Harper statements

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COPY

LOS ANGELES COUNTY

OFFICE OF THE DISTRICT ATTORNEY

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In the Matter of:	
SIRHAN, KIRSCHKE, AND TERRY CASES INQUIRY	REPORTER'S TRANSCRIPT

STATEMENT OF WILLIAM W. HARPER

Taken by Richard W. Hecht, Head, Organized Crime and Pornography Division, in the Office of the District Attorney, Room 604, Hall of Justice, Los Angeles, California, at 1:40 P.M., on Thursday, June 10, 1971.

CONFIDENTIAL

VIRGINIA M. DUMAS, L.S.R.

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STATEMENT OF WILLIAM W. HARPER, TAKEN IN THE DISTRICT ATTORNEY'S OFFICE, ROOM 604, HALL OF JUSTICE, LOS ANGELES, CALIFORNIA, ON JUNE 10, 1971, AT 1:40 P.M., BY RICHARD W. HECHT, HEAD, ORGANIZED CRIME AND PORNOGRAPHY DIVISION.

In the matter of

Sirhan, Kirschke and Terry
Cases Inquiry

Questions by:

Richard W. Hecht

Sid Trapp, DDA

Ronald M. George,
Deputy Attorney General

Present:

John A. McAllister
Deputy Chief, LAPD

Charles Collins
Sergeant, LAPD

Frank Patchett,
Lieutenant, LAPD

Ronald M. George
Deputy Attorney General

Sid Trapp, DDA

Barbara Warner Blehr

Reported by:

Virginia M. Dumas, LSR

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LOS ANGELES, CALIFORNIA, THURSDAY, JUNE 10, 1971, 1:40 P.M.

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BY MR. HECHT:

Q I will indicate what we are going to do, Mr. Harper. We are going to tape record this on two tape recorders, our conversation here, and at the conclusion, just as we did with the other person, we are going to give you a copy of the tape recording to take with you. Is that agreeable with you?

A That's fine.

Q All right. To introduce the people here, my name is Dick Hecht. I am a Deputy District Attorney. This is Mr. Ron George. He is with the Attorney General's Office. Chief McAllister with the Los Angeles Police Department. Lt. Patchett there sitting in the back along side Sgt. Collins. This is our sound technician, Bill Clark, and our reporter.

Do you want to state your full name for us, please.

A William W. Harper.

Q Mr. Harper, in connection with the Sirhan Sirhan case, I have, at least it is my impression, that you have examined the evidence or some of the evidence in the Sirhan Sirhan case downstairs. Is that correct?

A I have examined some of it, yes.

Q Approximately how many times have you gone down to the Clerk's office to examine the evidence, if you remember?

A I don't know exactly, but I think it would be twelve or fourteen times perhaps.

Q And did you fill out one of those white slips every time?

A Every time, yes.

Q At the conclusion of the trial, my understanding is that a court order was issued directed to the County Clerk that would require anyone who wanted to examine the evidence to have a court order. Did you have a court order, Mr. Harper?

A No, I did not.

Q Were you aware of the fact a court order was required?

A No, I was not.

Q Do you know a Mr. Shibley, an attorney?

A Yes.

Q Before you first started to examine the evidence down there did you have any conversation with Mr. Shibley in connection with the examination of the evidence?

A Yes.

Q Tell me what that conversation consisted of.

90

A Well, I believe I was in the Clerk's office prior to my conversation with Mr. Shibley, and I had had some difficulty in getting to see the exhibits. Very shortly thereafter I think I talked to Mr. Shibley and pointed out to him the difficulty I was having in seeing the exhibits, so he gave me a letter, which I took down to the Clerk's office and then after that I had no trouble seeing at least some of the exhibits.

Q Was it your understanding Mr. Shibley was an attorney for Mr. Sirhan in connection with the appeal?

A Yes. He was the attorney of record on the Sirhan appeal.

Q During the times you have examined the evidence, have you brought anybody else with you, to accompany you to the Clerk's office?

A Yes, I have.

Q Would you care to give us the names of those people as best you can recall?

A I brought a Mr. Phil Robertson on several occasions.

Q Would you identify him?

A He is an engineer for Hycon Manufacturing Company.

Q Is that H-Y-C-O-N?

A That's right. And he came along with

some of his equipment and made photographs for me in connection with the Sirhan case.

Q. Was he paid by you or anyone else to your knowledge in connection with that service?

A No.

Q Who else besides that gentleman do you recall being with you during the examination of any of the exhibits downstairs?

A Well, my wife accompanied me down there to help me carry some equipment, but she didn't partake in any actual work in connection with the examination. Likewise, my son, and Godfrey Isaac, the attorney, was there one time but not to participate in any work in connection with the case.

Q Has Mr. Isaac employed you in any capacity in connection with your viewing the evidence or rendering an expert opinion in connection with any of the cases discussed by Mrs. Blehr?

A No.

Q What kind of equipment was brought in to be of some use to you or people who accompanied you in connection with examining the evidence?

A Well, I took in a binocular microscope, a little hand magnifier I carry with me most of the time, binocular microscope, and then a Baliscon camera, which Mr. Robertson operated for me, and that was about the extent.

92

Oh, photographic equipment -- 35 millimeter camera.

Q Did you find the Clerk's office helpful in accommodating you in connection with the use of the equipment?

A Oh, yes.

Q What motivated you originally in connection with examining the evidence, perhaps not only in the Sirhan case, but the Kirschke case and the Terry case?

A Well, the first motivation I had came about the end of the Kirschke case.

Q Did you testify in that case?

A Yes, I did.

Q For the defense?

A Yes, for the defense. And as a consequence of some of the exhibits at the Kirschke case, I became interested in certain aspects of the firearms testimony, and after the trial was over, I continued on with further examination of the evidence in that case, and this continued on roughly nine months after the trial, and I think it was maybe September -- let's see, Kirschke was convicted in January of '67, I believe. Yes. And then for nine months after that I would make occasional visits to the Clerk's office to examine certain items of evidence in the case, and this lasted for roughly nine months.

Q Let me stop you right here and ask you

93

this. You testified in the Kirschke case, didn't you?

A Yes, I did.

Q Was that in connection with some aspect of the ballistics evidence?

A Yes.

Q And to your knowledge did Mr. Wolfer testify in that case also?

A Yes.

Q He testified for the prosecution?

A That's right.

Q Okay. Who is the attorney who employed you on the Kirschke case?

A Ah --

Q Was it Mr. Ramsey?

A Yes. Employed is all right, except employed without pay.

Q You told us about the motivating factors in connection with examining the evidence in the Kirschke case. What led you, what interested you, what motivated you to examine the evidence in the Sirhan case?

A In the Sirhan case?

Q Yes, sir.

A Well, the motivation started almost a year ago now, and it wasn't a very strong motivation really, but I had expressed interest in the case at the time it was in trial, and I expressed interest to Grant Cooper,

and I told him that I, at some time in the future, wanted to be able to make photographs of the bullets involved in the Sirhan case. He said that the bullets would be in evidence and that this could be arranged. More from the standpoint of academic interest than anything else.

And then about a year ago this time, I happened to buy a book by Chief Houghton, "Special Unit Senator", and there was one little thing in the book that aroused my interest, and it had to do with, in fact it was on page thirty nine, where it was mentioned that Dr. Cuneo and Dr. Reid, I think, had removed a portion of a bullet that was twelve millimeters in diameter, and I had some vague recollection at that time that Senator Kennedy had been shot with a twenty two. Twelve millimeters is quite a lot larger than a twenty two. So this sort of fascinated me, so I read the whole book and was waiting until production models of cameras from Hycon would be available and I was going back down to photograph these bullets.

But I guess the one single triggering factor in my motivation was this statement, which I am sure was a misinterpretation from what the doctor said, that got in the book -- that he had been shot with a twelve millimeter bullet, which is roughly, you know, forty five caliber, and I had recalled a twenty two caliber was involved.

Then finally, I obtained a copy of the

transcript of Wolfer's testimony and read that. And I obtained a copy of the autopsy report and studied that. And sometime, probably -- here again the records in the Clerk's office will show -- but sometime in September maybe, I don't know, maybe August, I started going to the Clerk's office after I had obtained a letter from Shibley and started making examination of some of this physical evidence.

Q In connection with the Terry case, what motivated you to examine the evidence in that case, if, in fact, you did?

A Yes, I did. I was motivated by the defense counsel, Mr. Ed Medvene (phonetic).

Q Did he employ you for that purpose?

A What?

Q Did he employ you for that purpose?

A He employed me as a criminalist to check the evidence, yes.

Q Did you testify in the Terry case?

A Yes, I did.

Q In connection with ballistics evidence in the case?

A Yes, that's right.

Q Was Mr. Wolfer, to your knowledge, a prosecution witness in that case?

A Yes.

96

Q It is my understanding that a number of commercial items have been in preparation, including but not limited to a motion picture film, perhaps a book or two, that espouse certain theories of the Senator Kennedy killing, which to some extent are at variance with the theories that prevailed for a certain period of time during the prosecution and still do prevail as far as I know. Have you been employed by anyone who is engaged in or affiliated or associated with any of these commercial interests?

A No, I am not.

Q In connection with the Sirhan case, did you examine Exhibit 6, which was the gun introduced in evidence?

A Yes, I did.

Q That examination was downstairs?

A That's right.

Q Did you conduct any scientific tests on that gun?

A No.

Q Do you have any evidence that would lead you to believe that was not the Sirhan gun?

A No, that gun had serial number 853725 and based on Mr. Houghton's book, based on the Grand Jury transcript, that's the number that they had there,* so I presume undoubtedly that is the gun he had.

*Here you see Harper believed the gun's serial number was recorded in LACGJ transcript - But of course it wasn't. No wonder Harper yelled @ me. (97)

(Mr. Sid Trapp enters room and is introduced to Mr. Harper.)

Q There is Exhibit 47 in the Sirhan case, which is referred to as the Kennedy bullet. Have you looked at that?

A Yes, I have.

Q And is it a twenty two caliber bullet?

A Yes, it is.

Q Did you perform any scientific tests on that particular exhibit?

A Ah, only to take pictures of the bullet, that's all.

Q Do you have any evidence that would lead you to believe that that bullet was not fired from the gun which I have referred to as Exhibit 6?

A I'm not through with this particular problem. I can't answer that.

Q All right. Your answer is that presently you can't answer that?

A That's right.

Q Okay. Do you presently have any evidence that would indicate that the bullet, Exhibit 47, did not, in fact, come from the sixth cervical vertebrae area of Senator Robert F. Kennedy?

A No, I really don't have any evidence of it but there are some factors that at least are a little

disturbing on that particular point.

Q Would you articulate on those factors? Would you like to?

A Well, Exhibit 47 is an envelope prepared by Dr. Noguchi at the time the bullet that's enclosed therein at the time of the autopsy, and he has made certain notations on that envelope and one of them is a notation that there are five grooves on the bullet in that envelope. But, as a matter of fact, this is not true. There are six grooves on this bullet in Exhibit 47. *

Now, this may not mean anything in particular except maybe, I think Dr. Noguchi and Mr. John Minor found these grooves on the bullet right following the removal of the bullet from the Senator's body. Maybe they didn't count right; I don't know. But at least the envelope says there are five grooves and the report that's in there now has six grooves, and this is a conflict that I think deserves some explanation or investigation. Because bullets don't grow grooves.

Q Did you examine the transcript in the Sirhan case to see whether or not this particular observation that you just made was the subject of concern for the defense attorney in that particular case, or for the prosecution?

A My recollection is it isn't even mentioned. Exhibit 47 is mentioned but not that the exhibit

* this strongly suggests bullet substitution recall the "D W" "T N" vs. the correct T N 31 engraving on Pea 47 bullet base.

99

itself shows there are five grooves, whereas the -- to my recollection, I don't think that lands and grooves are even mentioned, that is, the number of them, in the entire Wolfer transcript. I must admit, I haven't read the transcript of the whole case.

Q Did you examine Exhibit 51? I think we refer to that as the Stroll bullet. I think it came from one of the victims in that particular case.

A I examined all of those bullets, yes.

Q And insofar as Exhibit 51 is concerned, do you recall it?

A Oh, vaguely. I think this is the one that -- well, you see, there were quite a number of them. I think the Stroll bullet -- well, I would have to have my notes to be sure, but I think this is a deformed bullet that probably had ricocheted from the floor.

Q Did you form the opinion it was a twenty two caliber bullet?

A Yes.

Q Did you conduct any scientific tests on that particular bullet, Exhibit 51?

A No, I didn't conduct any scientific test. I took pictures of it.

Q Do you have any evidence that indicates that that particular bullet, Exhibit 51, did not come from Irwin Stroll's leg?

100

A No.

Q Did you examine Exhibit 52? That's the Goldstein bullet.

A Yes, I did. I think that was removed from the buttocks of Mr. Goldstein.

Q And do you recall whether or not that's a twenty two caliber bullet?

A Yes, these are all twenty two bullets or fragments of twenty two caliber bullets.

Q And did you take pictures of that Goldstein bullet, Exhibit 52?

A I believe so. I'm not too sure. Let's see. I didn't take pictures of some that were badly deformed. The only one I did badly deformed was Exhibit 48, which was a fragment removed from the Senator's head.

Q Assuming for the moment -- well, it was unclear whether or not you took pictures of the Goldstein bullet -- did you conduct any scientific tests on that whatsoever?

A Again, when you say scientific tests, I don't know whether you are including photography. I don't consider photography a scientific test.

Q I don't either, but I wanted to make the question as broad as possible.

A No, I didn't run any scientific test on any bullet.

Q Do you have any evidence that indicates that Exhibit 52, the Goldstein bullet, did not come from the person of Mr. Goldstein?

A No, I have nothing to indicate that it did not.

Q Okay. Exhibit 54 is what we call the Weisel bullet. I think that was taken from the stomach of William Weisel. Did you examine that bullet?

A Yes.

Q Is that a twenty two caliber bullet?

A Yes.

Q And did you take pictures of that bullet?

A Yes.

Q All right, once again using the term "scientific test", did you conduct any scientific tests on that bullet?

A No.

Q Do you have any evidence to believe that that bullet did not come from the stomach of William Weisel?

A No.

Q Do you have any evidence which leads you to believe that that bullet was not fired from Sirhan's gun?

A No, not as yet I don't.

102

Q All right. I will ask you the same question as to the Stroll bullet. Do you have any evidence that it was not fired from the Sirhan gun?

A No.

Q Exhibit 55, I take it you have looked at that exhibit?

A Yes.

Q And you have looked at the envelope the exhibit is contained in?

A That's right.

Q Okay. Did you take pictures of Exhibit 55?

A Yes.

Q What is Exhibit 55?

A Exhibit 55 is a Los Angeles Police Department Crime Lab envelope containing three test bullets and two empty shell cases.

Q Other than taking pictures of that exhibit, did you conduct any tests whatsoever?

A No.

Q Do you have any facts indicating that the exhibit or the contents of Exhibit 55 are not, in fact, test bullets from the Sirhan gun, Exhibit 6?

A No. The only thing I can go on is the serial number of the gun which supposedly fired those bullets.

103

Q And are you referring to the notation on the envelope of Exhibit 55 where a serial number is mentioned?

A Yes. There are two places there.

Q Did you compare the contents of Exhibit 55 with any of the other bullets in the case?

A Yes, I compared photographs of those bullets with bullet 47 and bullet 54 but I did not conduct a formal examination which I used a comparison microscope.

Q Having in mind then this limited kind of examination -- would that be correct; would you categorize it as a limited examination?

A Yes.

Q All right. Having in mind that you did perform this limited kind of examination, did you reach any conclusions in connection with the comparisons that you made in the examinations that you made?

A No, only that I wanted to continue further with the comparison microscope. The Baliscon camera pictures were interesting, but I don't think they are conclusive yet.

Q Were you able to bring in a comparison microscope to the Clerk's office?

A No.

Q They are too bulky. Is that right?

A I can't carry them.

104

Q In fairness to you, you have given me those exhibits (indicating) to hold over the lunch hour, can you examine them and see that everything is there because once you've made certain of that I would like to give you an opportunity to tell us whatever it is you would like to say.

A They are a little shop worn, but they are all here.

Q I would like to hear from you now, Mr. Harper, if you would like to do so, we would like for you to tell us in whatever fashion you find acceptable precisely what it is you found in connection with the Kirschke case, the Sirhan case, and the Terry case that you feel would be of interest to us.

A Well, in the Kirschke case -- do you want to go first with that? Well, I don't think you can see this very far away (referring to one of the exhibits returned to him), but this card holds photographs of two exhibits, Exhibit 101 and Exhibit 102, which were handed into evidence in the Kirschke case. These are photographs of photographs, but they are mounted in the same way as the exhibits in the actual case.

Q What photographs are they photographs of?

A These are photographs of the photographs of Exhibits 101 and 102 in the Kirschke case.

105

If you will look at these carefully -- I don't know how far away you can see these -- I might say that while the pictures are the same way they were at the time of the trial, I have added some things to them, like these black arrows and this dotted line, and where I think Mr. Wolfer had the word "test", now I just put a "T", and for the unknown bullet I put an "X".

But these photographs are reversed. One of them is upside down.

The reason for that is -- the reason this is evident -- this area in here is a skid mark. When the bullet went into the rifling, it didn't immediately take up the twist of the rifling in getting them apart and it skidded along for awhile, and this area in here is a skid mark.

Q You are referring now to Exhibit 101?

A Right.

Q Okay.

A This is a skid mark in this picture. And because the skid mark is wider at this end than at that end, these bullets are pointing to the left.

Now, you notice this skid mark here is at the lower part of the land impression. Now, in Exhibit 102 there is the skid mark. Here it is at the upper part of the land impression, and it's getting wider as you go to the right. That means that the bullets in this exhibit

106

are pointing to the right. And yet the questioned bullet is on the right in those pictures and the test bullet is on the left in those pictures. So this is sort of an unusual situation, and I was very curious about that.

So, after the trial, I started going to the Clerk's office to see if I could find out what the explanation was for the reversal in these bullet pictures. And as the months passed, I found some things that were very interesting.

First of all, this center picture is a picture that I took sometime along the line, on September 15, '68. I had been working with this area of a test bullet for some months, as a matter of fact, but it wasn't photographed until September 15, '68.

And in Exhibit 101 there was very conspicuous defect in the right land shoulder. This is the test bullet part of the picture. This is the errant bullet below. I wanted to see if I could find on the actual bullets where this defect appears, on which bullet, and also locate this on the Drankam fatal bullet.

There were five test bullets, as I recall, in evidence, but the particular test bullet used here was not indicated, so I searched through the five test bullets and I found a land shoulder where this defect was present and I checked it very carefully and I found other identifying features in this photograph. So I knew I had

101

found the particular test bullet which he had used to compare with one of the land impressions on the Drankam fatal bullet.

This combination here was easy to verify. It didn't take me too long to do that. On this Drankam bullet, this area up here and down here, which are again the land impressions on the Drankam bullet, these were one hundred twenty degrees apart, radially, around the bullet. Do you understand what I mean?

Q Yes.

A In other words, this is six lands and grooves, right hand twist. So there was another land impression between this land impression and this one on the Drankam bullet.

So, since these were one hundred twenty degrees apart, I knew that this area here had to be one hundred twenty degrees away from this area.

Precept six that you have, I suppose, somewhere, says that a single land in rifling a gun can leave only one land impression on a fired bullet. This has been so thoroughly ingrained in my head, and I think in every criminalist, I knew that I couldn't expect to find this area here on the best bullet in the same area as this one here because these two are one hundred twenty degrees apart. So every time I would come to this area, this stands out like a red danger flag. This land impression is in use. You can't use it twice.

108

So I went over all the land impressions and all the test bullets over a period of along about February to about the first of September of '68, and I finally had to give up. But it was possible that this same land impression here had been used twice, which is a pretty unthinkable thing to a fellow in my field of work.

But I thought I should check it out, even so. So I went back again and checked and found that while the upper half of this single land impression was used to identify this land impression on the Drankam bullet, the bottom part of this same land was used to identify the land impression that was one hundred twenty degrees away on the Drankam bullet. And this, of course, is a completely unthinkable thing. I mean, this is one of the things you can't do, and this is an ironclad, basic premise or precept in firearms identification. One land in rifling can't leave two land impressions on the very same bullet from one firing.

So here we have established -- the way this is established hasn't anything to do with it, but rifling striation by very fine structure that appears in this picture and in the test picture that I took of this one land impression -- and you will all have to come and look at it closer, I guess -- there is certain fine structure here that is the same in my picture and in this picture, Exhibit 102, where the test area is shown.

I'll carry these around (indicating exhibits.)

109

Q We have some copies.

A How did they come out?

Q Not bad.

A You can pass these around if you want to.

Q In connection with this case, did you identify the fatal bullet as coming from the same weapon which fired the test bullet in this case, Kirschke case?

A Kirschke case? May I have the question again?

Q Yes. Did you identify the fatal bullet in the Kirschke case as coming from the same weapon which fired the test bullet?

A No, I did not make any such identification.

May I say that these photographs, 99, 100, 101, and 102 exhibits -- now, 99 is the bullet removed from Mrs. Kirschke's head, and there was only one land impression on that, and the other three from the Drankam bullet failed to show any identification whatsoever.

Q Okay. Is there any other matter that you want to invite our attention to?

A In this case?

Q Yes.

A Well, I think, as mentioned in the letter, that violation of precept five having to do with

110

class characteristics being used to establish identification of a bullet, and although there are marks on these, on all exhibits, there are thirteen identifying features marked by arrow by Mr. Wolfer, there is actually nothing on Drankam bullet and only one true individual characteristic on the bullet that was removed from Mrs. Kirschke's head. That's because one of the class characteristics of a bullet is the width of the lands and grooves and, of course, these are land impressions here. In other words, they are grooves on the bullet. They amount to a width, certain number of, say mills of an inch, sixty thousandths or seventy thousandths width, and that is class characteristics, not an individual characteristic. Mr. Wolfer has marked, see, the shoulders of the land impression as separate, individual characteristic and this is a complete fallacy. This isn't true. It's a good way to get more identifying points, but it's not valid. Because, first of all, these two indicating land impression shoulders are representing just one number, say seventy mills or eighty mills, whatever the width of the groove is, and in Exhibit 102, he's indicating one land shoulder, but he doesn't indicate the other one. One land shoulder has no meaning whatsoever. I mean, say, well say you have a piece of property and you got a property line across here and the mere fact that this extends a certain number of feet along the border of a property line does not define how much the property extends in this way.

In other words, a single land shoulder is absolutely nothing in the way of identification. Two of them show that there are two land shoulders and the width between them is the class characteristic, but these are only class characteristics and they play no part at all in individualizing a certain gun from all the other guns in the world.

So the class characteristics incorporated in these exhibits is basic violation of precept five, as mentioned in the letter.

Q In connection with the same case, is there anything else you would like to invite our attention to?

A Oh, no, I don't think I could. I would have to review the case to do that. This is the only thing -- this has been some years ago. There are other things that might be involved.

Q In connection with the Sirhan case, I would like to give you the opportunity of telling us whatever you'd like to comment upon in connection with the ballistics tests on that case.

A Well, the most significant thing, actually, is the view of Exhibit 55, and that presents two possibilities. Since it appears from combining the testimony along with Exhibit 55 that Mr. Wolfer has identified Sirhan's gun as being the single murder weapon because of running

tests on a different gun. This is quite clearly a violation of precept number one. You can't run tests on some other gun to identify a particular gun in the case.

Now, this is one possibility. The other possibility is that if the bullets in Exhibit 55 were, in fact, used in comparison microscope, and if they were positively tied in, identified as having come from the same gun that the three errant bullets, forty seven, oh I don't remember, Weisel, Goldstein, and Kennedy -- if these matched, then that places this gun, H18602, in the pantry and fired at the time. Now, I don't know which it is.

Q Is the other alternative or possibility that that exhibit, at least on the outside of the envelope, has been mislabeled?

A Oh, yes. It could have been mislabeled or they could have picked up the wrong envelope. I don't know. All I know is what the physical facts are before me.

Q Right. Do you have any other comment you would like to make in connection with the Sirhan case?

A I don't think so, nothing I haven't already mentioned. I mentioned Exhibit 47, which continues to bother me. *

Q How about the Terry case? Would you like to comment in any way on the testimony in the Terry case?

A No, I don't recall the testimony

* Harper here refers to 5 vs 6 grooves.

113

precisely, but exhibits "D", "E", and "F", which accompanied Mrs. Blehr's letter, will illustrate what the alterations were that were involved in that case. And I don't have a copy of the police report with me. But this is a case in which the field officers had requested the laboratory to reach an opinion about whether or not a certain cartridge case -- an unfired cartridge, in fact -- had misfired, and so the investigation in the lab was directed with that thought in mind to determine whether or not there had been a misfire of a cartridge case found on the floor. So the cartridge found on the floor, loaded cartridge, was inscribed at some time by Mr. Wolfer. This is shown in the exhibit "E" here. That was cartridge number two. And that cartridge, that unfired cartridge, had a very small and shallow firing pin impression in the primer. It was obviously immediately evident that it was not a misfire, because a misfire is whenever the firing pin makes a normal impression in a primer but the primer doesn't fire. This is a misfire. But this is the type of indentation that often happens in certain rifles where the firing pin actually rests against the primer and finally it makes a little delicate indentation in the primer.

But, because of this indentation, the investigating officers I am sure were suspicious that this might have been a misfire. But at least in my opinion I wouldn't have called it a misfire at all. I don't think any

114

firearms man would. But, because of this, this cartridge was marked "POSITIVE" -- that's number two -- indicating it was a misfire.

Now, the cartridge that actually fired was found in the gun upon the officers arrival, was number one. That was originally marked "NEG" because it obviously was not a misfire since it had fired.

Then, at some time later, there were three unfired cartridges in the magazine of this rifle and because of the fact that they were in the magazine and hadn't gone through the magazine of the gun, one of these number three cartridges was marked -- this is shown on Exhibit "F" -- one of them was marked "NEGATIVE", indicating it had not misfired because it was still in the magazine. As far as anyone knew, it had not gone through the magazine of the gun.

But, also at some unknown time, at least unknown to me, this cartridge case, part of which is pictured here in Exhibit "F", it was noticed by someone that it had the same type of firing pin impression in the primer as number two. So this sort of pulled the rug out from under the theory of a misfire. If the one found by the arriving officer, if the cartridge found on the floor, had this little indentation in the primer, they are going to call that a misfire, then the one in the magazine which had the same thing on it, they would have to call that a misfire

115

and obviously it hadn't been through the mechanism of the gun. So this necessitated changing the strategy, so to speak, and to have things come out even, the emphasis and theory was shifted to extractor marked identification. And number one had been fired and had been ejected, extracted from the weapon by the police.

(Interruption)

Since number one had been through the mechanism, naturally it could be expected to have extractor marks on it. So Exhibit "D" was changed from "NEGATIVE" to "POSITIVE", now meaning that they are talking about extractor marks.

And he also went over his own initials, "D.W.", and he put "POS" on top of the "NEG".

Now, Exhibit "E", which was the one that was originally believed to be a misfire, where he had written "POSITIVE" and his initials, since he used a different marking tool between the first inscription and the second, he went over his initials again, "D.W.", with a different marking tool and over "POS" again with a different marking tool.

And then on "F", this was the one which was found in the magazine of the weapon. He changed this from "NEGATIVE" to "POSITIVE", and again went over his own initials with the last marking tool.

Now I have -- I don't have them with me -- but I have also pictures of the other two cartridges

found in the magazine of the weapon, and they are marked "NEGATIVE", as I recall, because he couldn't say definitely whether they had been through the weapon or not from the extractor marks.

But these cartridges were all from an odd box of cartridges. And I examined them and there are several extractor marks on them. And while he said he made the extractor marks -- meaning he had identified them as having passed through the mechanism of this gun -- there were no photo micrographs to demonstrate this, and I couldn't tell from my examination whether they had or had not. Here, again, I didn't have a comparison microscope available.

Q Mr. Harper, we had a conversation with Mr. Pinker this morning. Have you talked with Mr. Pinker since my conversation with him?

A Yes, I met him at Miller Leavy's office.

Q To bring you up to date, Mr. Pinker gave us a resume of a number of conversations with you in connection with the preparation of the letter that Mrs. Blehr sent to the City Civil Service Commission.

Have you, over the past two or three years, been vocally critical of Mr. Wolfer's work in connection with his ballistics testimony in a number of cases?

A Well, with certain people I have been vocal about it, yes.

Q Who are those people?

A Including Mr. Pinker.

117

Q Are you of the opinion Mr. Pinker shared your feeling, your expressed feeling, in connection with Mr. Wolfer's work?

A Well, I think so, up to the point where he could. I mean, he has not examined the Kirschke -- he hasn't actually seen the Kirschke bullets. He has seen these photographs. And he hasn't seen the cartridges cases, the Terry case. He has seen the pictures. So I would sum it up by saying insofar as possible, he and I see eye to eye on the basic criminalistic elements involved.

Q Has he ever been critical of Mr. Wolfer's work to you? Has he ever articulated to you his criticism to Wolfer's work?

A Well, yes, he has to a limited extent because, while he hasn't had any cases against Mr. Wolfer, the cases that have been handled by other people where the story has leaked back to Mr. Pinker and Mr. Pinker has told me, but this is hearsay upon hearsay upon hearsay, and I couldn't even tell you what the remarks were at the time.

Q Did Mr. Pinker ever tell you he was dissatisfied in any way with Mr. Wolfer's work while Mr. Pinker was still with the Los Angeles Police Department Crime Lab?

A No, I don't think he had any complaints at that time. If he did, I never heard about it.

Q Can you tell us on any particular

occasion, or in connection with any particular case, what Mr. Pinker said that was critical of Mr. Wolfer's work?

A You mean prior to this -- these problems here?

Q Yes.

A Well, not in the beginning, no. I never heard anything about Mr. Pinker being critical of Mr. Wolfer.

Q All right. You brought certain of the matters you discussed with us here today to Mr. Pinker's attention, did you not?

A Yes.

Q Did Mr. Pinker -- well, what language did Mr. Pinker use that you believe indicates criticism by Mr. Pinker of Mr. Wolfer?

A Well, I can't remember the language. We have talked -- we are very old friends. We have talked many times about these problems and other problems in the field of criminalistics and he has seen these pictures and he, of course, it is quite evident to him that one land impression has been used twice and this is a violation of precept six. But what language he used, I don't recall. This is not good. I'm sure he, in effect, said that.

Q In connection with the precepts, who set down -- who articulated these precepts?

A Well, I did mainly, but Ray Pinker made

some suggestions and also Jack Cadman.

Q Did that cause you to alter or change or modify any of the precepts?

A Well, I can tell you exactly what they were.

(Mrs. Blehr hands papers to Mr. Harper)

It was Ray Pinker's suggestion that in precept two, I add a parenthetical expression, "When the evidence gun is not available, a similar gun may be used but the validity of the test is always more questionable."

Q You added that at Mr. Pinker's suggestion?

A Yes. We decided that was a good idea because there are cases once in a great while where you can't get the actual gun, and so for a very rough check on powder pattern, you can use another gun from the same manufacturer, and same model and so on, same barrel length, but when you do that, it, well, it's always more questionable. That is, the results are not as valid as they would be if you used the same gun and same ammunition.

As a matter of fact, it was in this same point, same area, where Jack Cadman made the suggestion that we put the word "more" in between "always" and "questionable".

These tests, in the first place, are not tests of high precision, you know. They are very

120

rough tests and it's not possible to determine distances with any great accuracy at all.

And, so at the best they are not very good and they can be terribly inaccurate when another gun is used in place of the actual gun.

And, of course, our concern here, at least in the Sirhan case, was that the other gun was available. It hadn't disappeared in outer space.

Q Mr. Harper, you have indicated to me, and please correct me if I am wrong, based upon the photographs which you showed to Mr. Pinker that he is in agreement with you in connection with the criticism of Mr. Wolfer's testimony. Is my understanding correct in that regard?

A Yes, I think so.

Q Did Mr. Pinker actually tell you that he would not make any judgment in connection with these matters by simply looking at the photographs that you showed him?

A Yes, that's true. But the photographs, they have a way of speaking for themselves up to a point, but any criminalist, of course, wants to see the actual evidence itself, but based on the examination of the photographs, he agrees with me and, but he hasn't actually seen the evidence itself.

Q What motivated you, Mr. Harper, if you were, in fact, motivated, to seek declarations from

121

Mr. Pinker, Mr. Cadman, and Mr. Snyder?

A Well, this was a very unusual situation. These gentlemen had not had an opportunity to examine and recheck this physical evidence as I had had, but because certain very fundamental precepts of the science of firearms identification were involved, I just wanted to get an expression or opinion from these gentlemen as to whether or not they agreed with these things that we consider rather holy axioms in this field of firearms identification.

Q You mean precepts?

A Precepts or axioms or whatever you want to call them. I call them precepts.

Q Did you make any attempt to have any of the other experts actually take a look at the exhibits that were available in the Clerk's office?

A Well, ah, ah, let's see. Charlie Wilson, Charles Wilson, did examine the exhibits in the Kirschke case -- the actual bullets.

Q Were you with him at the time?

A Yes. He did examine the bullets in the Kirschke case. He's the only one that examined those bullets other than me that I recall.

Q Did you ask Mr. Snyder to examine any of the exhibits in any of these three cases we have talked about here today?

A No, I did not.

122

Q Did you ask Mr. Cadman to examine any of the exhibits in any of the three cases we have talked about today?

A I asked him to examine them in the Kirschke case.

Q Did he do so?

A No, he didn't.

Q Did he say why he did not?

A Well, he didn't want to get involved.

Q Did you ask Mr. Pinker to examine any of the evidence in any of the three cases we have talked about today?

A Oh yes, I know I must have. I can't remember the exact time that I asked him to, but he was retired and after all it was his police department that he had just come from and I can understand why he didn't want to get involved in going down there and examining the evidence.

Q Do you know Sgt. Alsberger (phonetic), if that's the correct pronunciation, in the Santa Ana, Orange County, Sheriff's Office?

A Well, I don't think you have the name right. I think I'd better say no.

Q Outside of Mr. Cadman in the Orange County Sheriff's Office, do you know any ballistics expert down there?

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123

A Well, there is a man down there in the police department that does their firearms work.

Q What's his name?

A I don't remember. It's something like you are trying to say, but I don't think it's the right name.

Q Did you ever ask that gentleman, whose name I can't articulate, to do any investigation in connection with either the test gun or the actual Sirhan fatal weapon in the Sirhan case?

A No.

Q Did you ever ask him to make any inquiry as to what disposition was made of the Sirhan gun or the test gun?

A Oh, are you getting at this teletype thing? Is that what you are shooting at?

Q Yes.

A I didn't do this, no, but Jack Cadman, at my request, ran them through to Sacramento, yes.

Q Do you know why Cadman didn't run it under his own name, but had somebody else to run it?

A I can't answer that.

Q Was that ever discussed with him?

A No. I didn't consider that a big deal. I mean, I asked him if he would run this thing through CII and get the serial number and he did. I don't

think he was trying to cover up anything at all.

I thought you were talking about the firearms man down there. You had me a little confused.

Q I'm sorry. I'm talking about the gentleman that apparently Mr. Cadman had to ask CII about the test guns.

A Oh, he's a teletype man. I'm sure he's not a firearms man.

Q What is your understanding?

A Well, I don't know too much about the Orange County Sheriff's office or the lab, but there is some sort of Berg or Berger (phonetic) who does do some firearms work. His name is Luxemberg (phonetic) or something like that -- in the police department -- and I think he does their firearms work. But who this fellow is on this teletype, I don't have any idea.

Q When you asked Mr. Cadman to run that inquiry by CII, did you tell him it was in connection with the Sirhan case?

A I don't know whether I did or not, actually. It was after I had encountered this envelope fifty five, Exhibit 55, and I can't answer your question accurately. My memory doesn't permit me to say whether I told him it was in connection with the case or not.

Q When did you first start talking to Mr. Cadman about the observations you made and conclusions you reached in the Sirhan case in connection with the

125

ballistics evidence?

A Well, I can't answer that. I have been talking to Jack Cadman on and off for many, many years about a lot of cases. He saw the pictures in the Kirschke case and we discussed that. That was right after the Kirschke case. And I have talked to him about these cases on and off for quite a few years.

Q I have in mind that you got a declaration or a declaration was obtained from Mr. Cadman. Certainly prior to obtaining the declaration he had some information or some knowledge in connection with the use the declaration was going to be put.

A Yes, this is true.

Q Did you indicate to him that a letter was going to be sent by Mr. Blehr to the Civil Service Commission incorporating his declaration?

A Yes.

Q Do you recall when you first discussed obtaining a declaration from him?

A No, I don't, but it was in the last couple of months.

BY MR. HECHT: Chief, do you have any questions?

BY MR. McALLISTER:

Q I would like to ask Mr. Harper a couple of questions. Referring to Mrs. Blehr's letter

126

of the twenty eighth, Mr. Harper made a statement here which says,

"In reference to the Kirschke case, his (referring to Wolfer) - his testimony, combined with his various photographic manipulations, labeled his work in this instance nothing but perjury."

Do you agree with that statement?

A I don't agree -- I am not a lawyer. I am not in a position to evaluate what the situation is that leads to perjury.

Q Another paragraph is this statement:

"I find it very hard to believe that a man of professed expertise of Mr. Wolfer would violate four of the basic precepts of his profession in a single case by sheer accident. I am more inclined to believe that these violations were made in response to an over zealous desire to help the cause of the prosecution.

"His choice seems to be rank incompetence on the one hand, or more than motivation on the other."

Do you agree with that statement?

A Yes, I agree with that.

BY MR. HECHT: Sid.

BY MR. TRAPP:

Q These precepts that were set up, Mr. Harper, you said you had something to do with the

formulation of them?

A I formulated all of them with the exception I have noted here where Mr. Pinker and Mr. Cadman made some suggestions, yes.

Q And laid out as they are, that is, one, two, three, four, five, six, those six precepts as you have laid them out have been in existence in that form for about how long?

A I don't think they were ever in existence before. I mean, they are so primitive and so elementary, I don't -- I have not seen them in any text books on the subject at all. They are completely fundamental and primitive and I don't think there has been any occasion where they had to be written down. Everybody, I'm sure, agrees that these things were true from the very beginning. Just like I think all of us will agree that when an apple becomes detached from a tree, it will fall to the ground. And there are some things that are so fundamental and so elementary that it seems to be unnecessary to write them down.

Q I see. Well, how long in their present form have they been in existence?

A Well, I would say not over a month, I don't think.

Q If you called across the nation to some expert, who has been an expert for thirty years in your field, and you asked him what precept four was, he wouldn't

128

know what you were talking about. Is that correct?

A Not until he reads it, no.

Q How many precepts do you suppose there are in your profession?

A I haven't the slightest idea. I'm sure there are many more. These six that are enumerated here just pertain to bullets. We have shell cases and primers and all sorts of things, and other precepts could be written. There's probably thirty or forty, I don't know. I haven't made any effort to find out. But these six have been violated. That's the reason I set up six.

Q The man that wrote the book -- I forget which one it was --

A Dr. Snyder?

Q Dr. Snyder. He wrote the book "Homicide Investigation", and he says that -- he contains a chapter dealing with these fundamentals, but they are not enumerated as precepts one through six. Is that correct?

A No, no, that's right.

Q And when you learned about these things you didn't learn them as precepts one through six?

A No, I didn't.

Q And certainly these aren't the six most basic fundamentals in firearms identification?

A Well, I think includes the most basic things. It's absolutely inconceivable if you have a gun that

you believe to be the lethal weapon at the crime scene and you want to find out whether that fired the bullet removed from the victim, you don't go out and get some other gun to run tests with.

Q I understand the fundamentals. What I am wondering about is the form in which they are in.

Wouldn't it be correct to say that the six precepts that have been drawn up or have been indicated by you as being fundamental basic precepts violated by Mr. Wolfer in the past are precepts that were drawn up in their present form for the expressed purpose of dealing with the investigation that you are undertaking right now?

A Yes, to show that he is throwing to the winds all these things in our field that we have been guided by for many, many years.

BY MR. HECHT: Ron.

BY MR. GEORGE:

Q Mr. Harper, do you know Luke McKissack?

A Yes, I know him.

Q Since when have you known him?

A Oh, it's been quite some months. I talked to him several times before I met him. I couldn't give you the date when we first met, but it's been within the last six months.

Q That you met him? When did you first

130

talk with him before you met him?

A Oh, I first talked to him back in probably last September of last year -- October, somewhere in there.

Q Can you tell me what the occasion was that you had to first speak with Mr. McKissack and then meet him later on?

A Well, back in September or October I was trying to make arrangements to examine the exhibits in the Sirhan case and having met with some "picadilly" along those lines in the Clerk's office, I was, as I explained previously, both Mr. Shibley and Mr. McKissack were informed by me of the difficulty I was having seeing these exhibits and, in fact, some of them I never had an opportunity to examine because they were sealed. But at that time I talked to Luke McKissack about this problem I was having and then the letter was finally sent in by Mr. Shibley and McKissack, which made it possible for me to see at least some of the exhibits.

Q Who initiated the contact between you and Mr. Shibley and you and Mr. McKissack?

A I think I did, because I went there first without any contact. It was evident I was not able to see anything, or very little. I then contacted Mr. Shibley and later Mr. McKissack and then I finally got the letter from them and it made it possible for me to see at

least some of the exhibits. The bullets, for example, at first, the only thing I was getting on some exhibits was pictures of the bullets. And, of course, criminalists can't work with pictures of bullets. You have to see the bullet itself.

Q About how many times did you have some contact or other words with Mr. McKissack?

A Well, I can't recall, but it was probably -- I have seen him twice and I have talked to him on the phone maybe a half a dozen times.

Q And as far as Mr. Shibley is concerned?

A Well, I have known Mr. Shibley for a great many years, but recently I have seen him twice. Maybe I have had more telephone contacts with him than I have with Mr. McKissack.

Q Have you been employed by either one of these attorneys -- McKissack or Shibley?

A Neither one.

Q And you aren't now, I take it?

A No.

Q Do you have any knowledge where Exhibit 6, Sirhan's gun, Exhibit 55, are now at this present time?

A Not of my own knowledge I don't know. The last I heard they had gone to San Francisco to the Clerk of the Supreme Court's office and whether they are there now or not I don't know, whether they are back down

122

here or whether they are still in San Francisco.

Q How about E. Fred Lightner? Do you know that individual?

A E. Fred Lightner? I never heard of the man.

Q Have you had any contact with the lawyer or lawyers representing Mr. Kirschke at the time of the trial?

A Mr. Ramsey?

Q Mr. Ramsey or one of them, yes.

A Well, since the Kirschke trial? Immediately after the trial, George Davis was down here from San Francisco, and I had some contact with him at that time, but nothing since. As far as Mr. Ramsey, I have had numerous contacts with him. In fact, I have another case with him right now.

Q Have you discussed your conclusions with respect to the Kirschke case with Mr. Ramsey?

A Yes.

Q And have you discussed your conclusions with respect to the Sirhan case with Mr. Shibley?

A No.

Q With Mr. McKissack?

A No. I haven't reached a final conclusion yet on certain aspects of this case.

Q Well, forgetting the word conclusion,

133