, too, you know."

Q: "Before you grabbed his arm or his hand with the gun, had the gun been shot before that?"

A: "Yes."

Q: "About how many times did that gun go off before that?"

A: "Twice."

Q: "Twice that you know?"

A: "I must have grabbed the arm by the third shot . . . While I was holding the right arm from the shooter, I looked to the left, and while he was shooting still, I saw some more people falling down. But I wasn't sure they were shot or they just bent down to get away from the -- from the shots."

Uecker 6/7/68 Grand Jury testimony (from Pages 143 - 149 of the transcript) can be accessed at:

<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99840&relPageId=99>

AND FROM UECKER'S TRIAL TESTIMONY ON FEBRUARY 14, 1969...

A: ". . . I was very close to the steam table. Then the next thing I heard was something like a firecracker and I turned my head to the left and I slid over again and I heard something like a shot, and Mr. Kennedy was falling out of my hand, and his upright arm, he was turning and then I realized there was somebody following me with a gun. I grabbed myself."

Q: ". . . Now, I want you to think about the scene at the time when you stopped in the area of the most westerly serving table?"

A: "Yes."

Q: "When the Senator stopped and he shook hands with two of the staff?"

A: "Right, sir."

Q: "And you went to grab the Senator by his arm to continue toward the Press?"

A: "I grabbed him myself by his hand . . . I grabbed his hand and I turned to my right toward the Colonial Room but in that turning something brushed next to me in front of me between the steam table and my stomach."

Q: "It was a person?"

A: "Person, right. Then I heard a shot which was something like a firecracker, a second shot and then I turned my head back again and I

lost the Senator. I looked, I saw what happened and was right in front of the man who had a gun in his hand. I grabbed, I started grabbing for the gun and with my right arm, I got my arm around his neck and had his head in a headlock and bent him over the steam table trying to push the gun away from the Senator. I had him right by the wrist over here.”

Q: “You had the individual with your hand on his hand on his wrist?”

A: “My left hand on his right hand.”

Q: “Was it his right hand the hand that held the gun?”

A: “It was, sir.”

Q: “And you had your hand on the right hand, the right wrist of this individual?”

A: “Right, sir.”

Q: “Now, up until the time you put your hand on his right wrist how many shots did you think you heard?”

A: “It might have been two or three shots. As soon as I started grabbing for the gun the shooting stopped for just a moment and as soon as I got this wrist, the shots, he kept on shooting. I was trying to move that hand as far away as I could from the crowd and from Mr. Kennedy. I felt my right hand, I had his hand in a headlock and was bending him over the steam table and there was somebody else behind me and he was trying to push me against this man, against the steam table and the man kept on shooting. I don’t know how many shots he shot and by the way, I was trying very hard to get that gun away from the heart of the Senator and I could feel that he was very strong in his right hand and he was trying to pull the gun back toward the Senator, toward me, I don’t know. I had to push him over, over to the steam table as far as I could but I didn’t have my hand in the right place so he could still move his hand over to the left side. I felt him shooting, and he kept on shooting, at that time very repeatedly.”

Q: “. . . Now, after you put your hands on Mr. Sirhan’s wrist you said he was pulling the trigger and you were trying to force the gun away from the crowd and the Senator. How many additional shots would you say took place, could you tell us that?”

A: “About four or five. I couldn’t tell you because I was hitting the gun on the top of the steam table while I was pushing, and I was holding the

gun on the steam table to make noise, and I didn't pay attention. It must have been four, five or six shots, I don't know."

Uecker 2/14/69 Trial testimony (from Pages 3095 - 3100 of the transcript) can be accessed at:
<http://www.maryferrell.org/mffweb/archive/viewer/showDoc.do?docId=99505&relPageId=170>

For more on what these and other RFK assassination witnesses said, click here . . .
<http://rfkproject.homestead.com/What-The-Witnesses-Said.html>

Exhibit C

Declaration of Philip van Praag

DECLARATION OF PHILIP VAN PRAAG

1
2 I, Philip Van Praag of 37396 S. Desert Star Drive, Tucson,
3 AZ 85739, declare under penalty of perjury that the following is
4 true and correct.

5
6 1. My life-long training and resulting qualifications are
7 predominantly in audio engineering and computer technology.

8
9 2. I studied at California Western University (MS & BS
10 Engineering), DeVry University (AAS) and benefitted from various
11 other college and university courses through the auspices of my
12 employment through the years: (Aurora College, Aurora IL while
13 at Bell Laboratories, University of New Mexico while at Sandia
14 National Laboratories, Stanford University while at Ampex
15 Corporation). I gained decades of work- related training and
16 experience working for Ampex Corporation (Senior Instructor in
17 the commercial Audio / Video Products Division), Audio
18 Consultants (Technical Services Manager), computer related
19 experience at Hughes Aircraft Company (Technical Head, Automated
20 Data Management), American Heart Association (Vice President,
21 Information Technology), Applied Power (Vice President & Chief
22 Information Officer), and R.R. Donnelley (Director, Information
23 Technology). I also gained considerable experience from
24 utilizing my personal audio / video equipment test facility,
25 equipped with hundreds of audio related items representative of
26 analog magnetic and digital recording methods, formats,
27
28

1 technologies, test equipment and characterization capabilities
2 from the inception of magnetic tape recording in the 1940's.
3

4 3. I first became aware of an audio tape recording made on
5 the night of June 4-5, 1968 by Stanislaw Pruszyński, a free-
6 lance reporter for Canadian newspapers, when told about this
7 Pruszyński recording in the spring of 2005 by Brad Johnson, a
8 senior international news writer with CNN. Johnson had contacted
9 me after becoming aware of my work with tape recording through
10 my book published in 1997, "*Evolution of the Audio Recorder*".
11 He initially asked that I examine an audio cassette copy from
12 (and created by) the California State Archives (CSA) that
13 contained the content of Pruszyński's recording made at the
14 Ambassador Hotel in Los Angeles, California during the June 5,
15 1968 shooting that resulted in the death of Senator Robert F.
16 Kennedy.
17

18 4. On or around August 6, 2005, I began to examine the
19 sounds contained within the Pruszyński recording.
20

21 5. Realizing the content-quality limitations imposed by the
22 consumer-grade cassette-based copy produced by the CSA, I
23 requested, and was granted, permission by the CSA (that
24 permission made possible in part through the efforts of CNN's
25 Brad Johnson) to make my own recordings from the CSA's open-reel
26 Pruszyński recording copy using laboratory grade playback and
27 recording equipment. The CSA's open-reel copy had been
28

1 transferred there in 1987 by the Los Angeles Police Department,
2 which had been provided this copy by the FBI in 1969.

3
4 6. My examination of the Pruszyński recording involved the
5 following process steps: (1) general examination of the entire
6 recording; (2) initial more-detailed examination of the time
7 period covering several seconds prior to the commencement of
8 gunshot sounds through several seconds after the termination of
9 perceivable gunshot sounds; (3) validation of the overall
10 recording through comparison with several other audio and video
11 recordings made prior to, and after the gunshot interval; (4)
12 re-timing of the gunshot interval to real-time; (5)
13 determination of Pruszyński's movement immediately prior to the
14 commencement of the shooting, based upon analysis of television
15 network video feeds; (6) determination of Pruszyński's likely
16 recording equipment, distances from, and room dimensions
17 surrounding, the shooting site, followed by simulation
18 recordings with like equipment; (7) a first-level detailed
19 analysis to characterize the gunshot sounds in both number and
20 timing; (8) a second-level detailed analysis of the gunshot
21 sounds to characterize the gunshot impulse trailing edge
22 envelope data for frequency content; (9) field testing as a
23 result of frequency content data findings from the Pruszyński
24 recording for envelope characterization; and (10) a data pattern
25 match comparison between field test results and Pruszyński
26 recording test results.

1 6a. The first two process steps acquainted me with overall
2 recording content. I initially recognized that the FBI-copied
3 recording, which was made from a Royal Canadian Mounted Police
4 (RCMP) dub of Pruszyński's original cassette recording,
5 consisted of several segments evidently dubbed from the original
6 cassette in a non-contiguous manner. Thus the next step was to
7 ensure that the recording's critical time period encompassing
8 the shooting was in fact contiguous. This was accomplished in
9 part through an analysis of the prominent background nominal-60
10 Hz frequency content found throughout the recording; a cycle by
11 cycle examination revealed that while expected breaks occurred
12 at the obvious abrupt audio content changes consistent with the
13 non-contiguous segments, the sinusoidal 60 Hz pattern was
14 consistent from the pre-shooting through the post-shooting
15 period segment. Then, preliminary testing of the shooting
16 period was accomplished, utilizing analog laboratory audio
17 active-filtering equipment (e.g., Krohn-Hite 3323 and 3750),
18 along with other examination tools such as time interval
19 elongating computer software (e.g., Audacity) and frequency
20 domain spectrum analyzer equipment (e.g., Tektronix 5441 with
21 5L4N).

22 6b. In the third process step, several commercial broadcast
23 and private audio/video recordings from that night at the
24 Embassy Room of the Ambassador Hotel were compared with the
25 Pruszyński recording to validate the various sounds throughout
26 the Pruszyński recording and to gain a general understanding of
27 the positioning of Pruszyński, Senator Kennedy, and others heard
28

1 on the recording during and immediately after Senator Kennedy's
2 victory statement at the podium on the makeshift stage. As seen
3 on the video recordings, Pruszyński's recorder was stored under
4 the podium during the victory statement, with his microphone on
5 top of the podium.

6 6c. The fourth process step consisted of re-establishing
7 correct timing for the entire gunshot interval of the Pruszyński
8 recording. From examination of the recording, together with FBI
9 declassified documentation indicating the FBI's attempt to
10 correct an obvious speed issue with the RCMP dub (that attempt
11 was imprecise), it was necessary to re-time that interval in
12 order to synchronize that Pruszyński recording interval with
13 broadcast recordings from just before the shooting. This
14 provided the basis for comparing Pruszyński's movements to the
15 sounds of his recording, and then to ascertain the correct
16 timing of the shot sounds recorded as Pruszyński walked down the
17 stairs from the stage area and entered the corridor leading to
18 the kitchen pantry where the shooting occurred. As will be
19 described in conjunction with the third discovery, another
20 benefit of the re-timing would prove to be the re-establishment
21 of correct frequency content of the gunshot trailing edge
22 waveforms.

23 6d. With re-timing completed, Pruszyński's movements
24 (Process Step 5) could be accurately tracked as he left the
25 stage area, descended the steps, and proceeded into the corridor
26 toward the kitchen pantry.

1 6e. Process Step 6 involved detailed study of Embassy Room
2 video footage, from which several frames were located which
3 provided excellent clues as to the recording equipment used by
4 Pruszyński: specifically, footage of him retrieving his
5 equipment from the podium after Senator Kennedy completed his
6 victory statement, and footage of Pruszyński as he left the
7 kitchen pantry approximately 24 minutes after the shooting, and
8 walked past a television interview being conducted at the time.
9 Scale drawings and models of the kitchen-pantry, corridor, and
10 Embassy Room, along with precise measurements obtained of
11 relevant areas in and around the kitchen pantry were located.

12 6f. With Pruszyński's movements known, together with
13 dimensional data, information concerning the locations of Sirhan
14 and Senator Kennedy at the time of the shooting, and an accurate
15 approximation of Pruszyński's equipment, I was then able to
16 begin examining the shot sounds (Process Step 7). First, using
17 a cassette recorder and microphone closely approximating
18 Pruszyński's equipment (a Concord F100, simulating Pruszyński's
19 likely Telefunken 4001 model), and using cassette tape generally
20 available in that year (a Scotch 271 "magnetic cartridge"),
21 gunshot sounds were recorded and played back to gain a general
22 sense of the resulting gunshot sound characteristics, given the
23 limitations imposed by that consumer grade equipment. The
24 resulting data was useful, as was a succeeding generation dub of
25 that recording through a Uher Report 4000L open reel recorder
26 similar to that used by the RCMP to make a copy of the original
27 cassette (as ascertained from FBI declassified files). The
28

1 Pruszynski recording was analyzed, at this stage, using analog
2 test equipment and computer-based software to attempt to
3 determine the number of shots captured by that recording. Given
4 the recording equipment limitations, together with the general
5 noisy crowd environment, and Pruszynski's distance from the area
6 from which the shots emerged, it was not possible to
7 definitively determine the exact total number of shots fired.
8 However, 13 shot sounds were identified (my first discovery).
9 It is possible that the total number exceeds 13, in view of the
10 fact that loud screams emerged within seconds from the people
11 closest to the shooting scene as they became aware of what had
12 just occurred. These emerging screams and loud shouting may
13 have obscured the capture of discernible additional shot sounds.
14 As the number of captured shot sounds I identified significantly
15 exceeded the capacity of Sirhan's gun (eight shots), and with no
16 opportunity for him to reload, it became evident that more than
17 one gun must have been fired. With multiple guns fired over a
18 short period of time (slightly more than five seconds), and by
19 more than one individual, it occurred to me that this would
20 result in a random timing distribution among the occurrence of
21 those shots during that brief interval. And, that the spacing
22 of some of those shots could, by chance, be quite narrow. Two
23 "double shot" groups (my second discovery) were indeed located
24 within the 13 shot sounds. That is, there were two instances
25 identified wherein the two shots within each of those double
26 shots were fired extremely close together, specifically about
27 149 ms apart for shots 3-4, and 122 ms apart for shots 7-8.

28

1 Given that Sirhan's gun was an inexpensive revolver (an Iver
2 Johnson Cadet 55SA), it seemed highly unlikely that that gun
3 could have been fired that rapidly.

4 6g. Given the findings at that point of the analysis (my
5 first two discoveries), I continued with a more detailed
6 analysis (Process Step 8). As the occurrence of two guns fired
7 suggested at least the possibility that those two guns might
8 have been of different makes and models, I began examining the
9 shot waveform envelopes more closely. One distinguishing
10 characteristic of gunshots is the presence of a trailing edge
11 waveform "envelope". The presence of this envelope, quite long
12 relative to the very short initial "impulse" sound created at
13 the instant of firing allows law enforcement-utilized commercial
14 products such as "ShotSpotter" to immediately send notification
15 of 'shots fired' to police headquarters, reliably ignoring other
16 impulse sounds (firecrackers, balloons, etc.) that humans might
17 easily mistake for gunshots. As I examined the frequency
18 content of these trailing waveform envelopes, I discovered an
19 anomaly occurring in five of those gunshot waveforms. This
20 anomaly presented as a single frequency component, at 1,600 Hz,
21 at a level not found in the other shot sound waveforms. It was
22 further noted that this anomaly was present in one, and only
23 one, of each double shot pair. Later, as my understanding of
24 the significance of the 1,600 Hz level evolved, this became my
25 third discovery. The presence of this anomaly being possibly
26 caused by 'coloration' due to the kitchen pantry area
27 furnishings or construction materials was discounted since it
28

1 only appears in five of the shot sounds; and, during the brief
2 five-second interval during which all 13 shots were fired,
3 Sirhan's gun arm had been pinned down onto a steam table (and
4 thus he was then shooting from exactly the same position after
5 his second shot). Also, echoes are ruled out for the same
6 reason (why would echoes appear only in those shots?), and by
7 reason of the dimensions of the kitchen pantry area (given the
8 speed of sound).

9 6h. As a result of this finding, with no immediately
10 demonstrated apparent exact cause, I conducted field testing
11 (Process Step 9) of two differing 22-caliber revolvers of that
12 era: an Iver Johnson Cadet 55SA (as was confiscated from Sirhan
13 at the crime scene) and a Harrington & Richardson 922. The H&R
14 922 has identical class characteristics to the Iver Johnson
15 Cadet 55SA, with six riflings, a right hand twist, and a 0.054
16 inch land width mark. It is also a make/model gun owned at that
17 time by a security guard who confirmed to police that he had
18 been armed and had been standing immediately behind and toward
19 the right of Senator Kennedy at the moment the shooting
20 occurred. The outdoor field test was set up with microphones
21 located 40 feet from the guns, to mimic the average distance
22 between Pruszyński's microphone and the guns. One microphone
23 was positioned in front and slightly to the side of the guns,
24 the other positioned behind and slightly to the side. The tests
25 were repeated a second time, about two weeks after the first set
26 of tests, to help ensure confidence in the resulting data.

1 6i. Analysis of the test data (Process Step 10) was
2 conducted using the Steinberg Wavelab computer software, the
3 same software used to initially identify the frequency anomaly
4 on the Pruszyński recording. The results revealed that no
5 frequency anomaly was found within the Iver Johnson test fire
6 data within the tested frequencies, whether recorded from the
7 front or from the rear of that gun as it was fired. With the
8 H&R 922, however, a frequency anomaly was found when analyzing
9 recordings from the rear of that gun, but not from in front of
10 that gun. Further, the test results revealed the frequency of
11 that anomaly to be the same frequency (1,600 Hz) as that
12 discovered within five of the Pruszyński recording captured shot
13 sounds.

14 From a preponderance of witness accounts, Sirhan was firing
15 in a westward direction. Pruszyński, and the microphone he was
16 holding, was moving in an eastward direction, toward the kitchen
17 pantry, and therefore toward the source of the shots. That put
18 Pruszyński's microphone in front of Sirhan's gun, essentially
19 facing the barrel of Sirhan's gun. As my field test results
20 placed the second gun firing in a direction facing away from the
21 microphone, therefore that second gun was firing in an eastward
22 direction, opposite that of Sirhan's direction of fire.

23
24 7. It is important to understand that the capability to
25 perform a number of the technological related processes
26 described above, together with the capability to perform other
27 of the described processes in the depth and to the degree of
28

1 accuracy necessary to result in definitive findings, such as
2 described above, were not available in 1968; and particularly,
3 to the best of my knowledge no other analyst, including those
4 referenced by the State in their Supplemental Brief Regarding
5 Actual Innocence (RSB 7.), utilized a sophisticated computer-
6 based analytical program with the capability to discern unique
7 frequency characteristics from the trailing edge contained
8 within the brief audio wave envelope created by gunshots, such
9 as the one I employed to uniquely define individual frequency
10 based acoustic characteristics.

11 Until recent years, qualitative judgments concerning
12 gunshots relied predominantly upon human hearing. Such methods
13 - relied upon by the State - are extremely deficient given that
14 the human ear is most often unable to discern gunshots from
15 other impulse sounds; unable to individually identify and count
16 the exact number of rapidly occurring gunshots (such as from
17 multiple guns being fired), much less to characterize the unique
18 frequency content of gunshots so as to accurately determine the
19 existence of, and differentiate between, gun makes and models.

20
21 8. Within recent years, the advance of computer and other
22 electronic technology has enabled the commercial development of
23 computer based analytical tools capable of differentiating
24 gunshots from other "impulse" type sounds (firecrackers,
25 balloons, etc.). Thus, products such as "ShotSpotter" have
26 emerged, and have gained acceptance in many law enforcement
27 communities throughout the United States. Such products have
28

1 the capability to identify the overall presence of the unique
2 trailing-edge acoustic audio pattern that is characteristic of a
3 gunshot; this uniquely defines that impulse sound as a gunshot
4 as opposed to other impulse sound sources. The methodology I
5 used, as described above, and which led to my third discovery,
6 goes a significant step further by analyzing that unique
7 trailing edge pattern to identify the level of individual
8 constituent frequencies that comprise that envelope pattern.
9 In cases such as the shooting death of Senator Robert F.
10 Kennedy, where the firing of more than one gun was identified by
11 virtue of my first two discoveries, it was indeed possible to
12 confirm multiple firearm use. In addition, it has become
13 possible, as I was able to demonstrate in this case, to
14 determine the sequencing of shots respectively from each
15 identified firearm by virtue of the unique gun make/model
16 resonance characteristic.

17
18 9. Contrasted with the opinions cited by the State, (*id.* at
19 p.7) there is no indication that their analysis methods
20 contained a level of sophistication sufficient to adequately
21 characterize the nature of the gunshots present in the
22 Pruszynski recording. It would seem that without use of that
23 level of sophistication, particularly given the relatively poor
24 quality of the Pruszynski recording, one cannot definitively
25 state that only one gun was fired. Just as one cannot
26 accurately state that the proverbial haystack does not contain a
27 needle simply because one was not found during a cursory search,
28

1 so too in this case one cannot accurately state, categorically,
2 that only one gun and one gun model was fired as a result of
3 using cursory testing methods; cursory methods incapable, for
4 example, of resonant frequency determination from gunshot
5 trailing edge envelope waveforms. Using adequate methodologies
6 in this case, two differing audio frequency signatures were
7 detected and later verified through the test firing of two
8 different gun makes/models (with one being that which was taken
9 from Sirhan and the other bearing the same class characteristics
10 but differing in composition - and hence, resonance
11 characteristics), leading to the basis of my opinion, namely:
12 that two guns, of differing make/model, with one of those makes
13 / models differing from that which was confiscated from Sirhan
14 Sirhan immediately after the gunshots ceased, were fired during
15 the shooting that resulted in Senator Kennedy's death. Further,
16 that with regard to the two "double shot" occurrences, each
17 double shot pair consisted of one shot each from the two
18 differing gun makes/models.

19 9.a The use of the highest quality version of the
20 Pruszynski recording that can be obtained for analysis today
21 (i.e., the open reel audio recording that has been housed at the
22 CSA since 1987) is essential for the complex analysis necessary
23 to support these findings.

24 9.b Also essential is use of the highest quality dubs of
25 the CSA's open reel recording that can be created today and
26 which I created, in September, 2005, through the simultaneous
27 recording of five new copies directly from the open reel
28

1 recording, which was played back with a laboratory quality
2 Studer A807 model, ideally suited for that purpose. It should
3 also be noted that, subsequent to my analysis as described
4 above, I obtained quality recording copies (produced as a result
5 of a release in 2008 by the FBI through the Freedom of
6 Information Act) of the RCMP-recorded direct copy of
7 Pruszyński's audio cassette and the companion 1969 FBI-produced
8 copy of that RCMP recording (the companion to the copy now
9 residing at the CSA). Both of these additional copies presented
10 with test results corroborating those I obtained from the CSA
11 recording copies I had made in 2005.

12 9.c Also essential is the use of techniques and
13 methodologies I developed specifically for the task, as
14 described above. In particular, I do not believe the testing I
15 performed on gunshot trailing edge waveform envelopes for
16 resonant frequency content had been used before.

17
18 10. In the case of the killing of Senator Robert F.
19 Kennedy, I was able to determine the existence of two firearms
20 being discharged during that shooting, verified through the
21 identification of unique resonant frequency characteristics
22 present in several -but not all - recorded gunshots.

23
24 11. In order to understand the significance of advanced
25 technologically computerized analysis of the sounds contained
26 within the Pruszyński recording, it is essential to fully
27 comprehend the difference between these processes and simply
28

1 listening to the tape with the human ear or the use of earlier,
2 relatively primitive, electronic filtering or other sound
3 altering devices. I note that the State in its Supplementary
4 Brief refers only to the unsworn opinions of claimed audio
5 experts who "heard" the tape and came to their conclusions on
6 the basis of what they heard, directly, or through some
7 amorphously defined electronic analysis. (*id.* at 7.)

8 11a. For example, the examination by Philip Harrison, a
9 United Kingdom forensic audio technician, hired by anti
10 conspiracy author, Mel Ayton, cited by the State, (*id.*) was
11 conducted without the examiner knowing where Mr. Pruszyński was
12 standing and, most significantly, what was the location of his
13 microphone, and how it was moving toward the pantry as the shots
14 were fired. He perhaps was not aware of the layout, dimensions,
15 or contents of the kitchen pantry in which the shootings
16 occurred. He perhaps was not aware that Sirhan's gun arm was
17 pinned down onto a steam table after his second shot. In
18 addition, Harrison was working from a dubbed copy of one of my
19 masters. These deficiencies, contrasted with the mandatory
20 standards set out above (see paragraph 9) that I employed, bring
21 into question the credibility of Harrison's opinion. Further,
22 exactly what scientific process(es) did Harrison use to
23 categorically rule out the possibility that there could have
24 been more than eight shots fired?

25 11b. Another unsworn opinion, relied upon by the State,
26 (also commissioned by writer Mel Ayton) is that of Steve Barber,
27 whose credentials are withheld from us. (*id.*) It emerges that
28

1 Barber largely relied upon listening to a copy of one of my
2 masters for his conclusions. When he did use a computer to
3 examine the sounds it is revealing that he admits the possible
4 presence of an "echo" or a double shot, which, of course, is
5 what I concluded occurred in two instances. Also, it is doubtful
6 perhaps that Barber was aware of the essential shooting scene
7 details listed above with reference to Harrison. Again, the
8 question begs to be asked as to exactly what scientific
9 process(es) did he use to categorically rule out the possibility
10 that there could have been more than eight shots fired?

11 11c. I suggest that the reliance of the State upon the also
12 unsworn opinion of Ayton, (*id.*), who has consistently supported
13 the official positions in such cases, and his efforts to provide
14 evidence of their contrary conclusions by way of articles and
15 not formal Declarations, is worrisome.

16
17 12. As a matter of scientific certainty I know of no way
18 that such methods of examination, as those described by the
19 State, could, in accuracy, be sufficient so as to be capable of
20 determining that no more than one gun was fired in the shooting
21 of Senator Kennedy; nor that such methods would be capable of
22 discerning and defining the occurrence of two almost-
23 simultaneous shots. There is no indication, in the writings,
24 that any of the State-described experts calculated the known
25 dimensions of the pantry for the possibility of echoes, or
26 whether they used any level of sophisticated technology to
27 isolate the gunshots from the background noises, or were in
28

1 possession of other important material facts surrounding the
2 shooting as described above, or that they used any scientific
3 methods to categorically rule out the presence of more than
4 eight shots. In testimony, under oath, these and other relevant
5 issues would be ascertained. As it stands, these detailed
6 informational omissions render such opinions quite speculative
7 from a scientific perspective.

8
9 13. I confirm that my analysis revealed: that 13 shots, or
10 more, were fired in the pantry during that brief five second
11 period of time; that five of those shots were fired from a west-
12 to-east direction, opposite to the direction that witness
13 accounts report as the direction in which Sirhan was firing
14 (east-to-west); and that in two instances within those five
15 seconds there were virtually simultaneous, or "double" shots
16 (shot numbers 3-4 and 7-8).


17
18 14. The "double shot" conclusion alone clearly evidences
19 the fact that two guns were fired, given that Sirhan's weapon
20 type cannot be fired anywhere near rapidly enough to account for
21 the shot pairs -double shots - occurring as they do in the
22 Pruszynski recording (the latter fact was confirmed in a field
23 test by marksman Phil Spangenberger for the 2007 Discovery Times
24 Channel television documentary entitled "*Conspiracy Test: The*
25 *RFK Assassination*").

1 15. In light of the discoveries comprising my findings,
2 together with the Spangenberg-verified analysis, in my opinion
3 the conclusion is inescapable that there was a second gun fired
4 by a second shooter during the shooting that resulted in the
5 death of Senator Robert F. Kennedy, and that the five shots from
6 the second gun were fired in a direction opposite the direction
7 in which Sirhan fired.

8

9 I declare under penalty of perjury, under the laws of the State
10 of California that the foregoing is true and correct and that
11 this declaration was executed on November 14, 2011 at Tucson,
12 Arizona.

13



14

Philip Van Praag,

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Exhibit D

D. Wolfer's Log

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Exhibits to Request to the Los Angeles County Grand Jury

Current Section: Subpoena Ducus Tecum - Items Produced: Wolfer's Daily Log

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Wolfer also stated that he could not recall whether he made any other tests on the Sirhan gun other than test firing it. Wolfer could not remember examining the gun's cylinder. Wolfer did state that he used one of the seven test fired bullets from the .22 caliber revolver to compare with an evidence bullet but he did not know if he had marked the one used for comparison, and could not remember in 1975 which test fired bullet had been compared to an evidence bullet.

The apparent lack of reports, both written and photographic, either made by Wolfer and destroyed, or never in existence, raised serious doubts as to the substance and credibility of the ballistics evidence presented in the original Sirhan trial.

Special Counsel Kranz commented during the Wolfer examination that the forthcoming ballistics examination by the experts would be crucial because it might be the first thorough examination of bullet evidence in the case. Kranz emphasized that the only area in the entire Kennedy assassination where the reports were not complete was in the ballistics area. Several of the attorneys involved were critical of the lack of documents and working papers to supplement Wolfer's testimony.

Subpoena Ducus Tecum - Items Produced
Wolfer's Daily Log

In answer to the subpoena ducus tecum asking Wolfer and L.A.P.D. officials to produce analyzed evidence reports prepared by Wolfer and other L.A.P.D. Scientific Investigation Division officers concerning tests or examinations relative to bullets and firearms exhibits, Wolfer, and L.A.P.D. officers Sartuche and McDevitt stated that they were only able to find one progress report dated July 8, 1968. This progress report was essentially a summary of laboratory work done in the S.I.D. Division under DeWayne Wolfer's supervision, and a trajectory analysis by Wolfer of bullet pathways.

Additionally, DeWayne Wolfer produced his own daily log covering his activities from June 5, 1968, through June 19, 1968. This log highlighted his work in the criminalistic section of S.I.D., and was a record of the following:

- Reconstruction of the crime scene;
- Search for physical evidence;
- Examination of the Ivor-Johnson .22 caliber to determine the number of shots fired;
- Analysis of the bullets;
- His examination of the destroyed ceiling panels and x-rays thereof;
- His microscopic examination of the Goldstein and Stroll bullets (June 6, 1968, at 8:30 a.m.);
- His receiving of the Kennedy bullet, Exhibit 47, at 3:15 p.m., June 6, from Rampart detectives;
- His comparison of the Kennedy bullet (Exhibit 47) and the Goldstein bullet (52) at 9:00 p.m., on June 6, 1968;

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Exhibits to Request to the Los Angeles County Grand Jury

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His testimony before the Grand Jury at 8:00 a.m., June 7;
His microscopic and chemical tests on Kennedy's coat on June 7, 10:00 a.m.;
His Grand Jury testimony, June 7 at 3:00 p.m.;
His reproduction of maps, photography and studies of evidence at 9:00 a.m., on June 10;
His purchase of additional ammunition from Ben Harrick at the Lock, Stock and Barrel Gunshop in San Gabriel on June 10, 1968;
His meeting at the Coroner's Office with Dr. Noguchi on June 10;
His construction of devices to conduct muzzle tests with the Coroner on June 10;
His meeting with Coroner Noguchi and his study of x-ray photos of Kennedy's wounds on June 11;
His visit to the Police Academy with Dr. Noguchi on June 11 to conduct muzzle distance tests (with the second gun obtained from the L.A.P.D. Property Division and subsequently destroyed in 1989);
His visit to the Ambassador Hotel for reconstruction of the crime scene and ballistics studies in the afternoon of June 11;
His x-rays of evidence on June 12;
His photographs of evidence bullets on June 12;
His reconstruction of the Kennedy coat and ballistics studies on the afternoon of June 12;
His additional ballistics tests and ammunition and nitrate pattern studies on June 14;
The H-acid test on the Kennedy coat for a nitrate pattern on June 14;
His x-rays of the controversial door jamb (the center divider which had two holes circled and the object of several photographs in the ensuing years) on June 17, 1968;
His search and further ballistics study of the Ambassador Hotel on June 18;
And a discussion of sound tests to be conducted at the Ambassador Hotel on June 18.
This daily log supplied by Wolfer from his S.I.D. Division was sketchy at most, and did not provide very thorough information concerning the types of tests conducted, or the analyzed evidence reports or written documents that might supplement the tests described in the daily log.

Wolfer's Laboratory Progress Report

Additionally, L.A.P.D. Officers Saratuche and McDevitt, in answer to the subpoena, produced a progress report submitted by L.A.P.D. Officers Collins, Patchett, and McArthur, dated July 18, 1968, which essentially highlighted the laboratory work conducted by Dwayne Wolfer. This progress report was submitted by the three officers to Lieutenant Pena, the Supervisor of the Special Unit Senator Unit, a one-and-a-half page document within the ten-volume S.U.S. files.

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Exhibit E

Wenke Panel Report

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Exhibits to Request to the Los Angeles County Grand Jury

Current Section: 54. Comprehensive Joint Report of Firearms Examiners - Final Joint Report and Initial Joint Report.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

<p>THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>SIRHAN BISHARA SIRHAN, Defendant.</p>	<p>No. A 233 421 COMPREHENSIVE JOINT REPORT OF THE FIREARMS EXAMINERS <i>Final Joint Report</i></p>
---	---

The examiners working independently arrived at the same conclusions as follows:

1. There is no substantive or demonstrable evidence to indicate that more than one gun was used to fire any of the bullets examined.
2. Peoples' Exhibit 47 has two cannellures. Each of the bullets, Exhibits 47, 51, 52 and 54 is the same with respect to caliber, weight, number and position of cannellures and copper alloy coating as caliber .22, Long Rifle bullets manufactured by Cascade Cartridges, Incorporated, and to the bullets, Exhibits 55 and Grand Jury 58, Exhibits 38, 48, 50 and 53 were not indicative of the origin of manufacture because of their physical condition resulting from impact damage and/or fragmentation.
3. It cannot be concluded that Exhibits 47, 52 and 54

(Signature)

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Exhibits to Request to the Los Angeles County Grand Jury

Current Section: 54. Comprehensive Joint Report of Firearms Examiners - Final Joint Report and Initial Joint Report.

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1 were fired from the Sirhan revolver. The reasons for this are

2 that there are insufficient corresponding individual characteristics

3 to make an identification. The poor reproducibility of striae

4 left on consecutively fired test bullets may be attributed to the

5 following factors:

6 a. barrel fouling;

7 b. copper alloy coating;

8 c. impact damage and distortion;

9 d. cylinder alignment;

10 e. possible loss of fine detail over intervening years.

11 4. The precise measurement of rifling angle, or pitch,

12 is not a usual firearms identification procedure and is rarely

13 attempted. This measurement is a difficult one at best and is

14 usually not possible unless the bullet is in good condition. The

15 significant difficulty is the precise determination of the axis of

16 the bullet being measured. If the bullet is deformed, damaged or

17 mutilated (as is frequently the case with lead bullets), the

18 measurement of rifling angle cannot be made with the accuracy

19 necessary to be of value. It should be noted that both Exhibit

20 47 and 54 were damaged, with 47 receiving the most damage.

21 Preliminary rifling angle measurements did not disclose

22 any significant differences in rifling angles between Exhibits

23 47 and 54. These results are not definitive based on the data

24 presently available.

25 I I I I

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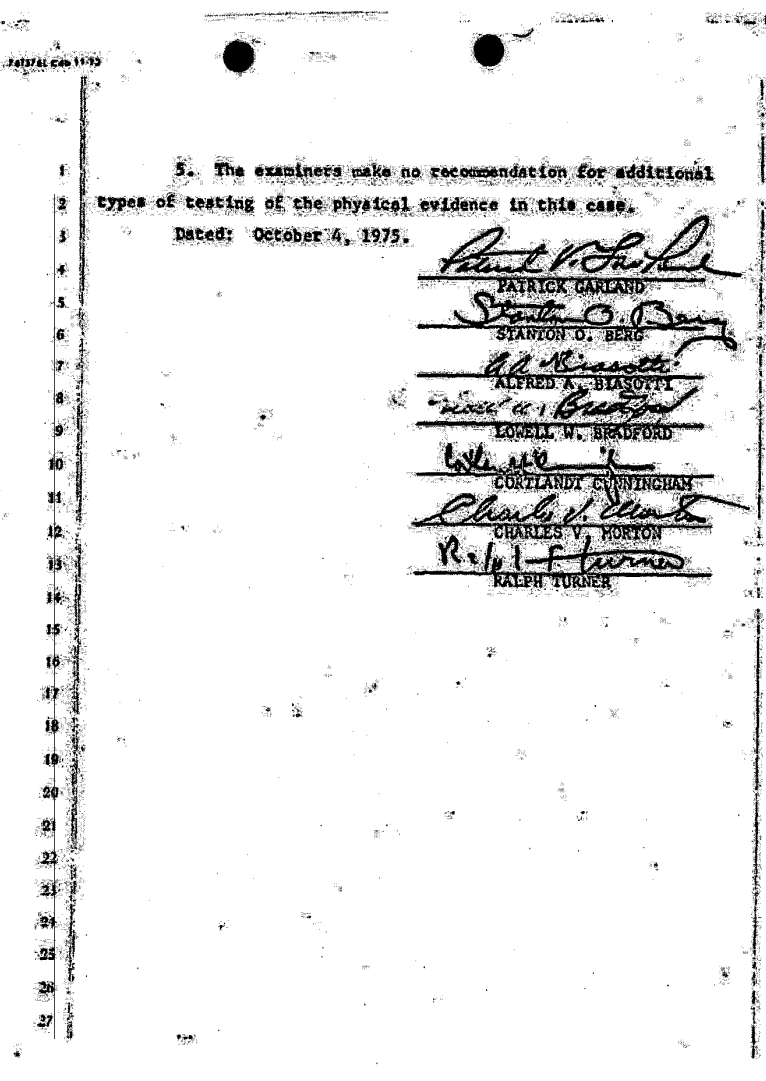
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5. The examiners make no recommendation for additional types of testing of the physical evidence in this case.

Dated: October 4, 1975.

Patrick Garland
PATRICK GARLAND
Stanton O. Berg
STANTON O. BERG
Alfred A. Blasotti
ALFRED A. BLASOTTI
Lowell W. Bradford
LOWELL W. BRADFORD
Cortlandt C. Viningham
CORTLANDT C. VININGHAM
Charles V. Morton
CHARLES V. MORTON
Ralph Turner
RALPH TURNER

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Exhibit F

Ballistics Evidence

6. In making any examination or test of any exhibit the members of the panel of firearms experts shall not do any act which will impair the integrity of any exhibits.

Dated: 9-23-1975

/s/ ROBERT A. WENKE
JUDGE OF THE SUPERIOR COURT

Prior to any examinations, the evidence was inventoried and assigned Panel Identification Numbers. Each bullet was indexed with a circular depression on the ogive, and an identification mark was placed where it would do the least amount of harm.

The evidence inventory follows:

People's Exhibit No.	Panel ID No.	Description
38		Stapled envelope with 2 tags, Case #A233 421 Envelope Marked: #46 Vehicle License No JWS 093 CDW (2 spent slugs) 6-D 38 Envelope marked Panel ID #1 and 1a
	1	<u>Contents:</u> 2 bullets as: 1 lead-uncoated, no ID marking, 2 grooves. 1 1/2 land impressions, wood imbedded in mushroomed area.
	1a	1 copper colored coated bullet, no ID marking, 1 land impression, wood imbedded in mushroomed area.
47		Stapled envelope, 2 tags. Envelope marked 68-5731 Name: Robert Kennedy Contents: Bullet Date: June 6, 1968 8:40 a.m. Signed: Thomas T. Noguchi Initialed DW
	2	<u>Contents:</u> 1 copper colored coated bullet, hollow point ID mark "DW" (base) "TN" (base)

People's Exhibit No.	Panel ID No.	Description
48		Envelope Tagged, Case # A 233 421 Marked: Evidence Date: 6-5-68 D.H.Q. 68521466 (DR#) Name: Sirhan, Sirhan B. 594 139 (Booking #) Location: 1212 Shatto Charges 187 P.C. Officer: Sgt. Varhey 10833 DHQ <u>#26 - 1 Vial w/bullet fragments</u> <u>#27 - 1 Vial w/bullet fragments</u> Kennedy
	3	<u>Contents:</u> Vial #24 Initialed D.W. bullet fragments Badly mutilated copper coated lead bullet ID mark "DW". Marked 3 on base. 4 metal fragments of no value, approx. 7 bone fragments.
	3a	Vial #25 Cork marked P-ID-3A Minute fragment.
50		Envelope Tagged, Case # A 233 421 Marked: Evidence Date: 6-6-68 Div: RAMP DR# 68-521466 Name: Sirhan, Sirhan B. Booking # 495139 Location: Kaiser Hospital Charge: 187 P.C. Officer: L.M. Orozco 11072 RAMPS Det. Item #57 <u>2 bullet fragments</u> Schrade
	4	<u>Contents:</u> Vial: Schrade, Paul Dr. Fuchs DW Item #87 2 small lead fragments. Marked P-ID-4 on top Marked 4 on base
51		Envelope Tagged, Case # A 233 421 Marked: Evidence Date: 6-5-68 Civ. Homicide Dr. #68-521466 Name: Sirhan, Sirhan B. Booking #495139 Location: 5925 San Vicente Charge: 187 P.C. Officer: J.D. Dill 6215 Wom: Item #105 <u>1-Expended Bullet</u> Stroll
	5	<u>Contents:</u> <u>1-copper colored coated bullet, side flattened,</u> initialed on damaged side "DW" (twice), 3 grooved and 2 land impressions.

People's Exhibit No.	Panel ID No.	Description
52		Envelope marked: Evidence Date: 6-5-68 Div. Central DR. #68-521466 Name: Sirhan, Sirhan B. Booking # 495139 Location: 16237 Ventura Blvd. Charge 187 P.C. Officer: Feddema 11044 Div. W. Valley Item #113 - 1-Bullet expended .22 cal/ <u>Goldstein</u>
	6	<u>Contents:</u> Vial: Bullet from Ira Goldstein Age 19 Dr. M. Finkel Initialed DW P-ID-6 1 copper colored coated bullet, .22 L.R., hollow point marked "DW" on nose, marked 6 on base.
53		Envelope Tagged, Case # A 233 421 Envelope marked: Evidence Date: 6-6-68 Div: RAMP DR# 68-521466 Name: Sirhan, Sirhan B. Booking # 495139 Officer: Brandt 10004 RAMP Item #45 <u>2 bullet fragments</u> <u>Evans</u>
	7	<u>Contents:</u> Gauze containing approx. 5 fragments. Largest fragment copper coated lead, flattened.
54		Tagged Envelope, Case # A 233 421 Envelope marked: Evidence Date: 6-6-68 Div: RAMP DR# 68-521466 Name: Sirhan, Sirhan B. Booking # 495139 Location: Kaiser Hospital Offense: 187 P.C. Officer: L.M. Orozco 11072 RAMP Item #56 1- bullet expended <u>Weisel</u>
	8	<u>Contents:</u> Vial: Weisel, William 6/5/68 Initialed "DW" 1-copper colored coated bullet, .22 L.R. hollow point marked LM on base DW on ogive, 8 on nose.
55		Tagged Envelope, Case # A 233 421 Envelope marked: Los Angeles Police Dept. Crime Lab Test Shot Name: Sirhan, S. B. Date: 6-6-68 Make: I&J Cal. .22 Type: Rev. No. H 18602 DR # 68-521466 Crime: 187 P.C. H- 18602 - Cadet Model
	A	.22 LR HP Copper coated "DW" on crimped nose
	B	.22 LR HP Copper coated "DW" on crimped nose
	C	.22 LR HP Copper coated "DW" on crimped nose.

Exhibit G

Declaration of Alan W. Schefflin

1 I have received multiple awards (14) for my work from the
2 American Psychiatric Association, the American Psychological
3 Association, the International Society for the Study of
4 Dissociation, the Society for Clinical and Experimental
5 Hypnosis, the American Board of Psychological Hypnosis, and the
6 International Cultic Studies Association. I am the only lawyer
7 who has been named as a Fellow of the American Society of
8 Clinical Hypnosis.

9
10 As the Past President, and continuing Executive Board
11 member, of the International Cultic Studies Association, I have
12 for three decades been in communication with leading experts
13 from around the world on brainwashing and extreme social
14 influence.

15
16 I have appeared in American, Canadian, British and German
17 documentaries about mind control.

18
19 My research since the 1960s has focused on the extreme
20 limits of human influence, and particularly on the use of
21 hypnosis and other social influence techniques to alter the way
22 people think and act. As part of this work, I have read over
23 10,000 pages of declassified Central Intelligence Agency
24 documents on the mind and behavior control programs run by the
25 Agency beginning in the late 1940s. I personally knew several of
26 the leading researchers who participated in these programs.

1 I have qualified as an expert in court on the "Manchurian
2 Candidate" concept, and I have qualified in court as an expert
3 in brainwashing, mind control and the anti-social uses of
4 hypnosis.

5
6 My complete Curriculum Vitae appears as an Appendix to this
7 Declaration.

8
9 **MY CONCLUSIONS**

10 1. Scientists, since at least the 1880s, have considered the
11 mind as a territory to be conquered. American military and
12 intelligence agencies have spent millions of dollars since the
13 last half of the twentieth century conducting secret experiments
14 whose express purpose it was to obtain dominance over the human
15 mind.

16
17 2. Richard Condon's blockbuster novel, *The Manchurian Candidate*,
18 was first published in 1959. He was not aware, as he wrote in a
19 letter to journalist Walter Bowart many years later, that the
20 idea he presented in the book had already been the subject of
21 several decades of mostly secret research. The "Manchurian
22 Candidate" scenario, involving the artificial creation of
23 additional personalities, was conceived of by Dr. George
24 Estabrooks in the 1920s. Estabrooks, in the 1930s, began top
25 secret work on his ideas with the military and intelligence
26 agencies. By the late 1940s, American military researchers,
27 acting in response to the Soviet Show Trials that were taking
28 place at that time, were actively experimenting with the use of

1 hypnosis to create additional personalities. By the early 1950s,
2 research was underway throughout the government to find any
3 means possible to influence a person's thought and conducts.
4

5 3. It is generally true that the hypnosis community takes the
6 *public* position that hypnosis is not dangerous, that a person's
7 will cannot be overridden, that hypnosis cannot get a person to
8 do things he or she does not want to do, and that hypnosis
9 cannot induce antisocial conduct. There is good reason for this
10 position. If the opposite view were publicized, that hypnosis
11 can be misused or abused for non-therapeutic purposes, it might
12 scare away mental health professionals who desire to learn
13 hypnosis to help heal their patients, and it might encourage
14 unscrupulous individuals to engage in unethical and illegal
15 conduct.
16

17 As I got to know hypnosis experts in the United States and
18 from around the world, I learned that the public image of
19 hypnosis as benign was a cautionary position, though not an
20 accurate position. In private, many of those experts tell a
21 different story. Indeed, many experts, including myself, have
22 appeared as consultants or experts in court cases involving the
23 antisocial use of hypnosis. While it is true that the hypnosis
24 community is not uniform in its belief that hypnosis can be used
25 for purposes of control, most hypnosis specialists have not been
26 in a position to discover otherwise. Their interests are
27 exclusively therapeutic, and it is comforting for them to
28 believe that hypnosis cannot be used for purposes of mind

1 manipulation. At hypnosis conferences the topic of the dark side
2 of hypnosis is virtually never discussed in a formal
3 presentation.

4
5 4. People who disbelieve, as I once did, the possibility, under
6 certain special circumstances, of enhanced control of the mind
7 do so because (a) they sensibly fear, and thus do not want to
8 accept, the idea that it is possible to control the mind of
9 another person, and (2) they are unfamiliar with the extensive
10 overt and covert scientific literature on this controversial
11 topic. However, those of us who for several decades have studied
12 the scientific research on mind control, and studied the
13 literature on brainwashing, have become reluctant believers.

14
15 For those hypnosis specialists who believe that hypnosis
16 can only be used for good, A TOP SECRET CIA Report contradicts
17 this position: "Frankly, I now mistrust much of what is written
18 by academic experts on hypnotism. Partly this is because many of
19 them appear to have generalized from a very few cases; partly
20 because much of their cautious pessimism is contradicted by
21 Agency experimenters; but more particularly because I personally
22 have witnessed behavior responses which respected experts have
23 said are impossible to obtain." CIA Report, "Hypnotism and
24 Covert Operations" (May 1955).

25
26 Psychologist John Watkins, "Antisocial Behavior Under
27 Hypnosis: Possible or Impossible?," 20. *International Journal of*
28 *Clinical and Experimental Hypnosis* 95 (1972), a well recognized

1 hypnosis expert, has also addressed the position that hypnosis
2 can do no harm. His conclusion is sensible:

3
4 People have been seduced into sexual relations, roused
5 to accomplish heroic deeds, and crazed into violence
6 by the impact of others. Mobs have hung innocent
7 people under the stimulus of an emotional orator. If
8 relationships can accomplish such things *without* the
9 induction of a trance condition, and if we truly
10 believe that suggestions are more likely to be carried
11 out under hypnosis than in the non-hypnotic condition,
12 then how can we insist that antisocial behavior is an
13 exception?....No medicine or method of treatment known
14 to man is devoid of the possibility of a harming
15 influence. If a procedure is strong enough to do
16 someone some good, it is strong enough to do someone
17 some harm. Natural phenomena are never characterized
18 by only beneficent effects.

19
20 5. The creation of an hypnotically programmed assassin or patsy
21 (distracter) is possible only with a very small percentage of
22 people who fall within the category of "high hypnotizables."
23 Sirhan Sirhan, based upon Dr. Daniel Brown's extensive
24 psychological testing and interviews with him, meets the
25 criteria for an ideal subject for this extreme form of mental
26 manipulation.

27
28 **A BRIEF HISTORY OF MIND CONTROL**

1
2 Scientists have for centuries been studying the ways in
3 which thinking and behavior can be controlled. All advances in
4 medicine and psychotherapy, helpful as they are in curing
5 people, can also be used to control people. What can heal, in
6 the wrong hands can be used to harm.

7
8 I have read the Respondent's Supplemental Brief Regarding
9 Actual Innocence: Memorandum of Points and Authorities. On page
10 11, the brief describes the idea of an hypnotically programmed
11 individual as "fantastic." My experience has been that when
12 people think something is "fantastic" and implausible, it may be
13 because they are insufficiently familiar with the topic.
14 Although I would prefer to believe that Respondents are correct,
15 I am familiar with the literature and I know that they are not
16 correct.

17
18 My purpose in this section is to demonstrate that the idea
19 of mind control, and particularly the use of hypnosis to
20 dominate the mind, has a long, but not well known, history. Once
21 a person is aware of this history, it becomes significantly more
22 difficult to claim that the idea of hypnotic programming is
23 scientifically "fantastic."

24
25 **1. Implanting False Memories**

26 In the 1880s, physicians in Europe warned about the
27 implantation of false memories with hypnosis, which they called
28 "retroactive hallucinations." According to German hypnosis

1 specialist Albert Moll, *The Study of Hypnosis* 345-346
2 (1958/originally published in 1889): "Retroactive
3 hallucinations...can be used to falsify testimony. People can be
4 made to believe that they have witnessed certain scenes, or even
5 crimes...." French psychiatrist Hippolyte Bernheim, *New Studies*
6 *in Hypnotism* (1891), reached the same conclusion. They cautioned
7 about the possibility of using hypnosis to create witnesses in
8 court who were impervious to cross-examination, and they
9 cautioned about the ability of hypnotists to induce anti-social
10 conduct in their hypnotic subjects.

11
12 Bernheim's experiment on implanting false memories of
13 events that did not happen was replicated by psychiatrist Martin
14 T. Orne, who conducted extensive research for the military and
15 intelligence agencies. M. Barnes, *Hypnosis on Trial* (British
16 Broadcasting Corporation television program; 1982). Of
17 particular interest is the fact that Orne showed that his
18 hypnotic subject was *more* confident of her hypnotically induced
19 *false* memories than she was of her previously tape recorded pre-
20 hypnotic *true* memories.

21 22 **2. Hypnosis and Criminal Conduct**

23 Having demonstrated that certain hypnotic subjects will
24 accept false suggestions about events that never occurred,
25 researchers began examining whether hypnosis could induce anti-
26 social or criminal conduct.

1 By the 1890s, legal cases throughout Europe involved the
2 claim that hypnosis had been used to force the defendant
3 unwittingly to commit criminal acts. Courts took seriously the
4 idea that people's conduct could be involuntary under the
5 influence of a powerful hypnotist.

6
7 In January 1891, the Standing Committee on Hypnotism of the
8 Medico-Legal Society delivered its report on the dangers of
9 hypnosis. The Committee, composed of five physicians and three
10 attorneys, concluded that "the illusory impressions created by
11 hypnosis may be made to dominate and tyrannize [sic] the
12 subsequent actions of the subject." "Preliminary Report of the
13 Standing Committee on Hypnotism," 8 *Medico-Legal J.* 263 (1891).

14
15 Dr. Charles H. Hughes, editor of the prestigious journal
16 *Alienist and Neurologist*, wrote that the possibility that "great
17 crimes may be committed under hypnotic suggestion" had been
18 demonstrated by Mesmer, Braid, Charcot and Bernheim, who were
19 the leading thinkers of their generation. "Preliminary Report of
20 the Standing Committee on Hypnotism," 8 *Medico-Legal J.* 263
21 (1891).

22
23 Professor G. Stanley Hall of Clark University stated that
24 his previous extensive hypnosis experiments at Johns Hopkins
25 "leaves no shadow of doubt that a hypnotic subject can be made
26 an unconscious and innocent agent of crime." Bell, "Hypnotism in
27 the Criminal Courts," 13 *Medico-Legal Journal* 351, 353 (1895). A
28

1 substantial number of publications from the 1880s to the 1930s
2 supported this view.

3
4 A substantial literature from laboratory studies also
5 demonstrated that hypnotic subjects would obey commands that
6 otherwise would violate their moral codes. P.C. Young, "The
7 Possibility of Antisocial Uses of Hypnosis," 5 American
8 Psychologist 327 (1950); P.C. Young, "Antisocial Uses of
9 Hypnosis," in L. M. LeCron (Ed.), *Experimental Hypnosis* 376
10 (1952). Dr. Brown cites some studies in his Declaration, and
11 Richard Condon, in his novel *The Manchurian Candidate*, cites
12 other studies which he used to support the idea that hypnotic
13 programming was possible.

14
15 The American Law Institute's *Model Penal Code*, section 2.01
16 (1962), states that there can be no criminal liability if there
17 is no voluntary act. Acts which are not considered voluntary
18 include "conduct during hypnosis or resulting from hypnotic
19 suggestion." ALI, *Model Penal Code* section 2.01(2)(c) (1962).
20 Thus, an hypnotic subject, acting under the control of a
21 malevolent hypnotist, engages in involuntary conduct which
22 cannot be considered criminal because there is no voluntary act,
23 no *actus reus*.

24 25 **3. Implanting Emotions**

26 Governments became involved in mind control research in the
27 early part of the twentieth century. The Europeans had
28 demonstrated the feasibility of using hypnosis to implant false

1 memories. Soviet scientists built on this concept and added a
2 new dimension. In the 1920s, Dr. Alexander R. Luria, after
3 replicating the successes of the French and German hypnotists
4 thirty years earlier, successfully experimented with the
5 hypnotic implantation of artificial affective guilt complexes
6 and anxieties to provide a believable emotional component to the
7 implanted false memories revealed in police
8 interrogation/confession settings. A. R. Luria. *The Nature of*
9 *Human Conflict* (1932).

10
11 Luria's experiments, which were conducted at State
12 Institute of Experimental Psychology in Moscow, successfully
13 demonstrated that hypnosis could be used (1) to implant false
14 memories; (2) to get the hypnotic subject to believe that the
15 false memories were true; (3) to get the hypnotic subject to
16 confess publically to having committed the acts that were the
17 subject of the false memories; and (4) to enhance the false
18 confessions by having the hypnotic subject experience and
19 develop intense guilt feelings concerning incidents or events
20 that never happened, but which were suggested to the person by
21 the hypnotist. This latter step made the public false
22 confessions more believable because the hypnotic subject clearly
23 believed them. Luria experiments showed that hypnotic subjects
24 could be induced to act against their own interests, and to be
25 convincing in their false confessions. Hypnotic subjects could
26 be shaped to have any emotion the hypnotist desired, or to have
27 no emotion at all. And, the subjects would have amnesia for the
28 entire programming process.

1
2 Luria's work found practical expression in the infamous
3 Moscow Show Trials of the 1930s, which demonstrated the ability
4 of sophisticated interrogators to obtain false reports, and to
5 create false beliefs in the defendants about committing
6 political acts contrary to their moral and ideological values.
7

8 In the 1930s and 1940s, American experimenters replicated,
9 and extended, Luria's work. P. E. Huston, D. Shakow, and M.H.
10 Erickson, "A Study of hypnotically induced complexes by means of
11 the Luria technique," 11 *The Journal of General Psychology* 65
12 (1934); .M.H. Erickson, "The Method Employed to Formulate a
13 Complex Story for the Induction of an Experimental Neurosis in a
14 Hypnotic Subject," 31 *Journal of General Psychology* 67 (1944).
15

16 **4. Hypnotically Programmed Agents**

17 In the 1920s, Dr. George H. Estabrooks, working at Harvard
18 University, wrote: "I believe the hypnotist's power to be
19 unlimited -- or rather to be limited only by his intelligence
20 and his scruples." G. H. Estabrooks, "Facts about hypnotism,"
21 *Scientific American* 340-341 (April 1928). To prove his point,
22 Estabrooks began experiments using hypnosis to create multiple
23 personalities. It is with Estabrooks that the concept of an
24 hypnotically programmed "Manchurian Candidate" has its genesis.
25

26 According to Estabrooks, with two distinct personalities
27 within the same individual, and one not aware of the other, a
28 "double agent" could be fashioned. In this "Dr. Jekyll and Mr.

1 Hyde" condition, the programmed agent could serve, in
2 Estabrooks' term, as a "Super Spy." With expert preparation, the
3 agent would never be discovered, even under torture.
4

5 Estabrooks did not confine his work to the laboratories at
6 Harvard. After the Moscow Show Trials in the 1930s, Estabrooks'
7 work came to the attention of American military and intelligence
8 agency officials. In the Colgate University Archive files of
9 Estabrooks' career, there is a bibliography of his writings
10 which includes his statement that after 1930, "I became involved
11 in the military applications of hypnotism and spent my efforts
12 in the field where publication was frowned on."
13

14 Estabrooks publicly advocated creating hypnotically
15 programmed agents in his book *Hypnotism* (1943). In his co-
16 authored novel, *Death in the Mind* (1945), he depicted Allied
17 officers committing treasonable acts for no apparent reason. The
18 hero discovers that the Nazis had been capturing these men and
19 converting them into hypnotically programmed double agents.
20 Before long, the tables are turned and the Allied forces were
21 sending double agents to act against the Nazis. As far as the
22 public knew, this was scary fiction. Estabrooks hinted
23 otherwise in the 1957 revision of his book *Hypnotism*. Writing
24 about hypnotically programmed couriers and assassins, he
25 proclaimed "the facts and the ideas are, so to speak, too true
26 to be good...."
27
28

1 Estabrooks went further in an interview with the
2 Providence, Rhode Island *Evening Bulletin* (May 13, 1968).
3 Confessing to having been a consultant for the FBI, the Army and
4 the CIA, Estabrooks stated that the possibility of hypnotic-
5 spies "is not science fiction...This has and is being done. I
6 have done it." Estabrooks explained that the key to creating an
7 effective spy or assassin "rests in splitting a man's
8 personality, or creating a multi-personality, with the aid of
9 hypnotism." Three years later, Estabrooks gave details of some
10 of his efforts. G.H. Estabrooks, "Hypnosis Comes of Age,"
11 *Science Digest* 44-50 (April 1971). Many of the scenarios become
12 quite complex, involving intricate programming and reprogramming
13 requiring months of effort.

14
15 Major Harry C. Leavitt, of the U.S. Army Medical Corps.,
16 "A Case of Hypnotically Produced Secondary and Tertiary
17 Personalities," 34(3) *Psychoanalytic Review* 274-295 (1947),
18 described the hypnotic creation of a secondary personality:

19
20 Hypnotically induced automatic writing was established
21 early in the course of treatment as a means of
22 expeditiously gaining access to unconscious
23 material....After this procedure was utilized for a
24 time a hypnotic secondary personality was produced by
25 suggesting that the writing was under control of a
26 certain part of his personality unaware to him (p.
27 279).

1 Later in the therapy, Leavitt decided to produce an
2 additional personality "in direct contrast to the one already
3 established" (p. 280). Leavitt then worked the two created
4 personalities against each other to facilitate the recovery of
5 unconscious material, and then concluded: "The importance of
6 producing multiple personalities experimentally lies in the fact
7 that certain elements of the original personality may be
8 isolated which manifest a minimum of 'censorship' influences and
9 thus may serve as a helpful adjunct in hypnoanalysis" (p. 292).

10
11 Research on the creation of multiple personalities
12 attracted the attention of two of this country's most brilliant
13 psychiatrists, who used the technique to help cure patients with
14 mental problems. M.H. Erickson and L.S. Kubie. "The Permanent
15 Relief of an Obsessional Phobia by Means of Communications with
16 an Unsuspected Dual Personality," 8(4) *The Psychoanalytic*
17 *Quarterly* 471-509 (Oct. 1939).

18 19 **5. Government Interest in Mind Control**

20 Research on creating multiple personalities for mind
21 control purposes began in the 1940s and escalated dramatically
22 thereafter. The Central Intelligence Agency, with cooperation
23 from the Air Force, the Army, the Navy, and the FBI (at least
24 for a short time) conducted massive programs of experimentation
25 and covert operation testing mind and behavior control
26 techniques. These programs, named BLUEBIRD, and later renamed
27 ARTICHOKE, built on some of E stabrooks' theories. A. W.
28 Scheflin & E.M. Opton, Jr., *The Mind Manipulators* (1978); J.

1 Marks, *The Search for the "Manchurian Candidate"* (1979); W.
2 Bowart, *Operation Mind Control* (1978); C. A. Ross, *The CIA*
3 *Doctors: Human Rights Violations by American Psychiatrists*
4 (2006).

5
6 By the late 1940s and early 1950s, governments became
7 interested in hypnosis as a means to capture the mind and
8 program it to do what the hypnotist desired. An internal CIA
9 memorandum, "Defense Against Soviet Medical Interrogation and
10 Espionage Techniques" (February 10, 1951), demonstrates that the
11 Agency in the early 1950s was considering the idea of
12 hypnotically programmed operatives:

13
14 Hypnotism has been reported to have been used in some
15 cases by the Soviets as an adjunct to interrogation.
16 It has the possibilities of lowering resistance
17 against telling the truth, and also specific action or
18 behavior on the part of the subject. It would be
19 possible for a skilled Soviet operator to lower a
20 prisoner's resistance to questioning and yet leave him
21 with no specific recollection of having been
22 interrogated. With respect to inducing specific
23 action on the part of a subject by hypnotism, it would
24 be possible to brief a prisoner or other individual,
25 subsequently dispatch him on a mission and
26 successfully debrief him on his return without his
27 recollection of the whole proceeding.
28

1 Two years later a CIA analyst noted in another memo that
2 "interrogations of the individuals who had come out of North
3 Korea across the Soviet Union to freedom recently had apparently
4 had a 'blank' period or period of disorientation while passing
5 through a special zone in Manchuria." ARTICHOKE Conference (June
6 18, 1955).

7
8 Walter Bedell Smith, Director of Central Intelligence in
9 the early 1950s, supported mind control experimentation in a
10 program so secret that all correspondence about it was on an
11 EYES ONLY basis. Smith wanted to know "whether effective,
12 practical techniques exist whereby an individual can be caused
13 to become subservient to an imposed control; and subsequently
14 that individual be unaware of the event." Memorandum from Walter
15 B. Smith, Attachment A. This became the prime goal for CIA
16 research over the next two decades. Of special importance to
17 Smith was the ability to utilize hypnosis for the creation of
18 amnesia.

19
20 One CIA memo states the research goal as follows: "CIA
21 interest is in the specific subject of devising scientific
22 methods for controlling the minds of individuals." Report of
23 Special Meeting, June 1951). Another CIA Memorandum (1952)
24 stated the objective in this language: "Can we get control of an
25 individual to the point where he will do our bidding against his
26 will and even against such fundamental laws of nature...as self-
27 preservation?"
28

1 Morse Allen, in the CIA's Office of Security, became
2 interested in hypnosis as part of the CIA's Project BLUEBIRD
3 (later renamed ARTICHOKE). He placed a telephone call to a stage
4 hypnotist in New York to arrange for CIA agents to receive
5 specialized training in hypnosis. When the CIA agents arrived
6 for training, the hypnotist spent an hour and a half talking
7 about his sexual misadventures with hypnosis. He claimed that
8 he used hypnosis to induce young girls to have sexual
9 intercourse with him. When he traveled, he told the agents, he
10 spent five nights a week in bed with different women. One of his
11 latest conquests involved the hypnotic seduction of a woman who
12 played in a concert orchestra; he had given her an hypnotic
13 suggestion that he was her husband.

14
15 These acts of immorality interested the CIA agents. It
16 demonstrated the possibility of moving people beyond their moral
17 codes, the possibility of creating sensory distortions, the
18 possibility of utilizing covert rapid inductions, and the
19 possibility of subsequent amnesia. Thus, the CIA's earliest
20 interest in hypnosis research was sparked by hypnosis being used
21 for the purpose of seduction.

22
23 Beginning in 1951, Office of Security personnel met two or
24 three times a week and practiced hypnosis on themselves and
25 their secretaries. Occasionally they were joined by hypnosis
26 experts. The records of their work for the next several years
27 are contained in more than two thousand pages of documents. By
28 February 1954, Morse Allen had replicated many laboratory

1 studies confirming that subjects will apparently follow hypnotic
2 instructions to "kill." Allen hypnotized one secretary into a
3 deep trance and instructed her to remain "asleep" until he
4 ordered otherwise. He then hypnotized another secretary and told
5 her that if she failed to awaken the sleeper, she would become
6 enraged and shoot to kill. Even though the second secretary had
7 previously indicated she had a fear of firearms, she picked up
8 the apparently loaded pistol and "shot" the unawakened sleeper.
9 When brought out of the trance, the secretary who pulled the
10 trigger had amnesia for the event and vehemently denied she
11 would ever shoot anyone.

12
13 To dramatize their results, the CIA experimenters wrote a
14 script for a film to demonstrate the remarkable powers of
15 hypnosis. The film was entitled *The Black Art*. In the opening
16 sequence an "Oriental character" is having a drink with an
17 American agent. A drug surreptitiously placed in the drink
18 causes the Oriental man to fall asleep. While dozing, he is
19 hypnotized and programmed. The next scene shows him opening a
20 safe containing secret files. He removes these files and brings
21 them to the American agent who then reinforces the hypnotic
22 suggestions. At this point the voice of a narrator asks:

23
24 Could what you have seen been accomplished without the
25 individual's knowledge?

26 Yes.

27 Against the individual's will?

28 Yes.

1 With complete amnesia of performing the act?

2 Yes!

3 How?

4 Through the powers of suggestion and hypnosis.

5
6 By mid-1954, Morse Allen's group was pushing hard for
7 permission to conduct "terminal experiments" with hypnosis.
8 Allen wanted to know if the hypnotic controls, and buried
9 information, could withstand torture that could prove fatal, and
10 whether the hypnotic controls would stand fast against the
11 unlocking suggestions of another hypnotist. Permission was
12 granted and covert field tests were scheduled abroad during the
13 summer of 1954. At the last moment, however, the tests were
14 cancelled. It is not known whether they were ever rescheduled.

15
16 Morse Allen's work drew to a close at the end of 1954 when
17 his dominion over the hypnosis experiments was altered by a much
18 larger program on mind and behavior control, named MKULTRA.

19
20 CIA Director Allen Dulles, in a public speech delivered to
21 Princeton alumni at Hot Springs, Virginia on April 10, 1953,
22 told his audience that the United States and the Soviet Union
23 were locked in what he called a "battle for men's minds." "Brain
24 Warfare -- Russia's Secret Weapon," *U.S. News & World Report* 54
25 (May 8, 1953). The Soviets possessed the power to "wash the
26 brain clean of the thoughts and mental processes of the past
27 and...create new brain processes and new thoughts which the
28 victim, parrotlike, repeats. In effect, the brain under these

1 circumstances becomes a phonograph playing a disc put on its
2 spindle by an outside genius over which it has no control.”

3
4 Three days after delivering his speech, Dulles issued a
5 memorandum authorizing what was called MKULTRA, which included
6 149 sub-projects exploring different aspects of how to control a
7 person's mind and behavior. A. Dulles, A. Memorandum from DCI to
8 the DD/A (13 April 1953). Funding was immediately authorized.

9
10 To test the results of its MKULTRA research, the CIA
11 utilized unwitting citizens in the United States and abroad.
12 According to a CIA document, MKULTRA mind control techniques
13 needed testing, because “the effectiveness...on individuals at
14 all social levels, high and low, native American and foreign, is
15 of great significance and testing has been performed on a
16 variety of individuals within these categories.” CIA Inspector
17 General's Report, 1963. This document concluded that the testing
18 phase of the mind control experiments “places the rights and
19 interests of U.S. citizens in jeopardy.” The rights of citizens
20 of other nations were placed in jeopardy as well.

21
22 Of MKULTRA's 149 separate sub-projects, nine directly
23 involved hypnosis. All documentation and records on MKULTRA
24 programs were ordered destroyed by Richard Helms in 1967. In
25 the general shredding and burning that followed this order, a
26 few thousand pages, mostly comprised of financial records,
27 survived. From this remaining information, however, it is
28

1 possible to understand the CIA's interest in hypnosis by the
2 following topics it chose to fund for research.

3
4 *Hypnosis by telephone.* Was it possible to induce an hypnotic
5 state in an individual by calling them on the telephone? The
6 answer for the CIA was yes, provided the subject had been
7 previously properly conditioned.

8
9 *Invisible Cues.* Was it possible to develop a cue or signal which
10 would automatically trigger an hypnotic state with no visible
11 physical or mental changes in the subject? Suppose, for
12 example, a secretary is working in an office. She receives a
13 phone call and immediately enters an hypnotic state. Will
14 anybody around her notice that she has passed from a waking
15 state into an hypnotic trance? The experimentation proved
16 positive - it is possible to induce trance by telephone without
17 others noticing the change.

18
19 *Enhancing Observation and Recall.* Could hypnosis be used to
20 enhance the power of observation and recall? CIA hypnosis
21 researchers, led by a graduate student named Alden Sears, began
22 this investigation in September 1952 at the University of
23 Minnesota. After MKULTRA was established in April, 1953, these
24 investigations became Subprojects 5, 25, 29 and 49. In 1954,
25 the experiments were moved to Denver University.

26
27 One part of the experimental design involved sending
28 individuals into a room for one minute. Later, in an hypnotic

1 trance, each person was asked to recall every item and object in
2 the room. Would hypnotic recall be more detailed and accurate
3 than ordinary observation and memory? The results were not
4 conclusive that hypnosis could enhance observation and recall
5 skills, though in certain cases positive results were obtained.
6

7 *Unconscious Recorders.* Is it possible to build unconscious human
8 tape-recorders to act as robot couriers, delivering implanted
9 messages only upon certain select cue signals? The CIA and the
10 military wanted to be able to give complicated, secret messages
11 to individuals who would be sent to various parts of the world.
12 If those individuals were intercepted and tortured, the CIA did
13 not want those messages to be revealed. Was it possible to
14 program the subconscious to act as a human tape recorder which
15 would withstand torture and which would play back the message
16 only when a certain signal, a key word or phrase, was given?
17 The CIA answered that question in the affirmative.

18 *Tolerance for Pain.* Could hypnosis be effective in increasing
19 the tolerance for pain? We know that such tolerance can be
20 increased to some extent. Could a person be programmed to
21 withstand severe pain and torture? The results of those
22 experiments are not available.
23

24 *Inducing Suicide.* Was it possible to hypnotically induce
25 suicide? One CIA document asks whether a person can be made to
26 "commit an act against his religious or moral scruples or
27 against his training and upbringing." The question is answered
28 in the affirmative. Several hypnosis consultants assured the

1 Agency that "individuals can be taught to do anything including
2 murder, suicide, etc." D. Wise, "The CIA's Svengalis, *Inquiry*
3 *Magazine* 8 (Sept. 18, 1978). This conclusion is consistent with
4 that of earlier experts, like Albert Moll who, in his 1889 book
5 *The Study of Hypnosis*, had said that in certain cases, after
6 careful preparation, induced suicide could be accomplished.

7
8 *Amnesia*. Is it possible to create full amnesia for hypnotic
9 acts? This was a key question. There is no doubt in certain
10 situations people can be moved to violate their moral codes, or
11 to act in antisocial and criminal ways, but will amnesia hold,
12 especially over long periods of time with little or no
13 reinforcement? The CIA's results are not reported, but the topic
14 of amnesia has been widely studied in published papers and
15 books.

16
17 By 1954, the CIA's hypnosis experiments mostly had been
18 limited to the restricted confines of its secret laboratories
19 and safehouses. That changed when the Agency began conducting
20 operational uses of its hypnosis programming techniques of human
21 influence.

22
23 In January 1954 an ARTICHOKE team was dispatched to an
24 undisclosed location to evaluate a hypothetical problem: "Could
25 an individual of [a certain] descent be made to perform an act
26 of attempted assassination involuntarily under the influence of
27 ARTICHOKE?" As "a trigger mechanism" for an even bigger project,
28 the CIA proposed

1 ...that an individual of [redacted] descent,
2 approximately 35 years old, well educated, proficient
3 in English and well established socially and
4 politically in the [redacted] Government be induced
5 under ARTICHOKE to perform an act, involuntarily, of
6 attempted assassination against a prominent [redacted]
7 politician or if necessary, against an American
8 official.

9
10 The particular subject the CIA had in mind posed certain
11 problems - "access to the subject would be extremely limited,
12 probably limited to a single social meeting." In addition, the
13 subject was a heavy drinker, a fact that might facilitate
14 drugging before hypnosis and other programming methods were
15 used. After the attempted assassination, "it was assumed that
16 the SUBJECT would be taken into custody by the [redacted]
17 Government and thereby 'disposed of.' "

18
19 In essence, the ARTICHOKE team would meet this person, who
20 was an official with a foreign government, at a cocktail party.
21 A drug would be introduced into the person's drink to put him
22 into a stuporous condition. Hypnotic techniques would be used to
23 place him in a deep trance to implant the suggestion that he
24 should assassinate a member of his government. The hypnotic
25 suggestions would give him amnesia for these events.

26
27 The ARTICHOKE team said it could be done only if they were
28 given the right amount of time. "Give us the signal to begin,"

1 they asked, while they were in place in a foreign country ready
2 to carry out an hypnotically programmed assassination in 1954.
3 We do not know if the plan was successful. We do know that the
4 CIA had enough faith in the concept of hypnotically programmed
5 assassins to try it out, and we do know, as quoted earlier, that
6 a CIA Report, "Hypnotism and Covert Operations" (May 1955),
7 concluded with the statements that "I personally have witnessed
8 behavior responses which respected experts have said are
9 impossible to obtain."

10
11 **SIRHAN SIRHAN**

12 **1. Dr. Herbert Spiegel's "Honest Liar" Syndrome.**

13 After the assassination of Senator Robert F. Kennedy, Dr.
14 Herbert Spiegel, a psychiatrist at Columbia University Medical
15 School, and a world recognized hypnosis expert, wanted to prove
16 that, through hypnotic suggestion, a person can be induced to
17 act on implanted false beliefs and emotions. At the annual
18 meeting of the American Psychiatric Association in May 1968, Dr.
19 Spiegel conducted a demonstration. *TIME* (May 24, 1968). As NBC-
20 TV cameras filmed the experiment, Spiegel placed a subject in
21 trance and told the man that communists intended to take over
22 radio and television stations. Details were not provided, but
23 Spiegel told his subject that he would remember specific
24 information.

25
26 When the trance ended, the subject began talking about the
27 plot. The subject told an intricate and elaborate story replete
28 with minor details, such as the furnishings and posters in the

1 room where he first heard about the communist plan. The subject
2 also incorporated waking suggestions given to him by the people
3 he talked with about the plot.

4 Spiegel removed the false story and the subject was
5 astonished and shocked when he later saw the film. This film
6 Spiegel made at NBC, "Fact or Fiction," remains an vivid example
7 of the power of hypnosis in programming the mind. To this day,
8 the hypnotic subject in the film, who I have met, remains amazed
9 that he could have been hypnotically programmed to say the
10 things the film shows him saying with such convincing sincerity.

11
12 A dozen years after making the film, Spiegel referred to
13 this ability of a subject fervently to believe hypnotically
14 implanted memories as "the Honest Liar Syndrome" H. Spiegel,
15 "Hypnosis and Evidence: Help or Hindrance?," 347 *Annals of the*
16 *New York Academy of Sciences* 73-85.(1980). Referring to his
17 earlier experiment, Spiegel wrote that the subject, a successful
18 businessman in his forties, was politically to the left, yet he
19 was induced to act and sound like an ultraconservative:

20
21 During the experiment, in response to the hypnotic
22 signal, the subject created a totally false story to
23 rationalize his compliance. He sincerely believed it
24 to be true. Since he was locked into the hypnotic
25 bind, he suspended his own critical judgment. He lied
26 but did not actually know he was lying. At the time,
27 he was in effect an honest liar. (p. 78)

1 The honest liar would, of course, make a perfect witness
2 because he would be impervious to cross-examination and would be
3 sincere in his belief that what he was saying was true. I was
4 fortunate to be able to spend considerable time with Dr.
5 Spiegel. We have co-authored a paper on hypnosis, and we taught
6 together on the topics of forensic hypnosis and the antisocial
7 uses of hypnosis. Dr. Spiegel was justly recognized as one of
8 the leading psychiatrists of the twentieth century.

9
10 Spiegel's experiment, which is consistent with the findings
11 of other researchers described in this Declaration, shows that
12 posthypnotic behavior and beliefs can be orchestrated by
13 hypnotists. The "Honest Liar" in Spiegel's film was
14 deprogrammed after the experiment. On the assumption that Sirhan
15 Sirhan was hypnotically programmed, he was not debriefed.
16 Therefore, he is still, to some extent, influenced by what had
17 been done to him. Thus, like the "honest liar," his conscious
18 emotions and beliefs are not fully his own.

19
20 **2. Dr. Edward Simson-Kallas**

21 On Sunday, September 11, 1977, I had an extended telephone
22 conversation with Dr. Edward Simson-Kallas, the chief
23 psychologist at San Quentin prison when Sirhan Sirhan arrived
24 there in 1969. Simson-Kallas, who had the opportunity to spend
25 considerable time with Sirhan, told the *San Francisco Examiner*
26 that Sirhan was a perfect choice for being a programmed hypnotic
27 patsy. "One Man's Theory: Hypnotist Set Up Sirhan," *San*
28 *Francisco Sunday Examiner & Chronicle* Section A (September 28,

1 1975). I asked him to explain his opinion. He told me that he
2 became curious because Sirhan was unable to remember details of
3 the crime, unlike most killers he interviewed. According to
4 Simson-Kallas, Sirhan's description of the events appeared
5 artificial, as if he were "reciting from a book." His
6 description of the assassination was more that of a person who
7 dreamed an event rather than of a participant.

8
9 Dr. Simson-Kallas said that Sirhan was extensively
10 conversant with hypnosis. I asked whether Sirhan could have
11 hypnotized himself into a trance and then shot Robert F.
12 Kennedy. Simson-Kallas said that he did not think so. "He was
13 put up to draw attention while experts did the work. He would be
14 easily blamed, being an Arab. He was programmed to be there. He
15 said to me that he actually liked Kennedy, that he held no
16 animosity towards him."

17
18 When the topic turned to Dr. Bernard Diamond's hypnosis of
19 Sirhan, Simson-Kallas expressed a low opinion of Diamond's
20 handling of Sirhan: "Dr. Diamond diagnosed Sirhan as
21 schizophrenic, that's what alerted me. You can't hypnotize
22 schizophrenics, yet Sirhan could hypnotize himself! Something
23 was wrong with the diagnosis."

24
25 I have been active in the hypnosis community since the
26 early 1980s. To the best of my research, Dr. Diamond, who I
27 knew, has not made any significant contribution to the hypnosis
28 literature. Interestingly, the one article for which he is

1 known, Diamond, "Inherent Problems in the Use of Pretrial
2 Hypnosis on a Prospective Witness," 68 *California Law Review* 313
3 (1980), is filled with serious errors about hypnosis.
4

5 **CONCLUSION**

6 The views expressed in this Declaration about mind control
7 experiments and hypnotic programming were formed long before I
8 was asked to write this Declaration. I am not motivated by the
9 political concerns in the Sirhan case. I am solely interested in
10 demonstrating that it is possible, with a small select group of
11 individuals, to influence the mind and behavior beyond legally
12 and ethically permissible limits. The "Manchurian Candidate"
13 scenario had been developed by scientists based on research that
14 began in the late 1880s though earlier experiments could also be
15 cited.
16

17 It is uncomfortable to accept the idea that the human mind
18 could be so malleable. But, I firmly believe, it is more
19 uncomfortable to deny it. The idea of a hypnotically programmed
20 agent may be "fantastic," as the Respondents claim, but it is
21 not untrue.
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28

1 I hereby declare under penalty of perjury that the
2 foregoing is true and correct to the best of my knowledge and
3 belief.

4 
5

6 Alan W. Schefflin

7 November 17, 2011
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3 **Curriculum Vitae**
4 **Alan Walter Scheflin**

5
6 **PERSONAL BACKGROUND**

7
8 Home 3045 21st Avenue
9 Address: San Francisco, CA 94132
10 (415) 665-6469 [tel]
11 (415) 665-7031 [fax]
12 awscheflin@aol.com [e-mail]
13

14 Business Santa Clara University Law School
15 Address: Santa Clara, CA 95053
16 (408) 554-4089 [tel]
17
18

19 **ACADEMIC POSITIONS**

20
21 Professor of Law, Santa Clara University Law School, 1979-present. Tenured 1979.
22 Associate Professor of Law, Santa Clara University Law School, 1974-1979.
23 Visiting Associate Professor of Law, Santa Clara University Law School, 1973-1974.
24 Visiting Associate Professor of Law, University of Southern California Law School,
25 1971-1972.
26 Associate Professor of Law, Georgetown University Law Center, 1967-1971.
27 Professorial Lecturer in Philosophy, Georgetown University, 1967-1970.
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EDUCATION

M.A., Counseling Psychology, 1987. Santa Clara University.

LL.M., 1967. Harvard University Law School.

J.D. with Honors, 1966. George Washington University School of Law.

Research Editor, Law Review, 1965-1966.

B.A. with High Honors in Philosophy, 1963. University of Virginia.

Honors Program, 1962-1963.

Dean's List, 1961-1962.

BAR MEMBERSHIPS

United States Supreme Court, 1970

District of Columbia, 1967

AWARDS

2010. Richard von Krafft-Ebbing Award for the Best Paper on Forensic Issues and Hypnosis. Awarded by the American Society of Clinical Hypnosis.

2007. The American Society of Clinical Hypnosis Award of Merit. The Award reads: "It is with great pleasure and appreciation that the American Society of Clinical Hypnosis presents Mr. Schefflin this Award of Merit. In doing so, the Society acknowledges Mr. Schefflin's extraordinary and exceptional representation of the hypnosis community in the legal arena, his support of the ethical use of hypnosis in the treatment of trauma, and his many publications on these topics."

1
2 2004. The American Family Foundation, Herbert L. Rosedale Award. The Award reads:
3 "Presented in recognition of leadership in the effort to preserve and protect individual
4 freedom."

5
6 2002. The International Society for the Study of Dissociation, Morton Prince Award for
7 Scientific Achievement.

8
9 2002. Santa Clara University School of Law, Distinguished Scholarship Award. The
10 Award reads: "Santa Clara University School of Law recognizes and congratulates
11 Professor Alan Schefflin for his lifetime of professional scholarship particularly in the
12 area of memory and hypnosis. Professor Schefflin's work reflects the highest standards
13 of professional scholarship."

14
15 2002. Santa Clara University, Sustained Excellence in Scholarship Award. This is the
16 highest award for scholarship given by the University.

17
18 2001. The American Psychological Association, Division 30 (hypnosis), Distinguished
19 Contribution to Professional Hypnosis Award. This is the "highest award that Division
20 30 can bestow."

21
22 2001. The American Board of Psychological Hypnosis, Professional Recognition
23 Award. This Award was created to honor my achievements in promoting the legal and
24 ethical use of hypnosis.

25
26 2000. Society for Clinical and Experimental Hypnosis, Arthur Shapiro Award for the
27 "Best Book of the Year on Hypnosis." The book was my co-authored work *Memory,*
28 *Trauma Treatment, and the Law.*

1
2 1999. American Psychiatric Association, Manfred S. Guttmacher Award for my co-
3 authored book *Memory, Trauma Treatment, and the Law*. This award is co-presented
4 by the American Academy of Psychiatry and the Law.

5
6 1998. International Society for the Study of Dissociation, Distinguished Achievement
7 Award.

8
9 1998. American Society of Clinical Hypnosis, Award of Merit. The Award reads: "To
10 Alan W. Schefflin, J.D., LL.M. As an Outstanding Attorney, Professor and Author, we
11 Honor his Exceptional Contributions in Forensic Hypnosis."

12
13 1998. American Society of Clinical Hypnosis, Presidential Award. The award reads: "In
14 Honor of Significant Contributions to the American Society of Clinical Hypnosis in
15 Support of the Leadership and Membership."

16
17 1996. Society for Clinical and Experimental Hypnosis, Arthur Shapiro Award for the
18 "Best Book of the Year on Hypnosis." The book was *Clinical Hypnosis and Memory:
19 Guidelines for Clinicians and for Forensic Hypnosis* (1995).

20
21 1993. American Society of Clinical Hypnosis, Irving I. Selter Award for "services to the
22 American Society of Clinical Hypnosis and the advancement of clinical hypnosis."

23
24 1991. American Psychiatric Association, Manfred S. Guttmacher Award for my co-
25 authored book *Trance on Trial*. This award is co-presented by the American Academy
26 of Psychiatry and the Law.

1 **HONORS**

2
3 Director, Institute on the Study of Social Influence. Santa Clara, CA.

4
5 Vice-President for Law: The Leadership Council on Child Abuse & Interpersonal
6 Violence.

7
8 Past-President: International Cultic Studies Association.

9
10 2004 - 2005. Chair: Association of American Law Schools, Section on Law & Mental
11 Disability.

12
13 2003 - 2004. Chair-Elect: Association of American Law Schools, Section on Law &
14 Mental Disability.

15
16 2002 - 2003. Secretary-Treasurer: Association of American Law Schools, Section on
17 Law & Mental Disability.

18
19 Fellow, American Society of Clinical Hypnosis

20
21 **GRANTS**

22
23 2004. Shields Family Grant. This Grant was awarded for the preparation of readings
24 entitled *The Ethical Limits of Advocacy*.

25
26 2004. Russo Summer Law Fellowship. This Grant was awarded to finance the
27 completion of a law review article on informed consent and psychotherapy.

1 1998. Russo Summer Law Fellowship. This Grant was awarded to finance the
2 completion of a series of articles or book chapters on memory and hypnosis.

3
4 1997. Russo Summer Law Fellowship. This Grant was used to analyze California law
5 on ethical issues involving attorney conflicts of interest.

6
7 1994. Russo Summer Law Fellowship. This Grant was used to prepare teaching
8 materials on California Professional Responsibility of Lawyers.

9
10 1987. Co-Recipient, Santa Clara University Teaching Grant to prepare an instructional
11 video entitled "Hypnosis: Medicine or Mind Control."

12
13
14 **EDITORSHIPS**

15
16 1999. Guest Co-Editor of the Fall & Winter Issues of the *Journal of*
17 *Psychiatry & Law*.

18
19 1996. Guest Co-Editor of the Summer Issue of the *Journal of Psychiatry &*
20 *Law*.

21
22 1995 - 2002. Forensic Editor, *Journal of the American Society of Clinical*
23 *Hypnosis*.

24
25 Since 2002. Advisory Science Editor, *Journal of the American Society of*
26 *Clinical Hypnosis*

27
28 Since 1995. Advisory Editor, *Cultic Studies Journal*.

1
2
3 **PUBLICATIONS**

4
5 **BOOKS**

6
7 1998. G.J. Alexander and A.W. Schefflin, *Law and Mental Disorder*
8 (Carolina Academic Press). This casebook for law students and mental
9 health professionals explores traditional and non-traditional interactions
10 between psychiatrists and the legal system. Topics include licensing,
11 informed consent, the standard of care, courtroom expert testimony,
12 confidentiality, voluntary and involuntary commitment, competency and the insanity
13 defense. A Supplement and a Teachers Manual were published in June 2002.

14
15 1998. D. Brown, A.W. Schefflin, and D.C. Hammond, *Memory, Trauma Treatment, and*
16 *the Law* (W.W. Norton & Company). This book provides a review of the scientific
17 literature on basic memory, autobiographical and flashbulb memory, traumatic memory,
18 repressed memory, false memory, hypnosis, and the legal aspects of hypnosis. Also
19 discussed are the lawsuits against therapists involving memory, and an extended
20 discussion of brainwashing, suggestion, and influence. Recipient of (1) the American
21 Psychiatric Association's Manfred S. Guttmacher Award (1999); (2) the International
22 Society for the Study of Dissociation's Distinguished Achievement Award (1998); and
23 (3) the Society for Clinical and Experimental Hypnosis' Arthur Shapiro Award (2000).

24
25 1995. American Society of Clinical Hypnosis, *Clinical Hypnosis and Memory:*
26 *Guidelines for Clinicians and for Forensic Hypnosis* (American Society of Clinical
27 Hypnosis Press). I was one of the eleven Member Task Force, and a principal author, of
28

1 this book. Recipient of the Society for Clinical and Experimental Hypnosis' Arthur
2 Shapiro Award.

3
4 1989. A.W. Schefflin and J.L. Shapiro, *Trance on Trial* (Guilford Publications).
5 Discussion and analysis of forensic hypnosis; pretrial, trial and post-trial advice is given
6 on the legal and ethical questions raised by investigative hypnosis and the practice of
7 hypnosis in therapy. Recipient of The American Psychiatric Association's Manfred S.
8 Guttmacher Award (1991).

9
10 1978. A.W. Schefflin and E.M. Opton, Jr., *The Mind Manipulators* (Paddington
11 Press). Discusses techniques of coercive mind control, lobotomy, psychosurgery,
12 electrical stimulation of the brain, brainwashing, hypnosis, and the Central Intelligence
13 Agency and United States Army mind and behavior control experiments.

14
15 1968. A.W. Schefflin, *Casebook on Civil Obligations: Contracts, Torts and Restitution*
16 (Lerner Law Book Company) (two volumes).

17
18
19 **ARTICLES**

20
21 Frischholz and Schefflin, "A Comment on an Alleged Association Between Hypnosis and
22 Death: Two Remarkable Cases," 52(1) *American Journal of Clinical Hypnosis* 45-67
23 (July 2009).

24
25 Schefflin, "Dissociation & the Law: Amnesia & Competence" 21(5) *ISSD News* 2, 6-7
26 (September/October 2003).

1 Schefflin, "Dissociation & the Law: Do Therapists Know the Truth?" 21(4) *ISSD News* 2,
2 6-8 (July/August 2003).

3
4 Schefflin, "Dissociation & the Law: Should Therapists Be Detectives?" 21(2) *ISSD News*
5 2, 4-5 (March/April 2003).

6
7 Schefflin, "Dissociation & the Law: May Alters Testify?" 21(1) *ISSD News* 2-4, 12
8 (January/ February 2003).

9
10 Schefflin, "Dissociation & the Law: Is MPD/DID A Defense to Crime? – Part 2." 20(6)
11 *ISSD News* 4-6, 8 (November/December 2002).

12
13 Schefflin, "Dissociation & the Law: Is MPD/DID A Defense to Crime? – Part 1." 20(5)
14 *ISSD News* 3, 5-6, 8 (September/October 2002).

15
16 Schefflin, "Dissociation & the Law: Is MPD/DID Real to Courts?" 20(4) *ISSD News* 3-5
17 (July/August 2002).

18
19 Schefflin, "Dissociation & the Law: Science and the Law – Odd Bedfellows." 20(3) *ISSD*
20 *News* 3-5 (May/June 2002).

21
22 Schefflin, "Dissociation & the Law: Is Your Insurance Carrier Your Friend." 20(2) *ISSD*
23 *News* 3-5 (March/April 2002)

24
25 Schefflin, "Dissociation & the Law: Memory in Litigation." 20(1) *ISSD News* 8-10
26 (January/February 2002).

27
28 Schefflin, "A Blow to Juror Independence," *California Bar Journal* 8 (June 2001).

1
2 Hammond, Schefflin, & Vermetten, "Informed Consent and the Standard of Care in the
3 Practice of Clinical Hypnosis," 43(3-4) *American Journal of Clinical Hypnosis* 305-310
4 (January/April 2001).

5
6 Schefflin, "Hypnosis and the Courts: A Study in Judicial Error," 1(1) *Journal of Forensic*
7 *Psychology Practice* 101-111 (2001).

8
9 Schefflin, "Forensic Hypnosis: A Lesson From the Trenches," *International Society of*
10 *Hypnosis Newsletter* 24(1): 23-25 (2000).

11
12 Schefflin, "The Evolving Standard of Care in the Practice of Trauma and Dissociative
13 Disorder Therapy." 64(2) *Bulletin of the Menninger Clinic* 197-234 (Spring 2000).

14
15 Brown and Schefflin, "Factitious Disorders and Trauma-Related Diagnoses," 27 *Journal*
16 *of Psychiatry & Law* 373-422 (Fall-Winter 1999).

17
18 Brown, Frischholz, & Schefflin, "Iatrogenic Dissociative Identity Disorder—An Evaluation
19 of the Scientific Evidence," 27 *Journal of Psychiatry & Law* 549-637 (Fall-Winter 1999).

20
21 Schefflin & Brown, "The False Litigant Syndrome: "Nobody Would Say That Unless It
22 Was the Truth," 27 *Journal of Psychiatry & Law* 649-705 (Fall-Winter 1999).

23
24 Schefflin & Frischholz, "Significant Dates in the History of Forensic Hypnosis," 42(2)
25 *American Journal of Clinical Hypnosis* 84 - 107 (October 1999).

26
27 Schefflin, "Counterpoint -- Ground Lost: The False Memory/Recovered Memory Therapy
28 Debate," 16(11) *Psychiatric Times* 37-39 (November 1999) [Point – Lief, "Patients

1 Versus Therapists: Legal Actions Over Recovered Memory Therapy," 16(11) *Psychiatric*
2 *Times* 36-37 (November 1999)]

3
4 Brown, Schefflin, & Whitfield, "Recovered Memories: The Current Weight of the
5 Evidence in Science and in the Courts," 27 *Journal of Psychiatry & Law* 5-156 (Spring
6 1999).

7
8 Schefflin, "Should Secrets Be Forever?," *Et al.* 35-36 (Summer/Fall 1999).

9
10 Schefflin, "Confidentiality and Client Perjury Revisited," *Santa Clara County Trial*
11 *Lawyers Association Newsletter* 8-10 (April 1999).

12
13 Schefflin, "Point/Counterpoint: Is It Ever Proper for Juries to Ignore or Reinterpret the
14 Law?," *California Bar Journal* 14-15 (March 1999).

15
16 Schefflin & Spiegel, "From Courtroom to Couch: Working with False/Repressed Memory
17 and Avoiding Lawsuits." 21(4) *Psychiatric Clinics of North America--Diagnostic*
18 *Dilemmas Part II* 847-867 (December 1998).

19
20 Schefflin, "Risk Management in Treating Child Sexual Abuse Victims and Adult
21 Survivors," 7 *Journal of Child Sexual Abuse* 111-121 (June 1998).

22
23 Schefflin, "False Memory and Buridan's Ass: A Response to Karlin and Orne. 14(2)
24 *Cultic Studies Journal* 207-289 (1997).

25
26 Schefflin, "How Should Repressed Memory Cases Be Handled?," 36(3) *The Judges*
27 *Journal* 72-75 (Summer 1997).

1 Scheflin, "Commentary on *Borawick v. Shay*: The Fate of Hypnotically Retrieved
2 Memories," 13 (1) *Cultic Studies Journal* 26-41(1996).

3
4 Scheflin & Brown, "Dissociative Amnesia or Repressed Memory: What the Science
5 Says," 24 *Journal of Psychiatry & Law* 143-188 (Summer 1996).

6
7 Scheflin, "Nullification in the Nineties," 53 *Guild Practitioner* 95-96 (1996)

8
9 Scheflin, "The Current Assaults on Hypnosis and Therapy," Canadian Society of Clinical
10 Hypnosis, Alberta Division, *News & Views* (Fall/Winter 1995).

11
12 Scheflin, "Lawyer Advertising: California's New Rules," *In Brief* 12-14 (Santa Clara
13 County Bar Magazine; March 1995).

14
15 Scheflin, "Hypnosis: 1994 and Beyond," 21(4) *Hypnos* 196-204 (1994).

16
17 Scheflin, "The Truth About False Memory," *Et al.* 28-29 (Fall 1994).

18
19 Spiegel and Scheflin, "Dissociated or Fabricated? Psychiatric Aspects of Repressed
20 Memory in Criminal and Civil Cases," 42 *International Journal of Clinical and*
21 *Experimental Hypnosis* 411-432 (1994).

22
23 Scheflin, "Forensic Hypnosis: Unanswered Questions," 22(1) *Australian Journal of*
24 *Clinical and Experimental Hypnosis* 23-34 (1994).

25
26 Scheflin, "Avoiding Malpractice Liability," 34(1) *American Society of Clinical Hypnosis*
27 *Newsletter* 6 (August 1993).

1 Schefflin & Van Dyke, "Merciful Juries: The Resilience of Jury Nullification," 48
2 *Washington & Lee L. Rev.* 165-183 (1991), reprinted in Bonsignore, Katsh, d'Errico,
3 Pipkin, Arons and
4 Rifkin, *Before the Law: An Introduction to the Legal Process* (1994), and in Mays and
5 Gregware, *Courts and Justice: A Reader* (1995).

6
7 Schefflin, "Freedom of the Mind as an International Human Rights Issue," 3 *Human*
8 *Rights Law Journal* 1-64 (1983).

9
10 Schefflin and Van Dyke, "Jury Nullification: The Contours of a Controversy," 43 *Law &*
11 *Contemporary Problems* 51-115 (1980).

12
13 Schefflin, "The Duty to Decide," 18 *Catholic Lawyer* 15-36 (1972).

14
15 Schefflin, "Jury Nullification: The Right to Say No," 45 *University of Southern California*
16 *Law Review* 168-226 (1971) (reprinted in condensed form in 11 *Judges Journal* 97
17 (1972)).

18
19 Schefflin, "The Law Revolution and Legal Education," 22(3) *Res Ipsa Loquitur* 5-6, 16-17
20 (Spring 1970).

21
22 Miller & Schefflin, "The Power of the Supreme Court in the Age of the Positive State:
23 Part 1," 1967 *Duke Law Journal* 273-320 (reprinted in Arthur Selwyn Miller, *The*
24 *Supreme Court: Myth and Reality* (1979)).

25
26 Miller & Schefflin, "The Power of the Supreme Court in the Age of the Positive State:
27 Part 2," 1967 *Duke Law Journal* 522-551 (reprinted in Arthur Selwyn Miller, *The*
28 *Supreme Court: Myth and Reality* (1979)).

1
2 Schefflin, *State v. Farley* (1967). I wrote this fictitious case with four judicial opinions. It
3 was reprinted in edited form in Monroe H. Freedman, *Contracts: Cases and Materials*
4 12-21 (West Publishing Company, 1973).

5
6
7 **BOOK CHAPTERS**

8
9 Schefflin, "Mercy and Morals: The Ethics of Nullification," in J. Levine and J. Kleinig, *Jury*
10 *Ethics: Juror Conduct and Jury Dynamics* 131-172 (Paradigm, 2006).

11
12 Schefflin, "Forensic Uses of Hypnosis," in A.K. Hess & I.B. Weiner, Eds., *Handbook of*
13 *Forensic Psychology, Third Edition* 589-628 (John Wiley & Sons, 2005).

14
15 Schefflin, "Are Dual Relationships Anti-Therapeutic?," in A.A. Lazarus and O. Zur,
16 *Working Together While Keeping Apart* 257-269 (Springer Publishing Company, 2002).

17
18 Brown, Schefflin, Frischholz, and Caploe, "Special Methodologies in Memory Retrieval:
19 Chemical, Hypnotic, and Imagery Procedures," in R.I. Simon and D.W. Shuman,
20 *Predicting*
21 *the Past: The Retrospective Assessment of Mental States in Civil and Criminal Litigation*
22 369-423 (American Psychiatric Press, Inc. 2002).

23
24 Schefflin, "Caveat Therapist: Ethical and Legal Dangers in the Use of Ericksonian
25 Techniques," in B.B. Geary and J.K. Zeig, *The Handbook of Ericksonian Psychotherapy*
26 154 -167 (2001).

1 Schefflin, Spiegel, & Spiegel, "Forensic Uses of Hypnosis," in A.K. Hess & I.B. Weiner,
2 Eds., *Handbook of Forensic Psychology, Second Edition* 474-498 (John Wiley & Sons,
3 1998).

4
5 Schefflin, "Ethics and Hypnosis: A Preliminary Inquiry Into Hypnotic Advocacy." In W.
6 Matthews and J. Edgette, *Current Thinking and Research in Brief Therapy: Solutions,*
7 *Strategies, Narratives, Volume 2* 307-328 (Taylor & Francis, 1998).

8
9 Schefflin, "Narrative Truth, Historical Truth and Forensic Truth," in L. Lifson and R.I.
10 Simon. *The Mental Health Practitioner and the Law: A Comprehensive Handbook* 299-
11 328 (Harvard University Press, 1998).

12
13 Schefflin, "Ethics and Hypnosis: Unorthodox or Innovative Therapies and the Legal
14 Standard of Care," in W. Matthews and J. Edgette. *Current Thinking and Research in*
15 *Brief*

16
17 *Therapy: Solutions, Strategies, Narratives, Volume 1* 41-62 (Brunner/ Mazel Publishers,
18 1997).

19
20 Schefflin, "Legal Commentary on the Diary," Commentary to H. Thornton, *Hung Jury:*
21 *The Diary of a Menendez Juror* 131-164 (Temple University Press, 1995).

22 Schefflin, "Forensic Hypnosis and the Law: The Current Situation in the United States,"
23 in B.J. Evans and R.O. Stanley, *Hypnosis and the Law: Principles and Practice* 25-48
24 (1994)

25
26 Schefflin, "The Use of Medicine and Psychiatry to Commit Human Rights Violations:
27 The Mind Control Experiments," in Mahoney & Mahoney, *Human Rights in the Twenty-*
28 *First Century: A Global Challenge* pp. 831-843 (1993).

1
2
3 **BOOK REVIEWS**
4

5 Schefflin, Book Review, 15(1) *Nova Religio* 137-140 (August 2011) [Kathleen Taylor,
6 *Brainwashing: The Science of Thought Control* (2004)]
7

8 Schefflin, Book Review, 44 *American Journal of Clinical Hypnosis* 159-160 (October
9 2001) [Joe Niehaus, *Investigative Forensic Hypnosis* (1999)]
10

11 Schefflin, Book Review, 39 *Santa Clara Law Review* 941-951 (1999) [Slovenko,
12 *Psychotherapy and Confidentiality: Testimonial Privileged Communication, Breach of*
13 *Confidentiality, and Reporting Duties* (1998)].
14

15 Schefflin, Book Review, 38 *Santa Clara Law Review* 1293-1301 (1998) [Canter and
16 Alison (Eds.), *Criminal Detection and the Psychology of Crime* (1997), and Bryan,
17 *Interrogation and Confession: Images of the Police-Suspect Dynamic* (1997)].
18

19 Schefflin, Book Review, 48 *Psychiatric Services* 1601 (December 1997) [Valciukas,
20 *Forensic Neuropsychology: Conceptual Foundations and Clinical Practice* (1995)].
21

22 Schefflin, Book Review, 40 *American Journal of Clinical Hypnosis* 247-249 (1998)
23 [McConkey & Sheehan, *Hypnosis, Memory, and Behavior in Criminal Investigation*
24 (1995)].
25

26 Schefflin, Book Review, 48 *Psychiatric Services* 409 (1997) [McConkey & Sheehan,
27 *Hypnosis, Memory, and Behavior in Criminal Investigation* (1995)].
28

1 Schefflin, Book Review, 36 *American Journal of Clinical Hypnosis* 226 (1994)
2 [Gudjonsson, *The Psychology of Interrogations, Confessions, and Testimony*].

3
4 Schefflin, Book Review, 31 *Santa Clara Law Review* 299 (1990). [Starr & McCormick,
5 *Jury Selection*]

6
7 Schefflin, Book Review, 19 *Santa Clara Law Review* 1141-1148 (1979). [Palmer, *The*
8 *Law of Restitution*]

9
10 Schefflin, Book Review, 17 *Santa Clara Law Review* 247-265 (1977). [Ginger, *Jury*
11 *Selection in Criminal Trials and Timothy, Jury Woman*]

12
13 Miller & Schefflin, Book Review, 16 *American U. Law Review* 359 (1967). [Stone,
14 *Legal System and Lawyers' Reasonings; Human Law and Human Justice; Social*
15 *Dimensions of Law and Justice*]

16
17 Schefflin, Book Review, 56 *Georgetown Law Journal* 407 (1967). [Freedman, *Cases on*
18 *Contracts*]

19
20
21 **UNPUBLISHED TEACHING MATERIALS**

22
23 Schefflin, *Professional Responsibility For California Lawyers* (2011 Edition).

24
25 Schefflin, *Opening Statements and Closing Arguments* (2011 Edition).

26
27
28 **VIDEOS/ DOCUMENTARIES**

1
2 2010. "Conspiracy Theory: Manchurian Candidates" (TruTV, 2010)

3
4 2009. "Kidnapped For 18 Years" (The Learning Channel, November 2009)

5
6 2008. "Mind Control," on the *Welt Der Wunder* (World of Wonder) program (German TV;
7 November 2008).

8
9 2000. "Mind Control" ("History's Mysteries," The History Channel, October 2000).

10
11 1999. "Governmental and Legal Responses to Cults in the United States" (American
12 Family Foundation, 1999).

13
14 1999. "Against the Tide I: Trauma Therapy in a Hostile Era" (Cavalcade Productions,
15 1999)

16
17 1999. "Against the Tide II: Staying Afloat" (Cavalcade Productions, 1999)

18
19 1997. "Mind Control" (ZM Productions, Los Angeles, CA. 1997)

20
21 **INVITED EXPERT TESTIMONY**

22
23 **JUDICIAL**

24
25 [Only cases in which some legal pleading or proceeding has occurred are
26 listed. Cases in which I was or am currently a consultant are not listed.]
27
28

1 2008. Expert in *Marriage of Wahl/Perkins*. In this child custody proceeding,
2 I filed four Declarations of behalf of Dr. Wahl regarding her request that
3 three different lawyers for her husband be disqualified because of conflicts
4 of interest. The judge granted Dr. Wahl's motions to disqualify two of the
5 lawyers, but denied the motion to disqualify the third lawyer. California.
6

7 2007. Expert witness in *White v. Riggan*, where a former patient sued her
8 former therapist for malpractice. I testified for the defense about
9 brainwashing and mind control issues. The jury returned a verdict for the
10 defendant. California.
11

12 2006. Expert witness in *U.S. v. Harrod*, a case in the United States District
13 Court (E.D.CA.) Involving mind control, cults, and the insanity defense. The
14 judge decided that expert testimony on brainwashing and cults was
15 inadmissible. California.
16

17 2003. Expert witness in *Pavicich v. Santucci*, a legal malpractice case
18 involving issues of conflict of interest, fiduciary duties, representation of
19 entities, and duties to non-clients. My Deposition was taken. The case was
20 settled before trial. California.
21

22 2002. Expert witness in *State v. Zimmerman*, a murder case. The
23 Innocence Project at the University of Wisconsin Law School filed a motion
24 to reverse the conviction of the defendant. I testified regarding
25 impermissible suggestion in the conduct of a forensic hypnosis interview
26 with a witness. The Court of Appeals, citing my testimony in part, reversed
27 the conviction. Wisconsin.
28

1 2002. Expert witness in *State v. Richman*. The case involves a charge of
2 sexual battery against a doctor. The issues involve the antisocial uses of
3 hypnosis. A plea bargain was accepted. Florida.

4
5 2001. Expert witness in *People v. Brownen*, a murder case. I evaluated
6 forensic interviews of the young children involved in the case, examined
7 their courtroom testimony, and testified about issues of undue suggestion
8 regarding the interviews with the children. The defendant-father was
9 convicted. California.

10
11 2001. Expert witness in *Brigham v. Pickett*. The case involves alleged
12 implantation of false memories, improper therapy, and boundary violations
13 by an non-licensed therapist. The case was settled. New York

14
15 2001. Expert witness in *Hobert v. Covenant Children's Home and Tanton*. The case
16 involves claims of repressed memory and alleged child sexual abuse. I filed an Expert
17 Report on behalf of the defendants and my Deposition was taken. The case was settled.
18 Illinois.

19
20 2001. Expert witness in *Davis v. Gates*. The case involved repressed memory, false
21 memory, mind control and satanic abuse allegations, a Multiple Personality Disorder
22 diagnosis, hypnosis, and the standard of care for certain therapeutic practices. I filed an
23 Expert Report. The case was settled. Minnesota.

24
25 2000. Expert witness in *Texas v. Hickman*. The case involves a police hypnosis session
26 with a victim of a crime. I was called by the defense to evaluate the videotape and
27 describe the standard of care that should be used in forensic hypnosis settings. The
28 case against the defendant was dropped before trial. Texas.

1
2 2000. Expert witness in *McCubbrey v. American Home Assurance Company*. The case
3 involves issues of lawyer malpractice. Conflict of interest, duties owed to insured and
4 insurer, and the standard of care in insurance cases. The case ended with a jury verdict
5 for the defendants on an underlying issue. Because of the verdict, the remainder of the
6 case, which would have involved my testimony, was not tried. California.

7
8 2000. Expert witness in *Hurt v. Ash, et al.* The case involves psychiatric diagnosis and
9 treatment, standard of care, suggestion, influence, mind control, memory, and
10 dissociative disorders. I have been declared as an expert and my deposition was taken.
11 In March 2001, the judge ruled that several of plaintiffs' experts would not be permitted
12 to testify. The attorneys on both sides reached a prior agreement that if one of those
13 experts was disqualified, my rebuttal testimony would not be needed. Pursuant to that
14 agreement, plaintiff's motion to strike me as an expert was granted. The case settled.
15 Texas.

16
17 2000. Expert witness in *McMahon v. Dimalanta*. The case involves questions of legal
18 ethics regarding confidential pleadings, duties to the court, and duties to opposing
19 counsel. My deposition was taken. The case settled. California.

20
21 1999. Expert witness in *Twohey v. Bartman*. This case is a Complaint by a secretary
22 filed with the Human Rights Commission in Vancouver, B.C., Canada, alleging that the
23 defendant, a psychiatrist employing the plaintiff, misused hypnosis with her for personal
24 gain and gratification. I testified at the Commission hearing. My testimony was
25 accepted that hypnosis was not involved. Vancouver, B.C. Canada.

1 1999. Expert witness in *Gale v. Braun*. The case involves the psychiatric standard of
2 care, memory issues, satanic and other cult activity, mind control, suggestion, and
3 undue influence. The case settled. Illinois

4
5 1999. Expert witness in *Tyo v. Ash*. The case involves the psychiatric standard of care,
6 memory issues, satanic and other cult activity, mind control, suggestion, and undue
7 influence. The case was settled before trial after a pre-trial evidentiary hearing
8 eliminated most of the plaintiff's experts. I was an expert for the defense. Texas.

9
10 1999. Expert witness in *Anderson v. Chaney*. The case involves the standard of care
11 for psychologists, mind control, suggestion, undue influence, and memory issues. The
12 case was settled before trial. Arkansas.

13
14 1999. Expert witness in *Varr v. Olimpia, Whelan & Lively*. The case involves
15 allegations of violations of duties owed to a client by a lawyer/law firm. In particular, the
16 issues involve conflict of interest problems, business deals, and fee arrangements. My
17 deposition was taken. The first phase of trial was completed. My testimony was not
18 needed because of the success in the first phase. California.

19
20 1999. Expert Witness in *Medical Board v. Bowen*. I prepared an Expert report. The
21 Medical Board has alleged that Dr. Bowen has violated the confidentiality of his patient
22 and has engaged in dishonest and unprofessional conduct. The case was settled before
23 any formal hearing was conducted. California.

24
25 1997. Expert witness in *Kauff v. Hatcher*. I prepared an Expert Report and I gave
26 testimony via telephone to the judge. The issues involved legal ethics questions about
27 fee agreements, malpractice and withdrawal from representation. The case was
28 settled. California.

1
2 1997. Expert witness in *Proctor and Companies v. Lockheed*. I prepared a Declaration
3 which was filed in the case. The subject was judicial ethics. The trial court and the
4 appellate court reached the same conclusion I reached in my Declaration. California.
5

6 1997. Expert witness in *State v. Boenheim*. The issues involve the regulation of lay
7 hypnosis/ the nature of therapy, and hypnotic seduction. I filed an Expert Report. The
8 case was dismissed in September 1997. New Hampshire.
9

10 1997. Expert witness in *Carl v. Peterson*. The issues involved include suggestion,
11 undue influence, repressed memory, cults and mind control. I filed an Expert Report
12 and testified at trial. The jury found in favor of the plaintiffs. Texas.
13

14 1997. Consultant in *Urka v. Seufferer*. The case involves an allegation of hypnotic
15 mind control. I filed an Expert Report. The case was settled in May 1998. Michigan.
16

17 1997. Expert witness in *Bellis v. Wendler*. The case involved allegations of undue
18 influence, suggestion and cults. I filed an Expert Report. The case was settled before
19 trial. Missouri.

20 1997. *Hoverson v. Anderson*. I filed a Declaration on behalf of an attorney opposing
21 the imposition of sanctions. The issues involved allegations of child abuse,
22 suggestibility, indoctrination procedures, the parental alienation syndrome, and the
23 attorney's standard of care. California.
24

25 1996. Expert witness in *Cool v. Olson*. The issues involve implanted memory, multiple
26 personality disorder, satanic ritual abuse and exorcism. My deposition was taken. The
27 case was settled in March 1997 during the trial but before I was called to testify.
28

Wisconsin.

1
2 1996. I filed an Affidavit and Joint Declaration with Daniel Brown, Ph.D., in *United*
3 *States v. McVeigh* (the "Oklahoma Bombing Case") supporting the judge's ruling to
4 sequester impact witnesses from the trial. The Affidavit and Joint Declaration presented
5 the applicable science to the court in support of its ruling. The judge accepted our
6 reasoning. Colorado.

7
8 1995. Expert witness and consultant for defendant in *Carlsen v. Humanensky*. The
9 issues involved repressed memory, social influence, memory and hypnosis. The jury
10 returned a verdict for plaintiff. Minnesota.

11
12 1995. Expert Witness for defendants in *Schwiderski v. Peterson*. The issues involved
13 mind control, brainwashing, repressed memory, and the psychological standard of care
14 in treating patients reporting cult and/or mind control abuse. The case settled in
15 reference to most of the defendants before trial and after mediation. The remaining
16 defendants are expected to seek trial. Texas.

17
18 1995. Expert witness and consultant for plaintiffs in *Slavik v. Fairview Hospital*. The
19 issues involved multiple personality disorder, sexual abuse, false memory claims and
20 forensic hypnosis. The jury returned a verdict in favor of plaintiffs. Minnesota.

21
22 1995. Expert witness in *Gardner v. Norcal Mutual Insurance Co.* The issues involve
23 attorney conflicts of interest and the standard of care of counsel appointed by an
24 insurance company. The jury found the defendant liable but also found plaintiff had
25 suffered no harm. California.

26
27 1993. Expert witness in *Capaldo v. Gross*. The ethical issues involved attorney conflict
28 of interest and duty of due care. The case settled after mediation. California.

1
2 1993. Expert witness in *Howell & Hallgrimson v. Fong*. The ethical issues involved
3 fiduciary duties of lawyers, obligations to nonclients, client identity in partnership
4 transactions and conflict of interest rules. The case settled before trial. California.
5

6 1993. Expert witness for defendant in *Anderson v. Belli, et al.*, Superior Court, County
7 of Alameda. Arbitration Hearing, San Francisco. The ethical issues involved conflict of
8 interest, standard of care, and conflict of interest rules. The Arbitrator found for
9 California.
10

11 1992. Expert witness for defendant in *In re Jennifer C.*, Superior Court, Santa Clara
12 County, California. I qualified as an expert "in the area of suggestion, in the area of
13 child
14 sexual abuse, and to comment further in this field." The judge found in favor of the
15 defendant. California.
16

17 1989. Expert witness for defendant before the Board of Medical Quality Assurance,
18 Psychology Examining Committee and the Board of Behavioral Science Examiners,
19 Department of Consumer Affairs, in *In re Diamond* (Nos. D-3849 and M-179, OAH Nos.
20 N-32613 and N-32614) on the subject of the professional ethics codes of mental health
21 practitioners. The Board found against the defendant. California.
22

23 1988. Expert witness for plaintiff in federal District Court for the Southern District of
24 New York for plaintiff in *Glickman v. United States* (83 Civ. 2458) on the subject of
25 government mind and behavior control programs. My Deposition was taken. New York.
26

27 1983. Expert witness in federal District Court in San Francisco for plaintiffs in *Toussaint*
28 *v. McCarthy* (C-73-1422-SAW) on the subjects of brainwashing, sensory deprivation

1 and mind control. The case involved confinement conditions at San Quentin and
2 Folsom prisons. California.

3
4
5 **LEGISLATIVE**

6
7 1983. Testimony before the California Senate Committee on the Judiciary on a
8 proposed Constitutional Amendment to permit non-unanimous jury verdicts in all non-
9 capital criminal cases, November 1983. Transcript, Interim Hearing on Senate
10 Constitutional Amendment 10 (Presley), November 22, 1983.

11
12 1975. Written testimony reprinted in *Prison Inmates in Medical Research*, Hearings
13 before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of
14 the Committee on the Judiciary, House of Representatives, 332-341, September 29 and
15 October 1, 1975.

16
17
18 **INVITED PRESENTATIONS AT PROFESSIONAL ASSOCIATIONS**

19
20 November 2011. Co-taught a Pre-Conference Institute on "Ethics and Risk
21 Management in the Treatment of Trauma, at the 28th Annual Convention of the
22 International Society for the Study of Trauma and Dissociation. Montreal, Canada.

23
24 September 2010. Presenter at the 2010 International Cultic Studies Association Annual
25 International Conference. I gave a talk entitled "Proving Extreme Influence in Court." I
26 appeared on two Panels "A Novel Legislative Proposal in Italy" and "How Existing
27 Laws Can Help Families and Ex-Members." Rome, Italy.

1 June 2010. Presenter at the 2010. International Cultic Studies Association Annual
2 International Conference. New York, NY.

3
4 July 2009. Presenter at the 2009 International Cultic Studies Association Annual
5 International Conference. Geneva, Switzerland.

6
7 June 2008. Presenter at the 2008 International Cultic Studies Association Annual
8 International Conference. I gave an address entitled "Influence, Law, and Ethics in the
9 21st Century"; I was a participant in a "Roundtable on Theoretical Developments in the
10 Field of Undue Influence and Cults"; and I was a member of a panel on "Cults, the Law,
11 and Government: A Discussion." Philadelphia, PA.

12
13 December 2007. Presenter at the Tenth International Congress on Ericksonian
14 Approaches to Hypnosis and Hypnotherapy. I was a Co-Panelist for a Dialogue on "Law
15 and Ethics, and a co-Presenter of a Workshop on "Forensic Frontiers." Phoenix,
16 Arizona.

17
18 October 2007. Delivered a talk entitled "The Illinois Law of Hypnosis" for the Chicago
19 Society of Clinical Hypnosis. Chicago, Illinois.

20
21 August 2007. Co-Presenter of a Panel Discussion entitled "Theory of Dissociation and
22 the (DID) Case of Sybil Revisited" at the American Psychological Association's 115th
23 Annual Convention. My talk was entitled "Dissociative Identity Disorder in the
24 Courtroom." San Francisco, California.

25
26 August 2007. Co-Presenter of a Continuing Education Workshop entitled "Adult
27 Survivors of Childhood Trauma and Forensic Psychology – Expert Witnesses" at the
28

1 American Psychological Association's 115th Annual Convention. San Francisco,
2 California.

3
4 June 2007. Organizer and Presenter of a Panel Discussion entitled "Brainwashing and
5 the Law" at the 2007 International Cultic Studies Association Annual International
6 Conference. My talk was entitled "Brainwashing and the Courts: A Review of the Case
7 Literature in the United States." Brussels, Belgium.

8
9 June 2007. Organizer, Chair, and Presenter of a Symposium entitled "Forensic
10 Frontiers: Therapists and Lawsuits" at the International Academy of Law and Mental
11 Health's 30th International Congress on Law and Mental Health. My talk was entitled
12 "Informed Consent: Lawyers vs. Therapists." Padua, Italy.

13
14 January 2007. Co-Presenter of a Workshop "You Are Under Arrest! Forensic Hypnosis
15 2007" and a Workshop "The 1994 ASCH Guidelines on Using Hypnosis With Memory:
16 An Update" at the 2007 Joint Meeting of the American Society of Clinical Hypnosis, and
17 the Society of Clinical and Experimental Hypnosis. Dallas, Texas.

18
19 November 2006. Co-Presenter of a Workshop "Forensic Skills for Clinicians Working
20 with Dissociative Disorders" at the 23rd International Conference of the International
21 Society for the Study of Dissociation. Los Angeles, California.

22
23 June 2006. Co-Panelist on "Experts, Cults, and Brainwashing" at the International Cultic
24 Study Association Conference entitled "Psychological Manipulation, Cultic Groups, and
25 Other Alternative Movements." Denver, Colorado.

26
27 April 2006. Co-Panelist on "Inadvertent Disclosure" at the Tenth Annual State Bar of
28 California Ethics Conference. Santa Clara, California.

1
2 July 2005. Presented an address on “The Legal and Psychological Dimensions of
3 Brainwashing” at the International Cultic Study Association Conference entitled
4 “Psychological Manipulation, Cultic Groups, and Other Alternative Movements.” Madrid,
5 Spain.

6
7 March 2005. Co-Presenter of a Workshop on “Forensic Hypnosis: Skills and Building a
8 Practice” at the 47th Annual Scientific Meeting and Workshops on Clinical Hypnosis of
9 the American Society of Clinical Hypnosis. St. Louis, Missouri.

10
11 October 2004. Panelist on two sessions – “Brainwashing as a Legal Defense” and
12 “Why Attorneys Don’t Want to Accept Cult-Related Litigation” at the American Family
13 Foundation Conference “Understanding Cults, New Religious Movements, and Other
14 Groups.” Atlanta, Georgia.

15
16 June 2004. Delivered an address entitled “Brainwashing, Undue Influence, and the Law”
17 at the American Family Foundation Conference on “Understanding Cults and Other
18 Charismatic Groups: The Violation of Innocence—How Cults Abuse Children.”
19 Edmonton, Alberta, Canada.

20
21 March 2004. Luncheon Speaker at the 46th Annual Scientific Meeting of the American
22 Society of Clinical Hypnosis. My talk was entitled “Saving Hypnosis For the Future.”
23 Anaheim, California.

24
25 January 2004. Organized a Panel Discussion entitled “Murder and Memory” for the Law
26 and Mental Disability Section of the Association of American Law Schools, and
27 delivered a paper entitled “Amnesia and the Law: Do Killers Forget Their Crimes?”
28 Atlanta, Georgia.

1
2 October 2003. Presented a paper on a Panel entitled "Conflicts Between Scholarship
3 and Advocacy," at the American Family Foundation Conference on Understanding Cults
4 and New Religious Movements. Hartford, Connecticut.

5
6 October 2003. Presented a paper entitled "Hypnosis and Memory: Implications for
7 Clinical and Forensic Practice" to the New Orleans Society for Clinical Hypnosis. New
8 Orleans, Louisiana.

9
10 September 2003. Presented a paper entitled "Mercy and Morals: The Ethics of
11 Nullification" at a Conference on Jury Ethics sponsored by the John Jay College of
12 Criminal Justice's Institute For Criminal Justice Ethics. New York, New York.

13
14 September 2003. Presented a paper entitled "Hypnosis and Memory: The Disconnect
15 Between Law and Science" to the Department of Psychology of the John Jay College of
16 Criminal Justice. New York, New York.

17
18 September 2003. Presented a Keynote Address entitled "Informed Consent and Risk
19 Management in Neurotherapy" at the 11th Annual Conference of the International
20 Society for Neuronal Regulation. Houston, Texas.

21
22 August 2003. Presented a paper entitled "Discipline and Death: Ethical Responsibilities
23 of Disciplinary Counsel with Suicidal Lawyers" as part of a panel entitled "Going Outside
24 The Box: When Do We Have A Duty To Do Something Other Than Prosecute?" at the
25 2003 Annual Meeting of the National Organization of Bar Counsel. San Francisco,
26 California.

1 June 2003. Presented a paper on a Panel entitled "Conflicts Between Scholarship and
2 Advocacy," at the American Family Foundation Conference on Understanding Cults and
3 New Religious Movements. Orange County, California.

4
5 March 2003. Delivered a paper entitled "Informed Consent and Misinformed Lawsuits"
6 at a Symposium on Law and Mental Health sponsored by the Ohio Northern University
7 Law Review. Ada, Ohio.

8
9 September 2002. Keynote presenter at the first Dr. Louis L. Dubin Honorary Lecture on
10 Hypnosis, Medicine, and the Law at the Albert Einstein Medical Center. My address
11 was entitled "The False Memory (and The False Litigant) Syndrome." Philadelphia,
12 Pennsylvania.

13
14 September 2002. Invited by the President of the Society for Neuronal Regulation to be
15 a luncheon speaker and a Panelist at the 2002 Annual Convention. My talk was entitled
16 "The New Legal Standard for Science." Scottsdale, Arizona.

17
18 August 2002. Invited by the President of the American Psychological Association to
19 serve as Chair of a Plenary Panel entitled "Cults of Hatred" at the 110th Annual
20 Convention of the American Psychological Association. The Panel was specially
21 convened to discuss techniques of extreme influence. The Panel was highlighted in
22 Melissa Dittmann, "Cults of Hatred," *Monitor on Psychology* 30-33 (American
23 Psychological Association, November 2002), and Philip G. Zimbardo, "President's
24 Column: Mind Control: Psychological Reality or Mindless Rhetoric?" *Monitor on
25 Psychology* 5 (American Psychological Association, November 2002). Chicago, Illinois.

26
27 July 2002. I presented a paper entitled "Is Informed Consent Anti-Therapeutic" as part
28 of a Panel Discussion entitled "Informed Consent: The New Attack on Psychotherapy?"

1 at the 27th International Congress on Law and Mental Health sponsored by the
2 International Academy of Law and Mental Health. Amsterdam, Netherlands.

3
4 June 2002. I presented three invited lectures on various aspects of brainwashing at the
5 2002 Annual Conference of the American Family Foundation. I also participated in a
6 planning session to outline research projects to be conducted by the Foundation.
7 Orlando, Florida.

8
9 March 2002. Conducted a Discussion session on the film "Sherlock Holmes and the
10 Woman in Green," and delivered an Invited Address on "Informed Consent" at the 44th
11 Annual Conference of the American Society of Clinical Hypnosis. Indianapolis, Indiana.

12
13 January 2002. Delivered a paper entitled "The Trilemma of Treatment: Will Informed
14 Consent Destroy Psychotherapy?" at a panel sponsored by the Law & Psychiatry
15 section of the American Association of Law Schools. New Orleans, Louisiana.

16
17 December 2001. Invited as a faculty member at the Erickson Foundation Conference
18 commemorating the 100th birthday of Dr. Milton H. Erickson. I delivered a workshop on
19 "Risk Management with Ericksonian Hypnosis." Phoenix, Arizona.

20
21 August 2001. Delivered the Distinguished Contribution to Professional Hypnosis Award
22 Address at the 109th Annual Convention of the American Psychological Association.
23 The address was entitled "Is Hypnosis Science, Social Influence, or Science Fiction?
24 Implications for Courts and Clinics." San Francisco, California.

25
26 March 2001. Presented a workshop on "Ethical and Forensic Issues in the Practice of
27 Hypnosis" at the 43rd Annual Conference of the American Society of Clinical Hypnosis.
28 Reno, Nevada.

1
2 February 2001. Invited to present a workshop on "Law & Ethics" at "Love & Intimacy:
3 The Couples Conference," sponsored by the Milton H. Erickson Foundation. San
4 Francisco, California.

5
6 October 2000. Luncheon Speaker at the 5th National Assembly of the Federation of
7 Canadian Societies of Clinical Hypnosis, "Frontiers of Hypnosis." My topic was "Coming
8 Attractions in the World of Hypnosis." Vancouver, Canada.

9
10 October 2000. Invited to deliver a paper "Evaluating Psychological Constructs in Court,"
11 and co-conduct a workshop on "Ethical and Forensic Issues Involving Hypnosis" at the
12 15th Annual International Congress of Hypnosis, sponsored by the International Society
13 of Hypnosis. Munich, Germany.

14
15 August 2000. Invited to deliver a paper at a Symposium in "The Bridey Murphy Case"
16 at the American Psychological Association Annual Meeting. I was unable to attend but
17 my paper was read by another presenter. Washington, D.C.

18
19 July 2000. Co-delivered (with George Alexander) a set of lectures on "Freedom of the
20 Mind as an International Human Rights Issue," to the Santa Clara University School of
21 Law Summer Program in Strasbourg, France.

22
23 July 2000. Invited to deliver an address at the XXVth International Congress on Law
24 and Mental Health, sponsored by the International Academy of Law and Mental Health.
25 My talk was entitled "The Creation of False Plaintiffs and False Defendants." Sienna,
26 Italy.

1 May 2000. Invited Speaker on a special 3-hour panel on "Recovered Memory: Law,
2 Science, and the Clinician," at the American Psychiatric Association Annual Meeting.
3 Also, David Spiegel, M.D. and I participated in a Formal Debate against Paul McHugh,
4 M.D. and Sally Satel, M.D. on "Memories and Trauma Treatment." Chicago, Illinois.

5
6 April 2000. Invited Paper on "Criminalizing Therapy: The Judy Peterson Case," at the
7 6th International Society for the Study of Dissociation (United Kingdom) Conference. I
8 was unable to attend personally so my paper was read for me at the Conference.
9 England.

10
11 April 2000. Invited Address entitled "The Outer Limits of Influence" at the American
12 Family Foundation Annual Conference, "Cults and the Millennium." Seattle,
13 Washington.

14
15 February 2000. Invited Luncheon Address on "Informed Consent and the Practice of
16 Hypnosis," at the 42nd Annual Scientific Meeting & Workshops of the American Society
17 of Clinical Hypnosis. I also co-taught the Workshop on Forensic Hypnosis. Baltimore,
18 Maryland.

19
20 December 1999. Invited Faculty Member to conduct a three-hour workshop on
21 "Practicing Ericksonian Therapy Ethically and Eloquently," and to participate in a panel
22 discussion on "Ethics" at the Seventh International Congress on Ericksonian
23 Approaches to Hypnosis and Psychotherapy. Phoenix, Arizona.

24
25 November 1999. Invited to co-present a workshop on "Ethical and Forensic Issues
26 Involving Hypnosis," at the Annual Meeting of the Society for Clinical and Experimental
27 Hypnosis. New Orleans, Louisiana.

1 August 1999. Delivered an Invited Address on "Confidentiality: Are the Barriers
2 Breaking?" at the 107th Annual Convention of the American Psychological Association.
3 Boston, Massachusetts.

4
5 August 1999. Invited to conduct a workshop on "Ethical and Forensic Issues Involving
6 Hypnosis," and to be a panelist on the topic "The Veridicality of Traumatic Memories," at
7 the 8th Annual European Congress on Hypnosis in Psychotherapy and Psychosomatic
8 Medicine sponsored by the European Society of Hypnosis. Amsterdam, Netherlands.

9
10 June 1999. Delivered an address at the XXIVth International Congress on Law and
11 Mental Health, sponsored by the International Academy of Law and Mental Health. My
12 talk, "The Past, Present, and Future of Forensic Hypnosis," was part of a Symposium on
13 "The Cutting Edge of Confidentiality." Toronto, Canada.

14
15 May 1999. Delivered an address on "Governmental and Legal Responses to Cults in
16 the U.S.A." at the 1999 American Family Foundation Annual Conference on "Cults,
17 Psychological Manipulation, & Society: International Perspectives." The title of my
18 address was "Brainwashing: Propaganda or Science?" Minneapolis, Minnesota.

19
20 May 1999. Co-delivered the Manfred S. Guttmacher Address at the 152nd Annual
21 Meeting of the American Psychiatric Association. The address was entitled "False
22 Memory Lawsuits: The Weight of the Scientific and Legal Evidence." Washington, D.C.

23
24 April 1999. Plenary Speaker on the topic "Risk Management in Dissociative Disorders
25 and Trauma," and conducted workshops on "Legal and Ethical Issues Involving
26 Boundaries," and "Memory, Trauma Treatment, and the Law" at the Fourth Annual
27 Northwest Regional Conference on Trauma Disorders. Lake Chelan, Washington.

1 March 1999. Co-conducted a Workshop on "Forensic Hypnosis" at the 40th American
2 Society of Clinical Hypnosis Annual Meeting. Atlanta, Georgia.

3
4 March 1999. I conceived and acted as Moderator for a Keynote Conference on "The
5 Sanctity of Secrets--A Perspective From Three Professions: Law, Psychiatry, and the
6 Clergy." Panelists were Monroe H. Freedman (law), Thomas F. Nagy (psychiatry/
7 psychology), and William C. Spohn (clergy). The Conference was held at the Santa
8 Clara University School of Law. Santa Clara, California.

9
10 December 1998. Co-presented a workshop with Dr. Daniel Brown on Risk
11 Management in Clinical Practice. Harvard Medical School Conference on Trauma.
12 Boston, Massachusetts.

13
14 November 1998. Delivered Plenary Address on "How Professional Organizations Can
15 Affect the Media and the Courts," and conducted a workshop with Dr. Edward
16 Frischholz on "Risk Management for Therapists" at the 15th International Fall
17 Conference of the International Society for the Study of Dissociation. Seattle,
18 Washington.

19
20 November 1998. Conducted a half-day Workshop on "Memory, Trauma Treatment, and
21 the Law," with Dr. Daniel Brown for the 14th Annual Meeting of the International Society
22 for Traumatic Stress Studies. Washington, D.C.

23
24 November 1998. Conducted a Master Class, "Clinical Hypnosis and Memory:
25 Guidelines for Therapists," the Netherlands Society of Hypnosis. Amsterdam,
26 Netherlands.

1 November 1998. Conducted a full-day Workshop on Forensic Hypnosis, "True or
2 False," for the Flemish Society for Scientific Hypnosis. Antwerp, Belgium.

3
4 November 1998. Invited Speaker at a Symposium entitled "Trauma, Memory, and
5 Amnesia" at Utrecht University, Netherlands. My talk was entitled "The Recovered/False
6 Memory debate: Lessons to be Learned from the North American Scene." Utrecht,
7 Netherlands.

8
9 September 1998. Conducted a full day workshop on "Memory, Trauma Treatment, and
10 the Law" sponsored by the Hudson Valley Abuse Awareness and Recovery Training
11 Fund, Inc. Kingston, New York.

12
13 August 1998. Delivered the Psychiatry Grand Rounds at Northeastern Ohio University
14 College of Medicine. The topic is "Guidelines for Minimizing Malpractice Lawsuits."
15 Akron, Ohio.

16
17 August 1998. Invited Speaker at the 106th Convention of the American Psychological
18 Association. My topic was "The Effect of Professional Organization Position Papers on
19 Judicial Rulings." San Francisco, California.

20
21 June 1998. Presented a course on "International Protection of Freedom of the Mind" at
22 the Santa Clara University Law School summer program in Budapest, Hungary.

23
24 July 1998. Appeared on two panels at the 23rd Annual Conference of the International
25 Academy of Law and Mental Health. The first panel involved Repressed Memory, and
26 the second panel involved the evolving Standard of Care. Paris, France.

1 November 1998. Conducted a full-day Workshop on Forensic Hypnosis, "True or
2 False," for the Flemish Society for Scientific Hypnosis. Antwerp, Belgium.

3
4 November 1998. Invited Speaker at a Symposium entitled "Trauma, Memory, and
5 Amnesia" at Utrecht University, Netherlands. My talk was entitled "The Recovered/False
6 Memory debate: Lessons to be Learned from the North American Scene." Utrecht,
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10 the Law" sponsored by the Hudson Valley Abuse Awareness and Recovery Training
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22 the Santa Clara University Law School summer program in Budapest, Hungary.

23
24 July 1998. Appeared on two panels at the 23rd Annual Conference of the International
25 Academy of Law and Mental Health. The first panel involved Repressed Memory, and
26 the second panel involved the evolving Standard of Care. Paris, France.

1
2
3 November 1997. Keynote Speaker at a joint session of the 1997 Annual Meeting of the
4 International Society for the Study of Dissociation and the 13th Annual Meeting of the
5 International Society for Traumatic Stress Studies. Montreal, Canada.

6
7 November 1997. Participated on a panel on "Hypnosis and Ethics" at the Annual
8 Convention of the Society for Clinical and Experimental Hypnosis. Washington, D.C.

9
10 November 1997. Panelist on "Jury Nullification" at the Annual Convention of the
11 Society of Criminology. San Diego, California.

12
13 August 1997. Delivered an Invited Address on "Forensic Hypnosis" and participated on
14 a panel on "Lay Hypnotists" at the 105th Annual Convention of the American
15 Psychological Association. Chicago, Illinois.

16
17 June 1997. 14th International Congress of Hypnosis. I delivered an Invited Address,
18 chaired two Panel Discussions, and co-delivered two one-day Workshops. San Diego,
19 California.

20
21 February, 1997. Invited lecture to Stanford University Psychiatrists and Residents in
22 Psychiatry on "Forensic Hypnosis" and "Repressed Memory." Palo Alto, California.

23
24 January, 1997. Feature speaker at the National Institute of Health *Conference on*
25 *Undue Influence: Considerations for Public Health Professionals*. My topic was "If
26 Influence is Inevitable, When is it 'Undue'?" Bethesda, Maryland.

1 December 1996. Delivered a lecture entitled "Forensic Hypnosis: Guidelines, Criticisms
2 and the Future Threats" at the Fourth Annual Scientific Meeting of the American College
3 of Forensic Examiners. San Diego, California.

4
5 November 1996. Panelist on the topic "Recovered Memories in Psychotherapy: The
6 Risks to You," and Moderator of the Basic Track, at the Liability Prevention for the
7 *Mental Health Clinicians: Strategies and Update Conference* sponsored by the Harvard
8 Medical School. Boston, Massachusetts.

9
10 November 1996. Co-panelist on the topic "Latest Developments in Forensic Hypnosis
11 and Memory" at the 47th Annual Scientific Program of the Society for Clinical and
12 Experimental Hypnosis. Tampa, Florida.

13
14 August 1996. Invited to Organize and Co-Chair a Symposium on "Ethical and Legal
15 Aspects of Hypnosis" at the European Congress of Hypnosis ("Eurohypnosis '96"). I
16 presented a paper entitled "Hypnosis: The CIA Experiments." Budapest, Hungary.

17
18 March 1996. Invited to lecture, co-present workshops, chair a panel and appear on a
19 panel at the 38th Annual American Society of Clinical Hypnosis Convention. Topics
20 included Risk Prevention in Psychiatry, Forensic Hypnosis and Memory, and the new
21 *Daubert* case's impact on the admission of expert testimony in court. Orlando, Florida.

22
23 December 1995. Invited speaker at a conference on "Phase-oriented treatment of
24 Psychological Trauma: Psychotherapeutic and Hypnotherapeutic Interventions"
25 sponsored by the Massachusetts Mental Health Center/Harvard Medical School. I
26 presented a Workshop on "False Memories, Real Lawsuits: Liability Management in
27 Trauma Treatment." Boston, Massachusetts.

1 November 1995. Co-presenter of a Panel on Forensic Issues at the Annual Convention
2 of the Society for Clinical and Experimental Hypnosis. San Antonio, Texas.

3
4 November 1995. Invited speaker at a Conference on "Psychiatry and the Law--Liability
5 Issues" sponsored by the Massachusetts Mental Health Center/Harvard Medical
6 School. I spoke on "Narrative Truth, Historical Truth and Forensic Truth," and on other
7 issues of forensic psychiatry. Boston, Massachusetts.

8
9 October 1995. Dinner Speaker and Panelist at the 3rd National Conference of the Fully
10 Informed Jury Association. Salt Lake City, Utah.

11
12 September 1995. Plenary Speaker and Keynote Speaker at the 6th National
13 Conference on Abuse, Trauma, & Dissociation. Austin, Texas.

14
15 August 1995. Speaker at the Annual Convention of the American Psychological
16 Association. I was the discussant on a panel on "Suggestibility" and the feature
17 presenter and commentator on a film entitled "The Woman in Green" about antisocial
18 conduct involving hypnosis. New York, New York.

19
20 May 1995. Plenary Speaker on "Hypnosis and the Law," at the Federation of Canadian
21 Societies of Clinical Hypnosis, Fourth National Assembly. I also co-conducted a
22 Workshop on "Legal Matters" and delivered an Invited Address on "The False Memory
23 Syndrome." Banff, Canada.

24
25 March 1995. I delivered a paper entitled "What We Know and What We Do Not Know
26 About Mind Control Programming and Ritual Abuse," and I appeared on two panels at a
27 Conference sponsored by the Society for the Investigation, Treatment and Prevention of
28 Ritual and Cult Abuse, Richardson, Texas.

1 March 1995. Invited to participate as faculty at the 37th Annual Scientific Meeting &
2 Workshops of the American Society of Clinical Hypnosis. I appeared on panels,
3 delivered lectures and presented workshops on topics including forensic hypnosis,
4 repressed memory and multiple personality disorder in the courts. San Diego,
5 California.

6
7 March 1995. Half-day Workshop for the Institute for Advanced Clinical Training, Inc.
8 The topic was False Memories and Legal Liability. San Francisco, California.

9
10 February 1995. Invited Presenter at a Conference sponsored by Family and Addiction
11 Conferences & Educational Services. The topic was Repressed Memory. San Diego,
12 California.

13
14 December 1994. One-day Workshop for the Philadelphia Society of Clinical Hypnosis.
15 Philadelphia, Pennsylvania.

16
17 December 1994. Taught and presented a Workshop at the Sixth International
18 Congress on Ericksonian Approaches to Hypnosis and Psychotherapy. Los Angeles,
19 California.

20
21 December 1994. Faculty at an American Society of Clinical Hypnosis Regional
22 Workshop. Newport Beach, California.

23
24 November 1994. Two-day Workshop on False Memory Legal Issues for the Center for
25 Integrative Psychotherapy. Boston, Massachusetts.

26
27 November 1994. Invited Presenter at a Conference sponsored by Family and Addiction
28 Conferences & Educational Services. Seattle, Washington.

1
2 October 1994. Invited Address on "Beyond Repressed Memory: The CIA Experiments"
3 at the Annual Meeting of the Society of Clinical and Experimental Hypnosis. San
4 Francisco, California.

5
6 September 1994. Speaker at a Conference on False Memory Syndrome sponsored by
7 Associates in Psychiatry. Chicago, Illinois.

8
9 August 1994. Invited Co-Chairman, one-day Workshop on Ethical and Legal Issues in
10 the Practice of Hypnosis. International Society of Hypnosis. Melbourne, Australia.

11
12 June 1994. Invited Co-Presenter at the Eastern Regional Conference on Abuse and
13 Multiple Personality. I addressed issues of repressed memory, mind control,
14 brainwashing and forensic hypnosis. Alexandria, Virginia.

15
16 May 1994. Feature Speaker at a meeting of the New England Society of Clinical
17 Hypnosis. Boston, Massachusetts.

18
19 May 1994. Presented a Full Day Workshop on "Legal and Ethical Issues in the Practice
20 of Hypnosis" at the New England Society for the Study of Multiple Personality and
21 Dissociative Disorders. Boston, Massachusetts.

22
23 May 1994. Presented a two-day Workshop at the Utah Psychological Association. My
24 topic was "False Memories, Real Lawsuits and Ethical Practices." Salt Lake City, Utah.

25
26 May 1994. Invited Presenter at the Florida Society of Clinical Hypnosis Annual
27 Workshop. I delivered three lectures: (1) How to Avoid Malpractice Liability When Using
28

1 Hypnosis; (2) False Memory and Real Lawsuits; (3) Mind Control and Coercion. Tampa,
2 Florida.

3
4 March 1994. Co-Presenter at the American Society of Clinical Hypnosis' 36th Annual
5 Scientific Meeting and Workshops on Clinical Hypnosis. I (1) co-conducted a one-day
6 workshop on "Forensic Hypnosis, (2) participated in a mock trial "Trance on Trial," (3)
7 participated as a panelist on a "False Memory" presentation, and (4) gave a brief
8 luncheon talk on ethics and hypnosis. Philadelphia, Pennsylvania.

9
10 November 1993. Presenter at the American Society of Clinical Hypnosis 1993
11 Workshops on Clinical Hypnosis. My topics included discussions of legal and ethical
12 aspects of practicing hypnosis, and discussions of "false memory" cases. Maui, Hawaii.

13
14 October 1993. I delivered two Training Workshops for the Center for Integrative
15 Psychotherapy. The first workshop was "Mind Control and Hypnosis." The second
16 workshop was "Repressed & False Memory in Hypnotherapy and Psychotherapy."
17 Boston, Massachusetts.

18
19 August 1993. Plenary Panelist on "Memories and Child Abuse," at the American
20 Psychological Association Annual Convention. My paper was entitled "False Memories
21 and Real Lawsuits." I was also a Discussant of papers delivered at a panel entitled
22 "Multiple Personality Disorder and Personal Responsibility." Toronto, Canada.

23
24 August 1993. Presenter and Panelist at a meeting of the Toronto Medico-Legal Society.
25 The subject was False Memories. Toronto, Canada.

26
27 March 1993. Moderator, The Ethical Lawyer II. This was a Santa Clara University Law
28 School CLE Presentation. Santa Clara, California.

1
2 March 1993. American Society of Clinical Hypnosis, 35th Annual Scientific Meeting and
3 Workshops on Clinical Hypnosis. Among my duties, I (1) co-taught the "Ethical and
4 Legal Considerations" material to the Beginning and Intermediate Workshops, (2) was a
5 Panelist on a Plenary Session on "Ethics and Jurisprudence in the Practice of
6 Hypnosis," (3) was a Panelist on a Symposium on "Dealing with the Problem of Lay
7 Hypnosis." New Orleans Louisiana.

8
9 February 1993. Presenter at the First Annual Conference on Ritual Abuse/Mind
10 Control. Richmond, Virginia.

11
12 January 1993. Feature Speaker at the San Francisco Academy of Hypnosis Academic
13 Assembly. Topic: "A Century of Anti-Social Uses of Hypnosis: A Slide Presentation."
14 San Francisco, California.

15
16 December 1992. Faculty for Fifth International Congress on Ericksonian Approaches to
17 Hypnosis and Psychotherapy. Among my duties I (1) conducted a Workshop on "The
18 Illegal, Immoral and Unethical Practice of Hypnosis: Avoiding Ethical Quagmires and
19 Legal Pitfalls", (2) appeared as a panelist on "Ethical Issues in Ericksonian Therapy",
20 and (3) appeared as a panelist on "Research in Ericksonian Therapy." Phoenix,
21 Arizona.

22
23 October 1992. Panelist on "Ethical Obligations of Attorneys Representing Financial
24 Institutions in the 90s", sponsored by the Financial Institutions Committee of the
25 Business Law Section of the State Bar of California. Los Angeles, California.

26
27 October 1992. Conducted a one-day Workshop on Forensic Hypnosis for the
28 Minnesota Society of Clinical Hypnosis. Stillwater, Minnesota.

1
2 April 1992. Luncheon Speaker and co-Presenter at the American Society of Clinical
3 Hypnosis, 34th Annual Scientific Meeting and Workshops on Clinical Hypnosis. Las
4 Vegas, Nevada.

5
6 November 1991. Plenary Speaker at the Eighth International Conference on Multiple
7 Personality/Dissociative States. "Memory, Multiples & Magistrates: Dissociation and
8 the Law." Chicago, Illinois.

9
10 May 1991. Co-delivered the 1991 Manfred S. Guttmacher Memorial Address at the
11 Semi-Annual Meetings of the American Psychiatric Association and the American
12 Academy of Psychiatry and the Law. New Orleans, Louisiana.

13
14 April 1991. Luncheon Speaker and co-Presenter at the American Society of Clinical
15 Hypnosis, 33rd Annual Scientific Meeting and Workshops on Clinical Hypnosis. I
16 delivered two Luncheon addresses, co-presented one Advanced Workshop and co-
17 presented one Scientific Meeting. St. Louis, Missouri.

18
19 November 1990. Panelist on "Medical Ethics and Human Rights," at a Conference
20 entitled *Human Rights in the Twenty-First Century: A Global Challenge*. Banff, Canada.

21
22 December 1988. Co-delivered a Short Course entitled "Trance on Trial: The Legal
23 Implications of Ericksonian Hypnotherapy" at the Fourth International Congress on
24 Ericksonian Approaches to Hypnosis and Psychotherapy. San Francisco, California.

25
26 November 1988. Delivered a paper at the Founding Conference of the Society for the
27 Study of Social Influence. The paper was entitled "Buried Treasures of Persuasion." I
28 am a founding member of this new professional association. Membership is limited to

1 scholars and researchers in the fields of social influence, hypnosis, interrogation
2 techniques, mind control, religious thought reform, and brainwashing. Los Angeles,
3 California.

4
5 August 1988. Delivered an Invited Address on "The Terrors of Trance: Of Crimes,
6 Cults and Covert Activities" at the Annual Convention of the American Psychological
7 Association. Atlanta, Georgia.

8
9 December 1986. Co-delivered a Short Course entitled "Trance on Trial: The Legal
10 Implications of Ericksonian Hypnotherapy" at the Third International Congress on
11 Ericksonian Approaches to Hypnosis and Psychotherapy. Phoenix, Arizona.

12
13 July 1986. Delivered the major paper at a conference on "Persuasion in Domestic and
14 International Law," Institut Henry-Durant, Geneva, Switzerland.

15
16 1983. Delivered a two-day series of lectures on "Legal and Ethical Issues in
17 Counseling" to the faculty of the Santa Clara University Graduate School of Counseling
18 Psychology and Education. Santa Clara, California.

19
20 August 1983. Co-delivered a paper on "Hypnosis, Psychotherapy and the Courtroom:
21 Historical Perspectives and Current Practice" at the Annual Convention of the American
22 Psychological Association. Anaheim, California.

23
24 1983. Address to the Bench and Bar Committee of the San Francisco Bar Association
25 on "Should Psychiatrists Testify in Court?" San Francisco, California.

1 1981 and 1982. Delivered a series of lectures at the International Institute of Human
2 Rights. The topics were "Freedom of the Mind As an International Human Rights
3 Issue," and "International Control of Psychiatric Abuses." Strasbourg, France.

4
5 1978 and 1979. Guest Lecturer at the Pacific Graduate School of Psychology on "The
6 Limits of Ethical Research for Psychologists." Berkeley, California

7
8 1978. Feature speaker on a panel at the Annual Meeting of the American
9 Orthopsychiatric Association on the topic "Scientific Participation in Mind Control
10 Research." Washington, D.C.

11
12 1977. Delivered a lecture at University of Hawaii Law School on "Mind Control and the
13 CIA." Honolulu, Hawaii.

14
15 1973. Delivered a lecture for the Criminology Department of the University of
16 California, Berkeley on "Behavior Modification in the Correctional Process." Berkeley,
17 California.

18
19 1972. Presentations to the faculty of the University of Southern California Law School
20 and the Jurisprudence Society of the University of California, Los Angeles Law School
21 on "Jury Nullification." Los Angeles, California.

22
23 1970. Feature speaker on a panel at the Annual Convention of the Federal Bar
24 Association on the topic "Political Trials." Washington, D.C.

25
26 **INTERNATIONAL SUMMER EDUCATION ADMINISTRATION**

27 Director, Santa Clara Summer Programs - Strasbourg, France, and Geneva,
28 Switzerland. 1996.

1 Co-Director, Santa Clara Summer Program - Hong Kong. 1986.

2

3 Director, Santa Clara Summer Program - Geneva, Switzerland. 1986.

4

5 **MEDIA APPEARANCES**

6

7 In July 1970 I appeared on two television shows in a series called "Voices!" The theme
8 for the first show was "Law and Social Change" and for the second show "Legal
9 Education." After the first show was televised, Chief Justice Warren Burger sent me the
10 attached letter (Appendix IV).

11

12 I continue to be contacted by the media on topics of current interest related to law and
13 psychiatry, hypnosis, persuasion, mind control, and professional ethical standards for
14 lawyers. I have appeared on television shows and/or documentaries in the United
15 States, England and Australia. My work in various fields has been discussed in dozens
16 of newspaper and magazine reports, and in professional journals.

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18 Who's Who in California

19 Who's Who in American Law.

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APPENDIX I

The Mind Manipulators

The Mind Manipulators has been published in the United States, Canada, Great Britain, Ireland, Australia, France, Holland and Yugoslavia. It received highly favorable reviews in several dozen newspapers and journals. For example:

1. *Publishers Weekly* of May 1, 1978 said: "This book is enlivened by so many intriguing examples and so readable a style that most general readers will find it as easy to take as a novel."

2. *The Medical Tribune*, which reaches virtually every doctor and nurse in the country, said: "In the growing field of medical ethics, few books published to date have contained as much solid data on the surgical, psychological, chemical and biological strategies of attacking such non-medical problems as foreign policy, crime, urban unrest, and poverty as have been presented in *The Mind Manipulators*... [This] well-written book is a must for doctors and concerned laymen alike." (October 4, 1978).

3. On October 8, 1978 the *Los Angeles Times* placed *The Mind Manipulators* on its Critics Recommend List.

4. Dr. Mardi Horowitz, Professor of Psychiatry at the University of California, wrote about *The Mind Manipulators* in the June 1979 *San Francisco Review of Books* as follows:

Allegations...are well documented in this long book. If the references prove correct, this will be an essential source for historians. ...And the peril justifies the length and care of these authors.

The world is complex and hard to understand, but I think the issue of good and evil that the authors raise is not melodramatic but factual. It is time for all of us, scientist and citizen alike, to be alert. This book tells the uneasy tale you really ought to know.

APPENDIX II

Trance on Trial

Trance on Trial received the 1991 Manfred S. Guttmacher Award from the American Psychiatric Association and the American Academy of Psychiatry and the Law as the most outstanding publication of the year on forensic psychiatry. It has been well received by reviewers:

1. James A. Cox, of *The Midwest Book Review*, said on his television show "Good writing is partly a mastered craft, partly a command of subject, but mostly the simple gift for a direct, effective communication to the reader. *Trance on Trial* [is a] superlative selection for precisely these qualities and [it is] recommended as ideal for the interested reader." May 27, 1990.

2. *CHOICE*, February 1990, said "This fascinating book, well researched and very current, presents the moral, legal, and ethical dilemmas of using hypnosis. [It] is intended for hypnotherapists, hypnosis researchers, forensic psychiatrists, psychologists, and lawyers. However, there is so much intrinsic appeal to the subject matter that the book will be of interest to the general public, undergraduates, and graduate students."

3. *9 Psychotherapy in Private Practice*, No. 2 (1991): "As a useful legal-professional reference and as a manual of ethical practice, it separates itself from most other texts and is recommended with enthusiasm. There is no question that it belongs on the shelf of anyone using hypnosis."

1 4. Professor John Kihlstrom, a leading researcher on memory and hypnosis,
2 in his Review for the prestigious journal *Contemporary Psychology*, (volume 38, No. 7;
3 July 1993, pp. 739-740) concludes with this passage: "Schefflin and Shapiro make a
4 signal contribution to the debate by reviewing in depth the legal history of this problem,
5 the constitutional background, and the approaches of different jurisdictions. Along the
6 way, they provide a useful discussion of theoretical issues in hypnosis and memory, and
7 offer a number of valuable suggestions for the hypnotist who must testify in court. But
8 the core of the monograph lies in the authors' presentation of the legal issues
9 surrounding forensic hypnosis. It is certain that, sometime in the future, the Supreme
10 Court will have to confront directly the scientific issues surrounding hypnosis and
11 memory. In preparation for that moment, when we can hope that the psycho-legal issue
12 will be settled once and for all, everyone who is interested in hypnosis, memory, and
13 eyewitness testimony should read this book."

APPENDIX III

Memory, Trauma Treatment, and the Law

Pre-Publication Endorsements:

"Few areas of law are more controversial than those surrounding delayed memories. This book sets the standard as the definitive work on the subject by furnishing a comprehensive analysis of the issues and indispensable information for members of the legal and mental health professions. *Memory, Trauma Treatment, and the Law* is a great book."

--Sol Gothard, J.D., M.S.W., ACSW. Judge, Louisiana Fifth Circuit Court of Appeals

"In an age when advocacy ignores science and controversy obscures knowledge, now comes the essential source for an unbiased and complete review of the science on this important topic. If every psychotherapist and lawyer were to have only one book on the topic, this should be that book."

--Jon R. Conte, Ph.D. Professor, University of Washington

"The authors have written an extraordinarily comprehensive, balanced, and state-of-the-art book that is essential reading for anyone who would avoid becoming ensnared in the thicket of the recovered memory debate."

--Robert I. Simon, M.D., Clinical Professor of Psychiatry and Director, Program in Psychiatry and Law, Georgetown University School of Medicine, Washington.

"In a painfully and often irrationally divided field, Brown, Schefflin, and Hammond's masterwork is a superb guide for the perplexed. Encyclopedic in its scope and exceptionally thorough and rich in its details, this landmark book will represent the standard of science and care for many years to come."

--Onno van der Hart, Ph.D. Professor, Department of Clinical Psychology and Health Psychology, Utrecht University, The Netherlands.

1
2 "Acrimony and bias have characterized the debate about the impact of trauma on
3 memory. At last a reasoned, balanced text has appeared that provides a thoughtful,
4 well researched examination of all of the issues related to this debate. This book is a
5 must read for clinicians, forensic psychologists, and memory researchers as well as
6 legal professionals working with cases involving allegations of repressed memories or
7 false memories.

8 The authors are to be commended for the breadth and depth of research found in
9 this book. Most importantly, the authors have provided a conceptual framework for the
10 memory-trauma debate that has the potential to bridge the differences that have so
11 negatively affected this area of research and practice."

12 --John C. Yuille, Ph.D. Professor, University of British Columbia
13

14 "*Memory, Trauma Treatment, and the Law* is a monumental volume without peer.
15 Brown, Schefflin, and Hammond have rendered a thoughtful, comprehensive, and even-
16 handed examination of the scientific foundations of clinical and legal practice in this
17 area. This book should be a well-thumbed reference in the library of every attorney,
18 therapist, researcher, and policymaker."

19 --Ken Pope, Ph.D., ABPP. Author of *Recovered Memories of Abuse:*
20 *Assessment, Therapy, Forensics.*
21

22 "This book is a scholarly, lucid, thoughtful examination of trauma, memory,
23 hypnosis, and the law. It turns the cold light of research onto key areas of the heated
24 'memory wars,' leading to conclusions that are fair and sensible. The writing is spirited
25 but logical. The authors add more light than heat to an area that is crucial to the future
26 of psychotherapy."

27 --David Spiegel, M.D. Professor of Psychiatry and Behavioral Sciences,
28 Stanford University School of Medicine

1
2 "No serious scientist or practitioner in the fields covered by this comprehensive
3 book can be considered knowledgeable unless they are familiar with its contents. It is
4 the best single-source state-of-the-art overview available."

5 --Melvin A. Gravitz, Ph.D. Past President, American Society of Clinical
6 Hypnosis, Past President, Division of Hypnosis, American Psychological
7 Association

8
9 "The authors have created an excellent resource showing the impact of research,
10 clinical practice, and litigation on each other. It is encyclopedic in scope, examining the
11 evolution of current controversies in memory research, hypnosis, trauma treatment, and
12 related matters; yet it is concise and rich in detail and case material, illuminating a path
13 through this complex terrain for the therapist concerned with ethical practice, such as
14 competence and informed consent, and the many pitfalls of diagnosing and treating
15 patients with trauma."

16 --Thomas F. Nagy, Ph.D. Mental Research Institute, Palo Alto. Clinical
17 Faculty, Department of Psychiatry, Stanford University School of
18 Medicine.

19
20 "We must continue to grapple with the complexities surrounding the recovered
21 memory issue; we must advance a more informed approach to those struggling to make
22 sense of their lives in the therapy room and the courtroom. This constructive and
23 informative book moves us in that direction.

24 *Memory, Trauma Treatment, and the Law* is important reading for those in the
25 clinical, research, and legal arenas who deal with recovered memory issues as well as
26 for those interested generally in the cross-fertilization of knowledge between
27 psychological specialties. It brings together state-of-the-art material on the science of
28

1 memory, the treatment of trauma, and the interests of the legal field. It is truly an
2 essential resource."

3 --Judith L. Alpert, Ph.D. Professor, Department of Applied Psychology. Faculty,
4 Postdoctoral Program in Psychotherapy and Psychoanalysis, New York Universitye the
5 differences that have so negatively affected this area of research and practice."

6 "This book provides clinicians, lawyers, researchers, and judges with an encyclopedic
7 overview of what science actually knows about such complex issues as how children
8 process overwhelming experiences, how trauma affects memory, the nature of
9 suggestibility, the promises and limitation of hypnosis, and appropriate standards of
10 care of individuals with suspected trauma histories. Since the debate about these
11 issues has been characterized by much passion and little attention to the data, it is
12 marvelous to see a book like this, a triumph for the voice of reason."

13 --Bessel A. van der Kolk, M.D. Professor of Psychiatry, Boston University
14 School of Medicine, Visiting Professor, Harvard University. Director, HRI
15 Trauma Center.

16
17 "Masterfully integrating clinical and experimental research on memory and
18 trauma, Brown, Schefflin, and Hammond provide the most comprehensive review to date
19 of trauma treatment and the law. This book is essential reading for all mental health
20 professionals and attorneys involved with trauma survivors."

21 --Marlene Steinberg, M.D. Associate Professor of Psychiatry, University of
22 Massachusetts Medical Center and Research Affiliate, Yale University
23 School of Medicine. Author, *Handbook for the Assessment of Dissociation*.

24
25 **Post-Publication Reviews:**

26 *Memory, Trauma Treatment, and the Law* was the Feature Selection of the
27 Behavioral Science Book Club (January 1998).

1 "Zealots on both sides have staked positions so extreme they've virtually
2 eclipsed the possibility of rational, empirically informed discourse....

3 With their publication...[the] authors have restored rationality to the discussion.
4 With rare evenhandedness, rivaled only by their collective expertise, they sort through
5 the formidable accumulated literature on memory research, trauma treatment, and
6 related legal issues—addressing both the science that's been so sorely neglected in
7 most discussions of the topic, and the impact of research, clinical practice, and litigation
8 on one another.

9 [This is] the first single-source, cross-disciplinary, state-of-the-art overview of this
10 sprawling and complicated field...."

11 -- 50(1) *The Behavioral Science Book Service* 1-4 (January 1999)

12
13 "In a field dominated by distortion, slander and misinformation, driven by the pain
14 of sexual abuse, false accusations of abuse and false denials of abuse, this remarkable
15 book is most welcome. It is an astonishing achievement, carefully setting out the truth,
16 in a manner which is rigorously respectful of evidence. This is not yet another edited
17 collection of papers but a definitive study by three authors, a psychologist, a lawyer, and
18 a specialist in clinical hypnosis; all three are eminent in their fields and have been
19 concerned with scientific, clinical and legal issues of recovered and false memory for
20 several years."

21 --Phil Mollon, Ph.D. *Clinical Psychology Forum*

APPENDIX IV

Supreme Court of the United States
Washington, D.C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

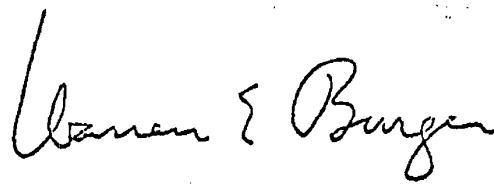
July 20, 1970

Dear Professor Schefflin:

Your program on Law and Society was an excellent one. It is unfortunate such messages do not command prime time. One such program should be on evening national network at least once a week.

I congratulate you and The Bar Association.

Cordially,



Professor Alan W. Schefflin
Georgetown University Law School
37th & O Streets, N.W.
Washington, D.C.

Encl.

[RETYPED AND SCANNED COPY OF ORIGINAL]

Exhibit H

Declaration of Dr. Daniel Brown

1 Structured Clinical Interview for the Diagnosis of Dissociative
2 Disorders (SCID-D)—the gold standard for modern assessment of
3 dissociative disorders—clearly detected a major dissociative
4 disorder in the Petitioner. Had these scientifically-based
5 assessment tools been available to the defense and prosecution
6 experts at the time of trial, they would like have drawn a
7 similar conclusion that Petitioner had both a dissociative
8 coping style (a stable trait over years) and a major
9 dissociative disorder, since every clinician who uses the SCID-D
10 asks the same standardized set of questions and adopts the same
11 scoring rules, with a set of questions empirically shown to be
12 sensitive to detecting the dissociative condition accurately.
13 Respondent states that the prosecution expert at the time of the
14 trial found “no evidence of a dissociative state at time of
15 shooting.” (*id. at p.13.*) Pollock could not possible have found
16 evidence of dissociation because no scientifically-based
17 instruments were available in that time period to detect
18 dissociation accurately or reliably.

19 As another example, the thought disorder index (TDI) on the
20 Rorschach is an empirically-derived method that robustly detects
21 the presence of a formal thought disorder—a stable, defining
22 diagnostic feature of schizophrenia. Research on the TDI first
23 began in the 1970s and has a long and consistent history in
24 detecting who does and does not have a psychotic condition.
25 Using the TDI to examine both the original Rorschach at the time
26 of trial and the Rorschach which I administered around 40 years
27 later, both occasions unequivocally show that the Petitioner did
28 not at the time of the trial and does not currently have a

1 formal thought disorder. Therefore, the defense and prosecution
2 opinions at the time of trial regarding the Petitioner as a
3 paranoid schizophrenic, according to modern scientific testing
4 standards, is blatantly wrong. Reliable and accurate assessment
5 of personality and mental status characteristics using the best
6 of *post-Daubert* scientific testing instruments has afforded the
7 petitioner with an evaluation of factors relevant to involuntary
8 suggestive influence. Involuntary suggestive influence, both
9 with respect to the Petitioner's actions at the time of the
10 assassination and with respect to his verbal and written
11 allegedly inculpatory statements is relevant to the issue of
12 actual innocence.

13 Incremental validity of forensic testing results is
14 significantly increased when independent, multi-method testing
15 situations produce similar findings (Brown, 2003). Respondent
16 claims that my opinions are "scientifically dubious." (*id.* at
17 P.11.) However, similar conclusions were reached by Dr. Simson-
18 Kallas when he thoroughly examined the Petitioner at San Quentin
19 in the 1970s. Similar conclusions were also reached recently by
20 a prison psychologist at Pleasant Valley State Prison. Shortly
21 after I had finished my testing, the prison psychologist
22 conducted a forensic psychological assessment on the Petitioner.
23 The prison psychologist at the time did not know what tests I
24 had used and thus used many of the same instruments. In each
25 case the findings using the same instruments were nearly
26 identical to my findings and the over-all conclusions were
27 similar.

1 **2. Reliability of the Petitioner's Self-Report**

2
3 Respondent alleges that the Petitioner has "feigned
4 amnesia." (*id.* at p.15.) Respondent's basis for this highly
5 speculative assertion is unscientific, namely using an author,
6 Ayton, who is not a mental health professional, as the source of
7 this assertion. (*id.* at p.15) In contrast, I used multiple
8 empirically-derived, normative instruments to assess the
9 validity of the Petitioner's report of symptoms and also the
10 petitioner's memory report.

11 Respondent further claims that the Petitioner is "the
12 primary, if not sole source of information." (*id.* at p.14.)
13 First, evaluation of the validity of self-report has a long
14 tradition in psychology in general and in forensic assessment in
15 particular. Second, with respect to the Petitioner's memory
16 report, data was gathered using a step-wise approach according
17 to established contemporary investigative interview guidelines
18 designed to maximize completeness of recall and minimize
19 inaccuracy of recall. Third, respondent's claim that my expert
20 opinion is based primary, if not solely, on information from the
21 Petitioner is simply false. I have read the complete FBI and
22 LAPD files. These files contain information that corroborates
23 the Petitioner's free recall. For example, the Petitioner
24 recalled being taken to a police firing range where the range
25 master showed him to how to shoot at human targets and vital
26 organs. This is a highly unusual memory detail, in that
27 civilians are not generally taught to shoot at vital organs at a
28 police firing range. Petitioner specifically recalled the name

1 of the firing range. He also described a man with a turned down
2 moustache and foreign accent who first introduced to him the
3 idea of killing government officials. Months after the
4 Petitioner recalled these details, I found an entry in the
5 police file that corroborated the Petitioner's free recall. The
6 entry showed that not only did such a firing range exist, but
7 that Petitioner visited that police firing range and signed the
8 register just days before the assassination. He was accompanied
9 by a man with a turned down moustache and a foreign accent. The
10 man refused to identify himself or sign the register.

11 Secondly, I did not rely solely on the Petitioner's free
12 recall, but also reviewed all eyewitness statements specific to
13 eyewitnesses in the pantry at the time of the assassination. I
14 also re-interviewed Juan Romero, the eyewitness closest to
15 Senator Kennedy at the time of the assassination.

16
17 **3. Scientific research on hypnosis and antisocial behavior**

18 Undue suggestive influence or coercive persuasion can cause
19 an individual involuntarily to engage in criminal acts and also
20 to produce involuntary, false confessions. Evidence of undue
21 influence is directly relevant to the question of innocence.

22 It should be noted that the journalist closest to the
23 defense team, Robert Kaiser, strongly entertained the hypnotic
24 programming theory. Secondly, the facts show that forensic
25 psychologist, Dr. Simson-Kallas at San Qunetin, was asked to
26 interview the Petitioner extensively by the supervising
27 psychiatrist because the supervising psychiatrist did not find
28 any evidence to support both defense and prosecution experts'

1 opinions of paranoid schizophrenia in the Petitioner. Based on
2 what the supervising psychiatric saw as a misdiagnosis by both
3 defense and prosecution experts, he specifically asked the
4 prison psychologist to conduct a careful and extensive
5 evaluation of the Petitioner. After many hours interviewing the
6 Petitioner, the prison psychologist not only concluded that
7 there was no evidence whatsoever for schizophrenia, he also
8 concluded that the Petitioner might have been programmed. He was
9 then taken off the case, allegedly for spending too much time
10 evaluating the Petitioner, before he was able to evaluate the
11 question of hypnotic programming further. Additionally, an
12 internationally-known expert on hypnosis, Herbert Spiegel, in
13 the 1990s reviewed the evidence available on the Petitioner and
14 concluded that there was a strong likelihood that the Petitioner
15 might have been hypnotically programmed. Dr. Spiegel expressed
16 his expert opinions publically, and in print, and they were
17 debated at a national meeting of a society of professional
18 hypnotherapists and hypnosis researchers. However, the court
19 denied Dr. Spiegel's request to examine the Petitioner directly
20 with respect to hypnotizability. Unlike Dr. Simson-Kallas and
21 Dr. Spiegel, I was able to collect the evidence relevant to the
22 questions of personality factors (hypnotizability, memory
23 suggestibility, dissociative capacity, and risk of compliance
24 with authority) and undue influence factors by spending almost
25 70 hours with the Petitioner. Respondent's allegation that my
26 claim regarding hypnotic coercive persuasion has "no support
27 among his peers" (*id.* at p.13.) ignores the fact that the
28 professional predecessors who carefully reviewed the facts in

1 this case have drawn similar conclusions, but none were able
2 directly to assess the Petitioner for vulnerability to coercive
3 persuasion.

4 Second, Respondent states that a "broad consensus" exists
5 in the scientific community that "hypnotized persons retain
6 ultimate control over their actions." (*id.* at p.12) In this
7 *post-Daubert* era to establish "broad consensus" would
8 necessitate that the respondent based opinions about "broad
9 consensus" on appropriate statistical procedures, namely a
10 random sampling of the relevant scientific community about their
11 opinions about hypnotic undue influence with a known
12 methodology, and appropriate statistical procedures to minimize
13 the error rate. Respondent fails to offer any scientific
14 statistical evidence whatsoever to support the claim of "broad
15 consensus." Instead of citing such evidence, the Respondent
16 cites non data-based sources, such as an APA media release, a
17 book by a British author lacking any expert qualifications, and
18 a sole opinion of a British researcher, Wagstaff, who represents
19 a particular school of thought on hypnotic effects. (*id.* at
20 p.12-13.) Respondent's additional claim that "Brown's opinions
21 on successful creation of hypnotic automaton has no support
22 among most of his peers" is simply speculation at best. (*id.* at
23 p.13)

24 Respondent cites an APA media release as follows "Hypnosis
25 makes it easier for people to experience suggestions, but it
26 does not force them to have these experiences." (*id.* at p.12-
27 13.) However, the next line in the same media release, which the
28 Respondent fails to cite, says, "unless amnesia has been

1 suggested people remain aware..." Had the Respondent cited the
2 entire passage, the court would have been given a rather
3 different impression. The full, correct, meaning of the media
4 release conveys that certain individuals, through certain types
5 of hypnotic suggestions, will engage in acts outside of their
6 perceived control and/or awareness. Second, Respondent cites
7 Wagstaff as the sole authority on hypnotic behavior. Had the
8 Respondent been fair to the science of hypnosis, he would have
9 told the court that *two schools of thought* exist regarding the
10 nature of hypnotic phenomenon. "State" theorists view hypnosis
11 as a condition of atypically heightened attentiveness and, in a
12 minority of individuals, also as a unique state of
13 consciousness, or trance state. "Socio-cognitive" theorists deny
14 that hypnosis represents either a special state of attentiveness
15 or trance. They view hypnotic behavior as being shaped by
16 interpersonal influence and social expectancies. Wagstaff's
17 opinions are strongly within the socio-cognitive school of
18 thought, as represented in the *Criminal Justice & Behavior*
19 (2008) article cited by the Respondent. (*id.* at p.13.) My
20 opinions are within the state theorist school of thought, as
21 represented by a chapter on hypnosis I co-authored in the
22 current edition of the *Comprehensive Textbook of Psychiatry*, one
23 of the most widely distributed and authoritative sources on
24 modern psychiatry (Axelrad, Brown, & Wain, 2009).

25 Modern neuroimaging studies have generally supported the
26 state theorist position, namely that hypnosis is a state of
27 atypically heightened attentiveness. Independent studies by
28 Raz, Fan and Posner (2005), Nordby, Hugdahl, Jasiukaitis, and D.

1 Spiegel (1999), and Gruzelier (2000) have consistently shown
2 that hypnotic induction activates one of the main attention
3 distribution centers of the brain, the anterior cingulate
4 cortex, and that the level of activation by hypnotic induction
5 exceeds that found in normal, waking states of attentiveness
6 (Gruzelier, 2000). Furthermore, with respect to hypnotic control
7 over behavior, socio-cognitive theorists and state theorists
8 mainly disagree about whether or not hypnosis plays a special
9 role in behavioral control, but they do not disagree with the
10 ease of producing behavioral control. In all of the laboratory
11 research studies on the use of hypnosis to produce antisocial
12 behavior, researchers found that it was relatively easy to
13 produce antisocial behaviors, with and without hypnosis. The
14 only disagreement among socio-cognitive and state theorists is
15 whether hypnosis contributes anything special to this end.

16 For example, even Wagstaff, the main hypnosis researcher
17 cited by the Respondent, concedes that most of the subjects in
18 research on hypnosis and antisocial behavior commit the
19 suggested antisocial act. In the same article cited by the
20 Respondent, Wagstaff says, "...participants, regardless of whether
21 hypnosis is used, are highly motivated to respond to the demands
22 of the particular context...and will readily perform what appear
23 to be dangerous and antisocial acts if required to do so." (p.
24 1281). Wagstaff does not dispute the ease of suggesting
25 dangerous and antisocial acts. Wagstaff only disputes whether
26 hypnosis is a necessary condition to produce antisocial acts.
27 According to Wagstaff, "hypnosis is not necessary to explain
28 these effects." (p. 1281). I was careful to use the term

1 "coercive persuasion" in the original Petition, because high
2 hypnotizability, in my opinion, is only one of a number of
3 factors contributing to the overall coercive persuasion in the
4 Petitioner's case that led to his firing a weapon on the night
5 of the assassination and subsequently led to his becoming
6 amnesic for his actions.

7 Modern research supporting the credulous position regarding
8 hypnosis and antisocial behavior began with a classic experiment
9 by Rowland (1939), wherein hypnotized subjects (Ss) were given
10 direct suggestions to expose themselves to dangerous situations
11 (stick their hand in a glass cage with a live, active
12 rattlesnake, or stick their hand in a glass beaker in nitric
13 acid after watching the nitric acid dissolve a coin), or
14 directly attempt to harm others (throw the nitric acid at
15 someone). The Ss did not know that a glass screen prevented them
16 from actually reaching the snake, picking up the acid, or
17 throwing the acid). All the hypnotized Ss followed the hypnotic
18 suggestions that exposed them to harm or could have harmed
19 others. Rowland concludes, "Persons in deep hypnosis will allow
20 themselves to be exposed to unreasonably dangerous
21 situations... [and] will perform acts unreasonably dangerous to
22 others." (p. 117). The Rowland experiment was exactly replicated
23 by Young (1952) with the same results, showing that all Ss
24 complied with the hypnotic suggestion to commit antisocial acts.
25 Moreover, Wolberg (1948), in a similar experiment, suggested
26 that an hypnotic subject place two lumps of sugar marked "deadly
27 poison" into a tea cup designated for an "evil" doctor who was
28 planning to kill many people with a deadly virus. The subject

1 complied the first time, but when asked to do it a second time
2 with an explicitly labeled deadly poison, the subject woke up.

3 The Rowland experiment was replicated again by Orne and
4 Evans (1965). Orne and Evans, however, used a simulator control
5 design. Half the Ss were hypnotizable and the other half were
6 non-hypnotizable but were asked to simulate being hypnotized.
7 Both groups of Ss committed the antisocial acts. This experiment
8 showed that it was not just hypnosis that contributed to the
9 antisocial act, but also the demand characteristics of the
10 experimental situation. Both groups of Ss believed they were
11 expected to commit the self/other harmful acts. However, Evans &
12 Orne note, "Subjects reported under hypnosis they felt more
13 passive, were not particularly concerned with the consequences
14 of their actions or what safeguards existed, and were generally
15 less disturbed about the situation than they were in the waking
16 state" (p.196). Orne & Evans show that enacting antisocial
17 behavior is possible in the waking state as well as in hypnosis.
18 This discovery was given further support in a series of social
19 psychological (non-hypnotic) experiments by Milgram (1963;1968),
20 who found extreme obedience in normal, waking Ss when instructed
21 to administer extremely dangerous electric shocks to
22 experimental Ss.

23 It is notable that three exact replications of the Rowland
24 research paradigm have been done, along with additional similar
25 experiments, all of which demonstrate compliance with the
26 suggested antisocial act. All three exact replications show
27 that most Ss complied with the suggestions to commit self/other
28 harmful acts, although it has become clear that the tendency to

1 commit harmful acts is not solely a function of hypnotic
2 suggestion. The credulous position was also supported in a
3 series of six case studies by Watkins (1972), and also by
4 Leavitt et al (1975) who found "extremely high compliance rates"
5 (p.266)" in response to hypnotic suggestions to commit
6 objectionable acts like cutting up an American flag or tearing
7 pages from a Bible.

8 The skeptical position regarding hypnosis and antisocial
9 behavior is associated with Milton Erickson, who in a series of
10 case studies in the 1940s, concluded that hypnosis could not be
11 used to induce wrongful acts. More recently, the skeptical
12 position has been restated by Wagstaff (2008), as selectively
13 cited by the Respondent as if it were the consensus view. Such
14 selective citation mis-characterizes the available peer reviewed
15 research, and it fails to inform the court that in the majority
16 of studies the Ss were effectively induced to enact the
17 self/other harmful, wrongful, or objectionable acts, with or
18 without hypnosis.

19 The resolution of the controversy between those supporting
20 the credulous and skeptical positions on hypnosis and antisocial
21 behavioris has been advocated by other researchers. In essence,
22 whether or not a given subject can be induced through hypnotic
23 suggestion to commit self/other harmful or wrongful acts is a
24 function of: 1. Personality factors associated with
25 vulnerability to undue influence; 2. How specific hypnotic (and
26 non-hypnotic suggestions re-define the meaning of the situation
27 (reality-redefinition strategies); and 3. The context of an
28

1 intense relationship based in a power differential between the
2 hypnotist and the subject.

3 We agree with the Respondent's assertion that most
4 individuals cannot be induced to commit wrongful acts with
5 hypnosis. Where we disagree is that *some* individuals can be
6 induced to commit such acts. Research on hypnosis and undue
7 influence strongly suggests that some highly hypnotizable Ss,
8 and/or highly socially compliant Ss, commit harmful or wrongful
9 acts. A century ago, Bernheim estimated that 4-5% of hypnotized
10 Ss could be induced with hypnosis to commit criminal acts (cited
11 in Weitzenhoffer, 1949). Schneck (1947) also found that 4-5% of
12 hypnotized Ss committed antisocial acts readily under hypnosis.
13 In his seminal modern research on hypnosis, Stanford
14 psychologist Hilgard (1963) found that the great majority of
15 hypnotized Ss could not be induced to commit antisocial acts,
16 but that a small percentage clearly could be made to commit such
17 acts. Using standardized assessment tools, I found that the
18 Petitioner's level of hypnotizability is clearly within this 4-
19 5% category. Petitioner is also highly socially compliant and
20 also has a high dissociative coping style. All three factors
21 predict strong vulnerability to undue suggestive influence or
22 coercive persuasion, hypnotic and non-hypnotic.

23 Weitzenhoffer (1949) demonstrated that early research
24 supporting the skeptical position used *direct suggestions* to
25 produce antisocial or wrongful acts, which invariably produced
26 negative results, and research supporting the credulous position
27 used *indirect, reality-redefinition strategies* to produce
28 antisocial or wrongful acts, which typically produced positive

1 results (see also Crasilneck cited in Conn, 1972, p. 67; Kline,
2 1972;). In short, hypnotized Ss could be induced into committing
3 harmful, wrongful, or objectionable acts if suggestions were
4 given to distort the reality of the situation so that the
5 subject perceived the actual harmful/wrongful act as desirable
6 or necessary and/or failed to perceive harm and/or came to see
7 the situation as acceptable. For example, in cases of hypnotic
8 seduction by lay hypnotists, the lay hypnotist gave the victim
9 suggestions that minimized or distorted the risk ("its OK to
10 take off your clothes because your are all alone on a private
11 beach on a hot day;" Perry, 1979), or suggestions that redefined
12 the situation as acceptable ("the source of your problem is
13 sexual and my touching or stimulating you is healing;" Hoencamp,
14 1990). Thus, the hypnotist can induce certain vulnerable
15 individuals to commit harmful/wrongful acts by carefully shaping
16 and redefining the situation in such a way that the victim does
17 not realize the wrongfulness of the act. Petitioner was given
18 suggestions to go into "range mode" upon cue. Petitioner thought
19 he was firing at stationary circle targets at a firing range. He
20 did not know he was firing at Senator Kennedy at the time of the
21 assassination.

22 These facts are consistent with the research showing that
23 certain individuals can be hypnotically induced to commit
24 wrongful acts if reality redefinition strategies are used so
25 that the individual fails to understand the behavior as
26 wrongful. I found that the Petitioner was induced to shoot at
27 circle targets upon cue by adopting a "range mode" state of
28 mind. Since the Petitioner liked target practice and frequently

1 engaged in such behavior, the Petitioner was induced to engage
2 in a behavior that in his mind was acceptable. On the night of
3 the assassination, all that was required was for the Petitioner
4 to show up at a designated place induced by post-hypnotic
5 suggestion, be led to the site by a handler, and then adopt
6 "range mode" upon cue. Such behavior is not difficult to induce
7 in an individual who is extremely vulnerable to hypnotic
8 suggestion, waking social compliance, and high dissociation.
9 Moreover, inducing such behavior does not require that the
10 Petitioner understand that induced behavior to be wrongful or
11 self/other harmful in that the reality of the situation has been
12 suggestively redefined as acceptable. Weitzenhoffer (1949)
13 states that in experiments where subjects were induced to commit
14 antisocial acts "suggestions were such as to make the situation
15 acceptable to the subject, and, in any event, to make him
16 perceive the situation in a manner different from the one he
17 would presumably have perceived it in the normal (waking) state
18 (p. 421)," Watkins (1947) likewise cites an experiment in which
19 he induced post WW-II subjects to attack innocent victims with
20 the intent to kill by suggesting to enlisted men that the target
21 victim was a "dirty Jap," who was about to kill the subject.
22 Such induced Ss found such suggestions acceptable and plausible
23 under the condition of hypnosis.

24 Hypnotic coercive persuasion is strongest in the context of
25 an intense relationship wherein a clear power differential
26 exists, and wherein the subject uncritically accepts the
27 authority of hypnotist. Laboratory demonstrations of the
28 hypnotic inducement of antisocial behavior are limited by the

1 fact that hypnotic Ss uncritically accept the definition of the
2 situation provided by the experimenters. These laboratory
3 experiments have been criticized on the basis that the Ss on
4 some level know that they would not be exposed to real danger in
5 a controlled laboratory setting. According to Conn (1981),
6 "laboratory crimes are possible because the perpetrators are in a
7 completely protected situation, and that the entire performance
8 is nothing but make believe." (p. 97).

9 Likewise, Orne and Evans comment, "Ss invariably reported
10 they were convinced the activities were safe because they were
11 participating in research conducted by competent, responsible
12 scientists" (Orne & Evans, 1965). Authoritative reality-
13 redefiniton of a situation as safe or unsafe is a powerful
14 contributing factor to the overall acceptance of and enactment
15 of antisocial behavior.

16 In summary, Petitioner has made a prima facie case that my
17 opinions are the predominant school of thought in the relevant
18 hypnosis community. At the very least, my opinions are part of
19 a respectable minority under the two schools of thought
20 doctrine, which is accepted by California courts.

21 Petitioner further argues if Respondent's claim that
22 hypnotically induced antisocial acts, or "hypno-programming," is
23 unsupported in the relevant scientific community, (*id.* at p.12.)
24 that would mean that any sexual contact with a patient by a
25 doctor or a therapist using hypnosis would be consensual (even
26 though it clearly would be unethical), and thus criminal charges
27 could not successfully be pursued.

1 Respondent's view is in stark disagreement with the Model
2 Penal Code (American Law Institute, 1962). According to the
3 Code, section 2.01, voluntary action is a requirement of guilt
4 in criminal cases. The Code further states that "conduct during
5 hypnosis or resulting from hypnotic suggestion...are not
6 voluntary acts." This broad definition is relevant both to
7 hypnotic suggestions to commit criminal acts, hypnotic
8 suggestions to develop extended amnesia for such acts, and
9 hypnotic suggestions to give involuntary false confessions. The
10 Model Penal Code does not include a section on hypnotic
11 suggestiveness significantly enhanced by drugs, sensory
12 deprivation, brain stimulation, or other mind-altering
13 procedures--procedures well established in the generation of the
14 Petitioner's alleged crime--which presumably would increase the
15 involuntary nature of such criminal/antisocial acts.

16
17 **4. Antisocial Behavior in the Context of Broader Mind**
18 **Control Experimentation**

19 Respondent focuses solely on the issue of *hypnotic*
20 programming and fails to address the broader domain of coercive
21 persuasion and mind control experimentation. For example, at
22 the Maryland Psychiatric Research Center in the early 1960s
23 systematic research was conducted by Dr. John Lennox on the
24 relative contribution of the *combination* of hypnotic suggestion,
25 extended sensory deprivation, and hallucinogenic drugs to
26 overall undue suggestive influence. That research was funded by
27 the Central Intelligence Agency. At UCLA, Dr. L. J. West
28 conducted research on the "adjunctive value" of using different

1 drugs to significantly enhance hypnotic susceptibility
2 specifically toward committing antisocial acts. He found that
3 major hallucinogens like LSD tended to disrupt hypnotic trance,
4 but also made certain subjects much more susceptible (p. 674) to
5 accepting certain hypnotic suggestions they would otherwise
6 reject in the waking state. With respect to inserting
7 unconscious messages in an unwitting subject, West summarizes
8 his findings as follows: "When the subject is in the hypnotic
9 state, alertness is maintained relative to the inhibition or
10 exclusion in awareness of considerable amounts of information
11 that would ordinarily be consciously perceived in the process of
12 reality-testing. *Under these circumstances the information*
13 *inserted into the restricted area of the subject's awareness by*
14 *the hypnotist through his suggestions is readily accepted to a*
15 *greater or lesser extent, depending on the subjects'*
16 *dissociation of other information from awareness"* (West, 1960, p.
17 674). That research was published in *the Journal of the*
18 *American Medical Association* as an example of using
19 hallucinogenic drugs to enhance susceptibility to hypnotic
20 programming. According to CIA files from that era, released
21 under the Freedom of Information Act, West served as a paid
22 consultant to the CIA for their mind control research.
23 Additionally, Ewin Cameron, President of the American and
24 Canadian and World Psychiatric Associations in the 1960s,
25 conducted experiments in Montreal using a combination of
26 hypnosis, hallucinogenic drugs, sensory deprivation, brain
27 stimulation, and electric shock to make subjects more
28 susceptible to mind control. Subjects were duped into

1 participating without informed consent, and many subjects were
2 emotionally damaged through these procedures.

3 Experiments on "mind control" through a combination of
4 strongly mind-altering suggestive procedures were well known and
5 quite popular in late 1950s and early 1960s. In the years just
6 prior to the RFK assassination, some information about these
7 experiments appeared in professional journals, such as the
8 *Journal of the American Medical Association*, but the general
9 public did not know at the time the extent to which covert,
10 unethical experimentation was being conducted on innocent
11 unwitting citizens. Certain research centers in the United
12 States and other countries were conducting this covert research
13 on techniques of induced mind control. Some of the important
14 questions guiding that research were whether or not a
15 combination of mind control procedures (not just hypnosis) could
16 be used to induce a person to serve as an unconscious assassin
17 or an unconscious courier of intelligence information.

18 According to a CIA memorandum (Dulles, 1953), hypnosis had
19 a clear place in these covert studies because of the ability to
20 create extended full amnesia in certain subjects, i.e. so such
21 subjects would not be able to remember what had been done to
22 them. An official report by the Central Intelligence Agency
23 authored by Edward F. Deshires (1993) corroborates that the
24 Agency had looked into the matter rather carefully in the 1960s,
25 but the official, publicly disseminated conclusion was that the
26 findings on obedience in trance were largely negative. However,
27 the unofficial record states otherwise. It was discovered, for
28 example, that Dr. Ewan Cameron, then President of the American

1 Psychiatric Association, had been conducting mind control
2 experiments for the CIA with a combination of hypnosis, sensory
3 deprivation, brain stimulation, and hallucinogens (Marks, 1978).

4 Law professor Alan W. Schefflin, who has qualified in court
5 as an expert on brainwashing and mind control, reviewed the
6 declassified and redacted documents on these CIA mind control
7 experiments. He found many references to CIA efforts to create
8 and utilize hypnotically programmed assassins. As early as the
9 1920s, George Estabrooks (1943) was the first psychologist to
10 claim he could hypnotically create unconscious programmed
11 agents. Estabrooks shunned laboratory research because of the
12 ethical restraints. Instead, he conducted his programming
13 experiments covertly for military intelligence, and described
14 some of his findings in a textbook on hypnosis (1943) and in
15 other publications.

16 These intelligence agency documents date from the late
17 1940s, so that the idea of using a combination of mind control
18 techniques to create an assassin or a distractor ("patsy") was
19 part of the Zeitgeist of the pre RFK assassination years. Any
20 rogue investigator who had worked on that research could have
21 been hired during that time-frame to shape a person to be
22 distractor if the subject, like the Petitioner, were to be
23 extremely hypnotizability, has strong social compliance, and has
24 a high dissociative capacity. It is relevant that Petitioner was
25 missing for two weeks after falling from a horse and came back
26 "different" according to his family and friends. He remembers as
27 a "prison-like" hospital unit where he drifted in and out of
28

1 consciousness, likely under the influence of hallucinogenic or
2 psychiatric drugs and hypnotic suggestions.

3 The Respondent finds such a mind control theory "fantastic"
4 when applied to the case of the Petitioner. The fact that it
5 may be "fantastic," however, does not mean that it is not true.
6 Even more fantastic, but nevertheless true, is the fact that
7 Ewan Cameron, with funding from the CIA and the Canadian
8 government, was permitted to experiment with a procedure he
9 created to literally wipe out a current personality by
10 regressing it back to infancy and then rebuild a new personality
11 in place of the old one (Weinstein, 1990). Over a hundred
12 victims were used in these experiments without informed consent.
13 American Psychiatric Association published an expose as part of
14 a reparation agreement with respect to damage to victims. Also
15 "fantastic," but true, are the activities of Charles Manson's
16 programmed killers, the subservient obedience of members of
17 cults, the experiments of Solomon Asch and Stanley Milgram on
18 compliance and obedience to authority, and the results of Philip
19 Zimbardo's Stanford Prison experiment.

20 In general, something may be considered "fantastic" if it
21 is unfamiliar. An examination of the history of the science of
22 mind control in the last 150 years shows clearly that
23 Petitioner's theory is "fantastic" only because Respondent does
24 not appear to be familiar with that history. Petitioner is
25 prepared on retrial to provide supporting documentation from the
26 scientific literature that will put Petitioner's claims in
27 context and will defuse the idea that Petitioner's theory is
28 "fantastic."

1 The Respondent says, that the Petitioner offers "No
2 independent proof that petitioner was actually programmed in
3 that time period...never explained exactly how." (*id.* at p.14.)
4 The Petitioner offered a range of new evidence relevant to the
5 issue of coercive persuasion as it pertains to both the matter
6 of suggestive coercion to shoot upon cue, and as to the matter
7 of involuntarily making false inculpatory statements and a false
8 confession. This new evidence includes strong scientific data
9 for a range of the Petitioner's personality factors highly
10 predictive of vulnerability to coercive persuasion; a memory of
11 shooting upon cue; evidence of being missing for two weeks
12 immediately after his horse injury during which he recalled a
13 prison-like hospital unit; a memory of meeting a strange man
14 with a foreign accent and turned down moustache who first
15 introduced the idea that government officials needed to be
16 killed; a memory of that same strange man sharing a mutual
17 interest in short wave radios with the Petitioner (the
18 Petitioner's passionate hobby as a short wave radio operator was
19 never explored at trial); a memory of learning to shoot at vital
20 organs and human targets with a "range master" at Corona Police
21 Firing Range; corroboration that the Corona Police Firing Range
22 actually existed and that Petitioner signed in the Saturday
23 before the assassination to practice at the Corona range days
24 before the assassination accompanied by a man fitting the
25 description of the strange man with the turned down moustache
26 and foreign accent, who refused to sign in; and a memory that
27 Petitioner often wrote in his spiral notebooks at night in an
28 hypnotic state, while communicating with other parties on his

1 short-wave radio. Petitioner is prepared on retrial to
2 introduce a much more complete array of evidence in support of
3 his claims.

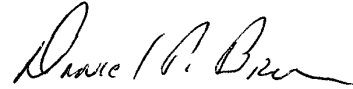
5 **5. False Confession**

6 The Respondent emphasized that the Petitioner made
7 "pretrial inculminating statements" and "admissions at trial."
8 (*id.* at p. 5, 23.) Important inculpatory evidence includes the
9 Petitioner's passages in his spiral notebooks, e/g "RFK must
10 die." At trial, he admitted killing Senator Kennedy in an
11 outburst, after insisting that Peggy Osterkamp not be brought in
12 as a trial witness. In my opinion, the Petitioner's seemingly
13 inculpatory statements exemplify a specific form of false
14 confession. False confessions occur whenever there is
15 unreasonable and substantial risk that an innocent person would
16 falsely confess to a crime he did not commit. Scientific field
17 studies on false confessions have focused primarily on police-
18 induced false confessions (Brown et al., 1998; Ofshe & Leo,
19 1997; Kassin & Wrightsman, 1985). Kassin & Wrightsman have
20 classified confessions into three categories: (1) voluntary; (2)
21 coerced compliant; and (3) coerced internalized. Coerced
22 internalized false confessions occur when a given individual has
23 a range of personality factors that would make him highly likely
24 in an interrogatory context to falsely confess. The Petitioner,
25 when tested by me, was found to be in the very high risk
26 category for production of an internalized false confession
27 (extremely high hypnotizability; strong social compliance; high
28 dissociative capacity). Furthermore, the Petitioner specifically

1 recalled suggestions given to him by the strange man with the
2 turned down moustache, who told him that government officials
3 needed to be killed. The Petitioner also specifically recalled
4 being given suggestions by an anonymous party over his short wave
5 set that he wrote down in his spiral notebooks as suggested
6 while in an hypnotic state and while engaging in automatic
7 writing. The Petitioner was generally amnesic for writing
8 passages in his spiral notebooks, but handwriting analysis has
9 generally supported that the writings were made by his hand.
10 These passages are inculpatory in nature. This new evidence
11 raises the consideration that the inculpatory evidence in the
12 spiral notebooks, and the seemingly spontaneous admissions at
13 trial, constitute a form of involuntary internalized coerced
14 confession, and are therefore unreliable. Research on
15 internalized false confessors, as compared to coerced compliant
16 false confessors, has shown that internalized false confessors
17 rarely retract false confessions (for personality-specific
18 reasons), and that such false confessions can persist for years.
19 While the Respondent criticizes me for not interviewing
20 remaining members of the defense team, like private investigator
21 McCowan, and for not reviewing the hand written documents
22 produced by Petitioner, my expert opinion is that these hand
23 written documents, like the spiral notebooks, contain more of
24 the same false confession evidence as do the spiral notebooks,
25 because consistent false inculpatory statements across context
26 and time is fairly characteristic of an internalized false
27 confessor.

28

1 I declare under penalty of perjury under the laws of the United
2 States that the foregoing is true and correct. Executed on
3 November 19, 2011.

4
5 

6 DANIEL P. BROWN, Ph.D

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CURRICULUM VITAE

Part I. General Information

Date Prepared: Sept. 3, 2011
Name: Daniel Brown
Office Address: 796 Beacon St. Newton Center MA 02464
Home Address: 28R Stanwood Ave. W. Gloucester MA 01930
e-mail: danielbrownphd@comcast.net FAX: 617-244-2498
Date of Birth: September 11, 1948
Place of Birth: New Bedford, MA

Education:

1971 B.S. University of Massachusetts, Microbiology
1973 M.A. University of Chicago, Religion & Psychological Studies
1981 Ph.D. University of Chicago, Religion & Psychological Studies

Training:

Internships:

1975-1976 Psycho-diagnostic Clerk and Clinical Extern, Psychosomatic and Psychiatric Institute, Michael Reese Medical Center, Chicago
1976-1977 Clinical Psychology Intern (APA-approved), McLean Hospital, Belmont, MA
1977-1981 Clinical Fellow in Psychology, McLean Hospital, Belmont, MA

Research Fellowships:

1978-1980 Research Fellow in Social-Behavioral Science, Harvard Medical School

Licensure and Board Certification:

1980 Licensed Psychologist, Massachusetts, #2399-PR
1990 Diplomate, American Board of Psychological Hypnosis, #209
Member, Executive Board, ABPH

Other Training & Certification:

2002 Certified Consultant, American Society of Clinical Hypnosis.

2006 Successfully completed training in administration & scoring of the Adult Attachment Inventory; passed full 30-case reliability testing at high reliability level. AAI training with Deborah Jacobvitz, Ph.D. Reliability testing with Mary Main & Erik Hesse.

Academic Appointments:

1975-1976 Instructor, Religion and Psychological Studies, The University of Chicago
1980-90 Adjunct Assistant Professor, The School of Social Work of Simmons College
1990-91 Adjunct Associate Professor, The School of Social Work of Simmons College
1991-2006 Adjunct Professor, The School of Social Work of Simmons College

Hospital or Affiliated Institution Appointments:

1981-1986 Instructor in Psychology, Harvard Medical School at The Cambridge Hospital
1986-1990 Assistant Professor in Psychology, Harvard Medical School
1993-1997 Lecturer, Dept. of Psychology, Boston University
1990- Assistant Clinical Professor in Psychology, Harvard Medical School
2006- Associate Clinical Professor in Psychology, Harvard Medical School

Other Professional Positions and Visiting Appointments:

1974-1975 CIC Visiting Scholar, Dept. of Asian Studies, University of Wisconsin, Madison, WI

Hospital & Health Care Organization Service Responsibilities:

1977-1978 Staff Psychologist, Department of Mental Health, The Commonwealth of Massachusetts, Westboro State Hospital, Cambridge/Somerville Unit, Special Dual Diagnosis Treatment Team.
1978-1979 Psychology Associate, Highland Counseling Associates, Athol, MA
1980-86 Supervisor, The Psychotherapy Center, The Cambridge Hospital, Cambridge, MA.

- 1980-1982 Director of In-Service Training, Department of Psychiatry, Central Hospital, Somerville, MA
- 1981-1985 Associate Director of Psychology, Department of Psychiatry, The Cambridge Hospital, Cambridge, MA.
- 1982-83 Director of Hypnotherapy Service and Training, Department of Psychiatry, The Cambridge Hospital, Cambridge, MA.
- 1983-92 Director of Behavioral Medicine Services, The Department of Psychiatry, The Cambridge Hospital, Cambridge, MA.
- 1985-87 Director of Psychology Training and Clinical Services, The Department of Psychiatry, The Cambridge Hospital, Cambridge, MA.
- 1987-1990 Chief Psychologist, Department of Psychiatry, The Cambridge Hospital
- 1984-2000 Director, Daniel Brown, Ph.D. & Associates, The Center for Integrative Psychotherapy, 75 Cambridge Parkway, Cambridge, MA 02142
- 2000- Director, Daniel Brown, Ph.D. & Associates, 997 Chestnut St. Newton MA 02464

Major Administrative Responsibilities & Committee Assignments:

National/International:

- 2007 Chairman, Task Force, Division 56 American Psychological Association Liaison to *DSM-V* on Trauma-Related Disorders
- 2006 Executive Committee. Division 56 Psychological Trauma. American Psychological Association.
- 2006 Chairman, Task Force on Hypnosis and Memory, American Society of Clinical Hypnosis.
- 1998- Consultant, Expert Witness, United Nations, Office of the Prosecutor, International War Crimes Tribunal for the Former Yugoslavia, The Hague, Netherlands
- 1998- Member, Task Force on Hypnosis and Memory, APA-Division 30 (Psychological Hypnosis)
- 1998- Executive Board, American Board of Psychological Hypnosis

1986-90 Director, U.S. Center, Sino-U.S. Qi Gong Health Sciences Development Center, The Cambridge Hospital, Cambridge, MA and The Beijing College of Traditional Chinese Medicine, Beijing, P.R.C. Organized and led a delegation of scientists from HEW and the AIDs U.S. National Commission to China to educate the Chinese on stopping the spread of AIDs in China.

1989-90 Vice President, World Academic Society of Medical Qi Gong

1987-91 Association of Psychology Internship Centers (APIC), Post-Doctoral Membership Committee

1989-91 Chairman, Post-Doctoral Training Site Membership Committee (APIC)

1988-90 Education Committee, Division 30, APA

1980-2 Occasional consultant on cross-cultural sensitivity for the Health Services Division, World Bank, Washington D.C.

Hospital:

1983-90 Education Committee, The Cambridge Hospital, Cambridge, MA

1986-90 Executive Committee, The Cambridge Hospital, Cambridge, MA

1986-88 Executive Board, The Erikson Center, Cambridge, MA

Professional Societies:

American Psychological Association---Divisions 30, 38, 41

American Society of Clinical Hypnosis (Fellow)

Society of Behavioral Medicine

International Society of Traumatic Stress Studies

International Society for Mental Training & Excellence

Editorial Boards:

Associate Editor: American Journal of Clinical Hypnosis

Associate Editor: International Journal of Clinical and Experimental Hypnosis

Consulting Editor: Annals of Behavioral Medicine

Awards and Honors:

- 1971 Magna Cum Laude, University of Massachusetts
- 1971 Finalist for Massachusetts, Rhodes Scholarship
- 1971-1978 Danforth Fellow
- 1975 Ph.D. oral examination passed with distinction
- 1987 Arthur Shapiro Award, SCEH , "Best Book on Hypnosis Written in 1986", Society of Clinical and Experimental Hypnosis, given for Hypnotherapy and Hypnoanalysis (co-authored with Erika Fromm)
- 1990 Award for "Best Clinical Paper, 1990" given by the Society for Clinical and Experimental Hypnosis for "The Variable Long-Term Effects of Incest."
- 1998 "Distinguished Service Award" The International Society for the Study of Dissociation
- 1998 "Career Contribution Award, for Outstanding Contributions to the Advancement of Psychology as a Science and a Profession" Massachusetts Psychological Association
- 1999 Manfred S. Guttmacher Award "Outstanding Contribution to the Literature on Forensic Psychiatry and Law" American Psychiatry Association and the American Association of Psychiatry and the Law awarded for Memory, Trauma Treatment, and the Law
- 1999 Morton Prince Award "Outstanding Career Contributions to Hypnosis" American Board of Psychological Hypnosis
- 2000 American Psychological Association, Division 30 "Distinguished Contributions to Professional Hypnosis"
- 2000 Arthur Shapiro Award, SCEH, "Best Book on Hypnosis Written in 1999," Society of Clinical and Experimental Hypnosis, given for Memory, Trauma Treatment, and the Law (co-authored with Alan Schefflin and Cory Hammond).
- 2000 Presidential Commendation Award, Society of Clinical & Experimental Hypnosis, "Outstanding Contributions on Memory & Trauma" for Memory, Trauma Treatment and the Law and for service to the International War

Crimes Tribunal regarding memory for trauma.

- 2002 Morton Prince Award for Scientific Achievement , International Society for the Study of Dissociation for The Interrelation of Factitious and Dissociative Disorders.
- 2003 Award of Merit, American Society of Clinical Hypnosis, “for co-authoring the award winning Memory, Trauma Treatment, and the Law, and as mentor to hundreds of students in hypnotherapy and clinical practice, he has enhanced the membership of the Society and contributed greatly to its programs.”
- 2008 Presidential Commendation, The Society for Clinical and Experimental Hypnosis for special competence in interpretation of research and representing scientifically-based hypnosis to the legal profession and the court system.

Part II. Research, Teaching & Clinical Contributions:

A. Narrative

My work on the past 30 years has focused on three broad areas: 1. Program and curriculum development, 2. Scientifically-informed clinical teaching, and 3. Psychiatry and the law.

In the 1980s I served as Co-Director of Training and eventually as Chief Psychologist at The Cambridge Hospital. I helped develop the psychology internship program. During my tenure the program became accredited by the American Psychological Association, whose site visitors described it as an “exemplary” program in offering clinical training in service to disenfranchised patient populations. I developed and ran the Division of Behavioral Medicine. I also served as Chairman of the post-doctoral committee of the Association of Psychology Internship Centers, and helped develop national guidelines for standards in post-doctoral training in psychology.

Since 1990 my efforts have focused less on program, and more on curriculum development. I serve in the Division of Continuing Education at MMHC, where I teach 2 week-long courses per year, serve as Program Director of the annual HMS course on Treatment of Psychological Trauma, and also offer a variety of shorter lectures and seminars throughout the medical school system and regionally. I run a private continuing education sponsoring organization, The Center for Integrative Psychotherapy, and over the past decade I have developed and taught regionally and nationally 38 new 1-3 day seminars covering a wide range of mental health treatment areas.

A consistent theme throughout my teaching is an emphasis on evidence-based assessment and treatment. I try to keep abreast of the latest scientific developments in assessment and treatment in mental health, and translate these findings in my clinical teaching to offer clinicians practical, state-of-the-art clinical methods, as a way of offering continuous upgrades to the standard of care. My writings and clinical teaching has primarily focused on four areas: hypnotherapy, health psychology, trauma treatment, and psychiatry and the law. My writings and expert witness testimony in the area of psychiatry and the law reflect a similar focus on providing the courts with the latest

generally accepted and empirically-sound knowledge in the areas of forensic assessment, memory for trauma in children and adults, the standard of care in of trauma treatment, and the reliability of eyewitness testimony, and testimony produced through suggestive and interrogatory influences. My textbook in this area, *Memory, Trauma Treatment, and the Law*, was the recipient of awards from a number of professional societies including the Manfred Guttmacher Award for the outstanding contribution to forensic psychiatry given jointly by the American Psychiatric Association and the American Association of Psychiatry and Law.

Current Major Research Interests:

Altered States of Consciousness (hypnosis, meditation)
Behavioral Medicine and Health Psychology
Developmental Psycho-pathology
Post-Traumatic Stress and Dissociative Disorders
Cross-Cultural Psychology
Integrative Psychotherapy
Memory and Memory Suggestibility
Forensic Psychology
Peak Performance and Excellence; Positive Psychology

D. Report of Teaching Experience:

1. Local Contributions:

a. Teaching Appointments

- | | |
|-----------|---|
| 1970-1971 | Assistant, Psychology, University of Massachusetts, Developed courses on Altered States of Consciousness, Community Mental Health, Existential Psychology |
| 1971-1976 | Assistant, Psychology/Behavioral Sciences, University of Chicago, Assistant to Dr. Erika Fromm, courses on Clinical and Experimental Hypnosis, Altered States of Consciousness |
| 1975-1976 | Instructor, Religion and Psychological Studies, University of Chicago, Developed courses on Cross-Cultural Studies in Mental Illness, Psychological Interpretations of Religious Experience |
| 1976- | Numerous workshops on clinical hypnosis given locally, nationally, and internationally. Trained over 6,000 professionals in clinical hypnosis. |
| 1977-1980 | Lecturer, American Institute of Buddhist Studies, Amherst, MA |
| 1980-89 | Adjunct Assistant Professor, Simmons School of Social Work, Developed |

- courses on Clinical Psycho-pathology, Developmental Approaches to the Severely Disturbed Patient
- 1983-2006 Assistant Clinical Professor in Psychology, Harvard Medical School
- 1989-91 Adjunct Associate Professor, Simmons School of Social Work
- 1991- Adjunct Professor, Simmons School of Social Work
- 1981-93 Department of Psychiatry, The Cambridge Hospital, Developed courses on Hypnotherapy and Behavioral Medicine, The Psychotherapy of the Severely Disturbed Patient, Co-developed courses on Cross-Cultural Psychology and Psycho-diagnostic Testing
- 1981- Numerous clinical teaching conferences throughout greater Boston area hospitals and clinics
- 1984-1985 Lecturer on Affective and Self Development, Behavioral Science in Medicine & Psychiatry, Harvard Medical School
- 1993- Continuing Education Program, Harvard Medical School at the Massachusetts Mental Health Center
- 1993-1997 Lecturer, Dept. of Psychology, Boston University
- 2006-present Associate Clinical Professor in Psychology, Harvard Medical School

b. Local Invited Teaching Presentations

- 2/26/10 Concentration Training for Judges. Workshop for Massachusetts superior court judges given at Boston College Law School.
- 1/22/10 Stress Reduction and Performance Excellence for Judges. Workshop for Massachusetts district court judges given at the University of Massachusetts Medical School.
- 5/8/09 Stress Reduction and Performance Excellence for Judges. Workshop for Massachusetts superior court judges given at the John Adams Courthouse as part of annual continuing education for judges.
- 3/14/06 Testimony before the State Judicial Committee on statute of limitations and childhood sexual abuse.
- 1/10/06 Mental Health Panel on Childhood Sexual Abuse. State House. Commonwealth of Massachusetts.

12/26/2004 Grand Rounds. Behavioral Medicine. Bedford V.A. Hospital. 1 ½ hour presentation.

10/2004 Integrating the Major Theories on Dissociation, Trauma Seminar, The Cambridge Hospital

6/6/2004 Integrative Treatment of Addictions. Half-day workshop. New England Society for Clinical & Experimental Hypnosis. Newton MA.

1/14/2004 Dissociation & the Law. 1-hour presentation to the Psychiatric Resident Training Program, The Cambridge Hospital.

2/1/2003 Theories of Dissociation and Treatment Implications of Trauma and Dissociation, half-day workshop, New England Society for the Treatment of Trauma and Dissociation.

5/31/2002 Hypnotherapy with Trauma-Related Disorders, Boston University School of Medicine, conference on Psychological Trauma, half-day workshop

11/12/2001 Panel on the Backlash to Awareness of Sexual Abuse with Gretchen van Ness & Evelyn Murphy, Harvard Divinity School 4 hours

3/30/2001 Liability Prevention in the Treatment of Trauma and Dissociative Disorders, National Association of Social Workers, Rhode Island Chapter. Eleanor Slater Hospital, Cranston RI. Half-day workshop.

6/5/1998 Trauma and Addictions. 1-day workshop. Hampstead Hospital. Hampstead NH.

9/17/1997 Phase-Oriented Treatment of Psychological Trauma. 3-hour workshop as part of a post-graduate lecture series on Psychological Trauma. Boston University School of Social Work.

5/20/1997 Understanding Trauma and Memory in Clinical and Forensic Settings. 1-day workshop with Bessel van der Kolk, M.D. Psychological Trauma. HMS/MMHC

1/5/1997 Hypnosis and Pain Control. 3-hour presentation. New England Society of Clinical Hypnosis.

c. Continuing Education–HMS/MMHC

1990-present Division of Continuing Education, Massachusetts Mental Health Center:

1990-1998. Introductory Workshop in Hypnosis & Hypnotherapy, a week-long seminar taught as part of the Cape Cod summer series.

1998-present. Peak Performance in Sports, the Entertainment Field, and the Worksite, a week-long seminar taught both as part of the Florida and Cape Cod MMHC seminar series.

1990-present. Program Director of the Annual course on assessment and treatment of Psychological Trauma offered by HMS/MMHC annually in December

1990-present. Numerous teaching conferences throughout HMS, including annual lectures at the Victims of Violence Program at The Cambridge Hospital, and occasional lectures in the Medical Anthropology Program.

d. Simmons School of Social Work

I taught at Simmons School of Social Work from 1980-2006. Since 1980 I have taught a section of the Clinical Assessment course to second year social work students. I also taught a course in Developmentally-Informed Treatment of the Severely Disturbed Patient from 1980-2000, and a course on Behavioral Health from 2000-present. About 20% of the social workers in the greater Boston area over the past two decades took their basic clinical assessment course with me.

2. Regional, National, and International Contributions

a. The Center for Integrative Psychotherapy

Through my private work at The Center for Integrative Psychotherapy I have developed and taught a total of 38 new one-to-three day continuing education seminars since 1990. These have been offered to licensed mental health professionals on numerous occasions regionally and nationally. It would be too cumbersome to list each date-of-offering in that I have averaged teaching 2-3 lectures or seminars per month since 1990. Below is a list of the main areas for the 1- to 3-day seminars that I have developed and offered through the Center since 1990:

1) Hypnosis (Introductory Workshop in Hypnotherapy; Advanced Hypnotherapy and Hypnoanalysis; Hypnosis with Children; Rapid Conflict-Resolution Methods with Hypnosis; Brief, Integrative Hypnotherapy; Advanced Externship In Hypnotherapy); Hypnotherapy with Conversion Disorders; Treating Complicated Grief Reactions.

2) Health Psychology (Behavioral Medicine; Treatment of Somatoform Disorders; Treatment of Immune-Related Disorders; Assessment and Treatment of Sleep Disorders; Psychotherapy with the Cancer Patient; Energy Medicine; Hypnosis and Pain Control; Treating the Aging Patient; Treating the Dying Patient; The Well-Being of the Therapist; Concentration and Awareness Meditation);

3) Addictions (Integrative Treatment of Chemical Dependency; Integrative Treatment of Eating Disorders; Treating Complex Habits; Integrative Treatment of Self-Mutilation Behaviors);

4) Peak Performance (Peak Performance in Sports, the Entertainment Field, and the Worksite; Attentional Skills for Therapists); The Influence of Positive Psychology on Psychotherapy

5) Trauma Treatment (Phase-Oriented Trauma Treatment; Treatment of Major Dissociative Disorders; Trauma and Memory); Treatment of Trauma-Bonded Relationships

6) Evidence-Supported Psychotherapy;

7) Developmentally-Informed Treatment (Developmentally-Informed Treatment of Personality Disorders; Treating Self-Pathology; Time-Effective Treatment of Depression and Narcissistic Disorders);

8) Behaviorally-Informed Treatment (Treating Anxiety Disorders; Treatment of Obsessive-Compulsive Disorders; Psychotherapy with Bipolar-Spectrum Patients);

9) Relational Disturbance (Core-Conflict Relational Themes in Psychotherapy; Experiential Couples Therapy; How to Treat Attachment Pathology; Treating Traumatic Bonding in Relationships); Advanced Treatment of Attachment Pathology;

10) Cross-Cultural Psychotherapy;

11) Assessment (User-Friendly Clinical Assessment Tools; The Use of Structured Psychiatric Interviews);

12) Risk Management (Recovered Memories in Trauma Treatment; When Children Report Abuse in Psychotherapy);

13). Neuroimaging, Assessment, and Psychotherapy.

b. Regional, National, & International Teaching on Hypnosis & Hypnotherapy

I have also taught introductory and advanced hypnosis courses each year since the 1970s either at the annual meetings of the Society of Clinical and Experimental Hypnosis, the American Society of Clinical Hypnosis (ASCH), and also at 9 regional ASCH affiliate professional hypnosis organizations around the country. I taught a variety of hypnosis courses in the Netherlands, and at the University of Minho Medical School in Portugal on four different occasions. The combined curriculum of those courses has been translated into Portugese, and the participants of those courses have subsequently formed the nucleus of a Portugese Society of Clinical Hypnosis. I taught a 2-day workshop in hypnosis in Belgium in May, 2006, another in Ottawa, Canada in June, 2006, and in Vancouver in November of 2008, and Banff in May, 2008.

c. Regional, National, & International Teaching on Trauma

I have been invited to teach numerous courses on the assessment and treatment of psychological trauma for professional societies or teaching hospitals in a number of states (MA, VT, ME, RI, NY, PA, NJ, MN, UT, WA, WI, LA, MI, and IL, including the entire Dept. of Mental Health for the State of Maine, and four state psychological associations. I taught two, 2-day seminars in treatment of psychological trauma in The Netherlands, Portugal, Belgium, and in Ottawa, and Prince Edward Island, Canada.

d. Other Regional, National, & International Teaching

6/5-6/09 Peak Performance; Energy Medicine. Minnesota Society of Clinical Hypnosis and the University of Minnestoa, Minneapolis. MN

3/ 13-14/09 Peak Performance. Aurora Psychiatric Hospital, Milwaukee WI.

5/30/08 Treating Complex Trauma. Chicago Hypnosis Society.

1993-present. The Pointing Out Way of Tibetan Buddhist Meditation. Week-long retreat taught in Ein Gedi, Dead Sea, Israel, taught annually starting November 2008. Week-long retreats also taught bi-yearly at Esalen Institute, Big Sur Ca over a 15-year span; annually at Kirpalu, Lenox MA, 2008-2010; biannually in the Boston area, and bi-annually at Sukasiddi Foundation, San Rafael CA. Also taught the same retreat annually every summer in London starting in 2009 5/09, and in Vancouver, Canada, Southern France, and Switzerland, starting in 2010.

5/24-25/08 Phase-Oriented Treatment of Post-traumatic Stress and Dissociative Disorders, Prince Edward Island, Canada

5/3-4/08 Experiential Couples Therapy; Peak Performance. Hypnosis Federation of Alberta. Banff, Alberta, Canada.

11/16-17/07 Hypnosis & Behavioral Medicine. British Columbia Society of Clinical Hypnosis. Vancouver, BC, Canada. Public talk at the Vancouver Science Center on Energy Medicine, Health Maintenance, Longevity, and Regeneration.

6/24/07 Insuring the Accuracy of Forensic Interviewing. International Association of Law and Psychiatry, Padua, Italy.

6/14-15/06 Treating Complex Trauma-Related Disorders; Treating Attachment Pathology in Patients with Major Dissociative Disorders; Ottawa, Canada Trauma and Anxiety Disorders Clinic and the Ontario Hypnosis Society.

5/5-6/2006 Treating Complex Trauma-Related Disorders; Treating Attachment Pathology in Patients with Major Dissociative Disorders, Co-sponsored by the Flemish Hypnosis Society, and St. Josefs Hospital, Kortenberg, Belgium

10/21/2005 Treating Attachment Pathology in Patients with Major Dissociative Disorders, Michigan Society of Clinical Hypnosis and the Michigan Trauma & Dissociation Study Group, Detroit MI.

7/16/05 Fair and Undue Influence in Police Interrogations, International Cultic Studies Association, Madrid, Spain.

5/22/2004 Peak Performance. 1-day workshop. Greater Los Angeles Hypnosis Society. Los Angeles CA.

2/28/2004 Immune-Related Disorders: Treatment Applications with Behavioral Medicine and Hypnosis, San Diego Society of Clinical Hypnosis, San Diego CA 1-day workshop

8/11/2003 Advanced Hypnotherapy for Health-Related Issues. Half-day workshop for the Behavioral Health Staff, Canyon Ranch, Lenox, MA.

3/1/2003 Treatment of Immune-Related Disorders. 1-day workshop. Greater Los Angeles Hypnosis Society. Los Angeles CA.

11/25/2002 Advanced Hypnotherapy Techniques. Half-day workshop for the Behavioral Health Staff, Canyon Ranch, Lenox, MA.

11/7/2002 Keynote Address "Trauma and Spirituality" in Care and Collective Trauma: Repairing the Rifts in the Soul, Brown University Medical School, Seekonk MA. 2-hour keynote address.

8/23/-25/2002 Efficacious Treatment of Psycho-physiological Disorders. Presentation at the Annual Convention of the American Psychological Association.

6/16-18/2002. Consultation with 20/20 in Austin TX regarding filming a documentary on fugue states.

6/1-2/2002 Developmentally-Informed Treatment of Personality Disorders, Embassy Suites, Chevy Chase MD. 2-day workshop.

4/27-28/2002 Behavioral Medicine. Embassy Suites, Chevy Chase, MD. 2-day workshop.

4/5-6/2002 Treating the Dying Patient; Energy Meditations & health Psychology. 2, 1-day workshops in New York City at The Sociometric Institute.

3/18/2002 Pathological and Optimal Self-Development: The Use of Hypnosis American Society of Clinical Hypnosis, Annual Meeting, Indianapolis In 7CE

3/17/2002 Hypnosis and Energy Medicine. 50-minute plenary talk.

1/5/2002 False Memory Retractor Cases, Symposium on Mental Disabilities in the Twenty-First Century with George Alexander, Stephen J. Morse, Daniel Brown Alan W. Schefflin, & Ralph Slovenko, Association of American Law Schools, New Orleans LA. 30 minute invited presentation.

11/2-3/2001 Core Conflict Relational Themes in Treatment. A 2-day workshop. The Sociometric Institute New York City.

10/18-21/2001 Treatment of Acute and Chronic PTSD After 9/11. A 3-day workshop with Dr. Harold Wain of Walter Reed Medical Center, who over-saw the treatment of the victims of the 9/11 Pentagon crash.

6/11-23/2001 Advanced Hypnotherapy (with A. Lindsay, LICSW). University of Minho Medical School, Braga, Portugal. 2-week intensive training of a core group of Portugese psychologists to form the nucleus of the Portugese Society of Clinical Hypnosis. Training manual translated into Portugese.

6/8/2001 Phase-Oriented Treatment of Trauma. 1-day workshop. Vermont Psychological Association. Burlington VT

5/30/2001 Factitious Disorders, Dissociative Identity Disorder, and the Expert Witness, Grand Rounds, Northwestern University Medical School, dept. of Psychiatry and behavioral Sciences, Chicago IL.

4/27-29/2001 Developmentally-Informed Treatment of Personality Disorders, 3-day workshop, Washington D.C.

3/25/2001 Meditation Practice for Hypnotherapists. American Society of Clinical Hypnosis, Annual Meeting. Reno, NV. 1-day workshop

12/8-9/2000 Clinical Applications in Behavioral Medicine & Peak Performance, Wisconsin Society of Clinical Hypnosis 2-day workshop.

10/27/2000 Integrative Treatment of Eating Disorders; 10/28/2000 Treating of Complex Habits. 2, 1-day workshops. I.M. School of Healing Arts. New York City.

9/18/2000 Behavioral Medicine. 1-day workshop. Central Vermont Medical Center, Montpelier VT.

9/15/2000 Evidence-Based Treatment, Mid-Coast Mental Health Center, Rockland ME. 1-day workshop

7/11/2000 False Memory Lawsuits. 30-minute presentation. International Society of Psychiatry and Law, Sienna, Italy.

5/6/2000 An Integrative View of the Immune System. 1-hour invited presentation at the Alternative Medicine Conference, St. Barnabus Hospital, Central New Jersey.

4/6-8/2000 Phase-Oriented Trauma Treatment. One-and-a-half-hour presentation. Trauma Treatment and the Standard of Care. One-and-a-half hour presentation. New Developments & Innovations in Trauma Theory & Procedures. One-and-a-half hour presentation. Annual Conference on Psychological Trauma. Lake Chelan WA

2/26-28/2000 Hypnotherapy for Addictions. 1-day workshop. Annual meeting. American Society of Clinical Hypnosis. Baltimore MD.

01/29-30/2000 Meditation & Psychotherapy (with A. Lindsay, LICSW). I.M. School of Healing Arts, New York City.

10/30/1999 Erika Fromm—An Intellectual History. 30-minute presentation at the Society of Clinical & Experimental Hypnosis. New Orleans, LA.

10/25/1999 Peak Performance. 1-day workshop. Utah Society of Clinical Hypnosis. Salt Lake City.

6/22/1999 Recovered Memory and the Law. 30-minute presentation. International Society of Psychiatry & Law, Toronto, ON.

6/11/1999 Behavioral Medicine: Mind/Body Hypnotic Applications in Psychological Therapies. 1-

day workshop. Vermont Psychological Association.

5/15/1999 False Memory Lawsuits: The Weight of the Scientific and Legal Evidence. Acceptance speech for the Manfred Guttmacher Award. American Psychiatric Association. Washington D.C.

3/20-23/1999 Trauma & Memory--Issues and Treatments. 1-hour presentation. Brief Hypnotherapy (with D.C. Hammond, Ph.D.). 1-day workshop. Annual meeting. American Society of Clinical Hypnosis.

3/3/1999 Behavioral Medicine. 1-day workshop. Central New Jersey Psychological Association.

1/8-9/1999 Phase-Oriented Treatment of Trauma. 2-day workshop. Vermont Psychological Association. Burlington VT.

11/14/1998 Erika Fromm's Contribution to Permissive Hypnotherapy. 1-hour talk. 11/15/1998 Complex Clinical Issues in the Use of Hypnosis. 20-minute presentation as part of a clinical roundtable. Annual Meeting. Society of Clinical & Experimental Hypnosis. Chicago IL.

12/6-7/1998 Risk Management in Clinical Practice: Ethical, Legal, & Scientific Issues (with Alan W. Schefflan). Georgia Psychological Association. Atlanta GA

11/20/1998. Memory for Trauma. Half-day workshop. International Society for Traumatic Stress Studies. Washington D.C.

11/7-9/1998 The Mind of Advanced Meditators. 1-hour presentation. First International Congress on Tibetan Medicine. Washington D.C.

9/25/1998. Treatment of Posttraumatic and Dissociative Disorders: State-of-the-Art. 1-day workshop. New York State Psychological Association. Buffalo NY

3/14-18/1998 Demonstrating the Effectiveness of Hypnotic Treatment in Medicine (with Rodger Kessler, Ph.D.) 1-day workshop. Brief Hypnotherapy (with D.C. Hammond, Ph.D.) 2-day workshop. Annual meeting. American Society of Clinical Hypnosis. Fort Worth TX

3/5-7/1998 Invited Symposium: Admissibility of Repressed Memory Evidence. A mock trial using U.S. Supreme Court presentation format, argued before 3 actual federal judges Hon. Gerald Rosen, Hon. Rosemary Shaw Sackett, & Hon. C.L. Ray. Attorney for: Alan W. Schefflan. Expert witness for: Daniel Brown. Attorney against: Timothy Reagan Expert witness against: Stephen Ceci. American Psychology-Law Society, Biennial Conference. Redondo Beach CA

12/6/1997 Effective Trauma Treatment in the Era of the False Memory Debate: The Standard of Science, The Standard of Care, and Reducing Malpractice Liability, 1-day workshop, New Jersey Society for the Study of Dissociation.

9/19-20/1997 Clinical Applications of Behavioral Medicine, 2-day workshop. Allina Medical Group Mental Health Services, Minneapolis MN.

9/5-6/1997 Relationships and Recollections: An Update on Phase-Oriented Trauma Treatment. 2-day

workshop. Academic Medical Center Regional Institute for Ambulatory Medicine, Amsterdam, The Netherlands

6/22-25/1997 Psychoneuroimmunology and Hypnosis. 2-day workshop. Hypnosis and Age Regression (with D.C. Hammond) Half-day workshop. 14th International Congress of Hypnosis. San Diego CA.

5/30/1997 Phase-Oriented Treatment for Posttraumatic Stress Disorder. 1-day workshop. Vermont Psychological Association.

9/16/1996 Types of Suggestion and Their Applicability to Memory Distortion in Trauma Treatment of Adult Survivors. 1-day workshop. Midwest Conference on Child Sexual Abuse and Incest. Madison WI.

6/7-8/1996 Memory and Trauma Treatment. 2-day workshop. Academic Medical Center Regional Institute for Ambulatory Medicine, Amsterdam, The Netherlands

5/31-6/1/1996 Advanced Workshop on Hypnotherapy. 2-day workshop. Minnesota Society of Clinical Hypnosis.

3. Teaching Awards

I received career contribution awards from the Massachusetts Psychological Association, the American Psychological Association–Division 30, the American Board of Psychological Hypnosis, and the American Society of Clinical Hypnosis.

E. Report of Clinical Activities

I have not directly engaged in clinical activities at HMS since 1990; all of my clinical activities since 1990 have been through my private practice. My main specialty areas are: hypnotherapy; assessment and treatment of trauma-related disorders; behavioral medicine; and psychiatry and the law.

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What the science says. The Journal of Psychiatry and Law, 24, 143-188.

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1 difficulty of re-trying a case of this vintage, Petitioner sincerely requests that the Attorney
2 General join in a motion to this Honorable Court requesting that the verdict and sentence in
3 this case be set aside, the *writ* be issued and the Petitioner be set free. Petitioner fully
4 understands that he is likely to be deported to Jordan where he would hope to quietly live out
5 the rest of his life with family and friends, but at long last he would, at least, have received
6 long delayed justice.

7 Should the Attorney General not see her way clear to jointly participate in the set
8 aside motion, Petitioner respectfully requests that this Court set aside the original 1969
9 verdict and sentence and grant Petitioner his freedom or order a new trial. In the alternative,
10 Petitioner requests that an evidentiary hearing be ordered and scheduled by the Court.

11 Finally, if Respondent elects to submit a rebuttal to this Reply, Petitioner
12 respectfully requests the opportunity within the same time allotment to submit a sur-rebuttal.
13 Petitioner is grateful to the Court for extending its period to Reply as a result of counsels'
14 families difficulties, but prior extensions have not prejudiced the number of responses
15 allowed.

16 Dated: 21 November, 2011

Respectfully submitted,

17

William F. Pepper Esq.

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Counsel for the Petitioner

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Laurie D. Dusek Esq

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Counsel for the Petitioner

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Exhibit I

Brady:
Withheld and Destroyed Evidence

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Exhibits to Request to the Los Angeles County Grand Jury

Current Section: 41. Affidavits of Crime Scene Witnesses On Bullet Holes.

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William Bailey

In 1977, retired 15-year FBI veteran William Bailey was teaching criminology at a New Jersey college. He attended a lecture by Vincent Bugliosi and, afterward, told the attorney that he had worked at the RFK crime scene and definitely saw what appeared to be bullets lodged in the doorframe. (see attached Declaration)

It was not until two years later that Los Angeles District Attorney John Van de Kamp's office contacted Bailey after somehow receiving a copy of an affidavit that Bailey had given Attorney Vincent Bugliosi. Apparently, it was more important to debrief hotel carpenters via detailed transcribed interviews than to talk with veteran investigators from other law-enforcement agencies. In 1977, the District Attorney's Office investigator, William R. Burnett, telephoned William Bailey.

BAILEY: There were at least two bullet holes in the center post.

Burnett asks how Bailey knows this.

BAILEY: Short of actually taking the wood off myself and examining it, I would say that I'm reasonably certain they were bullet holes. I've seen bullet holes in wood before. I looked into these holes...They were definitely not nail holes. There appeared to be objects inside.

Burnett did not ask Bailey to elaborate on the "objects" but asked if any other agents could corroborate this. Bailey replied that Agent Robert Pickard could.

In May 1990, former FBI agent William Bailey appeared at a Los Angeles press conference demanding a re-opening of the

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case. Having seen the close-up photo of the center divider that the FBI had labeled as manifesting two bullet holes, he could now correlate the sight of the released photo with what he remembered physically observing at the crime scene: "I personally observed in that center divider, depicted in that photograph E-3, two bullet holes...I looked at them very closely. I did observe what appeared to be the base of a bullet in each hole."

The DA's files contain no evidence of any follow-up on William Bailey's allegation of additional bullets, either with Bailey, other FBI agents or LAPD officers.

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[DECLARATION OF WILLIAM A. BAILEY]
(Original Attached)

On or about June 5-6, 1968 I, William A. Bailey, employed at that time as a special agent of the FBI (assigned to the Los Angeles office) was present in the preparation room of the Ambassador Hotel approx. 4-6 hours after the attempt on Sen. Robt. F. Kennedy life. The pantry was referred to as the preparation room.

At that time I was assigned to interview witnesses present at the time of the shooting. I was also charged with the responsibility of recreating the circumstances under which same took place. This necessitated a careful examination of the entire room & its contents.

At one point during these observations I (and several other agents) noted at least two (2) small caliber bullet holes in the center post of the two doors heading from the preparation room. There was no question in any of our minds as to the fact that they were bullet holes & were not caused by food carts or other equipment in the preparation room.

I resigned from the FBI in Jan. 1971 and have been employed as an assistant professor of police science at Gloucester County College, Sewell, New Jersey since that time.

The above statement is in my printing & was furnished freely & voluntarily to Mr. Vincent Bugliosi on Nov. 14, 1976 at Glassboro State College, Glassboro, New Jersey.

[signed] William A. Bailey
Nov. 14, 1976

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ON OR ABOUT JUNE 5-6, 1968, WILLIAM A. BARRY, employed at that time as a special agent of the FBI (assigned to the Los Angeles office) was present in the preparation room of the Ambassador Hotel Annex, 4-6 hours after the attempt on Sen. Robt. F. Kennedy's life. The party was referred to as the preparation room.

At that time I was assigned to interview witnesses present at the time of the shooting. I was also occupied with the responsibility of recreating the circumstances under which same took place. This necessitated a careful examination of the entire room & its contents.

At a point during these observations I (and several other agents) noted at least two (2) small caliber bullet holes in the center part of the two doors leading from the preparation room. There is no question in any of our minds as to the fact that they were bullet holes & were not caused by fire cracker or other equipment in the preparation room.

I resigned from the FBI in Jan. 1971 and have been employed as an Assistant Professor of Police Science at Gloucester County College, Sewell, New Jersey since that time.

The above statement is in my printing & was furnished freely & voluntarily to Mr. Vincent Bugliosi on Nov. 14, 1976 at Glassboro State College, Glassboro, New Jersey.

Exhibit # 21
C.A. No. 87-1346 CRB

William A. Barry
Nov. 14, 1976

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PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff

vs.
VINCENT T. SULLIVAN,
Defendant

No. A 233421
DECLARATION OF
VINCENT T. SULLIVAN

I, VINCENT T. SULLIVAN, declare:

In view of the fact that there have been allegations of more than eight (8) bullets being fired in the pantry of the Ambassador Hotel in the early morning hours of June 5, 1968, and in pursuance of my responsibility as co-counsel for Paul Schrade, one of the people shot at the scene, I have made an effort to ascertain how many bullets were in fact fired on the date in question.

An Associated Press wirephoto dated June 5, 1968 captioned "Bullet found near Kennedy shooting scene" depicts two Los Angeles Police Officers looking at an object located approximately 10" from the bottom of the floor at a shoe jamb of a door behind the stage of the Embassy Room at the hotel.

As of November 14, 1975, the identity of the two police officers had never been disclosed. On the evening of November 14, 1975, I proceeded to the Sargent Division of the L.A.P.D. and

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1 showed the subject photo to several officers on duty. They
 2 thought they could identify the police officer on the right of
 3 the photo, but my contact with the officer proved that he was not
 4 the officer depicted in the photo. The following morning, on
 5 November 15, 1975, I proceeded to the Metropolitan Division of
 6 the L.A.P.D. and again showed the subject photo to several
 7 officers on duty and no one was able to positively identify the officers
 8 depicted in the photo. I then proceeded to the Wilshire Division
 9 of the L.A.P.D. Sgt. Jarner at the Wilshire Division positively
 10 identified Sgt. Charles Wright, presently with W.L.A. Division
 11 of the L.A.P.D. as the officer on the right, and was fairly
 12 certain, although not positive, that the officer on the left was
 13 Sgt. Robert Rossi, presently with Hollywood Division of the L.A.P.D.
 14 I then proceeded to the Hollywood Division where the officers on
 15 duty positively identified the officer on the left as being
 16 Sgt. Robert Rossi of their division. I left my name and phone
 17 number with the Watch Commander and requested that he contact
 18 Sgt. Rossi and have Sgt. Rossi call me that evening, which
 19 Sgt. Rossi did. Later in the evening, at approximately 8:30 P.M.
 20 I interviewed Sgt. Rossi at the Hollywood Division of the L.A.P.D.
 21 I took a written statement from him, which he signed. The
 22 essence of his statement was that with respect to that which was
 23 depicted in the Associated Press photo, he said that he observed
 24 a hole in the door jamb of the subject door on the morning of
 25 June 5, 1968 and further observed what he believed to be a small
 26 calibre bullet lodged in the hole. He told me further that he
 27 personally never removed the object, but was pretty sure someone
 28 else did.
 29 That Saturday evening, I also had placed a phone call
 30 with the Watch Commander of the W. Los Angeles Division requesting
 31 that they have Sgt. Wright call me at my home. Sgt. Wright called
 32 me at approximately 7:00 P.M. on the evening of November 16, 1975.

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1 I related to him what Sgt. Roast had told me and he told me
2 unequivocally that it was a bullet in the hole and when I told
3 him that Sgt. Roast had informed me that he was pretty sure that
4 the bullet was removed from the hole, Sgt. Wright replied "There
5 is no pretty sure about it. It definitely was removed from the
6 hole, but I do not know who did it."

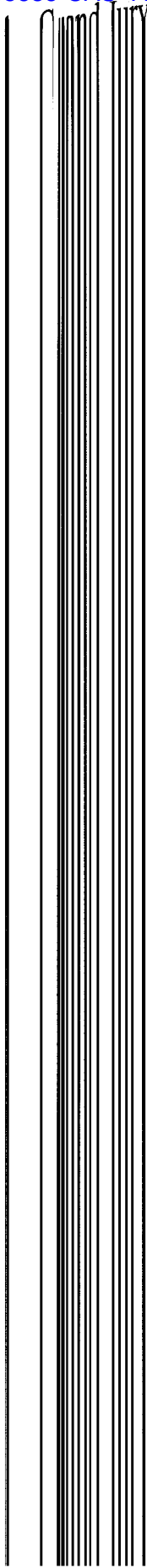
7 I set up a meeting with Sgt. Wright at the W.A.A.
8 Division on the following day at 6:00 P.M. At approximately
9 1:00 P.M. on Sept. 15 of the Los Angeles Superior Court on
10 November 17, 1975, I asked witness Stanton Sr. if he would
11 recommend a ballistics examination if I were to present evidence
12 in court that a bullet was in fact removed from the aforementioned
13 door jamb. The proceedings ended shortly thereafter and immedi-
14 ately upon the termination of the proceedings, Sgt. Paul Sartuche
15 of the L.A.P.D. came up to me and asked me "Do you have Roast's
16 statement", wherein I replied "yes". He asked me if he could read
17 it but I told him I did not have the statement with me. Although
18 my meeting with Sgt. Wright was scheduled for 6:00 P.M. when I
19 learned that Sgt. Sartuche was aware of the fact that I had
20 spoken to Sgt. Roast, I immediately raced out to the W.A.A.
21 Division of the L.A.P.D. to get a statement from Sgt. Wright
22 before anyone from the L.A.P.D. had an opportunity to get to him
23 first. I was not quick enough. I arrived at the W.A.A. Division
24 of the L.A.P.D. at approximately 3:40 P.M. and asked for Sgt.
25 Wright. I was told that he was on the phone. Approximately
26 10 minutes later, Sgt. Wright appeared and he was holding a
27 yellow piece of paper in his hand. I looked down on the paper
28 and saw the name Sartuche. I said to Sgt. Wright words to the
29 effect that old Sartuche really works fast. I guess you were just
30 talking to him on the phone whereupon Sgt. Wright said yes. I
31 told Sgt. Wright I wanted to take his statement on the door jamb
32 incident, and he told me that he had just been instructed by

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My City Attorney Larry Hagen got to give a statement. I got on the phone with Larry Hagen and told him that even if I did not get a written statement from Sgt. Wright, I could subpoena him and secure his testimony on the witness stand. Mr. Hagen told me to get a cup of coffee for a couple of minutes because he wanted to talk to Sgt. Wright. When I returned to Sgt. Wright, he put me on the phone again with Larry Hagen. Mr. Hagen informed me that it would be permissible for me to take a written statement from Sgt. Wright but that he wanted to be present with Sgt. Carosche. I agreed to this and it was decided that the statement would be taken at the City Attorney's office as soon as we arrived. When I got off the phone with Mr. Hagen, I started discussing the door lock incident and related to me what he had told me the previous night about there being a bullet in the hole and it definitely being removed, whereupon he refrained from his statement to me over the telephone and said that it looked like a bullet in the hole and that he assumed that someone removed the subject from the hole. I told him that this unquestionably was not what he told me over the phone and that it was my distinct belief that he had retreated from his original statement to me. I told him that if that was going to be his written statement, it would not serve any purpose for me to secure a written statement from him and that we would proceed by way of a subpoena and would secure his testimony in court on this issue. I called my office, had a subpoena prepared, and it was delivered to me shortly thereafter, at which time I proceeded to serve Sgt. Wright with the subpoena.

While the subpoena was enroute to the Police Department, I called Larry Hagen and told him that I had decided that since Sgt. Wright had changed his version of the door lock incident, there was no need for Hagen's written statement and the hearing at the City Attorney's office was called off.

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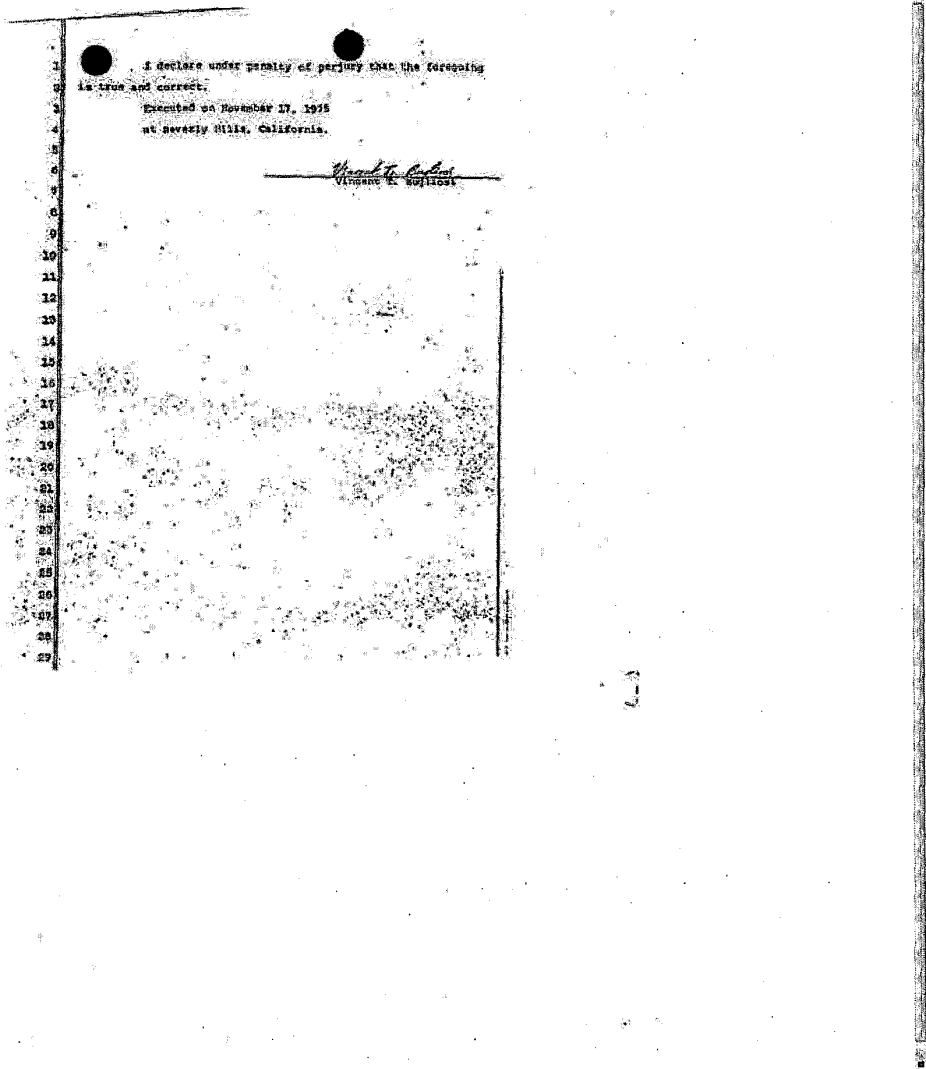
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Exhibit 41: Witnesses to Extra Bullets
(Second Gun Bullet(s) in Pantry Doorframe

(transcripts or affidavits or audio tapes available)

Coroner Thomas Noguchi:

LAPD crime scene photos show LAPD criminalist De Wayne Wolfer pointing to a spot on the upper doorframe. In a 1971 deposition he stated: "we wouldn't photograph just any hole. I mean, there were too many holes to photograph." He also asserted that he was "in charge of the crime scene and I recovered the bullets that were recovered."

Los Angeles Coroner Dr. Thomas Noguchi is shown in a police photo pointing to two holes in the doorframe. The holes are circled. Inside one circle is what appears to be a law officer's badge number. In a 1975 affidavit given to Attorney Vincent Bugliosi, the Charles Manson prosecutor who was independently re-investigating the RFK case, Noguchi described the context of the photo: "I asked Mr. Wolfer where he had found bullet holes at the scene. I forgot what he said, but when I asked him this question, he pointed, as I recall, to one hole in a ceiling panel above, and an indentation in the cement ceiling. He also pointed to several holes in the door frames of the swinging doors leading into the pantry. I directed that photographs be taken of me pointing to these holes."

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Los Angeles Police Officers Robert Rozzi and Charles Wright:

These officers are shown in an AP photo kneeling near a hole in the doorframe pointing to the hole and illuminating it with flashlights (see photo). The caption reads: "Police technician inspects a bullet hole discovered in a doorframe...Bullet is still in the wood"

In 1975 Attorney Vincent Bugliosi obtained an affidavit from Rozzi:

Some time during the evening when we were looking for evidence, someone discovered what appeared to be a bullet a foot and a half or so from the bottom of the floor [sic] in a door jamb on the door behind the stage. I also personally observed what I believed to be a bullet in the place just mentioned. What I observed was a hole in the door jamb, and the base of what appeared to be a small caliber bullet was lodged in the hole.

Bugliosi then telephoned Rozzi's partner, Officer Charles Wright, who confirmed that the hole contained a bullet. According to Bugliosi, Wright said that "It [the bullet] was definitely removed from the hole, but I don't know who did it." Bugliosi asserts that Wright subsequently refused to confirm the telephone conversation or to provide a statement and insisted that a city attorney be present during their meeting.

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68521466 A-59-C.C. and signed in the upper left hand corner on the reverse side: Robert Rozzi 11-15-75.
 I personally never removed the object from the hole, but I'm pretty sure someone else did, although I can't remember who it was.
 The above statement is a true statement to the best of my recollection. This statement was given to Mr. Bugliosi by me at Hollywood Station on 11-15-75 1030 hrs.

[signed] ROBERT ROZZI

The above two-page statement was written by me and signed by Sgt. Rozzi in my presence.

[signed] VINCENT T. BUGLIOSI
November 15, 1975

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Martin Patruski

Another Bugliosi-obtained affidavit came from Ambassador waiter and crime-scene witness Martin Patruski: "...one of the officers pointed to two circled holes on the center divider of the swinging doors and told us that they had dug two bullets out of the center divider. The two circled holes are shown in a photograph shown to me by Mr. Bugliosi...I am absolutely sure that the police told us that two bullets were dug out of these holes."

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4 or 5 days or maybe a week later, the Los Angeles Police Department tried to reconstruct the scene of the crime and where everybody was standing. I and several other employees of the Hotel were present in the pantry. There were 4 or 5 plainclothes officers present. The reconstruction incident took about an hour or so. Sometime during the incident, one of the officers pointed to two circled holes on the center divider of the swinging doors and told us that they had dug two bullets out of the center divider. The two circled holes are shown in a photograph shown to me by Mr. Bugliosi marked "Exhibit JA" at the top. A man is pointing to the two circled holes. I am absolutely sure that the police told us that two bullets were dug out of these holes. I don't know the officer's name who told us this, but I remember very clearly his telling us this when they were recreating the scene, and I would be willing to testify to this under oath and under penalty of perjury.

I have read the above three page statement which I orally gave to Mr. Bugliosi freely and voluntarily and everything in the statement is true.

[signed] MARTIN PATRUSKY
12-12-75

The above statement was written by me in Martin Patrusky's presence and signed by Mr. Patrusky in my presence in my office.

[signed] VINCENT T. BUGLIOSI
12-12-75

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John Shirley and John R. Clemente

On the morning of June 5, 1968, two amateur photographers, Shirley and Clemente, took pictures of the pantry that included the door frame. In March 1969, Shirley provided a statement to researcher Lillian Castellano.

Said Shirley:

In the wooden jamb of the center divider were two bullet holes surrounded by inked circles which which contained some numbers and letters. I remember a manager pointing out those particular marked bullet holes to another person, who appeared to be a press photographer. It appeared that an attempt had been made to dig the bullets out from the surface. However, the center divider jamb was loose, and it appeared to have been removed from the framework so that the bullets might be extracted from behind. It also appeared to me that there was evidence that another bullet had hit one of the padded swinging doors.

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Dale Poore and Wesley Harrington

The men who helped authorities remove the wood were two carpenters employed by the Ambassador Hotel, Dale Poore and Wesley Harrington. In 1975 interviews conducted by the DA's office, the men described what they saw. Poore stated: "It looked like the bullet had went [sic] in at sort of an angle as it was traveling this way. So it made a bit of an oblong hole and the fiber of the board had closed some after it went in. And that's the only reason I thought it had been a bullet went in there because you put any kind of a metal instrument, punch nail sets, anything in the hole, it won't have a fiber around the edge"

Harrington answered:

Q: Would you be comfortable with using language that said they actually were bullet holes?

A: Yes. Yes. I would. During my teen-age years...we had use of air rifles and .22 rifles and we had fired into old buildings and trees, and this looked like a hole similar to a small caliber bullet.

Q: And both holes appeared to be of that nature. Is that a fair statement?

A: Yes. Yes.

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Vincent Di Piero

In an October 31, 1987 interview with Professor Philip
H. Melanson, crime scene witness Vincent Di Piero stated:

"I do know one of the bullets wound up in the wall. Actually it was either the door post or the wall...my father pointed out that there was...[that] it was in the doorframe. I remember them taking the whole doorframe off. They took that away. I don't know whatever happened to it."

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Angelo Di Pierro

Crime scene witness Angelo Di Pierro stated in an October 31, 1987 interview with Professor Philip H. Melanson, that he saw a bullet in the doorframe and a police officer explained to him that the bullet was a ricochet.

MELANSON: The bullet in the door was the door at the west end, with the [center] post there?

A. DI PIERRO: Right

MELANSON: The door or the jamb?

A. DI PIERRO: The post

MELANSON: Did you help dig that [the bullet] out, find that, or...

A. DI PIERRO: They dug it out

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Statement given by Angelo DiPierro to Vincent Bugliosi on December 1, 1977

In June of 1968, I was the maître d' at the Ambassador Hotel in Los Angeles. Just past midnight on the morning of June 5, 1968, I was escorting Mrs. Ethel Kennedy towards the pantry of the hotel. Senator Kennedy was preceding us by 20 or 30 feet. Five or so paces before we reached the two swinging doors leading into the pantry, I heard the first shot coming from within the pantry. We proceeded towards the two swinging doors and as we reached them, the rapid fire began, so I literally pulled Mrs. Kennedy from the open doorway to take cover behind the closed doorway. (Entering the pantry from the Embassy room, the door on the left was open and the door on the right was closed.) Immediately after the shooting ended, Mrs. Kennedy and I proceeded into the pantry to see what had happened. After Senator Kennedy had been removed from the pantry, many people, including the police and myself, started to look over the entire pantry area to piece together what had happened. That same morning, while we were still looking around, I observed a small caliber bullet lodged about a quarter of an inch into the wood on the center divider of the two swinging doors. Several police officers also observed the bullet. The bullet was approximately 5 feet 8 or 9 inches from the ground. The reason I specifically recall the approximate height of the bullet location is because I remember thinking at the time that if I had entered the pantry just before the shooting, the bullet may have struck me in the forehead, because I am approximately 5 feet 11 1/2 inches tall. It is my belief that the bullet in the hole is the same bullet that struck the forehead of Mrs. Evans who had been standing right in front of the center divider. The reason why I feel that the bullet which struck Mrs. Evans never entered her forehead and instead continued on into the center divider is that if a bullet had entered her forehead, I would have assumed she would have become unconscious, but Mrs. Evans appeared to be coherent and was not unconscious. Her only complaint was that she had been hit.

I am quite familiar with guns and bullets, having been in the Infantry for 3 1/2 years. There is no question in my mind that this was a bullet and not a nail or any other object. The base of the bullet was round and from all indications, it appeared to be a .22 caliber bullet.

A day or so later, the center divider that contained the bullet was removed by the Los Angeles Police Department for examination. I don't

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know who removed the bullet or what happened to it. The hole that contained the bullet was the only new hole I observed after the shooting. Even prior to the shooting, there were a few holes from nails, et cetera on the two swinging doors.

The above two page statement was given by me to Mr. Bugliosi freely and voluntarily and everything I have said in this statement is true to the best of my recollection.

(signed) ANGELO DIPIERRO
12-3-75

The above statement was written by me and signed by Angelo DiPierro in my presence at his office in the Palladium on December 1, 1975.

(signed) VINCENT T. BUGLIOSI

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The above two page statement was given by me to Mr. Bugliosi freely and voluntarily and everything I have said in this statement is true to the best of my recollection.

(signed) ANGELO DIPIERRO
12-1-73

The above statement was written by me and signed by Angelo DiPierro in my presence at his office in the Palladium on December 1, 1973.

(signed) VINCENT T. BOULSON

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Karl Uecker

In 1990, John Burns, head of the California State Archives, conducted an oral history interview with key witness Karl Uecker. For the first time in his numerous interviews over the years, Uecker revealed that he too had seen what appeared to be two bullet holes in the center divider of the pantry doorway. Incredibly, no one had previously asked him if he saw bullet holes and, not being cognizant of the significance of the controversy, he "didn't think it was important..."

After being interviewed by police the morning of June 5, 1968, Uecker returned to the crime scene, which was being examined by law-enforcement personnel. He noticed two holes in the center divider that he is positive were not there prior to the shooting. He passed through the door dozens of times each night and is sure he would have seen them if they existed previously: "Two holes, which were never there [previously]." Uecker recalls pointing the holes out to a man whom he thought to be plainclothes policeman. The man responded that everything would be checked out.

BURNS: How come you thought they were bullet holes?

UECKER: Because these holes never were there before and I knew where the shots were going to. I saw him [Sirhan] shooting, and I know it must have been this way.

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"Now the removal of the bullets probably occurred prior to my getting there. But MacArthur would have told me about that or the crime lab guy would have. They were amazingly cooperative...Especially under these circumstances they tend to be very close-mouthed. But these guys were friendly as the Dickins."

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CERTIFICATE OF SERVICE

Case Name: **Sirhan Bishara Sirhan v. George Galaza, et al**

No. **CV -005686-CAS (AJW)**

I hereby certify that on November 20, 2011, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system and will also dispatch them by commercial carrier on November 20, 2011.

REPLY BRIEF REGARDING ACTUAL INNOCENCE MEMORANDUM OF POINTS AND AUTHORITIES

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. On November 20, 2011, I delivered the foregoing documents to Federal Express, a third party commercial carrier for delivery within three (3) calendar days to the following non CM/ECF participant:

Michael McGowan

282 Paseo Andante

San Juan Capistrano, CA 92675

I declare under penalty of perjury under the laws of the State of California, the forgoing is true and correct and that this declaration was executed on November 20, 2011 in New York City, New York.

Laurie D. Dusek

Laurie D. Dusek

Declarant

Signature