

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 106

HON. RAYMOND CHOATE, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

-vs-

BRUCE MCGREGOR DAVIS,

Defendant.

NO. A-267861

239

REPORTERS' DAILY TRANSCRIPT

Tuesday, February 8, 1972

VOLUME 39

CROCKETT

FLYNN

SPRINGER

APPEARANCES:

For the People: JOSEPH P. BUSCH, JR., District Attorney,
BY: ANTHONY MANZELLA
and
STEPHEN R. KAY, Deputies District
Attorney

For Defendant Davis:

GEORGE V. DENNY, III

MARY LOU BRIANDI, CSR
ROGER K. WILLIAMS, CSR
Official Court Reporters

COPY

I N D E XPEOPLE'S WITNESSES: DIRECT CROSS REDIRECT RECROSS

CROCKETT, Paul 5973 M 5981 5982 M

FLYNN, John 5984 K 6027 6095 K

SPRINGER, Alan Leroy 6105 M

WHITELEY, Paul J.

EXAMINATION

6057 Denny

6061 Manzella

SPRINGER, Alan Leroy
(Out of the presence of the jury)6126, 6131, 6136,
6141 Denny6132, 6146 Manzella
6145 KayCOURT'S WITNESSES:

DARROW, Gene

6160 Court
6162 Denny
6164 KayE X H I B I T SPEOPLE'S FOR IDENTIFICATION IN EVIDENCE

106-A through 106-F - six photographs 6014 6014

DEFENDANT'S:

U - a list of names

6061

COURT'S SPECIAL EXHIBITS:2 - a Xerox copy of a letter to
Judge Keene

6166

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1 LOS ANGELES, CALIFORNIA, TUESDAY, FEBRUARY 8, 1972 9:42 A.M.

2 - - - -

3
4 THE COURT: Good morning, members of the jury.

5 (Whereupon, murmurs of "Good morning, your
6 Honor," were heard from members of the jury.)

7 THE COURT: It's good to see you all again, apparently
8 in good health, and everybody is here.

9 And the record shows that Mr. Denny is present,
10 with his client, and Mr. Manzella for the People.

11 You may proceed, gentlemen.

12 MR. DENNY: Your Honor, may we approach the bench before
13 the next witness is called?

14 THE COURT: Yes, you may.

15 (Whereupon, the following proceedings were
16 had at the bench among Court and counsel, outside
17 the hearing of the jury:)

18 MR. DENNY: Your Honor, last night, after the session
19 at which we attempted to determine how many reports there
20 were available through Mr. Whiteley, I went over the
21 Sergeant's homicide manual that has been prepared in the
22 Shea case, and my records indicate that he has reviewed --
23 I'm sorry; he has interviewed Mr. Flynn on August 18, 1970;
24 Vern Plummley on October 17, 1970; Jim Babcock on October 31,
25 1970; Ruby Pearl on October 31, 1970; Dawn Quant on October
26 31, 1970;

27 Lance Victor on November 1, 1970 --

28 THE COURT: To shorten this, what is your problem?

1 MR. DENNY: That I have not been given the discovery
2 that I had asked for, as far as his rough notes.

3 THE COURT: What are you missing?

4 MR. DENNY: I'm missing almost everything here. I
5 have got one, two, three, four, five, six, seven, eight,
6 nine, ten, eleven, twelve, thirteen, fourteen, fifteen,
7 sixteen, seventeen, eighteen specific interviews that are
8 reflected in his written reports --

9 THE COURT: Would you have Sergeant Whiteley in here
10 some time today? And let's find out about it.

11 Let's proceed.

12 MR. MANZELLA: Yes.

13 MR. DENNY: Well, your Honor, excuse me.

14 THE COURT: Could you have him in here this morning?

15 MR. MANZELLA: I'm sorry?

16 THE COURT: Can you get him in here this morning?

17 MR. MANZELLA: Whiteley?

18 THE COURT: Yeah.

19 MR. MANZELLA: I don't know. I don't know where he is.

20 THE COURT: Is Mr. Kay around?

21 MR. MANZELLA: He's downstairs.

22 THE COURT: (To the clerk) Joyce, would you call Mr.
23 Kay? Tell him to get Sergeant Whiteley?

24 MR. MANZELLA: I can call right now, if he's there.

25 THE COURT: Let's start, rather than having you take
26 the time for the phone call.

27 Gentlemen, I am anticipating leaving on the
28 morning of the 29th, and --

1 MR. MANZELLA: We should be finished this week with
2 our case.

3 THE COURT: -- I am going to start every morning at
4 9:30. And I want both of you here. And I would like to
5 have both the People and the defense arrange their witnesses,
6 so that there won't be any delay.

7 MR. DENNY: All right.

8 MR. MANZELLA: Your Honor, there will be a short delay
9 after this witness testifies, of about 15 or 20 minutes, if
10 we could. And we have -- we have witnesses to go, as late
11 as your Honor wants to go; but we will need a short delay
12 after this witness testifies.

13 THE COURT: All right.

14 (Whereupon, the following proceedings were had
15 in open court, within the presence and hearing of the
16 jury:)

17 MR. MANZELLA: The People call Mr. Paul Crockett.

18 THE CLERK: Would you raise your right hand, please,
19 to be sworn?

20 Do you solemnly swear that the testimony you
21 are about to give in the cause now pending before this court,
22 shall be the truth, the whole truth, and nothing but the
23 truth, so help you God?

24 THE WITNESS: I do.

25
26 PAUL CROCKETT,
27 called as a witness by and on behalf of the People, having
28 been first duly sworn, was examined and testified as follows:

1 THE CLERK: Please take the stand and be seated.

2 THE BAILIFF: State and spell your full name.

3 THE WITNESS: My name is Paul Crockett; P-a-u-l,
4 C-r-o-c-k-e-t-t.

5
6 DIRECT EXAMINATION

7 BY MR. MANZELLA:

8 Q Mr. Crockett, have you ever lived at the Barker
9 Ranch in -- near the Death Valley Monument?

10 A Yes, I have.

11 Q And when did you begin living at the Barker
12 Ranch?

13 A The last week of March, 1969.

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1 Q And what did you do at -- in the desert, after
2 you began living at Barker Ranch?

3 A I was prospecting.

4 Q Prospecting for what?

5 A Precious metals; anything I could find of value.

6 Q All right. Now, do you know a man by the name
7 of Paul Watkins?

8 A I do.

9 Q And when did you first meet Paul Watkins?

10 A Well, it was probably in about the middle of
11 May, 1969.

12 Q And did you meet him up at Barker Ranch?

13 A I did.

14 Q And after you met him, did he begin living at
15 Barker Ranch with you?

16 A Well, not the first time.

17 Q Sometime later, did he begin living at Barker
18 Ranch with you?

19 A Yes, he did.

20 Q And approximately when did he begin living at
21 Barker Ranch?

22 A Oh, it was probably the last week in May.

23 Q Of '69?

24 A '69, yes.

25 Q And was anybody else living up there at the time?

26 A Myself, and Brooks Posten. A girl by the name
27 of Juanita Wildbush, and Bob Barry.

28 Q And what did Mr. Watkins do up there, after he

1 began living at Barker Ranch?

2 A Oh, he started helping me.

3 Q Prospecting?

4 A Yes.

5 Q Now, do you know a man by the name of Charles
6 Manson?

7 A I've met the man, yes.

8 Q And do you know Bruce Davis, the defendant in this
9 case?

10 A Yes, I do.

11 Q And do you know Steve Grogan?

12 A Yes.

13 Q Now, when did you first meet Charles Manson?

14 A It was around the first of September, 1969.

15 Q And where did you meet him?

16 A At the Barker Ranch.

17 Q And when did you first meet Mr. Davis, the
18 defendant in this case?

19 A Well, the first time I saw him was probably two
20 or three days in front of that.

21 MR. DENNY: I'm sorry. I didn't hear the last.

22 THE WITNESS: Two or three days in front of the time
23 that I first met Charlie.

24 Q BY MR. MANZELLA: Now, sometime after you met
25 Mr. Davis and Mr. Manson, did you -- up at Barker Ranch --
26 strike that.

27 Sometime after you met Mr. Manson and Mr. Davis
28 up at Barker Ranch, did Steve Grogan come to Barker Ranch?

1 A He did.

2 Q Approximately when?

3 A The best I recall, it would be somewhere around
4 the middle of September.

5 Q Of '69?

6 A Yes.

7 Q Now, sometime after Steve Grogan arrived at the
8 Barker Ranch, did you see Charles Manson with a revolver?

9 A I did.

10 Q And approximately when did you see him with the
11 revolver?

12 A It was in that area; somewhere in the second,
13 third week of September, 1969.

14 Q Did you say the second or third week of September,
15 1969?

16 A In between there somewhere.

17 Q All right.

18 Now, did you see Charles Manson with the revolver
19 before or after Steve Grogan came up to the ranch?

20 A Well, I never paid that much attention to it,
21 but I never saw the revolver until in that period of time.

22 Q Now, do you recall relating it to when you saw
23 Grogan at the ranch? Do you recall whether you saw the
24 revolver in Manson's possession before or after Grogan
25 got to the ranch?

26 MR. DENNY: Asked and answered.

27 THE WITNESS: Well, I --

28 MR. DENNY: Just a moment, please, Mr. Crockett.

1 Asked and answered.

2 THE COURT: Sustained.

3 Q BY MR. MANZELLA: Can you tell us when you saw
4 it in relation when Grogan got to the ranch?

5 MR. DENNY: Asked and answered.

6 THE WITNESS: Well, I would --

7 MR. DENNY: Just a moment, Mr. Crockett.

8 Asked and answered. That's the objection.

9 THE COURT: Objection sustained.

10 MR. MANZELLA: I would like to have the question and
11 answer read back. I don't recall what the answer was. I
12 don't remember that that question was answered.

13 MR. DENNY: It's about four questions and answers
14 ago, when he says he couldn't recall.

15 Q BY MR. MANZELLA: Was that your answer?

16 THE COURT: Read it back.

17 MR. MANZELLA: If that was the answer, I'll withdraw
18 the question. I just didn't remember it.

19 MR. DENNY: He says, "I didn't pay that much attention."

20 THE COURT: Excuse me just a moment.

21 Mr. Williams?

22 (Whereupon the record was read by the reporter
23 as follows:

24 "Q All right. Now, did you see Charles
25 Manson with the revolver before or after Steve
26 Grogan came up to the ranch?

27 "A Well, I never paid that much attention
28 to it, but I never saw the revolver until in that

1 period of time.")

2 Q BY MR. MANZELLA: Are you saying that you don't
3 recall whether you saw it before or after Grogan came to the
4 ranch?

5 MR. DENNY: Asked and answered.

6 THE COURT: Overruled. You may answer.

7 THE WITNESS: Well, I was talking to Steve Grogan.
8 Charlie came in with the gun.

9 Q BY MR. MANZELLA: I see.

10 A So it was in that period of time.

11 Q I see. Thank you, Mr. Crockett.

12 I understand.

13 Where did you see -- strike that.

14 Did you see Mr. Manson with the revolver on one
15 occasion or more than one occasion?

16 A Just one occasion, I remember real well.

17 Q And where did you see him with the revolver?

18 A Well, he had it cocked and pointed at my face
19 (indicating).

20 Q And where was this?

21 A This was in the little ranch house outside the
22 main ranch house.

23 Q And is this at Barker Ranch?

24 A Barker Ranch.

25 Q And who was present on this occasion?

26 A The best I can recall, it was Brooks Posten,
27 myself, Charlie, and Steve Grogan.
28

1 Q What did you see Manson do with the gun on this
2 occasion?

3 A Well --

4 MR. DENNY: Object to that as irrelevant and immaterial.

5 THE COURT: Overruled. You may answer.

6 THE WITNESS: He took the shells in and out of the gun,
7 and he discussed and talked about --

8 MR. DENNY: Well, just a moment, I'm going to object to
9 this as beyond the time when any crime has been alleged.
10 Obviously in the middle of September it can't relate to this
11 defendant, any act or conduct of Mr. Manson. It is irrelevant
12 and immaterial. Anything he's got to say about what Mr. Manson
13 said would be hearsay.

14 THE COURT: Well, sustained. You can't say what Manson
15 said.

16 Q BY MR. MANZELLA: Just tell us what he did,
17 Mr. Crockett.

18 MR. DENNY: Object to that as irrelevant, and immaterial.

19 THE COURT: Overruled.

20 THE WITNESS: Do you want me to go ahead and tell it?

21 THE COURT: You may answer.

22 THE WITNESS: Charlie took the gun, took the shells out
23 of it and put them back in and would keep pointing it at me.
24 And, finally, he cocked it and pointed it at my face and told
25 me about how --

26 MR. DENNY: Just a moment, I'll object to anything he
27 said.

28 MR. MANZELLA: Don't tell us what he said.

1 THE WITNESS: Oh.

2 Q BY MR. MANZELLA: Okay. Would you describe the
3 revolver for us.

4 A Well, it looked like the type of gun that one would
5 have in a collection. It was a .45 caliber six-shooter
6 revolver with a long barrel and it had fancy little, oh,
7 scrolls on it. It was a nice piece. It was strictly a
8 collector's item.

9 The part that I remembered about it was that it had
10 the long cases and long shells on it which was different from
11 the guns that I had seen before.

12 Q BY MR. MANZELLA: All right. And you saw just the
13 one gun, the one revolver in Mr. Manson's hands, is that
14 correct?

15 A That's correct.

16 Q All right. Had you ever seen the gun before?

17 A No.

18 Q All right. Mr. Crockett, directing your attention
19 to the revolver which has been marked 53-A for identification.
20 The weapon is clear.

21 Would you take a look at that revolver and tell us
22 if that revolver is similar or not similar -- in other words,
23 tell us whether that revolver is similar or whether it is not
24 similar to the revolver you saw Mr. Manson's hands on on the
25 occasion about which you testified?

26 A It is very similar.

27 MR. MANZELLA: All right, thank you. I have no further
28 questions.

CROSS

CROSS EXAMINATION

1
2 BY MR. DENNY:

3 Q In what way is it not similar, sir?

4 A Well, it seems --

5 MR. MANZELLA: Objection, that assumes a fact not in
6 evidence.

7 THE COURT: Sustained.

8 MR. DENNY: I'll withdraw the question.

9 Q Well, it is not identical, is it, sir?

10 A No.

11 Q It is different than the gun you saw Mr. Manson
12 with, is that correct?

13 A Now, in what respect are you referring to?

14 Q I'm referring to the respect that you described it
15 previously to a number of different people as a gold-plated
16 gun; isn't that correct?

17 A Well, I don't know whether that's gold-plated or
18 not, but it has the appearance of being gold.

19 Q How about the barrel?

20 A The barrel is very similar to the gun that I looked
21 at.

22 Q A gold-plated barrel?

23 A Well, it has been changed considerably.

24 Q Then, it is different than the gun you saw, is that
25 correct?

26 A I would say that if I had to look down the barrel
27 of it again, I would say it is the same gun. But I don't have
28 any specific marks that I can put on it that I can say

1 positively that that's the gun.

2 Q Where are the fancy skrolled designs? Where is
3 the gun with the fancy skrolled designs that Mr. Manson put in
4 your face?

5 Would you like to point those out to the jury or the
6 judge or anyone?

7 A I don't see them.

8 Q I don't either.

9 No further questions.

10

11 REDIRECT EXAMINATION

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12 BY MR. MANZELLA:

13 Q Mr. Crockett, did Mr. Manson talk about the gun
14 while he was pointing it at you cocked?

15 MR. DENNY: Objection, calling for hearsay and
16 irrelevant.

17 THE WITNESS: No.

18 MR. DENNY: Just a moment, move the answer be stricken.

19 THE COURT: All right, sustained. The answer is
20 stricken.

21 Q BY MR. MANZELLA: Did Mr. Manson tell you whose
22 gun it was while he was handling the gun?

23 MR. DENNY: Your Honor, I'm going to ask that Counsel be
24 cited for misconduct. This is three times he has asked the
25 question. The Court has sustained the objection and this is the
26 same exact question.

27 THE COURT: The objection is sustained.

28 MR. MANZELLA: No further questions.

1 MR. DENNY: I have no questions.

2 THE COURT: You may step down.

3 MR. MANZELLA: Thank you, Mr. Crockett. You can be
4 excused.

5 Your Honor, the People need about a fifteen-
6 minute, twenty-minute recess to have their next witness here.

7 THE COURT: Try not --

8 MR. MANZELLA: Your Honor, we have witnesses to go as
9 late as the Court wants to go tonight.

10 THE COURT: We'll grant you a recess, then.

11 During the recess you are obliged not to converse
12 amongst yourselves, nor with anyone else, nor permit anyone to
13 converse with you on any subject connected with the matter, nor
14 form nor express any opinion on it until it is finally submitted
15 to you.

16 We're in recess.

17 (Short recess.)
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1 THE COURT: Are the People now ready to proceed?

2 MR. KAY: Yes, your Honor.

3 THE COURT: All of the jurors are present. The defendant
4 is present with his counsel.

5 You may proceed.

6 MR. KAY: The People will call Mr. Juan Flynn.

7 THE CLERK: Do you solemnly swear that the testimony you
8 may give in the cause now pending before this court shall be
9 the truth, the whole truth, and nothing but the truth, so help
10 you God?

11 THE WITNESS: So help me God.

12
13 JOHN FLYNN,

14 called as a witness by and on behalf of the People, having been
15 first duly sworn, was examined and testified as follows:

16 THE CLERK: Please take the stand and be seated.

17 Would you state and spell your full name?

18 THE WITNESS: My name is John Flynn. Everybody knows me
19 as Juan, J-u-a-n.

20 DIRECT EXAMINATION

21 BY MR. KAY:

22 Q All right. Mr. Flynn, do you know the defendant,
23 Bruce Davis?

24 A Yes.

25 Q Do you also know Charles Manson?

26 A Yes.

27 Q Do you know Tex Watson?

28 A Yes.

JOHN
FLYNN

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1 Q Do you know Steve Grogan?

2 A Yes.

3 Q Now, directing your attention to the summer of
4 1969, did you work at Spahn's Ranch?

5 A Yes.

6 Q Now, directing your attention to the first week in
7 September of 1969, did you have an occasion to leave Spahn's
8 Ranch and go somewhere?

9 A Yes.

10 Q All right. And where did you go?

11 A I went to Death Valley.

12 Q And any particular place in Death Valley?

13 A I went to Barker Ranch.

14 Q All right. And who did you go with?

15 A I went with Sadie -- Susan Atkins.

16 Q What did they call her in the Family?

17 A Sadie Glutz.

18 Q All right. And how did you get up to the Barker
19 Ranch?

20 A In a dune buggy.

21 Q Was there anyone besides you and Sadie?

22 A No.

23 Q And how did you get up to the Barker Ranch area?
24 What route did you take?

25 A Uh -- we went to Lancaster, Mojave, Red Mountain,
26 Ridgecrest, Trona, Ballarat, and then we went in through the
27 Goler Canyon Wash.

28 Q All right. So you went up the Goler Wash --

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A Yes.

Q -- in a dune buggy?

A Yes.

Q Now, when you got up to the Barker Ranch area, was Paul Watkins there?

A No.

Q All right. And are you familiar with the Meyers Ranch?

A Yes.

Q And where's that located in relation to the Barker Ranch?

A It's to the north of it, I believe. It's three hundred, four hundred, five hundred feet up above the wash, somewhere in that area. About five hundred feet, three hundred, something like that.

Q Now, shortly after your arrival to the Barker Ranch area, did you have occasion to go to the Meyers Ranch and spend a couple of days with the Manson Family?

A Yes.

Q And about how long was that after you got up there?

A Well, maybe a day or two, something like that.

Q Okay. Did you attend any dinners there at --

A Yes.

Q -- at the Meyers Ranch?

A Yes.

Q All right. Do you remember attending a dinner at which something good was served for dessert, that you liked?

A Yes.

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1 Q And what was that?

2 A Tapioca.

3 Q All right. Now, for this dinner, were you seated
4 at a table?

5 A Yes.

6 Q And who else was seated at that table?

7 A There was Mr. Manson (indicating), Bruce Davis to
8 his right; Watson to his right -- to Mr. Davis's right; I was
9 to Mr. Watson's right; and Danny DeCarlo was to my right.

10 Q All right. And in which room was this dinner at,
11 where you were all seated at the table?

12 A This was next to the kitchen, in the living room,
13 you could say.

14 Q All right. Now, while you and the others you
15 mentioned were seated at the table that night, was -- did you
16 hear any discussion about Shorty Shea?

17 A Yes.

18 MR. DENNY: Just a moment. I'll object and move that the
19 answer be stricken for the purpose of an objection. Hearsay.

20 THE COURT: The People?

21 MR. KAY: Well, I think --

22 THE COURT: Do you want to approach the bench?

23 MR. KAY: Sure.

24 (Whereupon, the following proceedings were had at
25 the bench among Court and counsel, outside the hearing of the
26 jury:)

27 THE COURT: Is this the situation where you are asking the
28 Court to look at the People versus Osuna? And determine that

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1 this -- these statements were adopted --

2 MR. KAY: Right.

3 THE COURT: -- by all who participated in the conversa-
4 tion?

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1 MR. DENNY: Well, your Honor, I would like to have
2 the hearing on that, because the proposed statement that was
3 admitted by the People in connection with the Aranda-Bruton
4 motion -- which I have before me -- does not in any way
5 indicate that Bruce Davis in any way participated, acknowledged --

6 MR. KAY: "Bruce Davis agreed with Charlie as Charlie
7 talked," right there, Page 2.

8 THE COURT: What do you mean, "agreed"?

9 MR. KAY: What did he say? He said things like, "Yeah.
10 Yeah. That was far out."

11 THE COURT: Is that what you anticipate will be said?

12 MR. KAY: Mr. Flynn will testify that there was a
13 conversation about Shorty; that that was the main topic of
14 conversation; and that -- then, he's going to get into
15 specifically what Mr. Davis said, but at a later time.

16 THE COURT: What will he say concerning Mr. Davis?

17 MR. KAY: Well --

18 THE COURT: So far as you know?

19 MR. KAY: He's going to say that Mr. Davis talked
20 specifically about the murder of Gary Hinman, and -- but then,
21 that when Mr. Manson talked about Shorty, that Bruce agreed
22 and said things like, "Yeah."

23 But he can't remember the exact sequence.

24 In other words, he can't remember exactly what
25 Mr. Manson said -- well, he can remember Davis saying, "Yeah,"
26 but he can't remember at what points Davis said, "Yeah."

27 MR. DENNY: Your Honor, the document that Mr. Kay has
28 shown you is not the document that was presented to the Court

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1 in connection with the Aranda-Bruton hearing.

2 I would like the Court to review that specific
3 document, which was titled "People's Motion Under Evidence Code
4 Section 402," and, "People versus Aranda," with points and
5 authorities.

6 And then a later document, "People's Proposed
7 Edited Statements."

8 There does not appear to be a date.

9 In neither of the statements submitted to the
10 Court, in connection with that hearing, is there any hint --
11 and I refer specifically to Proposed Statement No. 9, on
12 Page 10, which reads as follows:

13 "Juan Flynn was present at a dinner held at
14 the Meyers Ranch with Manson and the Family.
15 Present during the dinner were Manson, Davis,
16 Tex Watson, Danny DeCarlo, Barbara --" that's spelled
17 H-o-t-e, which is just a typo -- "Susan Atkins, Bruce
18 Davis and Kitty Lutsinger. Manson pulled a gun,
19 cocked it and pointed it at Flynn. He asked
20 Flynn if he was going to join the Family, and
21 Flynn told him no.

22 "Flynn recollects that Manson began talking
23 about killing. Manson said that Shorty was
24 talking to the police, and that he wanted to
25 get this job with Frank Retz.

26 "They caught Shorty going down the
27 freeway, pulled him over, got him out of the
28 car, and began sticking knives in him. Shorty

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1 "kept saying, 'Why, Charlie? Why?' Manson said,
2 'You know why. You know why,' and kept sticking
3 the knife in him."

4 THE COURT: Excuse me. Let's just excuse the jury while
5 we hear --

6 (Whereupon, the following proceedings were had
7 in open court, within the presence and hearing of the jury:)

8 THE COURT: Ladies and gentlemen, we are going to
9 excuse you for a moment, five minutes or so, I hope.

10 During the recess, you are obliged not to converse
11 amongst yourselves nor with anyone else, nor permit anyone to
12 converse with you on any subject connected with the matter, nor
13 to form or express any opinion on it until it is finally
14 submitted to you.

15 Would you simply wait out in the corridor? I
16 don't think it will be too long so that you will be
17 uncomfortable.

18 Are there seats out there, still, Mr. Kuczera?

19 THE BAILIFF: Yes, sir.

20 (Whereupon, the following proceedings were had
21 at the bench among Court and counsel, as the jury was exiting
22 the courtroom, outside the hearing of the jury:)

23 THE COURT: Let's just determine from Flynn what he will
24 say. Anything that would indicate that -- to the Court that
25 you believe the -- anything that would indicate to the Court
26 that would be consistent with your theory that the Osuna case
27 should apply, --

28 MR. DENNY: Well --

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1 THE COURT: -- I would like to hear.

2 Or, if there is -- if the case does not apply,
3 well, then, I would like to hear that.

4 MR. DENNY: Your Honor, may I just finish six lines here?

5 THE COURT: No, you may not. Let's proceed.

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1 THE COURT: Go ahead, Mr. Kay. The record will show
2 that the jury has left.

3 Q BY MR. KAY: Mr. Flynn, do you remember during
4 this evening while those of you were seated at the table
5 who you have described; do you remember Mr. Manson making
6 any statements about Shorty Shea?

7 A Yes.

8 Q All right. And do you remember Mr. Davis, Mr.
9 Bruce Davis saying anything in response to statements made
10 by Mr. Manson?

11 A Well, Mr. Davis -- most of the statements that
12 Mr. Manson made, he just made a motion as to agree to them,
13 as to say, "Yeah, yeah," or "Wow," you know.

14 Q Do you remember him saying, "Yeah, yeah"?

15 A "Yeah, yeah."

16 Q All right. Do you remember at what specific
17 points Mr. Davis said, "Yeah, yeah," things like that?

18 A Uh, no. I can't remember the specific points
19 that he said that; you see. Because my intention was to
20 that gun and that man, you see.

21 Q All right.

22 THE COURT: Now, this was a conversation that took place
23 at Meyers Ranch?

24 THE WITNESS: At Meyers Ranch, yes, sir.

25 THE COURT: And it was at dinner?

26 THE WITNESS: At dinner.

27 THE COURT: And the people whom you've named were
28 present?

3-2

1 THE WITNESS: Were present.

2 THE COURT: And who spoke other than Manson?

3 THE WITNESS: Uh, Mr. Davis said a couple of words
4 when the gun was passed to him.

5 MR. KAY: Well, we're not talking about that one.
6 That's something else.

7 THE WITNESS: Well, who spoke other than Manson at the
8 dinner table?

9 MR. KAY: Yeah.

10 THE COURT: Yes.

11 THE WITNESS: At the dinner table --

12 THE COURT: Was the gun passed at that time?

13 THE WITNESS: Well, Mr. Manson was talking and there
14 was agreement passed on by Mr. Manson to Mr. Davis, you see.

15 THE COURT: What do you mean by "agreement"?

16 THE WITNESS: Well, Charlie was talking about his
17 philosophies and the fact that he had committed a man to die,
18 you see. And Mr. Davis agreed to that, you see.

19 THE COURT: Now, when you say he agreed, that's your
20 conclusion. What did he say?

21 THE WITNESS: Well, he just said, "Yeah," you see.
22 Because Mr. Manson talked about philosophies of the black
23 and white people, you see.

24 THE COURT: Now, did anyone else join in the conversa-
25 tion or was it just Manson and Davis?

26 THE WITNESS: Uh, it was just Manson and Davis, you
27 see.

28 Watson, he was just sitting there. And Danny

3-3

1 DeCarlo was just sitting there. And I was sitting there
2 and I was giving them my attention, you see.

3 THE COURT: How about Grogan? Did he contribute to the
4 conversation?

5 THE WITNESS: Mr. Grogan wasn't there, sir.

6 THE COURT: Oh, I see.

7 THE WITNESS: So the main topic --

8 THE COURT: How long did this conversation go on?

9 THE WITNESS: As long as they had my attention, sir.
10 I can't say the time that it lasted, you see. But it lasted
11 as long as they had my attention.

12 THE COURT: Well, were they directing it to you?

13 THE WITNESS: Well, they were directing it to me, you
14 see, because Manson was asking me -- and the whole conversa-
15 tion, you see, as it took place, he wanted me to go with him
16 to the mountains, you see, and take the dune buggies up in
17 the mountains and put bottles in the mountains so that when
18 the rain fell they had water and do things like that with
19 him, you see.

20 So the topic of the conversation with Charlie,
21 uh, committing Shorty Shea to die, you see, in order to
22 instill fear in me, you see. And so he used this to ask
23 me to go with him, you see.

24 Now, he talked about Shorty and he talked about
25 the black racism, the white racism, and the revolution, you
26 see.

27 He talked about having knives stuck into someone
28 and asked me if I knew what a knife sounded like when it

3-4

1 was passing into somebody's gut and screeching in his bones,
2 you see, as they pulled it out, you see.

3 THE COURT: Well, did Davis make any remarks during
4 that -- those comments by Mr. Manson?

5 THE WITNESS: Well, Mr. Davis, you see, he agreed to
6 the things that Charlie was saying.

7 THE COURT: Again, that's your conclusion.

8 THE WITNESS: Well, it is not my conclusion if I heard
9 the man say "Yes, sir."

3a fls.

3a-1

1 THE COURT: Well, that's what I am asking, whether he
2 said anything?

3 THE WITNESS: Well, he said, "Yeah," you see. But
4 I can't say he said, "Yeah," when Charlie picked up the fork
5 and put a mouthful or something or moved in his chair like
6 this.

7 THE COURT: Where was Manson in relation to Davis?

8 THE WITNESS: He was to the left of Davis, sir.

9 THE COURT: Next to him?

10 THE WITNESS: Next to him, sir. He was next to
11 Charlie and between Charlie to his left and Charles Watson
12 to his right.

13 THE COURT: Anybody have anything --

14 Q BY MR. KAY: This conversation you are relating,
15 this happened after dinner, right?

16 A After the dinner. I just finished my tapioca
17 pudding. I picked up the plate and I looked at the little
18 inscription of the little boy and the little girl on the
19 plate.

20 MR. DENNY: Well, it is not material or responsive.

21 THE WITNESS: And I said, "Wow, this is far out," you
22 see.

23 Q BY MR. KAY: Now, Mr. Flynn, was there -- well,
24 okay, I --

25 A Can I finish?

26 Q Well, was there also a conversation about Shorty
27 before dinner, while you were at the table?

28 A There was a topic on Shorty, you see.

3a-2

1 Q Do you remember --

2 A I don't remember too much, but there was a
3 conversation of Shorty at that table before dinner.

4 Q Who was that between?

5 A Beg your pardon?

6 Q Who was the conversation between?

7 A The conversation was brought by Charles Manson,
8 you see.

9 Q And did anyone say anything?

10 A Well, then, Mr. Davis, you see. But I can't
11 say, well, when Charlie says, "Okay," and Mr. Davis said
12 that.

13 Q I understand.

14 A Because I'm not in that frame of mind that I can
15 remember specifically word by word and action by action.
16 I can say that I have seen the people do what I have testi-
17 fied to, you see.

18 Q Okay.

19 THE COURT: Any questions, Mr. Denny?

20 MR. DENNY: I don't think any questions are necessary
21 at this point, your Honor. I think by his own testimony he
22 has established that there is no way for him to determine
23 in the course of a lengthy -- apparently lengthy conversation
24 in which a number of topics were discussed, anywhere from
25 how to kill, bones going -- knives going into bones, black
26 and white race war, him going to get water in the mountains,
27 Charlie's philosophy, philosophy about black and white
28 people, uh -- and he states only one thing with certainty,

1 and that's that he cannot say at what point or at what time
2 during that whole entire conversation Mr. Davis allegedly
3 said, "Yeah." To what. And the attempt to get in a bunch
4 of yeahs in a certain small portion of that conversation,
5 I think, one, is extremely prejudicial taken out of context
6 as it is; and

7 No. 2, it does not comport with the People's
8 offer as to what the statement would be, made in their
9 proposed edited statement submitted to this Court, well, at
10 the beginning of May or the end of April of 1971.

11 THE COURT: People.

12 MR. DENNY: And, further, your Honor, it -- to my way
13 of thinking -- can't come in under the Osuna doctrine unless
14 you are more specific as to areas of agreement that you are
15 talking about, unless you are specific in the one area that
16 you are talking about here.

17 THE COURT: People.

18 MR. KAY: Well, I think your Honor has heard Mr.
19 Flynn's testimony just like we did. Mr. Flynn can't be any
20 more specific than that. It's been three years. He's
21 testifying to what he remembers. He does remember Mr. Davis
22 agreeing, saying, "Yeah, yeah," which of course is consistent
23 with what Barbara Hoyt -- Barbara Hoyt had a more specific
24 recollection of what was said, but --

25 THE COURT: What was said about Mr. Shea?

26 THE WITNESS: Can I say, sir?

27 THE COURT: Go ahead.

28 THE WITNESS: Okay, on the way back from the desert --

1 MR. KAY; No, this is another conversation, Juan. We
2 can get into that.

3b fls. 3

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1 THE WITNESS: About Mr. Shea, about Mr. Shea it was
2 said by Mr. Manson that he was ratting. That he was -- that he
3 represented a threat to what he was doing up at the ranch, you
4 see, because he was going down to get a job for Mr. -- from
5 Mr. Frank Retz, you see.

6 And then, Charlie talked from there about him
7 trying to do a Nazi compound there.

8 So, then, he said that Mr. Shea was caught. He
9 said this. He was caught going down the Hollywood Freeway.

10 And then, they all got around him and they pulled
11 him over and they all got around him and then they started
12 sticking knives into him. And Shorty Shea was screaming at
13 them and saying, "Why, Charlie, why?" You see. And so, then,
14 when it was time for now, you see, Charlie told Steve Grogan,
15 "Now," you see. And so Steve Grogan cut his head off, you
16 see.

17 THE COURT: Now -- and is it true that at this moment you
18 don't remember what, if anything, Davis said in response to
19 Mr. Manson's remarks that you have just told me about or
20 whether Davis said anything whatever?

21 THE WITNESS: Well, sir, I remember him agreeing with
22 Charlie, you see.

23 THE COURT: In what way?

24 THE WITNESS: But I can't say which words he agreed to.
25 I know that the philosophies that Charlie put out --

26 THE COURT: No, I'm not speaking about the philosophies.
27 I'm speaking about this specific conversation about Shea.

28 THE WITNESS: Well, I can say yes, and I can say no,

3b-2

1 you see.

2 THE COURT: Well --

3 THE WITNESS: So --

4 THE COURT: The Court only wants you to say what you
5 remember of this incident.

6 Did Davis make any motions or nod his head or do --
7 or in any way disagree with Manson?

8 THE WITNESS: No, he agreed with Manson, what he said.

9 THE COURT: He didn't make any motion?

10 THE WITNESS: To disagree with him, no. He didn't make
11 no motions to disagree with him, you see. He made motions
12 to agree with him that were physical, visible, as to say,
13 "Yeah," or as to nod his head or as to smile.

14 THE COURT: Well, do you recall that he did that or not?

15 THE WITNESS: He did that, you see.

16 I can't say, well, when he said "by the freeway,"
17 and Bruce Davis said, "Yeah." I can't say like that.

18 But I do recall Mr. Davis in saying and agreeing
19 with Mr. Manson, but I don't recall him agreeing to each
20 specific word, you see, because my attention, although it was
21 to him, too, it was to that man with the gun, you see.

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1 THE COURT: Do the People represent that the gun is one
2 of the revolvers in evidence?

3 MR. KAY: Mr. Flynn will so testify, that it --

4 THE COURT: It does not look to the Court as though
5 it's specific enough to come within the Osuna doctrine.

6 MR. KAY: Excuse me. I couldn't hear.

7 THE COURT: It does not look to me as if it's specific
8 enough to come within the Osuna doctrine.

9 Or do you believe that that case is sufficient --
10 do you believe that the proof here is sufficient to bring it
11 within that case? And if so, in what way?

12 MR. KAY: Well, it's -- it's certainly not as specific
13 as we would like it. But then, of course, a lot of times --

14 MR. MANZELLA: Your Honor, I don't believe it's as
15 specific as the Osuna case was, as the facts of the Osuna
16 case.

17 And Osuna was the only case on point.

18 Osuna -- the DCA cases following Osuna aren't
19 really on point with Osuna, so that the Osuna case itself
20 is really the only guide in this situation.

21 And the facts in this case fall far short of the
22 facts in Osuna.

23 MR. KAY: I think that's correct.

24 THE COURT: I'll sustain the objection.

25 Will you get the jury back in?

26 THE BAILIFF: Yes, sir.

27 (Whereupon a discussion off the record ensued
28 at the witness stand between Mr. Kay and the witness.)

1 THE COURT: Mr. Flynn, you cannot go into the conver-
2 sation that took place at the dinner, because the Court does
3 not believe that there's enough specific evidence to show
4 Mr. Davis' concurrence in what Mr. Manson said.

5 THE WITNESS: Can I get some water, please, sir?

6 THE COURT: Yes.

7 THE WITNESS: Thank you.

8 (Whereupon the members of the jury entered the
9 courtroom, whereupon the following proceedings were
10 had;)

11 THE COURT: All right. The Court will sustain the
12 objection to the conversation that took place at the dinner,
13 where the tapioca was served as dessert -- I think that
14 identifies it.

15 All the jurors are present. The defendant is
16 present with his counsel.

17 MR. KAY: All right. Thank you.

18 Q BY MR. KAY: Now, Mr. Flynn, at this dinner,
19 were there any girls present?

20 A Yes.

21 Q And were any girls seated at the table?

22 A No.

23 Q All right. Who were the girls that you remember
24 being there?

25 A Ruth Ann Morehouse, and Kitty, and Snake, and
26 Sherry, and Barbara Hoyt, and -- that's just about all I can
27 remember.

28 Q Okay. Now, at some time after dinner was over,

1 did Mr. Manson produce something?

2 A Yes.

3 Q And what did he produce?

4 A He produced a gun.

5 Q And did you see where he got the gun?

6 A He got it from underneath the table. The table
7 came to about like this (indicating), and he got it from
8 underneath (indicating) --

9 THE COURT: Indicating to his chest?

10 THE WITNESS: To his chest, yes.

11 And he got it from underneath the table, like
12 this (indicating).

13 Q BY MR. KAY: All right. Okay. Now, when you
14 say "like this," you are pointing with your fingers out at
15 me?

16 A He was pointing it.

17 Q And who was he pointing it at?

18 A He was pointing it at me.

19 Q Were you scared?

20 A Yes.

21 Q Did you -- were you looking right at the gun?

22 A I -- I -- yeah. I was looking at everything he
23 was doing, too.

24 Q All right. And what did Mr. Manson do with the
25 gun, after he -- after he pulled it out and pointed it at
26 you?

27 A He passed it.

28 Q How long did he keep the gun pointed at you before

1 he passed it?

2 A Well, he got his -- what he wanted to say, you
3 see, and then he passed it.

4 Q All right. And who did he pass the gun to?

5 A To Mr. Davis.

6 Q And what did Mr. Davis do with the gun when he
7 got the gun?

8 A Mr. Davis talked some more.

9 Q What did Mr. Davis do with the gun?

10 A Then he passed it to Mr. Watson.

11 Q Well, no. While Mr. Davis had the gun, what
12 did Mr. Davis --

13 A Mr. Davis pointed it at me.

14 Q All right. And were you scared when Mr. Davis
15 pointed it at you?

16 A Yes.

17 Q And how long did Mr. Davis have the gun pointed
18 at you?

19 A As long as he had my attention. And then he
20 passed it to the other one, --

21 Q All right.

22 A -- you see.

23 Q And who did he pass it to? Who did Mr. Davis
24 pass it to?

25 A He passed it to Mr. Watson.

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4a fls.

4a-1

1 Q All right. Now, let me ask you this:

2 When Mr. Davis had the gun did you see his facial
3 expression? Do you remember that?

4 A Yes.

5 Q What was his facial expression?

6 A Uh -- he was sure of himself. You see? He
7 was --

8 MR. DENNY: Well, move that that be stricken as not
9 responsive, and an improper conclusion.

10 THE COURT: Well, it is somewhat uncertain. Sustained.

11 Q BY MR. KAY: Well, let me ask you this,
12 Mr. Juan -- Mr. Flynn.

13 Did you see whether or not Mr. Davis smiled
14 when he had the gun?

15 MR. DENNY: Well, leading and suggestive.

16 THE COURT: All right. Sustained.

17 Q BY MR. KAY: Well, can you describe his -- you
18 know, his facial features, his expression?

19 A Well, he handled the gun.. He pointed it at me,
20 and then he looked at it. He looked at me. He looked
21 around to the people on the table.

22 And then he passed it to Mr. Watson.

23 Q All right. That's Tex Watson?

24 A Tex Watson.

25 Q All right. What did Mr. Watson do, when he had
26 the gun?

27 A Mr. Watson took it on both hands like this
28 (indicating), and he gave it a little smile, and passed it

4a-2

1 to me.

2 Q All right. And what did you do when you got the
3 gun?

4 A I looked at it. I looked at the gun. I took it
5 in my hands (indicating) and I looked at it.

6 I looked at the kind of gun that it got made from,
7 you see.

8 Q What did you see on the gun when you looked at
9 it? Did you see any inscription?

10 A Yes.

11 Q And what was --

12 A It was an Italian .45 caliber.

13 Q All right.

14 A An Italian caliber .45.

15 Q All right. And let me ask you this: When
16 Mr. Watson had the gun, did Mr. Watson point the gun at you?

17 A No.

18 Q And approximately how long did you have the gun in
19 your hand?

20 A Uh -- a minute, a minute and a half, two minutes.

21 Q All right. Do you remember what type of handles the
22 gun had?

23 A It had a wooden handle.

24 MR. KAY: May I approach the witness, please?

25 THE COURT: Yes, you may.

26 Q BY MR. KAY: Mr. Flynn, I show you People's 53-A
27 and 53-B.

28 Do either of those guns look familiar to you?

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A Yes.

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Q And --

3

A Can I see them?

4

Q Yes, sure.

5

(Pause in the proceedings while the witness examined the exhibits.)

6

THE WITNESS: Yes.

7

8

Q BY MR. KAY: All right. Do you recognize -- when you say they're familiar to you, where did you see one of these guns for the first time?

9

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A At the dinner table.

11

12

Q At Meyers Ranch?

13

A At Meyers Ranch.

14

15

Q In other words, one of these is the gun you've just described as having been passed around the table?

16

A Yes.

17

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Q Now, can you tell which one of these guns was the gun passed around?

19

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A No. I can tell that it's one that said "Made in Italy," and one that, on the other side, said "Caliber .45."

21

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Q All right. And both these guns say, on one side, "Made in Italy," and on the other, ".45 Colt" -- or, "Dakota Caliber .45 Colt"?

23

24

A Yes.

25

26

Q But you can't say specifically --

27

A Which gun it was, no.

28

Q All right. Now, after you had the gun and looked at it, what did you do with the gun?

1a-4

1 A I passed it to Mr. -- uh -- Mr. DeCarlo.

2 Q All right.

3 A See, I fumbled with it, and then Mr. DeCarlo
4 jumped back, and then I passed it to him.

5 Q Did you point it at anybody?

6 A No. No, I just --

7 Q All right.

4b fol

8 A -- looked at it.

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1 Q Let me ask you this:

2 When you were -- when you had the gun in your hands,
3 did you determine whether or not it was loaded?

4 A Hmmm-mm. I -- I just -- I don't remember. You
5 know, I looked at the gun. You see, it was just -- I didn't
6 have no interest whatsoever in them, you see. Except what was
7 said about them.

8 Q Now, after you -- after you passed the gun to
9 Mr. DeCarlo, what did you do?

10 A I stood up from my chair, and I excused myself from
11 the table and started to go outside.

12 As an excuse, I used that I wanted to relieve
13 myself from -- that I have to do something.

14 Q All right. And did you go outside?

15 A Well, yes.

16 Q And did anyone follow you outside?

17 A Yes.

18 Q Who followed you?

19 A Well, Mr. Manson followed me.

20 As I went outside the kitchen door like that, and I
21 stood in the door, and I looked down the other side, I looked
22 at him, and he was --

23 MR. DENNY: Well, I'll object to all this; move that
24 everything be stricken, after "Mr. Manson followed me," as
25 volunteered.

26 Q BY MR. KAY: Well, did anyone else follow you,
27 Mr. Manson?

28 MR. DENNY: Well, may I have that part stricken as

1 voluntary?

2 THE COURT: Yes, it is stricken, beyond "Charles Manson
3 followed me."

4 Q BY MR. KAY: All right. Mr. Manson followed you.
5 Did anyone else follow you?

6 A Yes.

7 Q And who?

8 A Mr. Davis and Mr. Watson and Mr. Danny DeCarlo.

9 Q Okay. And where did you see Manson when you got
10 outside?

11 A Behind me.

12 Q All right. And what about the other three?

13 A They were down the -- the aisleway like that
14 (indicating), on the other door.

15 Q Which door was this?

16 A On the door to the entrance of the house, which is
17 the living room. You see, --

18 Q All right.

19 A -- I was in the kitchen door.

20 Q Now, when Manson came outside behind you, did you
21 see -- did he have anything with him?

22 A Uh -- he had the gun.

23 Q All right. The gun --

24 A The gun.

25 Q -- you've described?

26 Let me ask you this:

27 Did you know Shorty Shea?

28 A Yes.

1 Q All right. Did you ever see those guns, the
2 two 53-A and 53-B, that are in front of you, did you ever see
3 those guns in Mr. Shea's possession?

4 A I don't remember seeing them.

5 I could have seen them, but I don't remember.

6 MR. DENNY: Well, I'll move that the "I could have seen
7 them" be stricken as obviously speculation.

8 THE COURT: Sustained.

9 The other part of the answer may remain.

10 MR. KAY: Your Honor, I have here six photographs that
11 were previously marked 37-A through F at the Grogan trial.
12 I guess they'll have to be marked next in order here. I don't
13 think they were used in the Manson trial -- Tony, were they used
14 in the Manson trial?

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1 THE COURT: Six photographs?

2 MR. KAY: Six photographs.

3 Could we have them marked People's next in order,
4 A through F?

5 THE COURT: 106-A through -F.

6 Q BY MR. KAY: Mr. Flynn, I wonder if you could
7 grab this hand microphone and come down here.

8 First, before I have you describe these to the
9 jury, do you recognize what these photographs depict?

10 A Yes.

11 Q What does these photographs depict?

12 A Uh, the Meyers Ranch.

13 Q Okay.

14 Step over here. We don't want to get under that.

15 MR. DENNY: Your Honor, again, these are going to be
16 displayed to the jury, I have no objection at this point if
17 they are received into evidence at this time.

18 MR. KAY: Thank you.

19 We would so offer.

20 THE COURT: All right, they're received 106, ladies
21 and gentlemen, A through F.

22 Q BY MR. KAY: All right.

23 Can everyone see?

24 Mr. Flynn, would you describe what you see in
25 this picture here?

26 Come over here. Stand this way so Mrs. Sandberg
27 can see.

28 A That is the back of the Meyers Ranch. This is

106 A - F

5-2

1 where you go in the bedroom in the back of the Meyers Ranch.
2 This is the back portion of it.

3 THE COURT: Do you want to hold the microphone up?

4 Q BY MR. KAY: And that is photograph C.

5 This is photograph 37-C you have just described?

6 MR. DENNY: They can't be 37-C. 106-C.

7 MR. KAY: Excuse me, your Honor, 106-C.

8 THE COURT: 106-C.

9 Back of the Meyers Ranch, is that right?

10 THE WITNESS: Yes, sir, that's the back.

11 Q BY MR. KAY: And I'll show you picture 106-E.

12 Do you recognize what that depicts?

13 A Yes, that is the front of the Meyers Ranch.

14 Q All right. And I show you picture 106-F.

15 Do you recognize what is in that photograph?

16 A That is the entrance to Meyers Ranch, the gate.

17 The entrance.

18 Q Picture 106-B is what?

19 A That is the living room and the bedroom. This
20 is the far right-hand side as you go in, living room side.
21 And this is the bedroom. The door is right here (indicating).

22 Q All right.

23 Now, I show you photograph 106-D.

24 Do you recognize what's depicted there?

25 A Yes, this is taken from inside the bedroom
26 towards the living room and further on, the kitchen.

27 Q All right. This is the Meyers Ranch?

28 A Meyers Ranch. Meyers Ranch.

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1 MR. DENNY: I'm sorry, Mr. Kay, what is that number?

2 MR. KAY: 106-D.

3 Q Now, Mr. Flynn, I show you picture 106-A.

4 Do you recognize what --

5 A Yes, this is the Meyers Ranch dining room or
6 the front room and this is the kitchen here (indicating).

7 Q Now, was this the table that you and the other
8 gentlemen --

9 A Yes.

10 Q Were sitting at?

11 A Yes.

12 Q During the incident you described?

13 A Yes.

14 Q When the gun was passed around?

15 A Yes.

16 Q That's your handwriting above there?

17 A Yes.

18 Q Isn't it?

19 Is that where you were sitting in that chair?

20 THE COURT: The jury can't see what you are talking
21 about when you say "that chair."

22 THE WITNESS: The table was this way (indicating).

23 Q BY MR. KAY: In other words, the table is not the
24 same as it was then? It was diagonal?

25 A Diagonal. And I was sitting here (indicating),
26 you see, Danny DeCarlo here (indicating).

27 THE COURT: Indicating where?

28 THE WITNESS: To the wall of the compartment between

5-4

1 the kitchen, where the wall between the kitchen and the
2 living room -- Danny DeCarlo (indicating), I was sitting
3 (indicating), Bruce -- I mean, Watson (indicating), Bruce
4 Davis (indicating), and Manson (indicating). Manson was
5 here, almost in the corner. (Indicating.)

6 Q BY MR. KAY: Manson had his back to the window,
7 then?

5a fls.

8 A Yes.
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(Whereupon, Mr. Manzella conferred with Mr. Kay.)

MR. KAY: Oh, Mr. Manzella made a good suggestion.

Q On this photograph 37-A --

MR. DENNY: It is not 37-A.

Q BY MR. KAY: Oh, excuse me, 106-A, I have a blue pencil. Could you put the initials of the people as they were seated around the table?

Now, I realize you've testified the table was not --

A Well, could I put a little drawing like that (indicating), and put the initials, because the table isn't the right way.

Q We'll turn the picture over. On the back of the picture you want to draw a little diagram as to how the people were seated? This is on the back of 106-A.

A Here is the window (indicating). Okay.

Manson, Bruce, Watson -- uh, I shouldn't put me-- Juan, and Danny.

MR. KAY: May the record show that the witness has made a small diagram on the back of 106-A designating the location of the five people at the table.

THE COURT: Very good.

Q BY MR. KAY: You spelled out your name, that's Juan?

A J-u-a-n.

Q Okay.

Now, Mr. Flynn, at sometime after this did you take a trip from Barker's Ranch to Spahn Ranch?

5a-2

1

A Yes.

2

Q And do you have any recollection of about when that was?

3

4

A Uh, it was, uh, before the raid.

5

Q The raid on Barker's Ranch?

6

A On Barker's Ranch.

7

Q All right. Do you remember how much before this raid or --

8

9

A No, it was right around --

10

Q All right.

11

(Whereupon, Mr. Kay, Mr. Manzella and Mr. Denny conferred at the counsel table.)

12

13

Q BY MR. KAY: Now, who did you go down to Los Angeles with?

14

15

A It was Scotty, Paul Watkins, Bruce Davis, Steve Grogan and I.

16

17

Q All right. And what type of vehicle did you go in?

18

A A small Volkswagen.

19

Q All right. Now, somewhere along that trip did you drop Mr. Watkins off?

20

21

A Yes.

22

Q Where did you drop him off?

23

A In, uh, Red Mountain or -- I think that's Red Mountain. I'm pretty sure. It is a town with four corners like that (indicating), and it has gas stations on it and they call it Red Mountain.

24

25

26

27

Q Is that in California or Nevada.

28

A Yes, California.

5a-3

1 Q Now, sometime after you dropped Mr. Watkins off,
2 was there some conversation in the car that you remember?

3 A After we dropped Mr. Watkins?

4 Q Yes.

5 A Yes.

6 Q Now, where were you seated in the car?

7 A I was seated in the front.

8 Q Front where?

9 A Front, to the right.

10 Q Right passenger seat?

11 A Yes.

12 Q Where was Mr. Grogan seated?

13 A Mr. Grogan was the driver of the vehicle?

14 Q All right. Where was Mr. Davis seated?

15 A Mr. Davis was seated to the left, to the rear left
16 of the vehicle.

17 Q Behind Mr. Grogan?

18 A Behind Mr. Grogan.

19 Q Where was Scotty seated?

20 A Behind me.

21 Q Now, after you dropped Mr. Watkins off, and you
22 continued on, did Mr. Grogan make a statement to you?

23 A Yes.

24 Q All right. And did Mr. Davis say anything to
25 the statement Mr. Grogan made?

26 A Yes.

27 Q All right. What was the statement Mr. Grogan made
28 to you, and if you could, describe how he made the statement

5a-4

to you.

A Well --

MR. DENNY: Just a moment, I'll object and ask to approach the bench, your Honor.

THE COURT: All right, you may.

(Whereupon, the following proceedings were had at the bench among Court and counsel, outside he hearing of the jury:)

MR. KAY: This was testified to at the Grogan trial.

THE COURT: Yes. What was said?

MR. KAY: Oh, Grogan -- in response to no question or no discussion about Shorty, Grogan looked at Juan and said, in the manner Juan will describe, he said "If anyone asks you about Shorty, tell them that he went to San Francisco." In the manner that only Mr. Grogan can. You know, Mr. Grogan puts on a tough guy act all the time.

MR. DENNY: Well --

MR. KAY: So, anyway, Mr. Flynn will testify as to how he did it.

And to that, Mr. Davis said "Yeah, yeah."

5b fls.

5b-1

1 MR. DENNY: Your Honor.

2 THE COURT: Yes.

3 MR. DENNY: Your Honor, in the first place, there has
4 been nothing by way of the discovery again and the statements--

5 MR. MANZELLA: That's irrelevant. Why don't we get
6 on to something on point. It was testified to in the Grogan
7 trial and you have the transcript.

8 MR. DENNY: Whether it was testified to in the Grogan
9 trial or not, we were given certain information by way of
10 discovery in this case and continuing discovery as to what
11 statements the People intended to put on in this case.

12 MR. MANZELLA: No, you weren't. That's not the discovery
13 order. The discovery order is anything you are entitled to
14 before you make the discovery motion you are entitled to
15 after you make the discovery motion. You are not entitled
16 to every statement the witness is going to make.

17 MR. DENNY: By way of admission or confession.

18 MR. MANZELLA: That's not true.

19 MR. DENNY: Well, the People sought at the time, I
20 understood, at the Aranda-Bruton hearings, all of these
21 statements that they were going to seek to introduce by
22 way of admission or confession.

23 MR. MANZELLA: That's not true either.

24 Let's get to something relevant and on with it
25 and stop wasting time.

26 THE COURT: On the basis of the objection, the Court
27 will overrule it. The Court believes there's been the most
28 extensive discovery I've ever seen in any case afforded to

5b-2

1 the defendant. The defendant has had the advantage of the
2 transcripts in the Grogan case, and the Manson case and the
3 Grand Jury transcripts.

4 In addition to that, the defendant has had
5 access to all of these statements --

6 MR. DENNY: Well, your Honor --

7 THE COURT: -- that have been provided to him. And
8 the Court believes that this is not a logical or reasonable
9 objection at this time.

10 MR. DENNY: Your Honor, I would like to have Mr. Kay,
11 in connection with his offer of proof, present to the Court--
12 because I have gone over Mr. Flynn's testimony at some
13 length in the Grogan trials, both of them -- present to the
14 Court that portion of the testimony of Mr. Flynn.

15 MR. KAY: I just did.

16 MR. DENNY: I mean, by chapter and verse.

17 MR. KAY: Oh.

18 MR. DENNY: Page and line.

19 MR. KAY: You mean for the record?

20 MR. DENNY: As to where this "Yeah, yeah," comes in.

21 MR. KAY: Well, he couldn't testify "Yeah, yeah,"
22 because that would be hearsay in the Grogan trial.

23 MR. DENNY: All right, that's exactly right.

24 MR. KAY: But on page 1536:

25 "And would you relate the conversation
26 to us?

27 "Well, first, Mr. Grogan pointed out to
28 me if anyone asked me about Shorty that I should tell

5b-3

1 "them that he went to San Francisco, you see. And
2 Mr. Davis agreed that I should, you know, and implied."

3 MR. DENNY: Your Honor, there's nothing that shows there that
4 we have had the benefit of any sort of discovery. That's
5 supposed to show discovery, that there was an implied
6 agreement by Mr. Davis of any sort of statement -- the Court
7 has indicated in this last hearing all of this business:

8 "Well, he agreed.

9 "Well, how did he agree?

10 "Well, he agreed.

11 "Well, that's your conclusion."

12 MR. KAY: Well, he's going to testify --

13 MR. MANZELLA: That's not what the testimony has been
14 here, and that's not what the testimony is in the Grogan
15 case.

16 THE COURT: The objection will be overruled.

17 MR. DENNY: Well, your Honor, may I add the additional
18 objection no corpus delicti and that this does not come in
19 by way of any sort of admission. That it is improper under
20 the Osuna doctrine.

21 THE COURT: The Court overrules the objection.

22 (Whereupon, the following proceedings were had
23 in open court within the presence and hearing of the
24 jury:)

25 Q BY MR. KAY: Mr. Flynn, would you please tell
26 the ladies and gentlemen of the jury what Mr. Grogan said
27 to you and what Mr. Davis said after Mr. Grogan made the
28 statement to you?

1 A Well, Mr. Grogan said to me, he says, "If
2 anyone asks you about Shorty, you tell them he went to San
3 Francisco."

4 And Mr. Davis came up from the back seat and
5 said to me, "Yeah, yeah," you see. He says, "You know."

6 Q Now, when Mr. Grogan made that statement, had
7 you or anyone else in the car said anything about Shorty?

8 A No.

9 Q Now, when you say Mr. Davis came up from the back
10 seat, what do you mean?

11 A Well, between the seats. Between the seats,
12 you see. He rose up from the back seat to say, "Yeah."

13 Q What did you say after Mr. Grogan and Mr. Davis
14 made these statements?

15 MR. DENNY: Irrelevant and immaterial and hearsay.

16 THE COURT: Sustained.

17 MR. KAY: Well, this wouldn't be for the truth of the
18 matter, it would be for Mr. Flynn's state of mind.

19 MR. DENNY: Well, that's irrelevant and immaterial.

20 THE COURT: Sustained.

21 Q BY MR. KAY: All right. Were you scared, Mr.
22 Flynn?

23 MR. DENNY: Objection, irrelevant and immaterial.

24 THE COURT: Sustained.

25 MR. KAY: May I have just a minute, your Honor.

26 THE COURT: Yes, you may.

27 Q BY MR. KAY: When Mr. Grogan made this statement,
28 what was his tone of voice?

1 A Uh -- well, he was asking me to say that.

2 MR. DENNY: Just a moment, I'll move that be stricken
3 as not responsive to the question.

4 THE COURT: Sustained.
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1 Q BY MR. KAY: What was his tone of voice? Do you
2 know what I mean?

3 A "If anyone asks you about Shorty --"

4 MR. DENNY: I'll move that that be stricken as not
5 responsive to the question.

6 THE COURT: Sustained.

7 Can you describe generally his tone of voice, with-
8 out stating the conversation?

9 MR. DENNY: Well, is that stricken, your Honor?

10 THE COURT: Yes, it is stricken.

11 THE WITNESS: Well, he was commanding. You know, --

12 Q BY MR. KAY: I mean, was he --

13 A -- commanded, commandive? Something like that. I
14 don't know how you say it in English, but --

15 MR. KAY: Excuse me just a moment, your Honor.

16 THE COURT: Very well.

17 (Pause in the proceedings while Mr. Kay perused
18 his notes.)

19 MR. KAY: Thank you. I have no further questions of
20 Mr. Flynn.

21 Thank you, Mr. Flynn.

22 THE COURT: Mr. Denny?

23

24

25 BY MR. DENNY:

26 Q Mr. Flynn, this particular dinner that you have
27 reference to occurred when, sir?

28 A I beg your pardon?

CROSS

CROSS EXAMINATION

6-2

1 Q You've testified to a dinner that occurred at the
2 Meyers Ranch, and marked on the photographs where everybody was
3 sitting at that particular dinner; is that correct?

4 A Yes, sir.

5 Q When did that occur.

6 A Uh -- it occurred at night.

7 Q And about what time at night?

8 A Hmmm -- I don't know. I didn't have a watch. There
9 was nobody had a watch up there.

10 Q Well --

11 A It was at nighttime. It was dark.

12 Q It was dark. All right.

13 And what was the lighting there?

14 A Oh, it was just --

15 Q Well, let me refresh your recollection.

16 A -- little --

17 Q It was candles, wasn't it? Candles?

18 A I don't believe it was candles. I think it was a
19 little -- you know, one of them little stoves like that
20 (indicating).

21 Q A kerosene lamp?

22 A Kerosene lamp, something like that.

23 Q One little kerosene lamp placed where?

24 MR. MANZELLA: Objection. Assumes a fact not in
25 evidence.

26 THE COURT: Sustained.

27 Q BY MR. DENNY: Was there just one little kerosene
28 lamp there?

6-3

1 A Well -- yeah.

2 Q All right. And one little kerosene lamp placed
3 where?

4 A Hmmm -- I don't remember. I could see it just --
5 just about everybody's faces on the table. There was enough
6 lighting to see the faces on the table.

7 MR. DENNY: Do you have those pictures?

8 MR. KAY: I think Joyce has them.

9 MR. DENNY: May I approach the witness, your Honor?

10 THE COURT: Yes, you may.

11 Q BY MR. DENNY: Sir, showing you 106-A, what appears
12 to be the table in the corner there, was that where that table
13 was placed --

14 A The table --

15 Q -- on that evening? Or was it moved out a little
16 bit from the corner?

17 A The table was placed in this -- in this place
18 (indicating), you see; but it was more -- instead of going this
19 way, it was going that way (indicating).

20 THE COURT: Indicating diagonally across the picture,
21 from the lower left-hand corner --

22 THE WITNESS: Right.

23 THE COURT: -- to the upper right-hand corner of the
24 picture.

25 Q BY MR. DENNY: It was on a diagonal?

26 A Diagonal.

27 Q It wasn't parallel to either wall?

28 A It was in a diagonal like that (indicating). It was

1 going almost with this wall, like that.

2 Q In other words, instead of being turned longways,
3 as it appears on the paper --

4 A Yes.

5 Q -- or in the picture --

6 A Yes.

7 Q -- it was turned in the other direction, facing out
8 towards the person taking the photograph?

9 A Yes.

10 Q Or lengthwise, facing out?

11 A Well, it was from this side (indicating), like
12 that. You see, it was the longways, across this wall right
13 here (indicating).

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1 Q Well, sir, let me just make a brief diagram here.
2 Here is the corner --

3 THE COURT: Well, that won't show in the record, Mr.
4 Denny.

5 MR. DENNY: Well, I understand that. Just for
6 illustrative purposes only.

7 THE COURT: What you have drawn is a table, the long
8 axis of which goes alongside a wall.

9 MR. DENNY: Well, let's say that this is the north
10 wall (indicating) and this is the west wall -- assuming,
11 just for the sake of argument, that that's the way the
12 picture shows, sir.

13 Q Now, was the table (Mr. Denny drawing on the
14 diagram)?

15 A That way. That way.

16 Q This way?

17 A Yes.

18 Q So the long way was toward the west side of the
19 wall?

20 A Yeah, right.

21 Q All right. Now, and the kerosene lamp, was
22 that the kerosene lamp that appears to be over the table
23 here, in that picture?

24 A Uhh -- no, I don't think that's that one.

25 Q Or was it one that just sat on the table?

26 A I don't recall. I think it sat on the table.
27 I don't recall, really.

28 Q All right, sir. And you could see the faces

1 of the people around the table, but it did not cast light,
2 say, back into the bedroom, did it?

3 A Hmmm -- I could see in the kitchen.

4 Q All right. Was there another light in the
5 kitchen?

6 A I believe there was, if I could see in there,
7 you know.

8 Q All right. Was there light in the bedroom?

9 A No.

10 Q All right. And did this light on the table cast
11 light into the bedroom area?

12 A I don't know. I wasn't looking that way.

13 Q Which way were you looking, sir?

14 A I was looking at that man pointing that gun at
15 me, you see.

16 Q All right. Again, going to this diagram --

17 Your Honor, I wonder if we have some paper? Is
18 there any paper available?

19 Well, perhaps for speed we can use the blackboard,
20 and then recreate it on the paper, if that's all right with
21 the Court.

22 THE COURT: All right with the Court.

23 Q BY MR. DENNY: Sir, showing the table now as --
24 with hatch marks across here, indicating actually where the
25 table was, where were you seated at the table? Would you
26 just draw your initials?

27 A I was seated just about right here (indicating).

28 Q All right. Let's put a "JF" when you say

1 "right here" in this particular circle.

2 All right. You can retake the stand, sir.

3 Now, where were the girls seated?

4 You don't have to get down there. See if you
5 can just describe to the jury where the girls were seated.

6 A They were seated around here (indicating);
7 around here.

8 Q Well, you are indicating the lower portion of
9 the table; is that right?

10 A Yes. They were --

11 Q Well --

12 A I don't know what you mean by that. But they
13 were sitting around here (indicating); and there was a
14 couple of girls that kept moving around the kitchen
15 (indicating) righthere.

16 The door was -- oh, just about here, like that.

17 Q Again, you have made two marks on the right of
18 this table, now. So let's just put them in, where you say
19 there was a door.

20 (Mr. Denny drawing on the blackboard.)

21 A And then --

22 Q And I have made some lines where the girls
23 were.

24 A No. The girls were right about here (indicating).

25 Q Were they seated on chairs, or on the floor?

26 A On the floor, I believe. I don't know. I
27 didn't look back there.

28 Usually, they sat on the floor, when Mr. Manson

1 was around.

2 Q All right. Do you want to retake the stand,
3 sir?

4 MR. KAY: Excuse me. I wonder if Mr. Flynn would
5 indicate on that drawing where the girls were seated, maybe
6 write "the girls" on there.

7 MR. DENNY: Well, I've indicated it with the lines.

8 MR. KAY: Well, that's not where Mr. Flynn said the
9 girls were, where you put the lines in.

10 THE WITNESS: The girls were right about in here,
11 like that (drawing on the blackboard).

12 And there was a couple of more girls -- excuse me
13 -- right in this -- in the kitchen. Here's the kitchen
14 -- "Girls" (witness drawing on the blackboard).

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16 6b fls.
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6b-1

EX

1 THE COURT: Was there a dining room as well as a living
2 room?

3 THE WITNESS: Yes. Just a big wall, like that; and then
4 it has a fireplace right about -- the door is right about in
5 here (indicating).

6 THE COURT: Indicating to the left, below the table on
7 your diagram?

8 THE WITNESS: Yes, it's below the table.

9 THE COURT: Well, is this the dining room or the living
10 room where the table is?

11 THE WITNESS: They're both the same. The dining room is
12 the living room.

13 THE COURT: I see.

14 THE WITNESS: You see? And then there's a fireplace right
15 down here somewhere (indicating).

16 MR. DENNY: All right. Indicating on the other side of
17 the room?

18 THE WITNESS: Yes, sir.

19 THE COURT: Can we get on with this?

20 Go ahead.

21 Q BY MR. DENNY: All right. Showing you 106-D, sir,
22 this picture taken from the bedroom into the kitchen, it shows
23 what appears to be two hooked rugs on the floor; is that
24 correct?

25 A It appears to be that.

26 Q All right. And showing you photograph 106-B, that
27 has a picture of a chair and one of the hooked rugs; is that
28 correct?

6b-2

1 A That's correct.

2 Q And that picture is looking toward the bedroom from
3 which this other picture --

4 A From B.

5 Q -- is taken from; is that correct?

6 A Is taken from, correct.

7 Q All right. And showing you photograph 106-A, that
8 appears to be the -- to show the table and the other hooked
9 rug that the table sits on; is that correct?

10 A Yes.

11 Q All right. So that for the edification of the jury,
12 then, this room is approximately these two hooked rug --

13 A Rugs.

14 Q -- rugs widths wide?

15 A Widths wide?

16 Q Yeah.

17 A (Witness shaking his head in a perplexed manner.)
18 Yeah.

19 THE COURT: Two hooked rugs widths wide; right?

20 THE WITNESS: That seems to be a --

21 Q BY MR. DENNY: All right. Now, sir, this gun that
22 was passed around, would you describe it again, please?

23 A It was an Italian gun, a .45 Italian gun.

24 Q A .45 Italian gun. And what else? Would you
25 describe it the way you described it in the past to other
26 people, when you described this gun? Like police officers?

27 A Well --

28 MR. KAY: Well, that calls for hearsay. That's irrelevant.

6b-3

1 THE COURT: The objection will be sustained.

2 Q BY MR. DENNY: Well, could you describe the gun
3 any more fully, sir?

4 A Any more fully?

5 Q Yeah.

6 A Well, I would have to go into the conversation.

7 Q No, you don't have to go into the conversation.

8 A Well, okay. I don't have to go into the conversa-
9 tion.

10 Q Just tell this jury, as accurately as you can, --

11 A Um-hmm.

12 Q -- what else there was about this gun that you saw
13 that particular night, that you remember? What else about how it
14 looked?

15 A Well, it looked big at the other end.

16 (Laughter.)

17 Q Yeah?

18 A You know?

19 Q Yeah? That was what kind of overwhelmed you,
20 really, not the fact that it was Italian, or that it was a .45;
21 isn't that true? It just looked like a big cannon pointing
22 at you; is that right?

23 A Yeah.

24 Q All right. But it looked like a particular color
25 cannon, didn't it?

26 MR. KAY: Objection. It assumes a fact not in evidence.

27 THE WITNESS: Looked like a gun to me.

28 Q BY MR. DENNY: All right. A particular color gun?

1 A It looked like a gun to me.

2 Q A particular color gun?

3 A It looked like the particular gun that was pointing
4 at me.

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1 Q And what color was that gun, sir?

2 A Well, when I had it in my hands? What color it
3 was?

4 It was similar to those guns right there.

5 Q All right. Did you talk to Officer Dave Steuber
6 on about December 13, 1969, among other times, but --

7 A Yeah, I guess.

8 Q -- specifically at that time? And you had a
9 tape recorded conversation with him at that time?

10 A I don't know the specific time. I've talked to
11 a million officers. I talked to a thousand lawyers. I talked
12 to everybody.

13 And it leads to the same thing, that the guns
14 that were --

15 Q All right, sir.

16 A -- pointing at me was a .45 Italian gun.

17 Q By the way, you never talked to a million or a
18 thousand or even one defense lawyer; they were all prosecution
19 lawyers; is that right?

20 MR. KAY: That's irrelevant.

21 MR. MANZELLA: Objection. That's not relevant.

22 Q BY MR. DENNY: All right. But you did talk to
23 a million police officers -- perhaps a little exaggerated?

24 A Well, you never asked me to talk to you.

25 MR. MANZELLA: Objection. The question has been asked
26 and answered.

27 MR. DENNY: I didn't ask it. He volunteered --

28 MR. MANZELLA: Can't we move along?

1 THE COURT: Then why ask it again?

2 Sustained.

3 Q BY MR. DENNY: All right, sir. Well, this one
4 particular officer, Dave Steuber, that you talked to on
5 about December 13, 1969, --

6 A Yeah.

7 Q -- did you ask him this? I mean, did he ask
8 you this? And did you respond as follows?

9 "Officer Steuber: What kind of gun was this,
10 Juan."

11 MR. KAY: Well, now, I --

12 MR. DENNY: Let me go back. Let me go back a minute.

13 Q Charlie was playing with the cylinder; is that
14 right? When he had the gun?

15 A I don't know. The gun was produced and pointed
16 at me.

17 Q Well, sir, was Charlie playing with the cylinder
18 at this time?

19 A I don't recall.

20 Q How about playing with the apple?

21 A I don't remember.

22 Q Well, you've used the phrase "playing with the
23 apple"?

24 A Well, the apple is the middle part, yes.

25 Q Is the cylinder?

26 A It's the cylinder.

27 Q All right. Let's go back, then.

28 A Okay.

1 Q This is you speaking.

2 "He pulled out this gun and started going like
3 that with the apple, and looking at --

4 "Officer Steuber: What apple?

5 "Flynn: The apple of the gun.

6 "Steuber: What is the apple of the gun?

7 "Flynn: It's the thing that goes around the
8 whole show --

9 "Steuber: Cylinder?

10 "Flynn: Cylinder. And he started looking at
11 me, and he was doing something, flashing it at me,
12 and playing with the apple.

13 "Steuber: Meaning again the cylinder of the gun?"

14 MR. KAY: Your Honor, I'm going to object to this. I
15 don't know that he's talking about this gun. There has been
16 no foundation laid. It could be another gun. It's indefinite.

17 THE COURT: It's not a prior inconsistent statement.

18 The objection is sustained.

19 MR. DENNY: All right.

20 THE COURT: The entire portion Mr. Denny read is
21 stricken.

7 fls.

7-1

1 Q BY MR. DENNY: "Officer Steuber: What kind of a gun
2 was this, Juan?"

3 MR. KAY: Same objection, your Honor. What type of gun
4 was it when? I mean, there's no foundation.

5 THE COURT: All right, sustained.

6 Q BY MR. DENNY: Going back a little further in this
7 tape-recorded conversation --

8 MR. MANZELLA: Objection, that assumes a fact not in
9 evidence.

10 THE COURT: Sustained.

11 MR. DENNY: All right, your Honor, I'm going to need a
12 couple of minutes to set up the recording that I have of this
13 particular conversation. May I have a recess for about three
14 minutes?

15 THE COURT: Well, I'm not sure the Court is going to let
16 you set up the recording, Mr. Denny.

17 MR. DENNY: It is a prior inconsistent statement.

18 MR. MANZELLA: Object to that. It is not a prior
19 inconsistent statement and ask Mr. Denny's remarks be stricken.

20 THE COURT: That remark is stricken and would you
21 approach the bench. I'll hear from you at the bench.

22 MR. DENNY: Yes.

23 (Whereupon, the following proceedings were had at
24 the bench among Court and counsel, outside the hearing of the
25 jury:)

26 THE COURT: All right, go ahead.

27 MR. DENNY: Your Honor, I have transcripts of the tape-
28 recorded statements that this witness made.

7-2

1 THE COURT: You have them with you right there?

2 MR. DENNY: Yes, I do, to Dave Stauber, both on December
3 13th and on about January 13. December 13, 1969 --

4 THE COURT: Well, what you read, if that's any sample,
5 is not an inconsistency.

6 MR. DENNY: Well, your Honor, I was getting to it, be-
7 cause I wanted to establish the background of it. I can go
8 farther back to establish --

9 THE COURT: In what respect is it inconsistent?

10 MR. DENNY: Well, "What kind of a gun was this, Juan?"

11 THE COURT: Just let me see it, please.

12 MR. DENNY: Yes, your Honor.

13 THE COURT: Well, what part do you contend is in-
14 consistent, the gold color?

15 MR. DENNY: That's right.

16 THE COURT: Is it stipulated rather than take the time
17 to play the tape, if that is the only portion? That is the
18 only portion that I can see that's inconsistent in the
19 transcript.

20 Then, is it stipulated that can be read?

21 MR. KAY: Let me see it.

22 MR. DENNY: Well, your Honor, I would like to be able --
23 because the jury, I think, should hear his own words, if we
24 have them on tape.

25 THE COURT: I do not, if that is stipulated to.

26 And what I am referring to, is his statement that
27 he thought it was a gold color.

28 MR. MANZELLA: He was going to read -- it is the whole

1 statement, "What kind of a gun was this, Juan?

2 "It was an Italian gun.

3 "This was the big .45" --

4 MR. KAY: You see the problem.

5 MR. MANZELLA: I don't know whether --

6 "This was a big .45, the fancy one with the
7 custom grips and all that?"

8 THE COURT: "What kind of a gun was this," starting
9 there.

10 MR. DENNY: I have to start before that to establish the
11 foundation, according to --

12 THE COURT: Not if it is stipulated to, Mr. Denny. I
13 don't see any reason for prolonging this.

14 MR. KAY: Well, your Honor, I can't --

15 MR. DENNY: I think --

16 THE COURT: "I don't remember, sir. I know it was
17 Ron's, you see, or gold color.

18 "Okay. Part of it was --"

19 MR. KAY: From there on there, nothing is inconsistent
20 because he doesn't say what part is gold or bronze. The
21 handles --

22 THE COURT: Excuse me a minute. He does say, "I don't
23 remember, sir," in response to was this the big .45,
24 the fancy one with the custom grips and all that.

25 "I don't remember, sir. I know that it was
26 bronze, you see, or gold color."

27 That's inconsistent.

28 MR. MANZELLA: Except we don't know what gun Steuber was

1 referring to.

2 MR. DENNY: That's why I want to go further back in
3 the description.

4 MR. MANZELLA: If that's the one he's talking about,
5 fine.

6 MR. DENNY: I can go back further, and I think it is
7 proper under the circumstances to go back and establish it,
8 because I've got it here in this part of the transcription.

9 MR. KAY: If I can read before and establish it is the
10 same, we can probably stipulate what it is about, the conversa-
11 tion, but I would like to see.

12 THE COURT: This is a great deal to do, it appears to the
13 Court, with something of a minor significance.

7a fol

7a-1

1 MR. DENNY: Well, your Honor, I've got another one,
2 also, another recording where it is also similarly described
3 on pages 2 and 3 of the recording.

4 MR. KAY: Yeah, I think that's probably the --

5 MR. MANZELLA: Have you listened to the tape?

6 MR. KAY: A long time ago.

7 Who made these transcriptions?

8 MR. DENNY: Me and my secretary many, many hours.

9 MR. KAY: Well, no --

10 MR. DENNY: If you have any doubts about it, I will
11 play it.

12 THE COURT: This is the part that appears to be
13 inconsistent in this second statement.

14 MR. KAY: Well, what's inconsistent about that?

15 MR. DENNY: A gold barrel.

16 MR. KAY: Oh, with a gold barrel.

17 MR. DENNY: If you have any doubts, I'll be very happy
18 to play it before this jury so they can hear his own words.

19 MR. KAY: Maybe we'd better do that.

20 THE COURT: The Court would require you to listen to
21 it over the noon hour, if that's what you want to do, if
22 you can't stipulate those are his words.

23 MR. KAY: Yeah, because I can't. I'll have to listen
24 to the tape.

25 THE COURT: Well, we're not going to halt this thing
26 and play the tape recording when it is -- when it is clear --

27 MR. DENNY: Your Honor, I can -- your Honor, I can
28 cue it up very, very quickly.

7a-2

1 MR. KAY: It is five minutes to 12:00. I'll listen
2 to it at noon.

3 THE COURT: All right, cross-examine on something else
4 as to the tape recording you gentlemen can listen to it
5 at lunch.

6 (Whereupon, the following proceedings were had
7 in open court within the presence and hearing of the
8 jury:)

9 THE COURT: All right, we'll leave the subject of the
10 dinner table events, now, and you may cross-examine about
11 something else.

12 MR. DENNY: Well, I still intend to go into that, but
13 just not the gun for the time being.

14 THE COURT: Well, if you believe it is material, go
15 ahead.

16 Q BY MR. DENNY: Now, sir, this dinner table
17 conversation that you talked about after dinner, after you
18 had had your tapioca, is that right?

19 A Uh-huh.

20 Q And did you have spaghetti as the main course or
21 noodles, spaghetti of some sort?

22 MR. MANZELLA: That's immaterial.

23 MR. DENNY: Your Honor, I want to establish it in
24 connection with Barbara Hoyt's testimony to make sure it is
25 the same dinner.

26 THE COURT: All right, I'll let you answer.

27 THE WITNESS: Yes, it was spaghetti.

28 Q BY MR. DENNY: All right.

1 A It was something on that line.

2 Q All right, sir.

3 And at some time did they break out the marijuana,
4 at some time during this dinner?

5 A Uh, yes.

6 MR. KAY: Well, I'm going to object to "they." Who?

7 Q BY MR. DENNY: Who broke out the marijuana?

8 A Charlie.

9 Q Was there enough for the men and the girls both?

10 A No. No.

11 Q Was this placed into a pipe?

12 A Uh --

13 Q This marijuana?

14 A Yeah.

15 Q And that pipe was passed around from person to
16 person?

17 A Yeah.

18 Q Except you didn't take any, is that right?

19 A No, I didn't say that.

20 Q Oh, you did have some?

21 A Yeah. Yes.

22 Q All right.

23 And at what particular time in the chronology of
24 events, the sequence of events was it that the pipe was
25 broken out and the marijuana began to be smoked?

26 A I don't know, sir. I don't know.

27 Q Was this before or after the gun was passed
28 around?

1 A You see, I don't know. I just remembered that.
2 I don't know.

3 Q Is your memory of those events a little fuzzy
4 because of the effects of the marijuana that you smoked?

5 A No, there wasn't that much. Usually they used
6 to smoke wood. Mostly that night they smoked mostly the
7 wood out of the pipe because there wasn't even nothing,
8 you know. It was just nothing.

9 Q All right. You didn't smoke hand-rolled
10 cigarettes, though?

11 A No, no.

12 Wait a minute.

13 Q All right.

14 A Wait a minute, wait a minute, not marijuana,
15 but I smoked cigarettes, hand-rolled.

16 Q Oh, you did?

17 A Yeah, but not marijuana.

18 Q All right. When was this that you did that?

19 A Well, it was when I was in that area around
20 there.

21 Q Oh, no, I'm talking about that night.

22 A Oh, well, excuse me.

23 Q You didn't smoke any hand-rolled cigarettes
24 that night?

25 A No.

26 Q All right.

27 A And that's tobacco.

28 Q Yeah. Yeah, just plain ordinary rolled tobacco

1 cigarettes?

7b fls?

A Yeah.

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1 Q Now, sir, as far as the marijuana smoking, how long
2 did that last?

3 A About a minute or two, that was it.

4 Q Just enough for everybody to get a puff there?

5 MR. KAY: Well, I'm going to object to "everybody." He
6 can say who --

7 THE COURT: Overruled. You may answer.

8 THE WITNESS: Well, there wasn't -- everybody -- the
9 pipe passed around. It went over from Charlie --

10 First, he said, "Well, I got something," you see,
11 "but there's not enough for the girls. So the men will smoke."

12 And then, he put it in the pipe and he lit it. He
13 passed it to Watson. Watson passed it to me. And I passed it
14 to Danny DeCarlo, but there was nothing in it.

15 Q BY MR. DENNY: All right. By the way, when you got
16 this gun and held it for a bit and looked at the gun --

17 A Yes.

18 Q -- you saw that it said "Italian .45"?

19 A "Italian .45," yes, sir.

20 Q Well, did it say that on the same side, "Italian
21 .45"?

22 A It just said "Italian." It said "Italy," you see,
23 and it was a .45.

24 Q Well, did it say "Italy" or "Italian"?

25 A "Italy."

26 Q "Italy"?

27 A It was an Italian gun.

28 Q But it said "Italy"?

1 A But it was a .45. It was an Italian gun. It
2 said "Italy."

3 If it says "Italy," it is from Italy. If it is
4 Italy gun, it is an Italian gun in this country, you see, and
5 it made sense like that.

6 Q You didn't see it said "Dakota Caliber .45"?

7 A I don't remember. I don't remember.

8 Q All right.

9 THE COURT: All right, we'll recess until 1:30, ladies
10 and gentlemen. 1:30, everybody be back at that time.

11 And during the recess you are obliged not to
12 converse amongst yourselves nor with anyone else, nor permit
13 anyone to converse with you on any subject connected with the
14 matter, nor form or express any opinion on the matter until it
15 is finally submitted to you.

16 THE WITNESS: Could I get off now?

17 THE COURT: Yes.

18 THE WITNESS: Thank you.

19 THE COURT: Be back at 1:30.

20 THE WITNESS: Oh, all right.

21 (Whereupon, the jury retired from the courtroom
22 at 12:00 o'clock P. M., and the following proceedings were had:)

23 THE COURT: You have requested the Court --

24 The jurors are all gone now, the record may show,
25 You have requested the Court order somebody whom
26 you say can take some pictures of bullets, you tell me that's
27 not a ballistic expert, but he is somebody from General
28 Hospital or something --

1 MR. DENNY: Well, your Honor, under the posture of our
2 conversation --

3 THE COURT: -- a photomicrograph is requested, and the
4 Court orders a photomicrograph done.

5 This man that is to take them is not a ballistics
6 expert and the Court will order -- not have them done.

7 MR. DENNY: I have asked the Court simply to permit the
8 clerk to take the evidence bullet in her custody and permit the
9 photographer that I have chosen, who is an expert in the field
10 of photography, to photograph that bullet for whatever use I
11 might want to make of the photographs, for which photographs
12 I will pay.

13 THE COURT: The request at this time is denied.

14 The Court may have another expert picking up the
15 bullet this evening or tomorrow.

16 MR. DENNY: Well, your Honor, I'm asking to do it now,
17 at noon. I have him ready to take the photographs right now.

18 THE COURT: Well, you --

19 MR. DENNY: And he has stated that he will and is willing
20 to do so.

21 THE COURT: Well, what type of photograph is he going
22 to take?

23 MR. DENNY: Good ones, photomicrographs, your Honor.

24 THE COURT: And what power?

25 MR. DENNY: Under both ten and twenty magnification.

26 THE COURT: Will they be comparison photographs?

27 MR. DENNY: No, they do not have to be comparison
28 photographs.

1 THE COURT: I simply am inquiring as to whether or not
2 they are, not whether they have to be, Mr. Denny.

3 MR. DENNY: No, your Honor. Just simply of the evidence
4 bullet, the bullet that Mr. Christansen looked at on about
5 January 11 or 12th, 1970.

6 THE COURT: All right, the Court will order them released
7 for that purpose, so that they can be --

8 MR. DENNY: Just a single bullet, People's 31. Just the
9 single bullet, not "they."

10 THE COURT: All right, so they can be released for that
11 purpose this noon.

12 MR. DENNY: Thank you, your Honor.

13 MR. KAY: Well, your Honor, I'm going to object to it.
14 I can't see what the purpose is, if it is not a comparison
15 photograph.

16 THE COURT: Well, the Court has already informed
17 Mr. Denny if he wishes to undertake this at his own expense,
18 he can. But the Court is not going to order that the County
19 pay for it. The Court would permit it to be done -- are you
20 going to accompany the bullet, Mrs. Holt? Have you volunteered
21 to do that?

22 THE CLERK: I told him yes.

23 THE COURT: With that in mind, the Court is permitting it.

24 MR. DENNY: Thank you, your Honor.

25 (Whereupon, at 12:05 P. M., the noon recess was
26 taken.)
27
28

LOS ANGELES, CALIFORNIA, TUESDAY, FEBRUARY 8, 1972 2:00 PM

(Whereupon proceedings were had in open court,

among the Court and counsel, outside the presence

and hearing of the jury, which were not reported.)

THE COURT: All right. On the record, Mr. Denny is present.

Now, all counsel are present. Sergeant Whiteley is present.

MR. MANZELLA: I am handing Mr. Denny a copy of Sergeant Whiteley's notes on his interview with Alan Springer, your Honor, pursuant to the discovery order.

THE COURT: All right. Mr. Denny, what are you missing?

MR. DENNY: What am I missing?

THE COURT: Yes.

MR. DENNY: Well, what I assume to be the notes upon which the reports were based on the --

THE COURT: Excuse me.

(Whereupon a discussion off the record ensued between the Court and a court attache.)

THE COURT: All right. Go ahead.

MR. DENNY: Your Honor, I am missing what I assume are the notes that Mr. Whiteley made, upon which his reports are based. And those reports, I indicated to the Court, about ten of them -- there are actually 18 interviews reflected in his reports in the Sheriff's homicide manual.

THE COURT: Sergeant Whiteley, do you have any notes left that you have not disclosed to Mr. Denny of any of these conversations?

SERGEANT WHITELEY: No.

8-2

1 THE COURT: Do you have any idea where those notes --
2 you probably, when you took these conversations down in a
3 note form, had them in some sort of a notebook, didn't you?

4 SERGEANT WHITELEY: Some of them I did. And some of them
5 I didn't.

6 THE COURT: Some of them you didn't take notes, and some
7 of them you did?

8 SERGEANT WHITELEY: That's correct.

9 THE COURT: Have you given any notes to Mr. Denny of
10 any conversations? You have in the case of the Springer
11 conversation; you've just done that, or caused that to be
12 done.

13 MR. MANZELLA: He gave notes to Mr. Denny of the Barbara
14 Hoyt -- his interview with Barbara Hoyt, and his interview with
15 Ella Bailey.

16 THE COURT: All right. Do you have any left whatever --
17 have you made a search for notes?

18 SERGEANT WHITELEY: I have made a search for notes,
19 and I have no other notes other than those.

20 THE COURT: Have you given any such personal notes to
21 any of your colleagues in the Sheriff's Department, or have
22 you given them to the District Attorney's Office?

23 SERGEANT WHITELEY: I don't quite understand, your
24 Honor,

25 THE COURT: In other words, have you ridded yourself
26 of any notes by giving them to somebody?

27 SERGEANT WHITELEY: No, no.

28 THE COURT: I should think that answers it, Mr. Denny.

8-3

1 Do you have any questions of him?

2 MR. DENNY: Yes.

3 THE COURT: All right. Go ahead.

4
5 PAUL J. WHITELEY,
6 called as a witness testifying as follows:

7
8 EXAMINATION

9 BY MR. DENNY:

10 Q Well, Mr. Whiteley, when you testified earlier
11 in connection with Barbara Hoyt, you indicated that in that
12 interview, at least, you took a number of notes; is that
13 correct?

14 A I don't remember saying that.

15 Q Well, is it correct that at the time of those
16 interviews, particularly the May 15th interview, you did
17 take a number of notes during the course of that interview?

18 MR. KAY: That assumes facts not in evidence, that he
19 interviewed Barbara Hoyt on May 15th.

20 MR. DENNY: Well, I think the record --

21 MR. KAY: I think it's Ella Jo Bailey you're talking
22 about, Mr. Denny.

23 MR. DENNY: I'm sorry, yes.

24 Q Ella Jo Bailey, on May 15, 1970, did you take
25 a number of notes in conjunction with that interview?

26 A Yes, I took some notes.

27 Q And on May 16th, did you also?

28 A Yes.

1 Q And is it your custom, in the pursuit of your job
2 as a homicide investigator, to take notes and make notes in
3 your notebook -- a 4 X 6 or a 3 X 5 notebook -- of the
4 interviews you have with witnesses?

5 MR. MANZELLA: That's irrelevant, your Honor, what his
6 custom is.

7 THE COURT: Yes.

8 MR. DENNY: Well, it is relevant, your Honor, if he's
9 saying --

10 THE COURT: The question is whether he took them at
11 that time, Mr. Denny.

12 Did you take notes in a notebook at that time?

13 THE WITNESS: Yes, I did at that time.

14 THE COURT: Have you looked for those?

15 MR. MANZELLA: Your Honor, Mr. Denny has those notes
16 already.

8a fls.

8a-1

1 MR. DENNY: I'm not talking about that. I'm talking
2 about as to his --

3 Q Was it your custom at that time to make notes of
4 your interviews with witnesses?

5 A Yes.

6 Q And before that time, was it your custom to make
7 notes of interviews with witnesses?

8 A Yes.

9 Q And since that time, has it been your custom to
10 make notes of interviews with witnesses?

11 A Yes.

12 Q All right. Then, pursuant to that custom, did you,
13 on November 26th, 1969, make any notes in such a notebook -- or
14 otherwise -- of your conversation with Alan Springer? November
15 26th, 1969?

16 A I don't remember the date, but I took some -- some
17 notes on Mr. Springer.

18 Q Well, where are they?

19 A They're right in front of you.

20 MR. DENNY: I have been given, your Honor, what appears
21 to be half a page of paper, which shows "Al Spring --"

22 THE COURT: Is there anything more?

23 MR. DENNY: Yes, your Honor.

24 (Continuing) -- and three lines.

25 THE COURT: Sergeant Whiteley, is there anything more?
26 Are there any other notes that you took?

27 SERGEANT WHITELEY: No, sir.

28 Q BY MR. DENNY: All right. On November 4, 1969,

8a-2

1 homicide manual --

2 THE COURT: The Court is going to terminate this,
3 Mr. Denny. This is too tedious.

4 MR. DENNY: Well, your Honor, it may be tedious, but
5 they're trying to put my client in the gas chamber here, and
6 I have been able to discover, through the discovery processes,
7 the fact that their witnesses have been lying, apparently on
8 the basis of what --

9 THE COURT: That's for the jury to determine, whether
10 they're lying.

11 MR. DENNY: Well, I have to have the evidence for the
12 jury to determine, your Honor. I have to have those notes,
13 because the notes have reflected, thus far, that --

14 THE COURT: Have you any notes whatever left, whether
15 they're in notebook form or sheaf form or whatever they may
16 be?

17 SERGEANT WHITELEY: So that I may understand, your
18 Honor --

19 THE COURT: Personal notes?

20 SERGEANT WHITELEY: -- this is on witnesses that will
21 testify?

22 THE COURT: Would you run through that list? Show him
23 that list that you have there, Mr. Denny?

24 Any of those persons?

25 (Whereupon, Mr. Denny exhibited a document to
26 Sergeant Whiteley, which document Sergeant Whiteley perused.)

27 SERGEANT WHITELEY: No, I do not.

28 THE COURT: And you have been shown a list of ten or

1 twelve people; is that correct?

2 MR. DENNY: Eighteen, your Honor.

3 THE COURT: Eighteen people?

4 MR. DENNY: Eighteen separate, specific interviews with
5 the page numbers from the homicide manual, and the references
6 thereto, the dates of the interviews, and the people inter-
7 viewed.

8 THE COURT: Would you stand up, Sergeant Whiteley?

9 Do you solemnly swear that the statements you have
10 just made are the truth, the whole truth, and nothing but the
11 truth?

12 SERGEANT WHITELEY: Yes, they are.

13 THE COURT: And do you want that list put into evidence,
14 Mr. Denny?

15 MR. DENNY: Yes, I do.

16 THE COURT: All right. It will be received --

17 MR. MANZELLA: All right, your Honor. If it's going to
18 be received, I will have to make certain points with regard to
19 it.

20 THE COURT: -- as a special exhibit?

21 MR. KAY: Just have it marked as a special exhibit, next
22 in order for identification?

23 THE COURT: All right.

24 MR. MANZELLA: Now, may I --

25 THE COURT: Yes, you may.

26 MR. MANZELLA: May I ask a couple of questions?

27 EXAMINATION

28 BY MR. MANZELLA:

1 Q Sergeant Whiteley, did you destroy any of your
2 notes intentionally in order to avoid the discovery processes?

3 A No.
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1 MR. MANZELLA: Your Honor, with regard to the list, I
2 would like to point out that several witnesses named on the
3 list are not witnesses in the case.

4 Ray Parrott is one.

5 Randy Starr is another.

6 George Spahn is another.

7 Ray Parrott's name is repeated twice.

8 Vern Plummley is not a witness in the case.

9 John Enfield is not a witness in the case.

10 Miriam Binder is not a witness in the case.

11 Cardinal Nicoma is not a witness in the case.

12 THE COURT: Cardinal Nicoma?

13 MR. MANZELLA: I don't -- I've never heard the name
14 before.

15 MR. DENNY: The gal up at the Fountain of the World,
16 your Honor.

17 THE COURT: All right.

18 MR. MANZELLA: All right, now, none of those people
19 are witnesses in the case.

20 Alan Springer, the notes of that interview have
21 been given to Mr. Denny today. And Sergeant Whiteley's
22 typed reports of the interviews with the rest of the people
23 have been supplied to Mr. Denny.

24 MR. KAY: The jury is starting to come in.

25 MR. DENNY: Well, your Honor, before the jury starts
26 to come in, I would like to --

27 THE COURT: Would you hold the jury out there, Mr.
28 Denny has some more remarks for the record.

9-2

1 Mrs. Corman, would you wait just outside the door,
2 please.

3 MR. DENNY: May I make the observation, your Honor,
4 some of these people I have subpoenaed and intend to call
5 and whether they are the People's witnesses or not, under
6 Brady vs. Maryland and other related cases --

7 THE COURT: The Court would agree, it doesn't matter
8 whose witness the person may happen to be, if the notes are
9 available, they should be made available to you.

10 MR. MANZELLA: If they are to be witnesses. But Mr.
11 Denny has not said any of these people are going to be
12 witnesses.

13 THE COURT: Excuse me, gentlemen.

14 As far as the Court could ascertain, those notes
15 do not exist.

16 Have you destroyed them or mislaid them or what?

17 THE WITNESS: No, what I did with many of these
18 witnesses, I wrote it down on scratch paper and reduced it
19 to a report and threw the scratch paper away. And I did
20 this this way because I had Mr. Katz working with me at the
21 time and I felt that there wasn't any reason for me to be
22 taking extensive notes when he was talking directly with the
23 witnesses.

24 THE COURT: All right.

25 Well, I think that's the situation as it has
26 developed, Mr. Denny, and I just don't think -- and the
27 Court does find that there are no notes available for the
28 People to place into your hands.

1 Let's get the jury in.

2 THE WITNESS: Can I bring up one point here so I don't
3 get in trouble?

4 THE COURT: Yes.

5 THE WITNESS: I have Danny DeCarlo's notes, but he's
6 not on this list and those are the only ones that I can
7 think of that I have not supplied.

8 THE COURT: You have supplied the written, the type-
9 written statement of Danny DeCarlo to Mr. Denny?

10 THE WITNESS: Yes.

11 THE COURT: And that typewritten statement was made
12 from your notes?

13 THE WITNESS: Yes, and I do have my notes on that.

14 THE COURT: All right.

15 MR. DENNY: Your Honor, not that we need any further
16 argument, it is just one of the bases for my request of those
17 notes -- if they don't exist, they've been thrown away,
18 that's something else again -- is the fact that Mr.
19 Whiteley's notes that he did take of the Ella Jo Bailey
20 conferences on May 15 and 16 were markedly different from
21 the typed reports. And that's the reason I have been
22 trying to get the notes.

23 THE COURT: Well, let's proceed.

24 MR. DENNY: Thank you.

25 THE COURT: Sergeant Whiteley, you are excused.

26 THE WITNESS: Thank you.

27 MR. DENNY: Oh, can we get Sergeant Whiteley back
28 for an address, your Honor?

A Yes.

9a-1

1 Q Sergeant Steuber, S-t-e-u-b-e-r, the California
2 Highway Patrol of Inyo County?

3 A Yes.

4 Q All right. And do you recall this conversation
5 pertaining to the gun that you say was passed around at this
6 Meyers Ranch dinner?

7 A Uh-huh.

8 Q "Officer Steuber: What kind of a gun was this,
9 Juan?

10 "Flynn: It was an Italian gun.

11 "Steuber: This was the big .45, the fancy
12 one with the custom grips and all that?

13 "Flynn: I don't remember, sir. I know that
14 it was bronze, you see, or gold color.

15 "Steuber: Okay. Part of it was -- or was
16 the whole pistol gold color?

17 "Flynn: No, the handle I think was wood.

18 "Steuber: Yes, but the rest of it was kind
19 of a gold color?

20 "Was it all engraved, real fancy?

21 "Flynn: Uh, I -- I didn't notice."

22 Do you remember being asked those questions and
23 giving those answers?

24 A Well, I don't remember.

25 THE COURT: No, the question is do you remember the
26 conversation?

27 THE WITNESS: Uh, I don't remember the conversation, but,
28 uh --

9a-2

1 Q BY MR. DENNY: Do you remember being asked those
2 questions by Officer Steuber and telling him that on about
3 December of 1969?

4 A Uh, I don't remember. I talked to so many
5 officers, I don't remember.

6 Q You don't remember what you told one from what you
7 told another?

8 MR. KAY: That's argumentative.

9 THE COURT: Sustained.

10 Q BY MR. DENNY: Well, is it your testimony, sir,
11 that you have not described that gun to Officer Stueber in
12 conversations you've had with him as a gold or a bronze gun?

13 A I described that gun, sir.

14 Q Did you describe it to Officer Steuber --

15 THE COURT: Let's shorten this.

16 Is it stipulated that there was such a conversa-
17 tion?

18 MR. KAY: Yes, so stipulated.

19 THE COURT: All right.

20 Q BY MR. DENNY: Going now to January of 1970.
21 Do you recall being interviewed by Officer
22 Steuber, being asked these questions and giving these answers:

23 "Steuber: What happened, then, after you
24 showed them the plates?

25 "They all got to agreeing?

26 "Flynn: Well, they started talking, you see.
27 And then Charlie pulled this gun out; that had this
28 fancy gun with a, like a, golden barrel, you know.

9a-3

1 "I think it was a .45. Was some Italian thing.

2 Let's see, it was a Colt.

3 "Steuber: Yeah."

4 Do you remember that?

5 A If it says so that I did, I did.

6 MR. DENNY: Well, counsel will stipulate that that was
7 the conversation?

8 MR. KAY: So stipulated. So stipulated.

9 Q BY MR. DENNY: And, sir, in January and in
10 December, three months, four months from the event in
11 question, you did describe those guns to other people besides
12 Officer Steuber that the gun was a gold or bronze barrel, isn't
13 that correct?

14 A I don't remember what you are talking about. Can
15 you point out the conversation that I had?

16 Q All right. It was your state of mind at that
17 time, sir, and before --

18 A Yes.

19 Q -- the gun that Charlie Manson pointed at you was
20 a gun with a gold or bronze barrel, is that correct?

21 A Well, if we could produce a candle or a light and
22 have the same lighting as we did that night, you see, then we
23 could see what color it was. It was my state of mind that
24 this color may have been that color because of the lighting.
25 But it was a Colt .45 made in Italy gun and that is what I
26 described.

27 Q With custom grips, is that right?

28 A Well, custom grip -- every gun has got a custom

9a-4

1 grip.

2 Q And that gun had a custom grip, sir?

3 A I don't know what you mean by custom grip. A
4 custom grip has got a grip that's custom.5 Q What do you mean, sir, when you say every gun has a
6 custom grip?7 A Every gun has a place where you handle it, where
8 you level it, you see.

9 Q All right. And that is the grip.

10 A So each one is different but custom to the gun. You
11 see, that's what I mean.

12 Q All right, sir.

13 Now, Mr. Flynn --

14 THE COURT: Would you reread that, Mr. Denny, that first
15 statement that you read to Mr. Flynn?16 MR. DENNY: "Officer Steuber: What kind of a gun was
17 this, Juan?

18 "Flynn: It was an Italian gun.

19 "Steuber: This was the big .45, the fancy
20 one with the custom grips and all that?21 "Flynn: I don't remember, sir. I know that
22 it was bronze, you see, or gold color.23 "Steuber: Okay. Part of it was -- or was
24 the whole pistol gold color?

25 "Flynn: No, the handle I think was wood.

26 "Steuber: Yes, but the rest of it was kind of
27 a gold color?

28 "Was it all engraved, real fancy?

29 "Flynn: Uh, I -- I didn't notice."

9b fol

9b-1

1 THE COURT: All right. Thank you.

2 MR. DENNY: Yes, sir.

3 Q Now, Mr. Flynn, you spent a good deal of time
4 with Mr. Crockett and Mr. Posten and Little Paul Watkins;
5 did you not, at the Barker and Meyers Ranch area?

6 MR. KAY: That's irrelevant.

7 MR. DENNY: Bias and prejudice, your Honor.

8 THE COURT: Overruled, you may answer.

9 THE WITNESS: I spent time with Paul Crockett and
10 Brooks Posten and Paul Watkins at the Barker's-Meyers Ranch
11 area.

12 Q BY MR. DENNY: Yes.

13 In fact, you lived with them there rather than
14 over with the rest of the Manson Family over at the Meyers
15 Ranch?

16 A Yes.

17 Q And you lived with a shotgun by your side for
18 a good portion of that time, did you not?

19 A Yes. Yes.

20 Q Because you were scared to death of Charlie
21 Manson, is that right?

22 A Not scared to death, but aware of the things
23 that he was saying.

24 Q Well, the things, among others, was flashing this
25 gun in your face; is that right?

26 A Well, yes, and --

27 Q And you were afraid he was going to kill you,
28 is that right?

9b-2

1 A Well, the, uh --

2 Q Is that right, sir?

3 A Well, yes.

4 Q All right. And you discussed your fears and
5 apprehensions with Mr. Crockett?

6 A Uh --

7 THE COURT: That would be immaterial.

8 THE WITNESS: I don't --

9 THE COURT: You needn't answer that.

10 Q BY MR. DENNY: All right, sir.

11 And you and Mr. Crockett and Mr. Posten and
12 Mr. Watkins, together, sort of plotted, if you will, as
13 to how you were going to get Charlie Manson and the rest
14 arrested by the CHP and the Sheriffs, is that correct?

15 A Would you repeat that question again?

16 MR. DENNY: Would you read it back, please, Miss
17 Briandi?

18 THE COURT: Yes.

19 (Whereupon, the question was read by the
20 reporter as follows:

21 "Q All right, sir. And you and Mr. Crockett
22 and Mr. Posten and Mr. Watkins, together, sort of
23 plotted together, if you will, as to how you were
24 going to get Charlie Manson and the rest arrested
25 by the CHP and the Sheriffs, is that correct?")

26 THE WITNESS: Well, I don't know what you mean by
27 "plotted."

28 Q BY MR. DENNY: Well, let's take the word out.

1 You discussed together?

2 A I never did.

3 MR. KAY: That's irrelevant, your Honor.

4 MR. DENNY: Again, bias and prejudice.

5 THE COURT: All right, the Court will overrule the
6 objection.

7 THE WITNESS: What that mean?

8 THE COURT: That means that you can answer.

9 Did you discuss the question of getting Manson
10 and his followers arrested?

11 THE WITNESS: I never did.

12 Q BY MR. DENNY: You never did?

13 A I don't think so. I never says I'm going to
14 call the police.

15 Q Oh, no, you didn't say that.

16 A Well, you are saying that I am talking with
17 someone else about it, but then you're telling me that I am
18 not saying it.

19 Q Oh, I am just asking, sir, whether you and Mr.
20 Crockett, for instance, talked about the fact that it was
21 your desire, yours and his mutual desire to get Charlie
22 and the Manson Family arrested?

23 A Well, I can't remember. You see, it is not
24 fair to answer you that question if I can't remember, you
25 see.

26 Q All right, sir.

27 A You see.

28 Q And did you ever discuss with Brooks Posten

1 getting Charlie and the rest of the Family arrested?

2 A I can't remember.

3 Q All right, sir.

4 And you did discuss with them, though, how
5 scared you were of Charlie Manson, is that right?

6 THE COURT: You needn't answer that.

7 Q BY MR. DENNY: And how you wanted to get
8 Charlie Manson?

9 THE COURT: It is immaterial. You needn't answer that.

10 Q BY MR. DENNY: Well, you did want to get Charlie
11 Manson, didn't you?

12 MR. MANZELLA: Objection, it is vague and ambiguous.

13 THE COURT: Sustained.

14 Q BY MR. DENNY: You wanted to see Charlie Manson
15 arrested, is that right?

16 MR. MANZELLA: Objection, that's irrelevant.

17 MR. DENNY: Bias and prejudice.

18 MR. MANZELLA: A lot of people did.

19 MR. DENNY: I ask that statement be stricken, your
20 Honor.

21 THE COURT: Mr. Manzella, your statement is stricken,
22 too.

23 You may answer the question and if you don't
24 remember what it was and if you don't, Miss Briandi can
25 repeat it.

26 THE WITNESS: Would you repeat it, please?

27 Q BY MR. DENNY: I can repeat it.

28 You wanted to get Charlie Manson arrested?

1 MR. MANZELLA: Vague and ambiguous as the time.

2 Q BY MR. DENNY: Right then and there at the
3 Barker Ranch.

4 THE COURT: Overruled. You may answer.

5 THE WITNESS: I don't remember thinking about police
6 or arrest or anything like that. I remember that I wanted
7 to protect myself so bad, you see, that I would go to any
9c fls 8 extent to protect myself, you see. I remember that, you see.

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1 Q All right. And that's been your state of mind right
2 up to the very present time, is that correct?

3 A Well --

4 Q Is that correct, sir?

5 A I wouldn't say that, sir.

6 Q That you would go to any extent to protect your-
7 self?

8 A Well, uh --

9 MR. KAY: That's ambiguous, your Honor, I think.

10 THE COURT: Sustained.

11 Q BY MR. DENNY: Well, sir, isn't it a fact that
12 you've hidden out from Charlie Manson at Ruby Molinari's
13 or Ruby Pearl's home at Chatsworth?

14 A Yes.

15 MR. KAY: That assumes a fact not in evidence.

16 THE COURT: Overruled. The answer may remain.

17 Q BY MR. DENNY: You hid out there in that trailer
18 she had at the house?

19 A Yes.

20 MR. MANZELLA: Objection.

21 THE COURT: Overruled.

22 Q BY MR. DENNY: And when was it you hid out from
23 Charlie Manson in that trailer because of your great fear?

24 A Uh, well, I --

25 Q Just the month, sir.

26 A Just the month?

27 Q The months, plural.

28 A The months, the period of time between August and,

9c-2

1 uh, uh, -- six months, five months. I started more and more to
2 be careful about these people.

3 Q August of what month, sir?

4 Of what year, I'm sorry?

5 A Or -- uh, when I came up to, Barker Ranch. Some-
6 where around there.

7 Q No, I'm asking, sir, about what period of time it
8 was that you hid out in Ruby Pearl's trailer? What months are
9 those?

10 A Well, I can't give you the exact time, sir, be-
11 cause I'm not the type who would look at the calendar.

12 THE COURT: All right, you've answered.

13 Q BY MR. DENNY: Can you give us the approximate
14 time, sir?

15 MR. KAY: That's irrelevant.

16 THE COURT: He's answered as nearly as he can.

17 Q BY MR. DENNY: All right. And after spending the
18 time with Mr. -- Big Paul, Little Paul and Brooks, you went up
19 to live with them in Shoshone, together with them, is that
20 right?

21 A Yes.

22 Q How long did you live with them up at Shoshone?

23 A Uh --

24 Q Starting about when?

25 A I don't know.

26 Q Well --

27 A It is just that I lived there and I moved, and
28 then I lived there again and I moved.

229c-3

1 Q All right.

2 A That is --

3 Q You're still living there with them?

4 A No.

5 Q When did you stop living there with them?

6 A I didn't stop living there with them. I left.

7 Q When did you leave last?

8 A Uh, uh, around Christmas time, a week before

9 Christmas, maybe so, last year, this Christmas that just went

10 by.

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1 Q Christmas of 1971?

2 A Yes.

3 Q All right. You had been living with them all that
4 time up until then, --

5 A No.

6 Q -- from the time you left Ruby Pearl's --

7 A No.

8 Q -- or Ruby Molinari's?

9 A No.

10 Q All right. And is it a fact that you lived with
11 them just after the arrest of Manson and a number of other
12 people at the Barker-Meyers Ranch? You went up and joined them
13 in Shoshone and lived with them for a time after that?

14 A Yes.

15 MR. KAY: It's irrelevant, your Honor.

16 THE COURT: The objection is overruled.

17 The answer may remain in the record.

18 Q BY MR. DENNY: And during that period of time, you
19 and Big Paul, Little Paul and Brooks exchanged information
20 about what had been going on between you and -- and Mr. Manson,
21 and the other members of the Family, down at the Barker-
22 Meyers Ranch; isn't that correct?

23 A Well, it was -- there was so many officers there
24 making tapes and -- and stuff, you see, and --

25 Q All right. And before those officers were there
26 making tapes, and during the time, there were sort of group
27 meetings of the four of you together there, where you joined
28 and discussed together what had happened in the preceding two

1 or three weeks; is that right?

2 A Well, it's not there for me to say yes and no, --

3 Q Well, --

4 A -- you see.

5 Q -- is it fair for you to say --

6 A That I lived in the same house? You see -- and
7 that was impossible for me to avoid them, when we lived
8 underneath the same roof.

9 Q And not just to avoid them personally, but it was
10 impossible for you to avoid the conversations about Manson and
11 the Manson Family, and the events of the preceding two or
12 three or four weeks; isn't that right?

13 A Well --

14 MR. MANZELLA: Objection. It assumes a fact not in
15 evidence: That there were such conversations.

16 Q BY MR. DENNY: Well, were there such conversations
17 between you, Big Paul, Little Paul and Brooks, about Manson and
18 the Manson Family and the proceedings of the past three or
19 four weeks?

20 MR. MANZELLA: Objection. It's irrelevant.

21 THE COURT: Sustained.

22 MR. DENNY: It goes to bias and prejudice again, your
23 Honor.

24 THE COURT: The objection is sustained.

25 Q BY MR. DENNY: All right. Now, sir, this
26 conversation that you relate about you and Paul Watkins and
27 Scotty and Bruce Davis driving down in a Volkswagen --

28 By the way, where was Mr. Watkins sitting when

1 he was in the Volkswagen?

2 A When he was -- when Mr. Watkins was in the
3 Volkswagen, he was in the rear, sir.

4 Q Where in the rear?

5 A In the rear seat.

6 Q Well, you have got two people in the rear seat
7 already. Scotty, I think, and Bruce Davis.

8 Where did Mr. Watkins sit? On one of their laps,
9 or what?

10 A No.

11 Q Where?

12 A In the back seat.

13 Q Where in the back seat?

14 A In the back seat.

15 Q Well, you have put one, Mr. Davis, on the left;
16 and Scotty on the right, I think.

17 A Because Mr. Watkins had already had left us, --

18 Q Oh.

19 A -- and so happens that Mr. Bruce Davis was on the
20 left rear, and Bruce and -- and Scotty Davis -- and Scotty
21 on the other side.

22 Q On the right rear?

23 A On the right rear. And Mr. Grogan driving, and I
24 on the right front seat.

25 Q All right. And when the fifth wheel there --
26 Mr. Watkins -- was traveling with you, did you put him in the
27 trunk, or where?

28 A In the back seat.

1 Q Where in the back seat? Between the two, on the
2 left, on the --

3 A Between the two.

4 Q Are you sure?

5 A Well -- uh --

6 Q Do you remember that fact, sir?

7 A Uh -- (no further response.)

8 Q With such specificity?

9 MR. MANZELLA: Objection. That's argumentative.

10 THE COURT: Sustained.

11 Q BY MR. DENNY: Well, do you remember that fact?

12 MR. MANZELLA: Objection. The question has been asked
13 and answered.

14 THE COURT: Overruled. You may answer.

15 THE WITNESS: Well, I don't want to tell you yes, and I
16 don't want to tell you no.

17 But I do remember that when he left us, --

18 Q BY MR. DENNY: Um-hmmm.

19 A -- when he left us, this man was in the back seat,
20 on the left side, and Scotty was right behind me.

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1 Q Oh. All right, sir.

2 A I do remember that clear.

3 Q All right, sir.

4 A You see?

5 Q Yes, I see.

6 A And on the way down here, they stop and talk
7 to this girl, you see.

8 Q All right. Let's forget the "talking about the
9 girl." Let's talk about this conversation --

10 A Oh. Okay.

11 Q -- that you say Clem -- who was driving, you say?

12 A Yes.

13 Q (Continuing) -- just sort of leaned over in the
14 middle of another conversation, and said, "Oh, you say that
15 Shorty's gone to San Francisco," something like that; is
16 that right?

17 MR. KAY: That assumes a fact not in evidence, that
18 there was any conversation at the time.

19 MR. DENNY: Well, this is cross-examination.

20 THE WITNESS: Would you repeat the question?

21 THE COURT: All right. The objection is overruled.

22 You may answer it, if you understand the question.

23 Q BY MR. DENNY: You've testified, sir, to a
24 statement made by Clem, about Shorty going to San Francisco;
25 right?

26 A The statement was made by Clem, yes.

27 Q All right, sir. Now, you say it was made by
28 Clem. Was it made just sort of out of the clear blue sky, or

10a-2

1 was Clem talking, or was somebody else talking, and Clem
2 interrupted them?

3 A Well, he just asked, he says --

4 Q Was this out of the clear blue sky? Or in the
5 middle of another conversation?

6 A That was what he said.

7 Q Sir, do you understand what is meant by having
8 a conversation?

9 A Yes.

10 Q All right. Now, was he having a conversation
11 with you, and then just sort of interrupted that conversation
12 and said, "Oh, by the way, if anybody asks you, Shorty's
13 gone to San Francisco"?

14 A Well, there was conversations going on in the
15 car while it was in motion --

16 Q All right.

17 A -- and -- do you want me to point one of them
18 out to you?

19 Q No, I want you to point out the specific conver-
20 sation.

21 A You mean -- I can't do it, not word by word.
22 That would mean that I -- you know, should recall every
23 word that everyone's told me.

24 THE COURT: All right. Mr. Flynn, just wait for the
25 next question.

26 Q BY MR. DENNY: All right. Mr. Flynn, but you
27 can point out word for word this little bit of snip of
28 conversation that supposedly Mr. Grogan said; is that right?

10a-3

1 You can point that out, word for word?

2 A Yes.

3 Q Because you remember that specifically, --

4 A Yes.

5 Q -- word for word?

6 A Yes.

7 Q All right. What was the conversation, word for
8 word, before -- just before he said that?

9 A Just before he said that, that I can remember?

10 Q Yes, sir.

11 A Okay. It was that --

12 MR. MANZELLA: Wait. Excuse me.

13 MR. KAY: No, let him go. Denny asked for it.

14 MR. MANZELLA: I would like to approach the bench.

15 THE COURT: For what reason?

16 (Whereupon a discussion off the record ensued
17 at the bench between Mr. Manzella and Mr. Kay.)

18 MR. MANZELLA: I would like to approach the bench.

19 THE COURT: All right.

20 MR. KAY: Let him answer. Denny asked for it.

21 MR. DENNY: Your Honor, I would ask that Mr. Kay's
22 statements, which are hardly sotto voce statements, and
23 which the jury heard -- and which apparently caused the
24 amusement which they should have caused -- be stricken from
25 the record, and Mr. Kay admonished that such statements as
26 "He asked for it, he asked for it, let him go ahead," --

27 THE COURT: I didn't hear that, but --

28 MR. DENNY: -- that he be admonished not to make such

10a-4

1 statements in the presence of the jury.

2 THE COURT: Whatever Mr. Kay said, the microphone
3 wasn't near his mouth at the time, since he had swung it
4 over.

5 But the Court would caution all counsel not to
6 make any statements that don't belong in the record. And
7 they are stricken.

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(Whereupon the following proceedings were had at the bench among Court and counsel, outside the hearing of the jury:)

MR. MANZELLA: I just have a feeling, from the way he was getting ready to answer that question, that he was going to say something that --

MR. KAY: I think he should be allowed to answer Mr. Denny. Mr. Denny asked him the question.

MR. MANZELLA: I don't know what he's going to say. It's just the way the witness was getting ready to answer.

MR. DENNY: Well, I'm going to withdraw my question at this point anyway. The point's been made.

THE COURT: All right. The question is withdrawn.

MR. DENNY: Yes, it is.

MR. KAY: Well, I'm going to object to that. I think the witness should be allowed to answer.

MR. DENNY: Well, that kind of --

THE COURT: All right. The Court will permit the withdrawal of the question. It does really call for hearsay.

(Whereupon the following proceedings were had in open court, within the presence and hearing of the jury:)

Q BY MR. DENNY: Now, Mr. Flynn, you have said that you talked to a million police officers; you have talked to thousands of attorneys -- right?

A I said that, yes, sir.

Q All right. You were exaggerating a little bit, weren't you?

1 A Well, I wasn't exaggerating -- you see --

2 Q All right, sir.

3 Now, in all of those conversations, with all of
4 those billions of police officers and thousands of attorneys,
5 during the course of those conversations, they did ask you
6 about this alleged conversation that Clem and you had on the
7 way down to Los Angeles, with Mr. Davis; is that right?

8 A I don't recall.

9 Q You don't recall.

10 A You see, if they did, they got an answer.

11 Q They got an answer?

12 A That's right.

13 Q And in that answer, did you ever tell one of
14 them, at one time, ever, that Mr. Davis leaned forward in
15 his seat and said, "Yeah"?

16 A Yeah.

17 Q When?

18 A Well, I don't remember.

19 Q What officer?

20 A Well, I can't -- I can't say what officer, you
21 know.

22 Q At what time, sir, in any conversation that you
23 have ever had with any officer, since August of 1969 to the
24 present time, did you ever tell an officer that Davis
25 leaned forward and said, "Yeah, yeah"?

26 A I don't remember what officer, you see.

27 Q When did you ever tell any officer that --

28 MR. MANZELLA: Objection. The question has been asked

1 and answered. He said he doesn't remember when.

2 THE COURT: It has been asked and answered. Sustained.

3 Q BY MR. DENNY: Well, isn't it a fact, sir, that
4 you were approached by one of the -- either the Deputy D.A.'s
5 or the investigating officers in this case, just shortly
6 before you were called to testify in this case against
7 Bruce Davis, and said, "Look, we need that information."
8 Do you remember Davis saying anything like this "Yeah"
9 during Grogan's statement to you?"

10 A Would you repeat that question?

11 THE COURT: Would you read it back, Mr. Williams?

12 (Whereupon the record was read by the reporter
13 as follows:

14 "Q Well, isn't it a fact, sir, that you
15 were approached by one of the -- either the Deputy
16 D.A.'s or the investigating officers in this case,
17 just shortly before you were called to testify in
18 this case against Bruce Davis, and said, 'Look, we
19 need that information. Do you remember Davis saying
20 anything like this "Yeah" during Grogan's statement
21 to you?'"

22 MR. DENNY: That's a little complex. Just let me
23 withdraw a little bit and go back step by step.

24 THE WITNESS: Okay.

25 Q BY MR. DENNY: When were you interviewed, sir,
26 prior to testifying in this case, for this particular
27 case?

28 A For this particular case?

1 Q Yes. When were you interviewed by any Deputy
2 District Attorneys?

3 A It was -- it was two weeks ago, something like
4 that.

5 Q Where?

6 A Down below.

7 Q Down somewhere on the sixth floor, in Mr. Kay's
8 office or Mr. Manzella's office?

9 A Yes.

10 Q And who interviewed you?

11 MR. MANZELLA: Objection. That doesn't appear to be
12 relevant.

13 THE COURT: Sustained.

14 Q BY MR. DENNY: Well, in the course of that
15 interview, was the subject matter of this alleged conversation
16 of Clem Grogan, on the way down to Los Angeles, with you and
17 Scotty and Mr. Davis, mentioned?

XX 10c fls.

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1 MR. MANZELLA: Objection. It doesn't appear to be
2 relevant.

3 MR. DENNY: It is relevant, your Honor.

4 THE COURT: Yes. Overruled.

5 You may answer.

6 THE WITNESS: Would you repeat the question?

7 MR. DENNY: Would you read it back, Mr. Williams?

8 (Whereupon, the record was read by the reporter
9 as follows:

10 "Q Well, in the course of that interview,
11 was the subject matter of this alleged conversation
12 of Clem Grogan, on the way down to Los Angeles,
13 with you and Scotty and Mr. Davis, mentioned?"

14 THE WITNESS: This conversation's been mentioned to --

15 Q BY MR. DENNY: Sir, I am just asking: At that
16 particular interview, was this alleged conversation mentioned?

17 A Which alleged conversation?

18 Q The only one we have been talking about for the --

19 A Okay.

20 Q -- last ten minutes, sir.

21 A Okay.

22 Q The one between you and Clem and Davis, with
23 Scotty in the car, as you say.

24 A Yes.

25 Q All right. Yes? And at that time, were you told,
26 "Look, we need Davis saying something here to get this evidence
27 in against him."

28 Were you told that?

10c-2

1 A No.

2 Q Were you told, "Look, it would be helpful if Davis
3 said something, concurring with Clem here."

4 A No.

5 Q "Do you remember him saying anything?"

6 A I remember being asked: What do I remember from
7 those conversations? And in the period, coming from Barker
8 to Los Angeles, in that trip.

9 Q All right. Now, sir, you say you specifically
10 remember, in this interview, a couple of weeks ago, --

11 A Yeah.

12 Q -- being asked, --

13 A Yeah.

14 Q -- "What do you remember?" about that trip down
15 from Barker's to Los Angeles?

16 MR. MANZELLA: The question has been asked and answered.

17 THE COURT: Yes. Sustained.

18 Q BY MR. DENNY: All right, sir. Now, is that the
19 only time, sir, that you remember specifically being asked
20 that by any officer or Deputy D. A.?

21 MR. MANZELLA: Objection. It's not relevant.

22 MR. DENNY: Relevant, again, to test his memory.

23 THE COURT: Overruled. You may answer.

24 THE WITNESS: I've told people, you know, from the
25 District Attorney and the police, that -- about this conversa-
26 tion before; and I can tell you the conversations that we had
27 in the car, the places that we stopped and all that. It's --
28 it's just there, you know.

10c-3

1 Q BY MR. DENNY: Sir, when was it that you returned
2 to the Spahn Ranch? After, say, August of 1969?

3 A August? That was when the raid was, huh? August
4 was the raid?

5 Q What raid are you talking about?

6 A The one that -- up at Spahn's Ranch.

7 Q Well, August 16th was the raid at Spahn's Ranch.

8 A Okay.

9 Q I'm talking about --

10 A I left there --

11 Q Excuse me, sir.

12 A Yes.

13 Q In October of 1969, --

14 A Um-hmm.

15 Q -- you came back down to Los Angeles?

16 A In October? August was the raid. In about October,
17 yes. Somewhere around in October.

18 Q All right. Did you stay down in Los Angeles?

19 A I stayed at Spahn's Ranch.

20 Q And how long did you stay at Spahn's Ranch?

21 A Uh -- a good four, five, six months; somewhere in
22 there.

23 Q A good four or five, six months?

24 A Right.

25 Q And this was after -- after Charlie Manson had been
26 arrested and safely locked up; is that right?

27 A Well --

28 Q Is that right, sir?

10c-4

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1 A I -- I can't tell you the time, because I don't
2 know -- I don't know the time, you see. I don't look at the
3 calendars and say, "Well, this is one month; scratch one. Two
4 months."

5 You see, I don't go like that.

6 Q That's not what I am asking.

7 A It was in the period when I came back to Spahn's
8 Ranch. I stayed at Spahn's Ranch.

9 After that, I went to the desert again. And that
10 was it. And then after I went to the desert, I came back to
11 Spahn's Ranch, and I lived at Spahn's Ranch.

12 I moved from Spahn's Ranch because --

13 THE COURT: All right. You've answered the question.

14 (Laughter.)

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1 Q BY MR. DENNY: There was a period of time, sir,
2 when you sort of hid out with Ruby, though? You forgot that
3 in that discourse; is that right?

4 MR. KAY: Objection --

5 MR. MANZELLA: Objection. That's argumentative.

6 THE COURT: Sustained.

7 MR. DENNY: All right. I have no further questions.
8

9 REDIRECT EXAMINATION

10 BY MR. KAY;

11 Q Mr. Flynn, when you saw the guns that you've
12 described at Meyers Ranch, at the dinner, in the lighting
13 there, did it appear to be kind of bronze or gold-colored to
14 you?

15 MR. DENNY: Object to that as leading and suggestive.

16 THE COURT: Yes, it is. Sustained.

17 Q BY MR. KAY: Well, how did it appear to you? How
18 did the color appear to you?

19 A Well, it -- I know that it was a .45, Italian
20 gun. You see, a Colt Italian .45.

21 MR. DENNY: I'll object to this, and move that it be
22 stricken as not responsive.

23 THE COURT: Overruled.

24 Q BY MR. KAY: Go ahead.

25 THE COURT: Go ahead.

26 THE WITNESS: And if I did say, in previous testimony,
27 I would like to say it on this court, that it was bronze, you
28 see. It was my frame of mind at that time, you see. And it

1 could have been due to the lighting of the place, you see,
2 which --

3 MR. DENNY: I'll move that all of the last be stricken.

4 THE COURT: "It could have been due to the lighting of
5 the place," that's stricken.

6 This is something for the jury to determine. Go
7 ahead.

8 Q BY MR. KAY: All right. Mr. Flynn, when you were
9 at Meyers Ranch, at this time when the gun was being passed
10 around, you didn't have the same lighting that you have here
11 in the courtroom, did you?

12 A No.

13 Q All right. You had one light that you've pre-
14 viously testified you thought was on the table?

15 A Yes. On the table or somewhere. There was a
16 light there, I know.

17 Q All right.

18 A On the table, most likely. There's not too many
19 places you can hang it around there.

20 Q Let me ask you this:

21 While you were at the dinner table, and the gun
22 was being passed around, did you learn whose gun it was --

23 A Yes.

24 Q -- that was being --

25 MR. DENNY: Just a moment. Now, I am going to object
26 and move that this Counsel be stricken -- be cited for mis-
27 conduct. your Honor. He was here --

28 MR. KAY: You can't strike me, Mr. Denny.

1 THE COURT: All right. Mr. Kay, please.

2 Mr. Kay's remark is stricken, and the -- if there
3 was an answer, it is stricken.

4 MR. MANZELLA: And I would ask that Mr. Denny's comments
5 be stricken as well.

6 THE COURT: And Mr. Denny's as well.

7 Q BY MR. KAY: Now, in cross examination by
8 Mr. Denny, you said that -- or, he said that Manson was saying
9 certain things about you. Well, either he said that or you
10 said that.

11 What was Manson saying to you up at the Barker
12 Ranch that got you scared?

13 MR. DENNY: I will object to that as calling for hearsay.

14 MR. KAY: Well, I think -- you know, it was gone into
15 on cross examination. I think to explain whatever bias or
16 prejudice Mr. Denny is alleging, there might be --

17 MR. DENNY: Still calling for hearsay.

18 THE COURT: All right.

19 MR. KAY: Well, it's not for the truth of the matter.
20 It's just --

21 THE COURT: Sustained.

22 THE WITNESS: What happens?

23 (Laughter.)

24 THE COURT: You can't answer.

25 THE WITNESS: Okay. Thank you.

26 Q BY MR. KAY: Was Mr. Manson the only one up at the
27 Barker Ranch that was saying things to you that got you
28 scared?

1 A No.

2 Q Did Mr. Davis say anything to you that got you
3 scared?

4 A Well --

5 MR. DENNY: That's a yes or no question.

6 THE WITNESS: Yes,

7 Q BY MR. KAY: All right. Now, because of what the
8 Family has said to you; Mr. Manson or Mr. Davis -- or anything
9 that's happened -- would you come into this courtroom and lie
10 on the witness stand to get Mr. Davis convicted of first degree
11 murder?

12 MR. DENNY: I will object to that as irrelevant and
13 immaterial, and self-serving.

14 MR. KAY: It's not irrelevant or immaterial.

15 THE COURT: Sustained.

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1 Q BY MR. KAY: Mr. Flynn, do you feel such animosity
2 towards Mr. Davis that you would come into this courtroom and
3 lie?

4 MR. DENNY: Object to that as also calling for self-
5 serving opinion.

6 THE COURT: Sustained.

7 MR. KAY: Well, may we approach the bench, your Honor?

8 THE COURT: No, you may not.

9 MR. KAY: Well, I think since Mr. Denny went into this
10 on cross, I think that I should be allowed to get a statement
11 of Mr. Flynn's frame of mind, his state of mind.

12 THE COURT: All right, rephrase your question.

13 MR. KAY: All right.

14 Q Mr. Flynn, what is your state of mind about
15 testifying here at this trial?

16 MR. DENNY: Object to that as irrelevant, immaterial,
17 asking for --

18 THE COURT: Rather vague, all right, sustained.

19 Q BY MR. KAY: All right, Mr. Flynn, do you feel
20 any bias or prejudice against Mr. Davis?

21 A No.

22 MR. KAY: I have no further questions.

23 MR. DENNY: I have no questions.

24 THE COURT: All right, Mr. Flynn, you may step down.

25 May he be excused, gentlemen?

26 MR. MANZELLA: Yes.

27 MR. DENNY: No objection.

28 THE COURT: You may be excused. You needn't wait.

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1 MR. DENNY: Your Honor, I would request pursuant to the
2 Evidence Code that he still be kept on call.

3 THE COURT: All right, Mr. Flynn, would you make your
4 whereabouts known to Mr. Kay and Mr. Manzella in the next
5 two weeks?

6 THE WITNESS: Yes, sir.

7 THE COURT: During the next two weeks.

8 MR. MANZELLA: Your Honor, can we have a ten or
9 fifteen-minute recess at this point?

10 THE COURT: I prefer not to, but if you have to --

11 MR. MANZELLA: We have to.

12 THE COURT: Let me suggest that the People in the
13 ensuing time try to arrange their witnesses so that they are
14 present so we won't have any appreciable delays as we've had
15 and the Court would like to ask everybody to be on time.

16 Mr. Denny, you were late about ten minutes this
17 afternoon and I understand that sometimes that happens.
18 I called this at 1:30 and I have been accustomed to calling
19 it at 2:00 o'clock in the afternoon and hereafter I'll call
20 it at 1:30 and try to start promptly at 9:30 no matter what
21 the business of the Court may be.

22 Perhaps we can comply with our estimate, everyone's
23 estimate that the matter would be terminated by the middle or
24 the end of February. At least the end of February, we should
25 try to have a shot at it.

26 MR. KAY: Your Honor, excuse me, before the recess I
27 would like to read a statement in the Grogan transcript,
28 Volume 10, as a prior consistent statement of Mr. Flynn.

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1 THE COURT: You've got to get Mr. Flynn back on the
2 stand, if you wish.

3 MR. DENNY: Your Honor, if I am cited for saying
4 things about a prior inconsistent statement, what is sauce
5 for the goose is sauce for the gander.

6 THE COURT: The statement about any statement being
7 consistent or inconsistent, whether it is said by the Court
8 or the counsel, is stricken because you are the people who
9 determine the evidence in this case, the facts in this case.
10 You deduce the facts from what's presented as evidence.

11 So that's stricken.

12 MR. KAY: Excuse me, your Honor, I believe under --

13 THE COURT: At this time you are in recess. You are
14 not to converse amongst yourselves, nor with anyone else,
15 nor permit anyone to converse with you on any subject
16 connected with the matter --

17 MR. KAY: May we remain on the record after the jury
18 has left for just a second?

19 THE COURT: Yes, you may remain on the record.

20 (Whereupon, the jury retired from the courtroom,
21 and the following proceedings were had:)

22 THE COURT: All right.

23 MR. KAY: It is my understanding under the case law,
24 it is pretty clear, the witness does not have to be on the
25 stand to read either a prior inconsistent statement or a
26 prior consistent statement.

27 MR. DENNY: Well, it is my understanding a prior
28 consistent statement has to be made at a time when there's

1 not --

2 THE COURT: A motive to fabricate.

3 MR. DENNY: A motive to fabricate any statement made in
4 the Grogan trial hardly fulfills that criteria, your Honor.

5 MR. KAY: There certainly has been no motive to
6 fabricate shown on the part of Mr. Flynn.

7 And certainly his -- Mr. Denny, on cross-
8 examination, has tried to bring up that the statement was
9 of recent origin and here it appears in a transcript on
10 October 6th, 1971, from the Grogan trial.

11 THE COURT: Yes, the intimation was from the cross-
12 examination that this conversation that was held two weeks
13 ago in the District Attorney's Office was the motivation
14 for Mr. Flynn's stating that now he remembers. And that was
15 the intimation and the trend of the questioning. It appeared
16 to the Court that if he said something that was consistent
17 prior to this time with his present testimony that it would
18 be a prior consistent statement.

19 MR. DENNY: I would agree if it were consistent. I
20 would like to have Mr. Kay read again into the record what
21 this alleged consistent statement is, which I submit is
22 no consistent statement.

23 THE COURT: All right, what is it?
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11a fls.

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1 MR. KAY: Well, I've already read it once, but I'll read
2 it again.

3 "A Well, first Mr. Grogan pointed out
4 to me that if anyone asked me about Shorty, that
5 I should tell them that he went to San Francisco,
6 see. And Mr. Bruce Davis agreed, you know, that I
7 should, you know, implied."

8 Now, obviously he couldn't say exactly what
9 Mr. Davis said because that would have been hearsay in the
10 Grogan trial.

11 MR. DENNY: There is no reason on earth why he couldn't
12 say what Mr. Davis said other than that he implied agreement.
13 That is not a consistent statement.

14 MR. KAY: He didn't say he implied agreement. He said
15 Mr. Davis agreed. Mr. Bruce Davis agreed.

16 MR. DENNY: "Mr. Bruce Davis agreed, you know, that I
17 should, you know, implied."

18 THE COURT: Well, it is consistent with his position now.
19 And I think therefore it would be admissible even though to say
20 somebody agreed is a conclusion. It is not introduced for
21 the purpose of establishing whether it was said or whether it
22 was true.

23 MR. KAY: Just that it is a prior consistent --

24 THE COURT: Whether it was true, that it was simply to
25 show that in some way it is consistent with what he states now.

26 MR. KAY: Sure.

27 MR. DENNY: Well, in some way, your Honor -- if it is not
28 on all fours a prior inconsistent statement, you can't use it

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1 as an inconsistent statement. If it does not directly
2 contradict what the party has testified to.

3 Now, by the same analogy, if you are going to use a
4 consistent statement, I believe it should be a consistent
5 statement and not one that's equivocal. And this is
6 equivocal. You can't impeach somebody as -- an equivocal
7 statement as a prior inconsistent statement, you can only
8 impeach him by one that is actually inconsistent. No more than
9 you can try to rehabilitate a witness by showing an equivocal
10 consistent statement.

11 THE COURT: I think that it would be admissible to show
12 that it is not a recent fabrication.

13 I'll hear from you at the resumption of the case.

14 MR. KAY: What I propose to do is just read the statement.

15 MR. DENNY: Not without Mr. Flynn here, not without
16 Mr. Flynn here. I'm not going to stipulate to any such
17 reading.

18 MR. KAY: You don't have to stipulate. I think that under
19 the law I can read the statement, just like you can after a
20 witness is gone, you can read his inconsistent statements.

21 THE COURT: I think Mr. Flynn should be here.

22 MR. DENNY: I have the right to further cross examination
23 on it.

24 THE COURT: Can you catch him?

25 MR. KAY: I'll see.

26 THE COURT: We're in recess.

27 (Afternoon recess.)
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1 THE COURT: The record will show all jurors are present.

2 The defendant is present now.

3 Call your next witness.

4 MR. MANZELLA: The People call Mr. Alan Springer.

5 THE CLERK: Would you raise your right hand?

6 Do you solemnly swear that the testimony you are
7 about to give in the cause now pending before this court shall
8 be the truth, the whole truth, and nothing but the truth, so
9 help you God?

10 THE WITNESS: I do.

11
12 ALAN LEROY SPRINGER,
13 having been called as a witness by and on behalf of the
14 People, was duly sworn, and testified as follows:

15 THE CLERK: Please take the stand and be seated.

16 THE BAILIFF: State and spell your full name.

17 THE WITNESS: Alan Leroy Springer; S-p-r-i-n-g-e-r.

18 THE REPORTER: Is that A-l-l-e-n?

19 THE WITNESS: A-l-a-n; L-e-r-o-y.

20 THE REPORTER: Thank you.

21
22 DIRECT EXAMINATION

23 BY MR. MANZELLA:

24 Q Mr. Springer, do you know the defendant in this
25 case, Mr. Bruce Davis?

26 A Yes, I do.

27 Q And do you know a man by the name of Danny DeCarlo?

28 A Yes, I do.

12-2

1 Q And how did you meet Danny DeCarlo?

2 A I met him in the motorcycle club I used to be in.

3 Q What was the name of that club?

4 A Straight Satans, Venice.

5 Q Do you know where DeCarlo is now?

6 MR. DENNY: Object to that as irrelevant and immaterial.

7 THE COURT: Sustained.

8 Q BY MR. MANZELLA: When did you first meet Bruce
9 Davis?

10 A Around the 11th or 12th of August of '69.

11 Q And where did you meet him?

12 A At the Spahn Movie Ranch.

13 Q Were you a member of the Straight Satans at that
14 time?

15 A Yes, I was.

16 Q And was DeCarlo a member of the Straight Satans
17 at that time?

18 A Yes, he was.

19 Q And where was DeCarlo living at that time?

20 A He was at that time living at the ranch.

21 Q What ranch?

22 A Spahn Movie Ranch.

23 Q And did you go up to Spahn Ranch on the 11th or 12th
24 of August of '69?

25 A Yes, I did.

26 Q And what was your purpose in going up to Spahn Ranch?

27 A To talk Danny DeCarlo into coming back down to
28 Venice.

12-3

1 Q And where in Venice were the Straight Satans
2 located?

3 A At that time, it was more or less all over. We
4 had our clubhouse --

5 Q Where was the clubhouse?

6 A It was on Clubhouse Drive.

7 Q In Venice?

8 A Yes. A place called "Dungeon."

9 Q And while you were at Spahn Ranch on the 11th or 12th
10 of August, '69, did you see Charles Manson there?

11 A Yes, I did.

12 Q And was -- at any time that you saw Mr. Manson,
13 was he carrying anything?

14 A He was carrying a knife, in a cutlass form.

15 Q And was that the first time you had seen that, or
16 had you seen that before?

17 A I had seen it previous to that.

18 Q And where had you seen it before that?

19 A One of the fellows, George Knoll, in our motorcycle
20 club, had made it.

21 THE REPORTER: What was the name, Knowland?

22 THE WITNESS: Knoll; K-n-o-l-l, I believe.

23 THE REPORTER: Thank you.

24 Q BY MR. MANZELLA: When you saw it being carried
25 by Charles Manson, was it in one piece?

26 A Yes, it was.

27 Q All right. Directing your attention to the exhibit
28 which is People's 20, do you recognize that?

12-4

1 A That's the same one that he was carrying.

2 Q And is that the same one that was made by
3 George Knoll?

4 A Yes, sir.

5 Q Now, did you see and talk to Danny DeCarlo at
6 Spahn Ranch on the 11th or 12th of August of '69, when you went
7 up there?

8 A Yes, I did.

9 Q And what was DeCarlo doing at the ranch, when you
10 saw him on that date?

11 A He was laying around, all covered up with flies.
12 He was drunk.

13 Q Now, as of August of '69, were you both -- that
14 is, both you and DeCarlo -- members of the Straight Satans?

15 A Yes, we were.

16 Q Now, sometime after that date, the 11th or 12th of
17 August of '69, did you return to Spahn Ranch with other
18 members of the Straight Satans?

19 A Yes, we did. Friday night, August the 15th of
20 '69, we returned.

21 Q And did you again see and talk to Danny DeCarlo?

22 A Yes, we did.

12a fol

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1 Q Did Danny DeCarlo leave with you on that occasion,
2 when you left the ranch?

3 A Yes. We left for several hours, until about
4 2:00 o'clock in the morning, of the 16th.

5 Q And did Danny DeCarlo then return to the Spahn
6 Ranch?

7 A No, he didn't. He wanted to stay until the
8 afternoon of the next day.

9 Q And where did -- strike that.

10 Did Danny DeCarlo return to the Spahn Ranch?

11 MR. DENNY: Asked and answered.

12 THE WITNESS: He stayed there. He didn't leave.

13 Q BY MR. MANZELLA: I'm sorry. I misunderstood,
14 then. I misunderstood you.

15 Did Danny DeCarlo leave Spahn Ranch when you
16 asked him to?

17 A No, he didn't.

18 Q All right. Now, I don't know if I've asked you
19 this or not. But when you saw the sword being carried by
20 Charles Manson at the ranch, on the 11th or 12th of August
21 of '69, was it in one piece or two pieces, as it is now?

22 A It was in one piece.

23 Q And when did you next -- strike that.

24 In whose possession was the sword, People's 20,
25 when you next saw it?

26 A When I next saw it, it was in George Knoll's
27 possession.

28 Q Now, did you see Bruce Davis at Spahn Ranch on

12a-2

1 the 11th or 12th of August of '69?

2 A No. No, I didn't.

3 Q Did you see him on the 15th?

4 A No, I -- I saw him on --

5 MR. DENNY: I'm going to object --

6 THE WITNESS: -- on the 11th, 12th and 13th. But I
7 didn't see him on the 15th.

8 Q BY MR. MANZELLA: All right. You did see him
9 the first time you went up there, --

10 A Yes, I did.

11 Q -- or the 11th or 12th?

12 And you did not see him on the 15th?

13 A No. He wasn't there the 15th.

14 Or if he was, I didn't see him.

15 Q All right. When was the next time that you saw
16 Bruce Davis?

17 A It was a day or so before or after Thanksgiving.

18 Q Of '69?

19 A Yes. I don't know what the date was.

20 Q And where did you see him?

21 A At a place -- 28 Clubhouse Drive --

22 Q Where?

23 A In Venice.

24 Q Is that anywhere near your clubhouse?

25 A Just a few doors down.

26 Q And did you go to the 28 Clubhouse Drive
27 address with anyone?

28 A Yes, I did.

12a-3

1 Q And who was that?

2 A With Robert Reed.

3 Q And who is he?

4 A He was a member of the club also.

5 Q The Straight Satans?

6 A Yes.

7 Q And did Reed remain at the house, after you

8 entered?

9 A He stayed outside.

10 Q Now, after Reed left -- or, while he stayed

11 outside, who was present in the house besides yourself?

12 A That was me, and a fellow, Mark Ross, and a

13 couple of girls, and Bruce Davis.

14 Q And did Bruce Davis show you anything while you

15 were at the house?

16 A Yes, he did.

17 Q What did he show you?

18 A A newspaper clipping from the Evening Outlook,

19 I believe, of Santa Monica.

20 Q And did he direct your attention to any particular

21 article in the paper?

22 A Yes, the part about Gary Hinman's Bobby Beauso-

23 leil trial, where Danny had testified.

24 Q Danny DeCarlo had testified?

25 A Yes.

26 Q Was the article a report of DeCarlo's testimony?

27 A Yes, it was.

28 Q All right. Did you read the article, after Mr.

12a-4

1 Davis showed it to you?

2 A Yes, I did.

3 Q Did you say anything after you read the article?

4 A I says, "I didn't like --"

5 MR. DENNY: Just a moment. This is calling for
6 hearsay. Just a yes or no answer.

7 THE COURT: You may answer yes or no.

8 Q BY MR. MANZELLA: Did you say anything after you
9 read the article?

10 A Yes.

11 Q What did you say?

12 MR. DENNY: I'll object to that as calling for hearsay,
13 your Honor.

14 I would like to approach the bench at this time,
15 to make what may be a somewhat protracted motion.

16 THE COURT: You may approach the bench.

17 (Whereupon the following proceedings were had
18 at the bench among Court and counsel, outside the
19 hearing of the jury.)

20 THE COURT: What do you expect Mr. Springer to say?

12b fls.

12b-1

1 MR. MANZELLA: I expect him to say that he didn't like
2 the idea of DeCarlo testifying against Beausoleil; that Davis
3 replied that they had ways of dealing with snitches;

4 And that Springer then said, "Well, it's hard to
5 deal with DeCarlo, because he's a bike brother--" or, "he's
6 a member of the Straight Satans," or something like that;

7 And that Davis then said that they had taken care
8 of the guy at the ranch who was always drunk, and they were
9 afraid he was going to inform on the police -- or, he had been
10 informing to the police, and that they had cut him up and
11 buried him -- and Clem had buried him at the ranch, or near
12 the ranch;

13 That Mark Ross then said -- then asked, "Do you
14 mean Shorty?"

15 And Davis said, "Yeah."

16 MR. DENNY: All right, your Honor. It will take some
17 chronology, but one of the reasons that I have been attempting
18 so diligently to get the tape of the interview with this
19 witness, and the officers Gutierrez, Sartuche, Nielsen,
20 whoever it was who interviewed him around the time of October
21 15th to 25, as he has previously testified -- is to determine
22 the fact that at that time he told them -- gave them informa-
23 tion concerning the Manson Family;

24 That at that time he became a spy, an informant
25 for the police; that his actions since that time have
26 indicated just exactly that;

27 And that between the period of October 15 to 25th,
28 which is the time he has testified all of a sudden he put

1 things together, and it came to him, and he talked to the
2 police officers about Manson and the Manson deals and the
3 Manson murders and all of that -- and November 26th, which
4 is the date on which this testimony, according to prior
5 reports and the Grand Jury hearing, indicate the testimony --
6 the conversation occurred, the police did suspect Davis,
7 Manson, Beausoleil, Watson, of complicity in the Beausoleil
8 murder -- I'm sorry; in the Hinman murder, in the Tate
9 murders, the La Bianca murders, and in the Shorty Shea
10 murders;

11 That on October 12th, Manson and all the rest
12 of the members of the Family, the male members, were
13 arrested; they were placed into custody; there was a great
14 deal of publicity at the time that they had -- that is, that
15 the police had the murderers of the Tate and La Bianca
16 murders.

17 Danny DeCarlo had already testified at that
18 time, and the newspaper reports reflected that Manson and
19 Davis were supposed to have been involved in the Hinman
20 murder.

21 And that's one of the -- that's one of the reasons
22 why his testimony was of such great importance. Indeed,
23 the record will show -- and I think the Court could take
24 judicial notice of it; the file is in the record here, and I
25 can point out to the November minute order, showing that,
26 over strong objection of the defense attorney, Leon Salter
27 at the time, the People were permitted to reopen their case
28 in chief, in order to put on Danny DeCarlo, who then did

1 testify to evidence implicating Manson, Davis and others
2 in the Hinman murder.

3 THE COURT: In short, you object to this conversation
4 for what reason?

5 MR. DENNY: Under the case of Messiah vs. the United
6 States and other related cases, that this particular witness
7 was acting as an agent for the police; that he went to this
8 location specifically to get information, if he could, from
9 Mr. Davis;

10 That the record reflects that on that very
11 date --

12 THE COURT: Does that make it bad? Does that make it
13 inadmissible?

14 MR. DENNY: I submit it does, yes, your Honor.

15 THE COURT: All right. For what reason?

16 MR. DENNY: In that at the time -- although Davis was
17 not in custody, he was a suspect at the time, and that the
18 police were using a ruse, through this witness, to attempt
19 to get --

20 THE COURT: Does the Messiah case say that you can't
21 use a ruse in the course of investigatory work, if you are
22 a police officer?

23 MR. DENNY: I am saying that this was beyond the
24 investigatory stage; that although he was not in custody,
25 that it was beyond the investigatory stage; that they had
26 investigated the Hinman murder up to that point rather well,
27 and finally they got DeCarlo's testimony, which implicated
28 Bruce Davis.

1 It was no longer a question of investigatory
2 stage. At that point, the accusatory stage had been reached--
3 although Bruce Davis was still not in custody.

4 THE COURT: So you are saying that without a Miranda
5 warning, that this shouldn't come in?

6 MR. DENNY: This should not come in, absolutely, because
7 he was working as an agent for the police.

12c fls.

8 Now, further, your Honor --
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1 THE COURT: Do you know that this is true?

2 MR. MANZELLA: No.

3 MR. DENNY: Well, let me just further qualify this.

4 MR. MANZELLA: I don't believe it is true, that on
5 November 26th -- and the record does indicate that Sergeant
6 Whiteley had a conversation with him -- that is, with Springer
7 -- in which Springer purported to relate this conversation that
8 he had had with Davis, directly to Sergeant Whiteley.

9 And that's -- I don't have the page number
10 specifically, but --

11 THE COURT: Well, whatever it might be, he related it
12 to Whiteley.

13 MR. DENNY: All right. It is in the homicide manual that
14 that very day, the day of this alleged conversation, he went and
15 related that to Whiteley.

16 I think it is quite clear, from the circumstances,
17 that he was working as an agent for the police; that he was
18 seeking information from him; and that this statement that he
19 is now about to relate, that the People are seeking to have him
20 relate, --

21 THE COURT: Well, the People --

22 MR. DENNY: -- was a product of that.

23 MR. MANZELLA: Well, Messiah is a Sixth Amendment case.
24 Messiah deals with the right -- with the interference with a
25 defendant's right to an attorney. It involves -- it was a
26 federal case, and it involved interrogations by a police agent,
27 an informant, after a defendant had been indicted.

28 MR. KAY: Yeah. He was in jail, I believe, at the time.

12c-2

1 MR. DENNY: No, he wasn't in jail. He was in a car,
2 Messiah was.

3 MR. KAY: That's right.

4 MR. MANZELLA: Yes, that's right. And I don't believe
5 that a Sixth Amendment case would apply in this case, because
6 Davis had not been charged with a crime at that time, and was
7 not represented by an attorney.

8 So there could be no interference with his right to
9 an attorney.

10 Now, on the other grounds stated by Mr. Denny,
11 I believe he stated that since Springer was a police agent,
12 that Davis was entitled to be advised of his constitutional
13 rights.

14 The People's position is that there is no evidence
15 that he was the police agent. He was acting -- he was a
16 private citizen at the time. He has always been a private
17 citizen. He was not acting as an agent for the police.

18 And that therefore, under Miranda, there's no
19 requirement that a private citizen advise another person of his
20 constitutional rights.

21 MR. DENNY: Well, your Honor, we get into --

22 MR. MANZELLA: Furthermore -- there's one other point,
23 and that is that Springer didn't ask Davis any questions. Davis
24 is the one who brought up the Santa Monica Evening Outlook
25 article about DeCarlo testifying.

26 MR. DENNY: Well, this is according to his own testi-
27 mony, which is in doubt.

28 MR. MANZELLA: But Mr. Denny has no other statements.

1 MR. KAY: We can get Mr. Davis on the stand, if he wants
2 to.

3 THE COURT: All right. The Court will ask the jury to
4 leave, stay out in the hallway, until we can find out some
5 facts about this.

6 (Whereupon, the following proceedings were had
7 in open court, within the presence and hearing of the jury:)

8 THE COURT: We will ask you to leave the courtroom
9 briefly, and remain out in the hallway.

10 During the time that you are outside, remember
11 that you are not to converse amongst yourselves, nor with
12 anyone else, nor permit anyone to converse with you on any
13 subject connected with this matter.

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1 (Whereupon, the jury retired from the courtroom,
2 and the following proceedings were had:)

3 THE COURT: Mr. Springer, before you had this conversa-
4 tion with Bruce Davis in connection with the article concern-
5 ing prosecution of Bobby Beausoleil, had you spoken to any
6 police officers concerning this case, the Shea case, or any
7 other case?

8 THE WITNESS: No, I don't believe I have. I can't
9 recall.

10 THE COURT: The conversation that you describe or were
11 about to describe took place in November of 1969?

12 THE WITNESS: August, September, October, possibly. I
13 don't remember the exact day. I don't --

14 THE COURT: You don't remember the exact date.

15 Before that time had there been any suggestion by
16 any police officer that you could do the police department
17 or the Sheriff's Office a service if you were to get some
18 information about the Shea case?

19 THE WITNESS: Definitely not.

20 THE COURT: Or about the Manson Family?

21 THE WITNESS: What I done, I done strictly on my own.

22 THE COURT: Just --

23 THE WITNESS: I said what I done, I done on my own. I
24 wasn't told by nobody.

25 THE COURT: Did anybody from any law enforcement
26 body suggest to you that you could be very helpful if you
27 could put together some information concerning the Tate
28 killings or the Hinman killing or the Shea case?

13-2

1 THE WITNESS: No.

2 THE COURT: When you were talking with Mr. Davis, did
3 you have in mind garnering or getting any information and
4 relaying it to somebody?

5 THE WITNESS: I was trying to get information for my own
6 personal use.

7 THE COURT: When you say you acted on your own, what do
8 you mean by that?

9 THE WITNESS: I mean I was nosy, I guess, and I just went
10 down there to find out what was going on and their feelings
11 toward Danny DeCarlo.

12 THE COURT: Before that time had you talked to anyone
13 in law enforcement, any Deputy District Attorney, any Deputy
14 prosecutor or any prosecutor or any officer that suggested
15 that you could profit by adopting such a --

16 THE WITNESS: I talked to the homicide squad about the
17 Manson case, but I hadn't talked to them about going down and
18 seeing Bruce Davis or anybody else that was down there.

19 THE COURT: Well, did they suggest to you, the homicide
20 squad suggest to you that you could be helpful to them if you
21 could pick up some information?

22 THE WITNESS: No, they didn't suggest that. But I knew
23 that if I could pick up some information that it would be help-
24 ful to them.

25 THE COURT: Did you that same day report the conversa-
26 tion that you had with Davis to the police?

27 THE WITNESS: I don't know if it was that day or a few
28 days after. I don't know exactly what day it was.

1 THE COURT: Very soon thereafter you reported it?

2 THE WITNESS: Yes, it was. I didn't keep notes on the
3 fact. I just --

4 THE COURT: And whom did you talk to?

5 THE WITNESS: Sergeant Gutierrez.

6 THE COURT: How about Sergeant Whiteley?

7 THE WITNESS: Sergeant Whiteley, and there was --

8 THE COURT: Was Gutierrez and Whiteley together?

9 THE WITNESS: Guenther and Gutierrez was together.

10 THE COURT: Guenther and Gutierrez?

11 THE WITNESS: Yes.

12 THE COURT: Whiteley separate?

13 THE WITNESS: It was Whiteley and -- Whiteley and
14 Guenther, too, for a while. I guess he had another partner.
15 I don't know what his name was.

16 THE COURT: Why did you run to the police with that
17 information you got?

18 THE WITNESS: Well, I already had my foot off into it.

19 THE COURT: What do you mean by that?

20 THE WITNESS: I had talked to them about the Manson
21 case and I knew whatever else I could help and these people
22 are out killing people and there's no sense in that and it is
23 just not my thing.

24 THE COURT: In other words, you thought you were being
25 helpful on your own?

26 THE WITNESS: Of service, yes.

27 THE COURT: And did any of these officers you talked to
28 promise you anything?

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THE WITNESS: Uh, they gave me immunity on a couple
of cases. I had a grand theft and a suspicion of grand theft.

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1 THE COURT: Before you had this conversation, did they
2 promise you this immunity?

3 THE WITNESS: Yes, they did.

4 THE COURT: In other words, they told you if you could
5 get some information and bring it back that there might be
6 immunity in it for you?

7 THE WITNESS: Something of that sort.

8 THE COURT: So it wasn't entirely our own, it was
9 something that you did at the suggestion of the officers;
10 is that right?

11 THE WITNESS: Uh, when I first started with the Manson,
12 that was on my own. I was in the Venice jail. And then,
13 after that, I had already been off into it, and so I says,
14 well, there's no sense in letting them go farther and if I
15 did know anything I was going to report it.

16 THE COURT: At the time you talked to Davis on that
17 day, had you been talked to about immunity before that time?

18 THE WITNESS: I can't remember. I believe so.

19 THE COURT: So you knew what you were gathering might
20 result in some testimony and you possibly would be granted
21 immunity in talking about it, is that right?

22 THE WITNESS: I didn't know it was going to be used
23 in testimony. But I went down and I told them. Like I
24 gave them the knife without their asking for it or "Could I
25 get it" or anything. I just got it and I give it to them.

26 THE COURT: When did you give them the knife? Was it
27 before or after the Davis conversation you were about to
28 describe?

13a-2

1 THE WITNESS: It was sometime after the raid. I
2 don't recall whether it was after it or not. Like I said,
3 I didn't keep notes.

4 Q Or was it -- well, was it before the conversation
5 or after.

6 THE WITNESS: I believe it was before the conversation.

7 THE COURT: All right. Then, at the time you gave
8 them the knife is when you heard about the possibility of
9 immunity if you could give some information?

10 THE WITNESS: No, they had told me that before that
11 period.

12 THE COURT: Even before you turned the knife in?

13 THE WITNESS: Well, I had talked to them in the Venice
14 Police Department and I was concerned for Danny DeCarlo's
15 getting mixed up in the murders. So I wanted to help him.
16 He had been my friend and helped me get in the motorcycle
17 club, so everything I could do to help show that he was
18 not involved in it -- so --

19 THE COURT: You were interested, in the first place,
20 of helping DeCarlo?

21 THE WITNESS: Yes, sir.

22 THE COURT: Now, this promise by the police that if
23 you were to gain information you would get immunity --

24 THE WITNESS: Well --

25 THE COURT: -- did that come about before you
26 delivered the sword to them? Is that --

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13a-3

1 THE WITNESS: I believe so, but it was offered to
2 Danny DeCarlo and all the help he could get. And so I was
3 helping Danny DeCarlo who, more or less -- but it was offered
4 to me sometime later, but I don't know what time later it
5 was offered to me.

6 THE COURT: Well, was it offered before or after the
7 conversation you were about to describe?

8 THE WITNESS: Uh, I believe it was offered before.
9 But they hadn't sent me out to gather anything.

10 THE COURT: Well, did -- did you go out to gather
11 information here from Bruce Davis at the request of the
12 police?

13 THE WITNESS: No, I did not.

14 THE COURT: You just -- it was just sort of a general
15 assignment that you took upon yourself to complete with the
16 hope that you would get some immunity?

17 THE WITNESS: And to help Danny DeCarlo, yes.

18 THE COURT: Anything further?

19 MR. DENNY: Yes.

20
21 EXAMINATION

22 BY MR. DENNY:

23 Q This phrase that the Court used, "Did you go
24 to gather information from Davis at the request of the
25 police," -- they told you anything you could get they would
26 use; is that right?

27 A No, they told me to keep my nose out of it.

28 Q Sir, they told you -- you got them the sword,

13-4

1 is that right, beforehand?

2 A Yes.

3 Q All right. And they thanked you for that?

4 A No, they didn't say, "Thanks." I guess I just
5 give it to them and left.

6 Q All right. And before you got the sword,
7 they had talked to you about getting immunity yourself on
8 these charges; the grand theft charge that you talked
9 to the Court about, right?

10 A They said they could help me in the case, but
11 they couldn't guarantee anything.

13b fls.

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1 Q All right, sir. But they did say if you get any-
2 thing let us know, right?

3 A Yeah.

4 MR. DENNY: All right, no further questions.

5 THE WITNESS: No, they didn't say -- well, they said if I
6 remember anything, not if I get anything. They didn't send me
7 off to get anything. What I done, I done entirely my own self,
8 trying to help Danny. What I had coming was just jail time.
9 What he had coming was life imprisonment or whatever, because it
10 was murder and I know Danny couldn't do anything like that any-
11 how.

12 THE COURT: What you are saying, Springer, is the agree-
13 ment was that if you testified to what you had already told
14 them that you would get immunity or are you saying --

15 THE WITNESS: No, they would help me out in my court case,
16 is the thing. Immunity is the wrong thing to be using. They
17 said they would help me out. Like for example I would get five
18 years in jail. Maybe they would get it down to two years or
19 something like that.

20 THE COURT: When did they tell you that? Sometime
21 before you got the sword?

22 THE WITNESS: I don't remember exactly what time it was.

23 THE COURT: Here's what I am after.

24 I want to know what the arrangement was between you
25 and the officers you talked with?

26 THE WITNESS: Well, when I was arrested in Venice, they
27 asked me if I knew anything about anything, and I says, "Well,
28 I think I might know something about the Tate case."

13b-2

1 At that time the homicide department went down
2 there and talked to me and I told them I had to talk to some-
3 body else. And I didn't tell them who it was, but it was
4 Danny DeCarlo.

5 So I went and got him and let him talk to the
6 police and he was already in a jam.

7 And so they said, well, we'll help you out if you
8 help us.

9 THE COURT: Go on.

10 THE WITNESS: So -- well, that's it. And I helped it.

11 THE COURT: That's when they laid it out for you?

12 THE WITNESS: That they would help us out.

13 THE COURT: Help you?

14 THE WITNESS: Yes.

15 THE COURT: What did they say? What did they tell you to
16 do to help out?

17 THE WITNESS: If anything I remembered or heard that could
18 be helpful to tell them.

19 THE COURT: Now, you said --

20 THE WITNESS: But they didn't send me out after it.

21 THE COURT: You said they told you to keep your nose
22 out of it.

23 What do you mean by that?

24 THE WITNESS: They said I should stay away because
25 maybe I might could get myself killed.

26 THE COURT: How did that come about, that conversation?

27 THE WITNESS: Well, while we was just talking.

28 THE COURT: Well, did you suggest that you might become

13b-3

1 more deeply involved and pick up some information for them or
2 how did it happen, how did the conversation come about?

3 THE WITNESS: I didn't volunteer to them as a paid
4 employee or anything else to go out and get information. What
5 I got, I just gave them.

6 THE COURT: Well, when you got this information that you
7 were about to relate, that is this conversation that you were
8 about to relate, did you do that at the order of any police
9 officers?

10 THE WITNESS: Definitely not.

11 THE COURT: Well, had you made any arrangements with
12 police officers to get any information, to acquire any new
13 information?

14 THE WITNESS: No, I didn't.

15 THE COURT: They just told you that whatever you might
16 get or whatever you might remember or whatever you might get,
17 whatever you might say, that they would in some way or other
18 compensate you by assisting you with your cases?

19 THE WITNESS: Yes.

20 THE COURT: In effect, that's what --

21 THE WITNESS: Something in a roundabout way.

22 THE COURT: That's the way it was put.

23 Anybody?

24 MR. DENNY: Yes, if I may, your Honor.

13c fol

13c-1

EXAMINATION

BY MR. DENNY:

Q Mr. Springer, the Court asked you a compound question there, three different things.

Whatever you might remember, they would try to be helpful to you, is that right?

A Right.

Q Whatever you might say to them, they would try to be helpful to you?

A But not in this case, in the Manson case. They haven't talked to me about this case or nothing.

Q All right. And whatever you might get and report to them, that it would be helpful for you -- helpful to you, is that right?

A No, they didn't say what I could get. If anything I could remember --

MR. DENNY: Miss Briandi, I asked you to mark a passage back there.

You said the Homicide Department came down and I said et cetera, et cetera, and they said we'll help you out if you help us, anything I remembered or heard to tell them.

Could you read that back, please?

THE COURT: No need to read that back, the Court heard that.

MR. DENNY: All right.

Q They did say anything you heard, report in to them?

13c-2

1 A They said anything I remembered. And I said if
2 I could get anything or hear anything -- I meant in that way.

3 Q All right. And they said if you hear anything,
4 let us know?

5 A I said if I get anything I'll let you know.

6 Q All right.

7 A But it can be turned around any way you want to
8 put it.

9 Q All right.

10 I have no further questions, your Honor.

11 MR. KAY: Oh, go ahead.

12
13 EXAMINATION

14 BY MR. MANZELLA:

15 Q Mr. Springer, did the police officers promise
16 that they would dismiss two cases against you or one case
17 against you?

18 A Yes, in the Manson case.

19 Q You mean in the Tate-La Bianca case?

20 A Tate-La Bianca case.

21 Q When you say "in that case," you are referring
22 to investigators in that case?

23 A Yes.

24 Q Gutierrez, is that one of the investigators?

25 A Sergeant Gutierrez, yes.

26 Q All right. Now, he told you he promised you
27 he would dismiss a case pending against you, a grand theft?

28 A Yes.

13c-3

1 Q When did he tell you that?

2 A He told me that -- I don't know what date it was.
3 But was around the time they was up and they searched one of
4 the canyons up there. I don't know what date it was exactly.

5 Q Was it before or after the conversation with
6 Davis?

7 A That was before. I'm positive it was before.

8 Q And at that time had you given Gutierrez informa-
9 tion about the Manson Family?

10 A Yes, I had.

11 Q Did he say why he was going to dismiss -- why
12 he promised you he would dismiss the grand theft, what that
13 was for, that promise?

14 A The Tate-La Bianca testification.

15 Q Well, was it for information that you had already
16 given him or was it for testifying in the Tate-La Bianca
17 case; what was it for?

18 A It was for the information I had already given
19 him.

20 Q Now, did you -- did anyone promise you anything
21 to get more information?

22 A No, they didn't.

23 Q What about the second case? There was another
24 grand theft that you were promised would be dismissed, is
25 that right?

26 A Yes, they promised to dismiss it, but my own
27 attorney beat it anyhow before him.

28 Q Why -- what was that promise for, if you recall?

13c-4

1 A I can't recall.

2 THE COURT: What do you mean by that? It was
3 dismissed in a motion?

4 THE WITNESS: It was dismissed, yes.

5 Q BY MR. MANZELLA: Was that -- was a promise to
6 dismiss that case made in return for your going out to get
7 information?

8 A No.

9 Q Now, before you had this conversation with
10 Bruce Davis -- in other words, before you went to 28
11 Clubhouse Drive around Thanksgiving of '69, who did you
12 talk to?

13 A I believe it was Sergeant Gutierrez.

14 Q The same officer who promised to dismiss --

15 A Him and -- Sergeant Gutierrez and Sergeant
16 Guenther, I believe.

17 Q And did you tell Gutierrez that you -- at that
18 time did Gutierrez say anything about you associating with
19 members of the Manson Family?

20 A No, he didn't.

21 Q Well, who told you to stay out of it?

22 A Well, Mr. Gutierrez did.

23 Q And what was he referring to?

24 A It is not my job. These guys are liable to
25 kill me so I'd better stay away from there.

26 Q He told that to you?

27 A Right.

28 Q Did he make -- or did he tell you anything in

13c-5

1 substance that -- or in essence that if you went out and
2 got more information than you had already given him that he
3 had promised you he would do something for you?

4 A No, I just figured in my own mind if I did it
5 would help.

6 Q Had he already promised you to dismiss the
7 grand theft?

8 A Yes, he had.

9 Well, I think his words were, "I can't promise
10 you anything, but I can help you. I'll do what I can."

11 I thought in my own mind, "Well, whatever he
12 could do would be better than what I could do," so there
13 you go.

14 fls.

14-1

1 Q All right. But no matter what it is, whether
2 it was a promise or an offer to help or what it was, was it
3 made for information you had already given him --

4 A Yes, it was.

5 Q -- or was the offer made for things that you
6 were to do in the future? Information you were to gather
7 or get in the future?

8 A For what I had already done. Because for
9 what I was going to do in the future, I was going to do
10 on my own. I thought I was going to surprise them with
11 it.

12 Q And Gutierrez told you to stay out of it?

13 A Yes.

14 MR. MANZELLA: All right. No further questions.

15 MR. DENNY: May I inquire a moment, your Honor?

16 THE COURT: Yes.

17
18 EXAMINATION

19 BY MR. DENNY:

20 Q When you talked to Gutierrez, you called him
21 down to Venice -- that's where you were, weren't you, in
22 Venice, when you had your initial conversation?

23 A I don't know who the man was who came down to
24 investigate Venice.

25 Q Well, where was it you talked to Gutierrez?

26 A Downtown L.A., I believe, at 150 L. A. Street.

27 Q They brought you down there from Venice?

28 A No. I went down there on my own. I had

14-2

1 got myself out on bail from Venice, with no promises from
2 them.

3 Q All right. Then, when you went down, you
4 talked to him, and you talked to him about the fact that
5 you had been up to the ranch on August 11th or 12th; isn't
6 that right?

7 A I --

8 Q To get Danny?

9 A I got Danny DeCarlo after I got out of the
10 Venice jail, and I had him go talk to them.

11 Q Sir, you also talked to them; is that not
12 correct? You talked to them when you went down to 150
13 North Los Angeles Street?

14 A Yes, I did.

15 Q And you talked to Gutierrez; is that right?

16 A Yes, I did -- among others.

17 Q And was this tape recorded, or -- this interview?

18 A Well, I don't know whether it was or not. I
19 wasn't aware of it, if it was.

20 Q Was there a reporter like this gentleman here
21 (indicating), taking stuff down from you and DeCarlo?

22 A I don't remember. I don't think so.

23 Q All right. And at that time, you and DeCarlo
24 discussed the time that you went up to the ranch to get
25 him on August 11th or 12th; is that right?

26 MR. KAY: This appears not to be relevant.

27 MR. DENNY: Oh, it's relevant to his testimony that
28 he --

14a fls.

14-3

1 MR. KAY: I think this is cross-examination on a --

2 MR. DENNY: Well, your Honor, if I may be given a
3 certain latitude here? I'm not going to waste the Court's
4 time, I assure you.

5 THE COURT: All right. The Court will permit it.

6 Q BY MR. DENNY: Did you discuss with Gutierrez --
7 did you and DeCarlo discuss with Gutierrez the time that you
8 went up, this time that you have just talked about before
9 the jury here, on August 11th or 12th, to get Danny, when he
10 was covered with flies and drunk?

11 A Yes.

12 Q And did you talk with him about the following
13 15th, when you went up there to get him?

14 A Yes, I believe we did.

15 Q And did you talk with him about this conversation
16 that Manson had in the saloon at that time, that he had
17 cut a guy's ear off?

18 A Yes.

19 Q So you did tell him, then, about the fact that
20 Manson told you he had cut Hinman's ear off; is that right?

21 A He said he had -- he said somebody sliced his
22 ear. Now, I don't know -- I don't recall.

23 Q Well, you told the officers that Manson was
24 walking around swinging a sword, and there were a group of
25 you there in this saloon; isn't that right?

26 A Yes, sir.

27 Q All right. And you told them that Manson said
28 that they had taken care of this guy, and cut his ear off;

14-4

1 is that right?

2 A Something to that effect, yes, sir.

3 Q All right.

4 And you told the officers that this was Gary
5 Hinman; isn't that right?

6 A No, I didn't tell them it was Gary Hinman. I
7 didn't know Gary Hinman that well.

8 Q All right. And you and DeCarlo together told
9 them it was Gary Hinman, in this conversation with Gutierrez?

10 A Yes, I believe so.

11 MR. DENNY: All right. Nothing further, your Honor.

12 THE COURT: Anything further? Any argument?

13 MR. DENNY: Your Honor, I'll submit it on the argument
14 that I made at the bench.

15 THE COURT: The People?
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14 b fls.

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1 MR. MANZELLA: It's the People's position that, based
2 on the testimony, the only evidence we have -- which is the testi-
3 mony of Mr. Springer -- is that promises -- any promises
4 or offers of help that were made to him were made before he
5 spoke to Bruce Davis, and were made in exchange for informa-
6 tion that he had already given them, as I believe Mr. Denny has
7 just brought out by his examination.

8 That is, this information that he -- Mr. Springer
9 had given them with regard to Charles Manson and his
10 admissions in regard to the killing of Gary Hinman.

11 And that the decision to go out and talk to Bruce
12 Davis was a decision made by the witness, and not by the
13 police officers; and for that reason, that he was not acting
14 as an agent for the police, but was acting as a free agent.

15 The officers -- in fact, according to Mr. Springer's
16 testimony -- told him to stay out of it, and not to -- not to
17 interfere; and that what he did, he did on his own.

18 THE COURT: Mr. Denny?

19 MR. DENNY: Your Honor, if I may have just a brief
20 moment to get this particular report?

21 May I have the last exhibit? That was U, I believe
22 it is.

23 THE COURT: All right. U has --

24 MR. DENNY: Yes.

25 THE COURT: -- been marked for identification.

26 MR. DENNY: Yes. I have it, your Honor.

27 THE COURT: It's a list of names on a yellow paper, a
28 yellow sheet of paper, which is the list of names, the conversa-

14b-2

1 tions with -- whose conversations --

2 MR. DENNY: With Sergeant Whiteley.

3 THE COURT: -- with Sergeant Whiteley was the subject of
4 your inquiry this morning.

5 MR. DENNY: Yes. May I approach the witness?

6 THE COURT: Yes.

RE CROSS

7
8 EXAMINATION

9 BY MR. DENNY:

10 Q Mr. Springer, I'll show you what purports to be
11 part of a three-page -- or, part of a multi-page -- a five-
12 page report by Paul J. Whiteley. On Page 3 thereof:

13 "On 11-26-69, the undersigned interviewed ALAN
14 SPRINGER, a Straight Satan motorcycle rider and a friend of
15 Daniel DeCarlo. Mr. Springer stated on 11-26-69, at 28
16 Clubhouse Drive, Venice, he had a conversation with Bruce
17 Davis, who stated he and the other suspects had killed Shorty
18 in Devil's Canyon and buried the body in a shallow grave.
19 Mr. Springer stated that Davis told him the motive was be-
20 cause Mr. Shea had been informing to the police department."

21 Do you recall, on November 26th, '69, being
22 interviewed by Sergeant Whiteley?

23 A I believe so. I don't -- I can't remember.

24 Q All right. Now, sir, you have said that this
25 conversation that you had on Clubhouse Drive was the day
26 before or after Thanksgiving of 1969.

27 May the Court take judicial notice that
28 Thanksgiving was November 27, 1969, a Thursday?

1 May the record so reflect, your Honor?

2 THE COURT: Yes, the record may so reflect.

3 MR. KAY: Does the Court know that as a fact, that that
4 is when --

5 THE COURT: Well, I see Mr. Denny is looking at a
6 calendar.

7 MR. KAY: Well, that calendar doesn't have Thanksgiving
8 marked on it, does it?

9 MR. DENNY: It's marked in red (indicating), Mr. Kay,

10 MR. KAY: Okay.

11 THE COURT: I take it that that is the fact?

12 MR. KAY: It appears to be.

13 Q BY MR. DENNY: And sir, immediately after you had
14 this conversation -- well, let me refresh your recollection.

15 You had a court appearance that date, did you not?
16 November 27th --

17 A No, I don't recall.

18 Q -- I mean, November 26th?

19 A I don't remember exactly what the date was.

20 Q Well, let me refresh your recollection on that.

21 November 26th, 1969, you appeared in West H on a
22 995 motion, on the case with Mr. Doukas, and it was continued
23 to December 4; do you recall that?

24 A Vaguely. There was so many dates. I was going to
25 court every week.

26 Q You were, weren't you?

27 A Yes, I was.
28

14b-3

14c fol

14c-1

1 Q All right. And it was after that, then, after
2 that appearance that you went to the Clubhouse Drive; isn't
3 that right? The Clubhouse Drive address?

4 A I don't recall what day it was or what court
5 date it was after, I've had so many. But I do know I was
6 there, and I know what went on.

7 Q And then after that conversation at Clubhouse
8 Drive that you've related, you went directly to Sergeant
9 Whiteley with your report; is that correct?

10 A I believe so.

11 MR. DENNY: All right. Your Honor, at this time, I
12 do have a photocopy of the docket sheet in case No. A-058070,
13 People vs. Costas Doukas and Alan Springer, which I believe
14 is in the court file there, the records that I have had
15 subpoenaed here.

16 And my copy shows that on 11-26-69, Department
17 West H, as to each defendant motion under 995 continued
18 to 12-4-69.

19 All right. I have no further questions.

20 I would simply say to the Court, your Honor,
21 that I -- I think the record speaks for itself, as far as
22 the fact that this gentleman was, from the time he talked
23 with Gutierrez on, acting on their behalf, for them, based
24 on promises that they made to him -- not just for what he
25 had already told them, not just for what Gutierrez told
26 him.

27 This is a matter of credibility, obviously, for
28 the Court. But with the expectation that he would derive

14c-2

1 more benefit, the more information he got for them.

2 He had the initial conversation with Gutierrez,
3 and then lo and behold, he goes out and brings in the sword,
4 and then lo and behold, he goes out and brings in information
5 about an alleged conversation with Davis.

6 And I think that this was -- it's clear from the
7 sequence of events -- and from the testimony, what you can
8 read between the lines -- and the testimony, that he was at
9 that point, though not a paid agent in money for the police,
10 he was getting his pay by virtue of the promises and the
11 continuing promises that were made to him, in exchange for
12 his testimony.

13 And I will say, your Honor, that as I indicated
14 to the Court and the jury in my opening statement -- and I
15 will make the further statement here -- that he has continued
16 and continued and continued to receive the benefits of his
17 work in getting information to the police -- which, as I
18 have indicated in other offers of proof -- disclose an
19 extraordinary leniency on the part of the D.A.'s Office and
20 all of the other agencies in permitting him to have cases
21 dismissed, cases consolidated, a plea to one count of a
22 multi-count indictment, et cetera.

23 All of these cases -- some of them not even in
24 existence at the time, but continuing them and continuing
25 them and continuing them because of his work.

26 THE COURT: When were you told to stay out of it? When
27 was that?

28 THE WITNESS: I don't recall what date it was on.

14c-3

1 THE COURT: Was that before or after you gave them the
2 sword?

3 THE WITNESS: I believe it was before it.

4 MR. KAY: May I ask just a question?

5
6 EXAMINATION

7 BY MR. KAY:

8 Q Mr. Springer, you didn't get that sword from
9 anyone in the Manson Family, though, did you?

10 A No, I didn't.

11 Q You got that from one of your brothers --

12 A George Knoll.

13 Q -- in the Straight Satans; right?

14 A Right.

15 Q And they didn't tell you -- Gutierrez never
16 told you to keep away from your brothers in the Straight
17 Satans, did he?

18 A No, he didn't.

19 THE COURT: When you -- when you went to where Mr. Davis
20 was, did you go there for the purpose of extracting informa-
21 tion from him? Or getting information?

22 THE WITNESS: I went there to find out what I could
23 find out; and if I found -- well, yes.

24 MR. KAY: Except that's ambiguous. For whom?

25 I believe he testified earlier that he went to
26 find out about Danny DeCarlo, what their attitude was toward
27 Danny DeCarlo, your Honor.
28

14d fls.

14d-1

1 MR. DENNY: Your Honor, I think his testimony speaks for
2 itself. It's not ambiguous.

3 MR. KAY: No. I said: The Court's question, I felt,
4 was --

5 THE COURT: Anything further?

6 MR. MANZELLA: Yes, your Honor.

7

DIRECT

8 EXAMINATION

9 BY MR. MANZELLA:

10 Q Did you go there to find out what they thought
11 about DeCarlo?

12 A Yes, I did.

13 MR. MANZELLA: All right. Your Honor, just another point
14 in argument, if I may.

15 The purpose of the exclusionary rules is to
16 deter the police from unlawful conduct -- to-wit, in this case,
17 questioning a witness without advising him of his constitutional
18 rights; or questioning a suspect without advisement of his
19 constitutional rights.

20 THE COURT: That's correct.

21 MR. MANZELLA: The fact that this witness may have felt
22 that if he got information, it would benefit him, I submit,
23 isn't relevant in considering whether or not he was acting for
24 the police.

25 In other words, whether this was police action.
26 The -- Miranda only applies, and the -- only applies in a
27 situation where the police act, not where a private citizen
28 acts. So the Court has to find that this is police action,

14d-2

1 because of the purpose of the exclusionary rule.

2 Now, in this situation, the fact that the witness
3 may have thought it would benefit him, I submit, isn't the
4 controlling situation.

5 The controlling situation is whether or not the
6 police officers suggested to him that he go out and do this,
7 or tell him or order him to go out and do it.

8 But at any event, suggest to him that he go out and
9 do this. And I think it's clear from his testimony -- the only
10 evidence that we have -- that nobody told him this. That, in
11 fact, they told him to stay away.

12 And the fact that he thought it would benefit him
13 is not -- is not relevant, because that's not police action.

14 Any witness might feel that if he were to gather
15 information and submit it to police, it might be helpful. But
16 unless the police instigate in some way his actions, it's not
17 police action; and therefore, the exclusionary rule does not
18 apply.

19 MR. DENNY: Well, your Honor, again, I think the Court
20 has to look somewhat at the circumstances, and not totally at
21 the possibly self-serving statements of Mr. Springer here.

22 The circumstances here, I think, show -- and if I
23 may go back just a moment -- the Messiah case is a step
24 beyond the Miranda case. The Miranda case was a case in which
25 police, obviously themselves, were questioning the defendant in
26 custody; and the Messiah case said, "Look, just because you put
27 a suit on some guy, and not a police uniform, and send him out
28 on police business, and try to get information from him that

1 way, doesn't mean that it is not police action. It is still
2 police action.

3 And what we are attempting to prevent is that type
4 of conduct by the police.

5 Now, if it's done just a little bit more subtly,
6 as it was in this case, I submit, and they send out a man
7 saying, "Look, anything you can find out, anything you get, you
8 come back, let us know, tell us what you hear."

9 Now, they don't even have to tell him -- they don't
10 even have to give him all this immunity. They don't have to
11 promise him all these things, if in fact they say, knowing what
12 they knew at that time, knowing what this witness and Danny
13 DeCarlo had said, the evidence they had given them at that
14 time; and knowing specifically, as the court record reflects --
15 as the Beausoleil case reflects -- what the testimony of Danny
16 DeCarlo was in the Beausoleil case, on November 23rd -- and the
17 record reflects it was November 23rd that he testified, and I
18 would ask the Court to take judicial notice of that, if the
19 clerk can get that record and -- if the Court will examine the
20 minute order, I think the record will so reflect.

21 So, at that time, the police had that information,
22 all of which Danny DeCarlo testified to, as to Manson's and
23 Davis's connection with the case, and their relationship to
24 the case, et cetera.

25 And then, just subtly to say, "Well, anything
26 you -- anything you hear, you come back, and you let us know,"
27 that's the same as the Messiah case.

28 And as I say, the Messiah case does go one step
29 further than the Miranda case.

14d-3

14e fol

14e-1

1 THE COURT: It's your contention that there was at that
2 time so much evidence accumulated against Mr. Davis that it
3 goes beyond the -- it had gone beyond the investigatory stage?

4 MR. DENNY: That is correct, your Honor. That is
5 correct.

6 THE COURT: And that at that stage, they had sufficient
7 evidence to arrest him and to detain him? And that therefore,
8 having gone beyond that stage, he should have been given a
9 warning, and should have had counsel present?

10 MR. DENNY: That is correct, your Honor. Again --
11 let us get too confused about this warning business, because
12 Messiah doesn't talk about warning. Messiah talks about
13 a police agent, in the guise of a civilian -- like Alan
14 Springer -- going out -- obviously, a warning is not going
15 to be given under those circumstances. That blows his cover.

16 But Messiah says you just can't do that, under
17 those circumstances. And I'm not saying that Mr. Springer
18 should have given Bruce Davis a warning here, necessarily. Ob-
19 viously, you can argue that, if you want to, that if he is
20 indeed acting as an agent, he should have given him a warning.

21 I am saying that he was acting as an agent; that
22 he did not give him a warning, and that he did not give him
23 a warning, pursuant to his status as an undercover operator--
24 a secret operative, if you will, for the police; and that
25 that is covered by Messiah; and that there was sufficient
26 evidence at that time so that they were not in an investigatory
27 stage.

28 An accusatory stage had been reached. And indeed,

14e-2

1 a jury was deliberating on that very murder case.

2 (Pause in the proceedings while a discussion
3 off the record ensued at the counsel table between
4 Mr. Kay and Mr. Manzella.)

5 MR. MANZELLA: Your Honor, in the Messiah case, the
6 facts of the Messiah case, the informant was wired for sound,
7 and there was an agent nearby listening to the conversation
8 which took place between the informant and Messiah, in the
9 vehicle.

10 There was an agent nearby. Clearly, this
11 situation does not -- is not anywhere near the situation in
12 Messiah.

13 Furthermore, I think Mr. Denny confuses the two
14 principles involved in Miranda and Messiah.

15 fls.

15-1

1 Messiah doesn't apply in this case at all because,
2 one, Davis was not charged; two, he was not represented by
3 an attorney; and, three, no accusatory proceedings have taken
4 place at all.

5 Now, when he says that he doesn't think -- he's
6 not talking about Miranda, well, then, it is irrelevant to
7 talk about an accusatory stage because Messiah was a 6th
8 Amendment case and only applied when a defendant had been
9 formally charged and was only represented by an attorney.

10 Messiah said talking to a defendant or a police
11 agent talking to a defendant after he was indicted was
12 interference and a denial of his right to counsel. They
13 said that after a defendant had been indicted he has a right
14 to have an attorney present whenever the police or police
15 agent talked to him. That is what Messiah said, it was a
16 6th Amendment case.

17 Miranda, on the other hand, talked about advise-
18 ment of rights.

19 Now, Messiah doesn't apply at all in this case.

20 Miranda would apply if Springer was a police
21 agent, and my argument was directed to the fact he is not
22 a police agent.

23 But Hoffa vs. United States said -- which is also
24 a 1966 case -- said that there was -- the case against Jimmy
25 Hoffa in which a fellow by the name of Partin, P-a-r-t-i-n,
26 was an informant for the Justice Department and testified
27 against Hoffa in a jury tampering case. And the Court said
28 that there is no right of arrest. The fact that Hoffa felt

15-2

1 that at that point, before they put the informant in, the
2 Justice Department had enough evidence to arrest him, the
3 Court said is irrelevant because there's no right to have an
4 arrest and have the right for an attorney attached.

5 Mr. Davis was not arrested and was not represented
6 by an attorney, and, therefore, Messiah doesn't apply.

7 MR. DENNY: Well, your Honor, I don't want the Court
8 to assume by anything that I said that I don't believe that
9 the Fifth Amendment and the Miranda portion of interpretation
10 of the Fifth Amendment does not apply here. I am analogizing
11 to Messiah with not so much the Sixth Amendment right to
12 counsel at the time in mind, as the foundation of the Court's
13 opinion there as to prohibiting that type of police conduct.

14 And I think that rationale carries over into the
15 Fifth Amendment area that I am talking about here.

16 MR. MANZELLA: The Hoffa case makes it clear that it
17 does not. They said that Partin -- it was all right for
18 Partin to do what he did in the Hoffa case.

19 MR. DENNY: That's when they were purely investigatory,
20 your Honor.

21 THE COURT: Pardon?

22 MR. DENNY: That's when they were purely investigatory,
23 your Honor.

24 THE COURT: The Court finds as follows:

25 The Court believes that this act on the part of
26 Mr. Springer was an independent one. That it was not
27 suggested by the police. The Court believes that he had been
28 told by the police to stay out of it and that this was not a

15-3 1 police authorized action on the part of Mr. Springer.

2 Having done so on his own, it was in hopes,
3 however, I believe, of achieving something favorable to
4 himself and to this position of the case --

5 MR. DENNY: Your Honor, before -- I hate to interrupt
6 the Court in mid-sentence almost, but before the Court makes
7 the ruling as to -- which direction I divine the Court is
8 taking -- may I point out at this time that I am -- my client,
9 Mr. Davis, is, at this time, being deprived of the right to
10 effective counsel under the 14th and the 6th Amendments in
11 that I have been trying desperately, and for the last two or
12 three weeks, to get that tape recorded interview with Mr.
13 Springer that was made by Officer Gutierrez. That's the
14 evidence that I wanted to present at this hearing. I have
15 been denied the ability to do that by every way possible
16 by the prosecution and that evidence should be before this
17 court before this Court makes its ruling.

18 THE COURT: All right, is there a -- is there some
19 report of this interview with Mr. Gutierrez?
20
21
22
23
24
25
26
27
28

15a fls.

15a-1

1 MR. KAY: If you remember, the Court wanted me to
2 contact Mr. Bugliosi about that and I did contact him last
3 weekend and he does have some tapes and he looked through them
4 and he said he does not have the tape with Mr. Springer and
5 they're not in our files and Sergeant Gutierrez over the
6 phone told me that the last he remembered of it, was that it
7 was deposited with the Clerk in the discovery for the Tate-
8 La Bianca trial.

9 And Mr. Denny says that Mr. Darrow over in 104
10 says that the stuff was turned back, so I don't know where
11 it is.

12 I've exhausted everything I know about how to
13 find that tape.

14 MR. DENNY: Well, your Honor --

15 THE COURT: Mr. Manzella.

16 MR. MANZELLA: That's all I knew about it, your Honor.
17 Mr. Kay knew more about it than I did. All I thought was --
18 all I knew was all the tapes had been deposited with the
19 Clerk in 104 during the Tate-La Bianca case.

20 THE COURT: Is there a resume of the tape recorded
21 conversation?

22 MR. KAY: No, Sergeant Gutierrez said it was not
23 transcribed. I asked him about that.

24 THE COURT: Well, without there being a transcription,
25 is there a resume of it somewhere? Is there a report of
26 it that Mr. Denny could have?

27 MR. DENNY: There is no such report, and I submit if
28 this witness is allowed to testify --

1 MR. KAY: Not that I know of.

2 MR. DENNY: -- to testify without my opportunity to
3 hear that tape --

4 THE COURT: You haven't had an opportunity to hear it?
5 Wasn't it one of the tapes --

6 MR. DENNY: No, your Honor, it was not.

7 THE COURT: There were a number of tapes which the
8 Court --

9 MR. DENNY: That is correct, your Honor.

10 THE COURT: -- ordered the District Attorney to provide
11 for you during the last year.

12 MR. DENNY: Those were tapes, your Honor, made by
13 Dave Steuber of the CHP, in the main, and I have heard those
14 tapes. I have made copies of them. This was earlier in the
15 case. Those tapes I have heard. But this tape I have not.
16 This tape I became aware of only about a month or so ago.

17 THE COURT: Well, what is the tape? Let's nail it
18 down as to what date it was. Anyone know?

19 MR. KAY: I've never heard the tape, so I --

20 MR. MANZELLA: I don't know. I didn't even know there
21 was a tape, but I assume now there was a tape, right? All
22 right?

23 MR. KAY: I would say --

24 THE COURT: What was the date?

25 MR. DENNY: Your Honor, the date -- it was around,
26 as best I can gather from Mr. Springer's prior testimony
27 and from his testimony today, sometime after he made bail
28 on this case on which he was arrested. And he was arrested

1 approximately -- well, he was arrested twice. Once on
2 October 15th and once on October 22nd. Both times wound
3 up in the Venice jail. According to his testimony he said
4 that it was during his stay there in the Venice jail that he
5 put things together and decided that he should talk to the
6 police. So it was around that period of time.

7 THE COURT: Well, the last person that had the tape,
8 according to what the District Attorney's Office has been
9 able to ascertain was --

10 MR. KAY: Was the clerk in Department 104. And now
11 I can't remember.

12 Mr. Denny said that Mr. Darrow told him that
13 the materials on discovery were turned back to us, but I sure
14 don't believe that, because Mr. Bugliosi and I never got any
15 stuff back. And if we didn't, I don't know who he would turn
16 it back to.

17 MR. DENNY: I would request the matter be put over
18 until tomorrow morning and Mr. Darrow be requested to come in
19 and testify because I don't think he's lying to me.

20 MR. KAY: I'm sure he was not lying.

21 MR. DENNY: He's got very good records of every
22 exhibit. It is the same record chart that Mrs. Holt keeps
23 here.

24 MR. MANZELLA: But here Mrs. Holt sends the stuff that
25 was deposited for pretrial discovery, she submits all that
26 stuff to the clerk's office downstairs. And I was wondering--
27 it's been my information all the material deposited for
28 discovery has not been deposited in the clerk's office

1 downstairs.

2 MR. DENNY: I have checked with the clerk's office. I
3 have checked with Dale, who is the head of the clerk's office.
4 I have gone over every single record they have and it is not
5 there.

6 THE COURT: Maybe someone in the clerk's office has made
7 an error and that it is there, because once having gotten
8 out of -- once having been deposited with the court, there
9 would be no reason why the clerk should release it to the
10 District Attorney unless by stipulation.

15b fls.

1 MR. DENNY: Your Honor, this is not so, because -- and
2 I beg to differ with the Court, but I talked very specifically
3 with both Darrow and Dale.

4 THE COURT: Is there an order of the Court releasing --

5 MR. DENNY: No, your Honor.

6 THE COURT: -- authorizing the clerk to release any
7 material?

8 MR. DENNY: No, this matter was placed into the hands
9 of the clerk the same as the documents and other things were
10 placed in the hands of Mrs. Holt before the court. They
11 were not marked as exhibits. They were not marked in any way
12 for identification, according to Mr. Darrow, just as the
13 homicide manual for Shorty Shea, the homicide manual for
14 Gary Hinman, all of those items and a number of statements,
15 20 some odd statements were deposited with Joyce, none of
16 those were marked for identification.

17 THE COURT: Well, for what reason? Just to have Mr.
18 Darrow hold them?

19 MR. DENNY: That's correct. As I understand it, the
20 same as Joyce has been holding them here for review of the
21 defense attorneys.

22 THE COURT: And without having had them marked?

23 MR. DENNY: And without having had them marked or
24 anything. And when I talked to Dale downstairs, he said
25 he would not have anything down there other than exhibits
26 marked, numbered exhibits, whether they be special exhibits --

27 THE COURT: Is Mr. Darrow here?

28 MR. MANZELLA: Mr. Kuczera is trying to get ahold of

1 Mr. Darrow right now.

2 THE COURT: Mr. Kuczera, would you tell the jury
3 that they can go up to the jury room and have a coffee.

4 Well, the Court will hear from Mr. Darrow.

5 You may step down.

6 Excuse me just a moment.

7 At this moment -- I'll wait until Mr. Darrow
8 shows up, but at this moment the Court will go on, however,
9 and say this:

10 That the Court believes that nevertheless,
11 regardless of this witness' status, and I have stated that
12 insofar as this episode was concerned involving Mr. Davis,
13 he was not, in the Court's opinion, acting as an agent of the
14 police. That the case had not reached the accusatory stage.

15 The Court is familiar with the record of the
16 Grand Jury transcript and of the evidence in the Manson case.
17 The Court has read a considerable portion of the case of
18 People vs. Beausoleil and the first Manson trial, the Tate-
19 La Bianca trial, as well as having been the court which heard
20 the second Manson case involving the case of -- involving the
21 death of Mr. Shea and Mr. Hinman. And the Court believes
22 that there was no denial of -- and the Court so finds no
23 denial of right to counsel in this situation.

24 MR. DENNY: Your Honor, it is not just a question of
25 the right to counsel, it is a violation of the 5th Amendment.

26 THE COURT: The Court finds there is no violation of
27 the 5th Amendment.

28 MR. DENNY: Well, your Honor, may I say at this time we

1 are deprived -- Mr. Davis is deprived of the right of
2 confrontation and cross-examination under the 6th Amendment
3 and the 14th Amendment by not having that tape here before
4 the Court makes its finding.

5 THE COURT: All right, you may step down.

6 Mr. Darrow?

7 Mr. Darrow, come forward and raise your right
8 hand.

9 THE CLERK: You do solemnly swear that the testimony
10 you may give in the cause now pending before this court
11 shall be the truth, the whole truth, and nothing but the
12 truth, so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Please take the stand and be seated.

15
16 GENE DARROW,
17 called as a witness by the Court, having been first duly
18 sworn, was examined and testified as follows:

19
20 EXAMINATION

21 BY THE COURT:

22 Q Mr. Darrow, you were the Clerk in the courtroom
23 of Judge Older in Department 104, the department in which
24 the Tate-La Bianca case was tried, is that correct?

25 A Yes, I was.

26 Q And do you have in your records anything to
27 reflect that you, as clerk, took custody of the tape
28 involving a conversation between a sergeant or Officer Gutierrez

1 and a Mr. Springer?

2 A I don't recall any, your Honor. The only tape
3 I can recall was a tape by -- concerning the conversation
4 with District Attorney Aaron Stovitz. That's the only tape
5 I can recall right offhand.

6 Q And that conversation with Aaron Stovitz on what?

7 A I don't remember. It just had pertaining to a
8 contempt proceeding.

9 Q I see.

10 Now, it has been told this Court that you recalled
11 there was a discovery motion and that certain things were
12 given to you, in response to the discovery order, to hold?

13 A I don't recall that, your Honor. I don't
14 remember that at all.

15 Q Do you have any record of any such order that
16 you know of involving a tape, a tape of a conversation
17 between Gutierrez and Springer?

18 A I don't, your Honor. Of course, there was a
19 considerable number of exhibits. However, they're all
20 listed. Every document I received --

15c fls.

15c-1

1 THE COURT: Mr. Denny, you wish to ask him --

2 MR. DENNY: Your Honor, I just want to advise the Court,
3 that the Court's statement of the question misstates what I
4 have represented to the Court.

5 THE COURT: Well, do you wish to ask --

6 MR. DENNY: Not that there was a discovery motion --

7 THE COURT: Do you wish to ask any questions?

8 MR. DENNY: No, your Honor. I just wanted to get it
9 clear for the record I did not represent to the Court there
10 was a discovery motion and an order made, as the Court
11 represented, and then pursuant thereto items were deposited
12 with the clerk.

13 THE COURT: I understood the reason that supposedly
14 certain items were deposited with the clerk, namely, for safe-
15 keeping --

16 MR. DENNY: I think the Court jumped to that conclusion.
17 All I said --

18 THE COURT: Do you want to ask Mr. Darrow --

19 MR. KAY: Could I ask him some questions? Maybe I
20 could clear it up.

21 THE COURT: Well, let's let Mr. Denny who is making the
22 motion.

23 MR. KAY: Okay.

24
25 EXAMINATION

26 BY MR. DENNY:

27 Q Mr. Darrow, in our chat yesterday, you did
28 indicate, did you not, there were -- if any exhibits were not

15c-2

1 exhibits marked and received, that there may have been some
2 items received pursuant to discovery procedures that you held
3 for defense counsel to look at, which items were returned to
4 the prosecution or police agencies at the conclusion of the
5 trial?

6 A I don't recall any statement like that, Counsel.

7 Q Well, do you recall receiving any items at all
8 from the prosecution for the defense attorneys to have the
9 opportunity to look at in the course of the trial or pre-
10 trial?

11 A I cannot recall any. However, I am not going to
12 specifically state that there were not, because that's been some
13 time ago and we had a multitude of evidence come through. I
14 do not have any personal recollection of anything like that.

15 Q Well, if any items were received in such a way,
16 what would you do with them at the conclusion of the trial?

17 MR. KAY: Well, that's --

18 THE WITNESS: I wouldn't wait until the conclusion of
19 the trial. I would have done something with them within one
20 or two or a very few days after having received them. I
21 wouldn't hold them for any unlimited period of time.

22 Q BY MR. DENNY: What would you do?

23 A I would return them to the attorneys that would
24 have given them to me.

25 I don't recall ever having received any items
26 under a discovery motion, but that would be my normal procedure.

27 Q That's what I am trying to get at. They would
28 not, then, at the conclusion of the case, go down with the

15c-3

1 regular exhibits to the exhibit room?

2 A No, they would not and they did not.

3 Q That's what I wanted to get at.

4 Thank you, Mr. Darrow.

5 THE COURT: Do you recall having had anything of that
6 nature in your custody, a tape, at any time during the trial,
7 for lawyers, defense lawyers to hear or to make -- do you have
8 such a tape available to defense counsel?

9 THE WITNESS: No. The only tape I'm positive, was
10 the one I mentioned before, Aaron Stovitz.

11 Now, I have a very vague and distorted memory
12 about discussion of other tapes but, I mean, I only mention it
13 because there seems to be a glimmer somewhere in the back of my
14 mind. But I don't believe anything ever happened to any other
15 tapes as far as any other court proceedings was concerned.
16 There might have been a mention of some tapes of some other
17 nature, but never got any further, and that's why I don't have
18 any more vivid recollection.

19 MR. KAY: May I have just a moment, your Honor, before
20 I question Mr. Darrow?

21 THE WITNESS: I don't want to volunteer any information,
22 your Honor, but I do have a list of all exhibits which were --

23 THE COURT: Have you gone through that list?

24 THE WITNESS: Yes, I went through the list and there was
25 no exhibits I have marked here pertaining to a discovery
26 motion.

27 EXAMINATION

28 BY MR. KAY:

15c-4 1 Q Did you receive the exhibits that had been
2 deposited by Mr. Bugliosi and Mr. Stovitz on discovery when they
3 were in front of Judge Keene?

4 MR. DENNY: Well, that assumes facts not in evidence.

5 THE WITNESS: No.

6 MR. KAY: Well --

7 THE COURT: Overruled. The answer may remain.

8 Q BY MR. KAY: Do you recall Mr. Bugliosi and
9 Mr. Stovitz filing with the court any documents in the form of
10 a letter that would state basically, "Dear Judge Older,
11 pursuant to the continuing order of discovery in the Tate-
12 LaBianca murder trial, enclosed please find the following:"
13 and then where some exhibits were submitted to the Court?

14 THE COURT: Do you have a copy of the letter?

15 MR. KAY: Yes, I do.

16 THE COURT: Why don't you show it to him.

17 Q BY MR. KAY: This happens to be from Judge Keene
18 to Mr. Bugliosi and Mr. Stovitz. It was about 32 exhibits
19 that were deposited on discovery.

20 Do you recall seeing anything like that?

21 THE COURT: What date does that bear?

22 MR. KAY: March 26th, 1970.

23 I know there were several like this, your Honor,
24 and that's one that Mr. Manzella happened to have.

25 THE WITNESS: I don't recall having seen this letter
26 before.
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28

15 goes

16-1

1 Q No, but I mean, a letter like this. Or some-
2 thing -- or along this line --

3 A Or anything similar to this, I don't recall.

4 Q Sir, you don't remember personally handling any
5 items on discovery?

6 A I don't have any independent recollection of them,
7 no.

8 Q All right. Okay. And you also don't have any
9 recollection of giving any items back to either Mr. Bugliosi
10 or myself, that were deposited with the Court for discovery?

11 A No, I don't have any recollection of any
12 discovery proceeding regarding exhibits at all.

13 MR. KAY: Your Honor, I have an exhibit here. I would
14 like it to be marked as the Court's special exhibit.

15 THE COURT: Whatever next special exhibit number it
16 would be,

17 THE CLERK: 2.

18 THE COURT: Pardon?

19 THE CLERK: 2.

20 THE COURT: We'll call it People's Special 2.

21 MR. KAY: Okay. I would like to have the Court look
22 at this document, now, so that it can be --

23 THE COURT: Has Mr. Denny seen it?

24 MR. KAY: All right. Mr. Denny, have you seen this?

25 MR. DENNY: No.

26 MR. KAY: This is the type of document that I had
27 reference to before. This is a Xerox copy of a letter to
28 Judge Keene.

Court's 2

16-2

(Pause in the proceedings while Mr. Denny examined the exhibit.)

MR. KAY: This is a letter pursuant to a continuing order of discovery. This certainly is not the only articles that were deposited on discovery, but it gives you a sample of the type of -- the fact that items were deposited with the Court.

It appears that they were deposited with Judge Keene, then.

THE WITNESS: Your Honor, may I make a suggestion?

THE COURT: Yes.

THE WITNESS: There are about eight or nine volumes in this case, but there is a distinguishing factor between pre-trial and trial.

Now, we never received all the exhibits that were introduced at this case -- at pre-trial. So there might be some exhibits down in the exhibit room that we never received over there.

And there might be a letter attached to the back of a discovery document, inside the first two or three folds of the case.

MR. DENNY: Well, your Honor, if we are proceeding as informally as we apparently are here, I can represent to the Court that there are several different and distinct packets in the Tate-La Bianca case, referring to exhibits. They are broken down into pre-trial exhibits and trial exhibits.

And I have been over, with Dale, all of those; and in neither the pre-trial nor the trial, the exhibit room

16-3

1 does not have any such tape.

2 The only tape that they do have is a tape that
3 has been referred to by Mr. Darrow, the Stovitz-Rolling Stones
4 tape, the contempt tape.

5 Your Honor, I would suggest, too, that I think it
6 would be helpful, since apparently the People have one of
7 these letters, that if there are any other such letters --
8 and I know that in this case such letters were sent whenever
9 documents were lodged with the Court -- that they get those
10 letters and trace it down.

11 MR. KAY: Well, that assumes that we have the letters
12 any more. I don't think that --

13 THE COURT: I don't see that it would be helpful,
14 unless they mention the tape.

15 MR. DENNY: Well, we can't tell until they get them.
16 I assume, your Honor, that they have such letters in their
17 discovery file, or whatever, similar to that one that's just
18 been received as People's Special 2.

19 And if there is such a letter, it will show when
20 the tape was deposited, with whom it was deposited, and at
21 least we can trace it that way.

22 Thus far, we have just a vague statement from the
23 partner of the officer, who apparently took the tape, that
24 supposedly this tape was placed into this category of
25 discovery material -- the partner having, I presume, returned
26 on February 7th, when he was --

27 THE COURT: Where is this Sergeant Gutierrez?

28 MR. KAY: LAPD Homicide.

16-4

1 THE COURT: Well, would he be the person who had access
2 to the tape? Would he be the one who had the tape?

3 MR. KAY: He was the one I talked to on the phone,
4 yes.

5 I think he was probably the one that took the
6 tape.

7 THE COURT: All right. Let's get him over here this
8 afternoon. Let's go ahead and --

9 MR. KAY: I'll -- I cannot represent that he'll still
10 be there after 4:00, but I'll call and see if I can --

11 THE COURT: Tell him that I'll send the bailiff for him
12 if he doesn't come.

16a fls. 13

14 MR. KAY: Well, if he's there, he'll come.
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16-5

1 THE COURT: I want to go on with this.

2 Do you have another witness that we can put on,
3 outside of -- other than Mr. Springer?

4 MR. MANZELLA: No, your Honor.

5 THE COURT: Thank you, Mr. Darrow. You may step down.

6 THE WITNESS: Yes, sir.

7 Your Honor, if you'd like me to, I would be very
8 happy to go down and look at Volume I and the -- maybe II
9 and III and IV, and see if there were discovery proceedings
10 that --

11 THE COURT: The Court would appreciate it if you would
12 do that. The Court would appreciate your going through any
13 of the discovery material, pre-trial or trial, to see whether
14 or not you can find that.

15 And would you be able to do that this afternoon?

16 THE WITNESS: Well, your Honor, I have a jury out.

17 THE COURT: Oh, do you?

18 THE WITNESS: In fact, we are still in session. I
19 would be happy to do it as soon as I am through, or first
20 thing tomorrow morning.

21 THE COURT: All right. Let the Court know as soon as
22 you have done it.

23 THE WITNESS: Yes, sir.

24 THE COURT: Thanks, Mr. Darrow. Much obliged.

25 MR. DENNY: Thanks much.

26 THE COURT: The court's in recess.

27 MR. DENNY: Your Honor, will we be in recess for
28 about ten minutes, at least?

1 THE COURT: Yes.

2 MR. DENNY: Thank you.

3 (Whereupon, at 4:11 o'clock p.m. a recess was
4 taken in this matter.)

5 THE COURT: I just called you back in, to admonish you,
6 as I must at every adjournment. I am sure you've memorized
7 it by now and know it as well as I do.

8 I must admonish you that you are not to converse
9 amongst yourselves nor with anyone else, nor permit anyone
10 else to converse with you on any subject connected with the
11 matter, nor to form or express any opinion on it until it
12 is finally submitted to you.

13 We must work on something outside of your hearing,
14 so we'll continue to do that, and I'll see you tomorrow
15 morning at 9:30. Good night.

16 (Whereupon, at 4:25 o'clock p.m., the members
17 of the jury exited the courtroom, and the following
18 proceedings were had:)

19 THE COURT: All right. Although the Court had made
20 some finding with respect to Mr. Springer's status -- and
21 other points -- the Court will, if that tape is found, before
22 permitting Mr. Springer to testify tomorrow morning before
23 the jury, the Court will hear that tape.

24 The Court will hear it tonight or tomorrow
25 morning. It's only 4:30. I'll stay at this time until we
26 hear from Officer Sartuche, who I am told is now on the trail
27 of the tape.

28 MR. KAY: Well, he doesn't know that he's on the trail of

1 the tape. He said that he -- he seems to remember that it --
2 that at one time or another, it was in the Sound Lab, and
3 he can't remember when, but he's going to go up and check.

4 THE COURT: You have ascertained that Sergeant Gutierrez
5 is on vacation?

6 MR. KAY: Yes. He will be gone for two weeks.

7 THE COURT: And the last time he spoke to you, he
8 informed you that he did not have possession of the tape, --

9 MR. KAY: That's correct.

10 THE COURT: -- is that correct?

11 MR. KAY: Yes, that's correct. And Sergeant Sartuche
12 also went to the Tate-La Bianca files, when I was on the
13 phone with him, and said the tape was not in the file; that
14 he just had some vague recollection that it might be in the
15 sound lab.

16 THE COURT: What files are those?

17 MR. KAY: The LAPD files on the Tate-La Bianca case.
18 And I know that they're not in the District Attorney's files.

19 THE COURT: Sergeant Gutierrez is a member of the Los
20 Angeles Police Department?

21 MR. KAY: That's right. He and Sergeant Sartuche were
22 the investigators on the --

23 THE COURT: All right.

24 MR. KAY: -- La Bianca murder.

25 THE COURT: Let me know whether it's disclosed. If
26 it's not disclosed by tomorrow morning, the Court would
27 proceed at 9:30, without hearing it.

28 But if it is found between now and 9:30, then

1 the Court will hear it.

2 MR. KAY: All right. I'm sure if it's there, he'll
3 find it. He said he was going to call me back in about
4 ten minutes.

5 THE COURT: All right.

6 MR. DENNY: Well, your Honor, may we have an order,
7 if it's found, that I be permitted to hear and copy that tape?

8 THE COURT: No, not until I hear it.

9 I don't know that it's necessary that you hear
10 it independently of the Court or not.

11 In other words, I am not going to delay proceed-
12 ings in order to permit that, if it --

13 MR. DENNY: Your Honor is not going to delay it. I
14 mean tonight. If it is found tonight, I would like to go
15 over there and make a copy of that tape tonight.

16 THE COURT: Well, if that is the case, yes.

17 If it's found, the Court would do that.

18 The Court would also hear it itself, in order
19 to accept further evidence on your motion to exclude Mr.
20 Springer's testimony of what Mr. Davis is purported to have
21 said, on the grounds that you have heretofore stated.

22 MR. DENNY: Thank you, your Honor.

23 (Whereupon, at 4:35 o'clock p.m., an adjournment
24 was taken until 8:00 o'clock a.m. the following
25 morning.)
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