DISTRICT ATTORNEY

SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff-Respondent,

vs.

CHARLES MANSON, SUSAN ATKINS, LESLIE VAN HOUTEN AND PATRICIA KRENWINKEL,

Defendants-Appellants.

NO. 1001

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HON. CHARLES H. OLDER, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

APPEARANCES

| | |
|---|---|
| For Plaintiff-Respondent: | THE STATE ATTORNEY GENERAL<br>600 State Building<br>Los Angeles, California 90012 |
| For Defendant-Appellant Charles Manson: | IRVING KANAREK, Esq. |
| For Defendant-Appellant Susan Atkins: | DAYE SHINN, Esq. |
| For Defendant-Appellant Leslie Van Houten: | LESLIE VAN HOUTEN<br>In Propria Persona |
| For Defendant-Appellant Patricia Krenwinkel: | PATRICIA KRENWINKEL<br>In Propria Persona |

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LOS ANGELES, CALIFORNIA MONDAY, JUNE 15th, 1970

10:15 A.M.

- - -

(The following proceedings were had in the chambers of the Court, Mr. Stovitz, Mr. Bugliosi, Mr. Fitzgerald, Mr. Reiner, Mr. Kanarek, Mr. Hughes, Mr. Fleischman and Mr. Goldman being present.)

THE COURT: The record will show this conference is being held in chambers.

Will counsel identify themselves for the record, please?

MR. FITZGERALD: Paul J. Fitzgerald for Defendant Krenwinkel.

MR. SHINN: Daye Shinn for Susan Atkins.

MR. REINER: Ira Reiner for the defendant Leslie Van Houten.

MR. KANAREK: I. Kanarek for Charles Manson, your Honor, and I request also Mr. Ronald Hughes to be present in connection with the defense of Mr.Manson during this case, also I make that motion.

MR. HUGHES: Mr. Kanarek and Mr. Manson have indicated the desire for me to be co-counsel along with Mr. Kanarek.

THE COURT: They haven't indicated it to me, sir, so you will have to leave until such time as there is a

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a substitution.

MR. KANAREK: Co-counsel, your Honor, the Code provides that there can be co-counsel without the necessity of a substitution. It is specific. I can show your Honor the cases on it, as far as co-counsel goes, it is just by motion. There is no requirement of substitution.

THE COURT: You get the authority for me.

MR. KANAREK: Yes, your Honor, if Your Honor has Cal. Jur I can show it to you instantly under "Attorneys."

THE COURT: Well, Cal. Jur. is right here behind me.

M-2-ba.

MR. STOVITZ: While counsel is looking for that, your Honor, do you want to go on with the identification of counsel for the record?

THE COURT: Have all counsel identified themselves?

MR. GOLDMAN: Ronald L. Goldman, for Linda Kasabian.

MR. BUGLIOSI: Vince Bugliosi.

MR. STOVITZ: Aaron Stovitz with the prosecution.

MR. FIEISCHMAN: Gary B. Fleischman for the defendant Linda Kasabian.

MR. STOVITZ: While counsel is looking for that, your Honor, I believe that counsel for Linda Kasabian desire to make a motion for a continuance with respect to a trial date.

MR. GOLDMAN: We are here today for trial setting conference.

THE COURT: We will have to take that up out in open

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court with the defendant.

MR. STOVITZ: The defendant has signed a written personal waiver of her presence, your Honor. It is in the file.

THE COURT: Is it in the file?

MR. STOVITZ: Yes.

MR. GOLDMAN: Yes.

MR. STOVITZ: It was done in open court. Before which Judge was it?

MR. GOLDMAN: Before Judge Lucas.

THE COURT: There is an affidavit under 977 of the Penal Code?

MR. STOVITZ: Yes, your Honor. And today was not her trial date, it was for trial setting. So, therefore, I believe it comes within one of those exceptions stated in 977 that she need not be present for today.

THE COURT: And do you personally waive the appearance of the defendant?

MR. GOLDMAN: For purposes of this hearing we do.

THE COURT: And stipulate that the matter may be heard in chambers?

MR. GOLDMAN: Yes.

THE COURT: All right, what is the motion?

MR. GOLDMAN: The motion is simply to continue the matter for 60 days for purposes of trial setting, to a

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date convenient to the Court.

MR. STOVITZ: August the 17th, Monday, would be approximately 60 days away.

Is that agreeable to you?

MR. FIEISCHMAN: That is agreeable to the defendant.

THE COURT: Mr. Goldman?

MR. GOLDMAN: Yes, it is agreeable to the defense.

THE COURT: Do you waive time on behalf of Miss Kasabian?

MR. GOLDMAN: Yes, we do.

THE COURT: I think we are going to have to have a personal waiver.

MR. STOVITZ: There has been previously a personal waiver in open court by Mrs. Kasabian, your Honor. However, if your Honor wants to, out of an abundance of precaution --

THE COURT: Subject to a personal waiver by Miss Kasabian, the motion is granted. The matter is continued -- for trial or setting?

MR. GOLDMAN: Setting.

THE COURT: For setting, trial setting, to August 17th 19th at 9:00 a.m. in this Department.

MR. FIEISCHMAN: So far as a personal acceptance, we accept a personal notarized waiver filed by her rather than an appearance?

MR. STOVITZ: It is agreeable to the People, your

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4-5. Honor, it still constitutes a waiver.

MR. SHINN: May I say something, your Honor? May I be heard?

THE COURT: This doesn't involve you, Mr. Shinn.

MR. SHINN: It involves Miss Kasabian.

MR. GOLDMAN: We would have no objection to having her appear or to file a written waiver.

THE COURT: I think she should make a personal appearance and make a personal waiver.

MR. GOLDMAN: We will have her present.

MR. FLEISCHMAN: We will have her here.

Will you be here on Thursday of this week, your Honor?

THE COURT: No. Which brings up another matter.

The case of Susan Atkins will have to go out to Santa Monica on Thursday. That is in the Hinman case. She has an appearance there. That is my understanding. If not, I will transfer it out there for that one day.

That would be on Thursday, June 18th, and since Mr. Manson is also going to be out there that day, it means we will not be able to proceed in this court.

Friday the court will be dark. They are doing some work, putting in a new sound system or something, some carpeting, so that means that this case will not proceed on Thursday or Friday, June 18th or 19th.

2a. Mr. Kanarek?

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MR. KANAREK: I have it here, your Honor. It is under Section 175, under Attorneys at Law, where it says:

"However, no particular form is prescribed and the Statute governing a change of attorney does not apply where an additional attorney is associated to the attorney of record of the party."

And that is what Mr. Hughes is, your Honor. He is just associated with me.

And it refers to the case of Prescott vs. Salthouse, 53 Cal. 221; McMahan vs. Thomas, 114 Cal. 585, 46 Pac. 732; Wells Fargo and Company vs. San Francisco, 25 Cal. 2nd 37.

So we would ask that Mr. Hughes be with us, your Honor.

(Pause while the Court reads the citation.)

THE COURT: I will defer ruling on it at this time, but Mr. Hughes may remain for the purpose of this proceeding.

MR. KANAREK: Thank you, your Honor.

MR. HUGHES: Thank you, your Honor.

THE COURT: Now we have a motion to dismiss filed on behalf of Patricia Krenwinkel by Mr. Fitzgerald.

Have the People been served with a copy of this?

(Mr. Fitzgerald hands documents to Mr. Bugliosi and other counsel.)

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MR. STOVITZ: We have now just received it, your Honor.

THE COURT: I don't propose to take that up in chambers. That will be heard in open court.

MR. BUGLIOSI: May I be heard on that?

THE COURT: Yes.

MR. BUGLIOSI: The purpose of this motion by Mr. Fitzgerald is to quash and eliminate prejudicial pretrial publicity.

By having this in open court, that only promotes and encourages that which he allegedly -- and I say allegedly -- now is seeking to achieve.

The Press is going to pick this up and then people are going to want to read the Rolling Stones.

I don't know what purpose Mr. Fitzgerald is seeking to achieve but couldn't it be achieved back here in chambers. It is strictly a legal question. It seems to me that the Court could rule upon it in chambers.

And apart from Mr. Fitzgerald's desires, I think the Court and the prosecution have a duty to insure that there isn't adverse pretrial publicity, and I think we can help that objective by having this motion heard back here in chambers. Otherwise, the whole world press is going to pick it up here. That can only serve to magnify the pretrial publicity in this matter.

If some purpose --

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THE COURT: We can't try the case in chambers. This is a motion which directly involves the defendant and her rights and she is entitled to be present. She is not present here.

MR. BUGLIOSI: Could she be present in chambers?

THE COURT: Well, we are not going to do it in chambers. I am not saying that I am going to take evidence on the motion. I am simply saying that it's going to be determined in open court.

MR. FITZGERALD: I executed the Notice and the Declaration, but in order to facilitate the hearing of the matter and for convenience purposes, and to prevent the repetitious joining in motions, I filed a joint motion. It is Paul J. Fitzgerald, Ira Reiner, Daye Shinn and Irving Kanarek, and it is executed by Paul J. Fitzgerald for Paul J. Fitzgerald, Ira Reiner, Daye Shinn and Irving Kanarek, and it is on behalf of all the defendants, your Honor.

THE COURT: All right.

Now, the reason that I called for this pretrial conference was simply so that we could discuss informally some of the procedural matters involving the trial of the case, and if counsel have any suggestions for expediting the trial as we go along, I would be glad to hear from them, and we can discuss the matters as they come up.

First of all, are there any other pending motions other than the motion to dismiss which has just

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been filed by Mr. Fitzgerald?

MR. KANAREK: Yes, your Honor.

I have here Mr. Fitzgerald's declaration initiating contempt proceedings against Aaron Stovitz, Deputy District Attorney of the County of Los Angeles, for willful violation, your Honor, of the Court's order. This has been executed by Mr. Fitzgerald. It is under oath and under penalty of perjury. There are exhibits attached. And I have the order to show cause, your Honor. I have the order to show cause set out for your Honor's signature.

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THE COURT: Do you have something else, Mr. Kanarek?

MR. KANAREK: Yes, your Honor, this is the Order to Show Cause itself which of course has to be executed by the Court.

THE COURT: All right, anything else?

MR. KANAREK: Well, your Honor, I don't know if you would call it a pre-trial motion or not, it is a challenge to the petit jury panel, your Honor, which all of us --

THE COURT: Is this a written document?

MR.KANAREK: Yes, your Honor. However, your Honor, I would like to proofread it just a little bit, because of what the prosecution has done, directed against me personally, my working day for the last couple of weeks has been devoted to defending myself, that is, in terms of legal research and legal effort, and so this has more or less just recently, shall we say, come off the press, and I would like to proofread it.

THE COURT: This is a motion to challenge the petit jury?

MR. KANAREK: That is correct, your Honor, and it is a challenge to the petit jury.

THE COURT: It is a challenge to the petit jury, all right.

Is this a challenge with respect to which you are requesting that the Court take any evidence?

MR. KANAREK: Yes, your Honor.

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THE COURT: Well, in that case then you should file, along with your challenge, an offer of proof, setting forth what you expect to prove and by whom you expect to prove it.

MR. KANAREK: I will be glad to, your Honor, if that is your Honor's wish in that regard.

THE COURT: Then I will be in a position to determine whether or not an evidentiary hearing is required, and proceed in an orderly manner that way.

How much time will you need for that?

MR. KANAREK: Well, I don't know. I contemplate that Mr. Goodwin and/or Mr. Biden would come to the court and testify.

Now, in this regard, your Honor, as I say, your Honor made the request and I did not want to even implicitly misrepresent to the Court by not answering, even though as I say there are some typos which I have to change, because we were working on this late last night.

I would propose, your Honor, and this can be shortened, if the People wish, if they are just giving lip service to wanting to expedite the trial, I can tell by their response to what I would suggest.

Now, in the case of People vs. Powell and Smith we had an extensive challenge to the jury panel. There was nothing obstructionist or dilatory about it.

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Judge Peracca, who is a very eminent judge of this bench, presided, and he ran the court, not me.

And there is a wealth of information that is in that record that would be, that could be used right here in this court, and I would be more than willing to stipulate --

THE COURT: Are you talking about the transcript of the proceedings in the challenge to the panel area?

MR. KANAREK: That's correct, and I would be more than willing to have this Court read the evidence, read the transcripts and decide it, and we can tell now whether these people are giving lip service to this or whether they --

THE COURT: All right, let's avoid provocative comments.

MR. KANAREK: Very well.

MR. FITZGERALD: I think there is a distinct possibility we may be able to stipulate if we can get an offer of proof.

THE COURT: I would certainly hope so. This has been done in numerous other cases.

MR. FITZGERALD: That is correct.

MR. KANAREK: That is correct.

THE COURT: It seems pointless, and a terrible waste of time and money to go over the same material all over again.

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MR. KANAREK: I agree, your Honor, and I would also ask the Court, since your Honor is bringing it up, I would like to offer also, your Honor, in the case of People vs. Thornton, which was an extended hearing -- there was an extended hearing before Judge Walker on the constitutionality aspect of the death penalty.

All of that expert testimony that was before Judge Walker in that case, challenging the bifurcated trial, that is, the single jury --

THE COURT: That is a different matter.

MR. KANAREK: What I am saying is I would propose, I propose to make such a motion, challenging the constitutionality of the death penalty, so that Mr. Manson would get the benefit, as your Honor knows, this again is not for any dilatory or obstructionist purpose, so that when the United States Supreme Court and/or the California Supreme Court rules, the prosecution, the Attorney General will not say that we did not raise the issue in the trial court, and therefore Mr. Manson does not have the benefit of whatever is resolved.

Now, again I am willing to stipulate that everything that happened in Judge Walker's court, in People vs. Thornton, where this was very intensely litigated on both sides, that could be before the Court by stipulation and there need not be any prolonged hearing at all.

I would welcome this Court reading it.

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THE COURT: Well, was the Thornton case before or after in re Anderson, California Supreme Court.

MR. FITZGERALD: It was before.

MR. STOVITZ: About four years ago.

THE COURT: Anderson has disposed of the question so far as this State is concerned. The United States Supreme Court has not yet ruled on it.

I read in the newspaper the other day they expect to take it up in the fall term.

MR. KANAREK: That's correct, your Honor.

THE COURT: So I would see no point in going through all of the matter in the Thornton case again. You can simply state your objection for the record, and whatever grounds you wish.

I am bound by the decision in in re Anderson regardless of what my personal feelings might be. The Supreme Court has spoken on the subject; that is it.

MR. KANAREK: Very well, your Honor, as long as that issue is there. In other words, the issue is raised, and whatever the result might be, whatever the Court rules --

THE COURT: You can raise it right now if you want to.

MR. KANAREK: I would rather check with co-counsel.

THE COURT: All right. Why don't you do this, why don't counsel for the defendants see if you can agree among yourselves as to what matter you would like to have

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stipulated into the record in connection with the challenge to the petit jury.

Then confer with the prosecutors to see if they are willing to stipulate with you on that, and perhaps by this afternoon we can resolve that problem, and I can start reading the material.

MR. STOVITZ: May I suggest that in your getting together with counsel you cite the pages or the dates that these hearings took place before Judge Peracca?

I am certain that the Deputies in our office who handled that must have some notes of what took place at that time, and we can review the notes by this afternoon.

I was not personally present during the hearing, nor was Mr. Bugliosi, but if you state your objections in writing as to the petit jury, why you are objecting to them and what your offer of proof is, and follow that with an offer as to the pages of your transcript of Powell and Smith, we will be glad to confer with the Deputies who handled the case, and I am certain if your offer is fair we will accept it.

MR. KANAREK: I would certainly be agreeable, really, with what counsel states. I have this mechanical problem, your Honor, the Powell-Smith file is not in downtown Los Angeles. It is in my office, so if we might, rather than this afternoon, if we might have --

THE COURT: Is there any possibility that Mr. Kanarek

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can look at the transcript of the District Attorney's Office?

MR. KANAREK: I don't think the District Attorney has them, your Honor. I think the Attorney General has them at this time.

MR. BUGLIOSI: I thought we had a copy. I sent a law clerk to look for it, your Honor. He said he could not find a copy. He was told somehow a copy had vanished from sight.

MR. STOVITZ: I think it is common procedure once the appeal is filed, our copies go to the Attorney General's Office.

We will double-check on it.

MR. FITZGERALD: In the event we get beyond the challenge to the petit jury, your Honor, and your Honor is disinclined to grant the challenge, and we begin jury selection, we have several motions in regard to the manner and procedure of selecting a jury that we would like to request of the Court.

THE COURT: Well, of course those are the things I want to take up in chambers, in this pre-trial conference, along with other matters.

I don't think we should wait. I think we should take them up.

Why don't I start down my list of things, and then when I get through, and we have discussed the various matters that I have made some notes on, and you can raise

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the various points that you think should be covered.

MR. FITZGERALD: Thank you.

THE COURT: First of all, I would just like to make some general remarks to all counsel:

I don't need to tell you that this case has attracted publicity. We are all aware of that. I don't have to tell you that the case will undoubtedly make law in various areas, because of novel problems.

And I don't have to tell you that the eyes of lawyers and judges and of the public generally throughout the country, and possibly various parts of the world, will be on this case, and specifically you people during the trial, and I would earnestly beseech all of you to at all times, notwithstanding in the heat of trial it is easy to say and do things that you might not do on reflection at other times, that you conduct yourselves in a professional and ethical and responsible and dignified manner at all times.

I don't know what problems the defendants may pose, based on what I have seen already, hopefully none.

But in any event, whatever they are, they will have to be met as they occur.

Now, with respect to the actual trial itself, I would anticipate commencing the trial proceedings each day at 9:45, taking a recess at 10:45 for approximately 15 minutes, and recessing for lunch hour at noon, reconvening

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at 2 p.m., taking another recess at 3:00, and finally adjourning for the day at 4:15.

Does anybody wish to comment on that?

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MR. STOVITZ: Will there be the same schedule after your Honor has disposed of your ordinary trial calendar?

I understand you have a regular trial calendar up until some time in August?

THE COURT: Well, actually I don't have any new matters assigned to me now, but some matters have to be disposed of each day until they are finally disposed of.

MR. STOVITZ: I find if we take a half hour extra each day, that is two and a half hours a week, that is equivalent to one day extra a week.

I just wonder if once your Honor disposed of your regular trial calendar, in other words, your P and S's, things like that, whether we could not start at 9:15 each day.

I know it might be inconvenient to attorneys who do not have their offices in this building. They have problems with parking, but I was thinking not right away, but, say, after five or six weeks have gone.

THE COURT: Well, I found that when I'm conducting a protracted jury trial that the jury simply is not able to concentrate for more than about four hours a day of jury time.

In addition, counsel have problems that require time to research and reflect on, outside of court.

The Court itself is often engaged in research during the course of a trial based on motions and objections

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and so forth, and while it is no burden for me personally to sit another hour of trial time a day, I just don't think it is practical.

MR. STOVITZ: I am thinking about a half hour.

THE COURT: Even a half hour.

MR. STOVITZ: In other words, once we have the trial actually commenced, if we could start at 9:15 each day.

Now, if there is some serious objection by defense counsel --

THE COURT: Well, if it turns out and it may very well be that 15 minutes for a recess is unrealistic in view of the fact we have multiple defendants and multiple counsel, and both male and female defendants, it gets to be a problem of logistics, moving these people around. I rather question whether we can get through a recess in 15 minutes from the time we adjourn until the time we reconvene.

If it turns out that the recesses are necessarily running considerably longer than that, we may have to start earlier in order to get our four hours of trial time a day.

MR. SHINN: Your Honor, I was going to suggest we start at ten, your Honor, we all have private practice, we all get to our offices earlier and try to get here by 10 o'clock. I can understand Mr. Stovitz' position. This

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is the only job he has; he can start any time he wants to.

We have an office to maintain during this trial. So I think that the Court should consider that and give us an opportunity to get to our office by 8 o'clock and get other business out of the way and get down here by 10 o'clock.

THE COURT: I have given all that consideration, Mr. Shinn.

Initially we will start at 9:45 and proceed as I have indicated.

Incidentally, there is a matter I want to take up with you later regarding your failure to appear last week, but it doesn't have to be done at this time.

Now, on the matter of voir dire of the jury, I am sure you are all familiar with the Code. It is the duty of the trial court to select the jury and to allow counsel a reasonable opportunity to examine the prospective jurors.

I am going to give counsel as much latitude as I can consistent with my duty to expedite the trial and selection of the jury.

However, I am going to prohibit any counsel from trying to indoctrinate the jury, from trying to instruct on the law, from being merely repetitive as far as questions that have already been asked by some other counsel, and in holding counsel to an examination for the

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3b41. purpose of determining whether or not there is any challenge for cause, rather than permitting an unlimited examination for the purpose of determining whether or not a peremptory challenge should be exercised.

There is nothing new in what I am saying.

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MR. BUGLIOSI: May I make one observation?

THE COURT: Yes.

MR. BUGLIOSI: You indicated you are going to prohibit questions of the jury instructing them on the law.

I think the Love case, People vs. Love, a footnote in Love, and also I think common sense would tend to dictate that all of us are going to have to tell the jury in general terms what the law is in certain areas before we can elicit from them whether they are willing to follow it.

THE COURT: I am not convinced that is true, Mr. Bugliosi. You certainly have the right to inquire as to whether or not a juror will follow the law, obviously.

There is no problem there. The problem comes when you attempt to instruct the jury on the law or to paraphrase what the law is, and we immediately get into ambiguities and uncertainties, and the juror doesn't understand the questions, and no one understands the answer. That is the sort of thing I want to avoid.

MR. BUGLIOSI: I think there is a tremendous wealth in this case of trial experience. We have handled death penalty cases, I, Mr. Stovitz, Mr. Fitzgerald, Mr. Reiner, a tremendous wealth of trial experience. Maybe I am presumptuous, I think all counsel agree that a statement of the juror "Yes, I will follow the law," doesn't mean anything.

THE COURT: I don't mean to hold it that strictly. I think it is difficult to set precise guidelines. I don't

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want to tell you what your questions have to be, and I'm not going to require you to tell me what your questions will be in advance, although I have given some thought to that.

MR. BUGLIOSI: Can I state it hypothetically, your Honor?

THE COURT: As long as it stays within reason, we won't have any problems.

MR. BUGLIOSI: May I briefly raise a hypothetical as an illustrative example?

Could I briefly tell them what the law of conspiracy is, if two or more people agree to commit a crime; pursuant to that they commit an act, a conspiracy had been formed.

And then ask them whether they would be willing to follow the law if the Court instructed them to that effect.

THE COURT: I think as long as it is kept in reasonable general terms like that, just to orient the question in the juror's mind, I don't see any question in that.

As long as it is made clear you are not attempting to state definitively the law to the juror.

MR. BUGLIOSI: Just as a foundation for the question that will follow.

THE COURT: Yes.

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MR. BUGLIOSI: Very good.

THE COURT: Mr. Fitzgerald.

MR. FITZGERALD: Yes, counsel and I discussed some very serious problems in regard to selecting the jury, and we would make a request that your Honor allow us to voir dire each juror individually and outside the presence of any other juror and outside the presence of the jury panel itself.

THE COURT: Yes, I intend to get to that.

MR. FITZGERALD: Excuse me --

THE COURT: I intend to follow a procedure similar to that which was followed in the Sirhan case, for example, where we will have a chambers voir dire examination with regard to pretrial publicity. Well, initially I will make some introductory remarks to the panel. I will ask them some questions myself; I will ask them the Witherspoon questions, and follow up on that.

MR. KANAREK: I did not hear your Honor's last statement.

THE COURT: I said I would ask them the Witherspoon questions and any follow-up based on their responses to those questions, and give counsel an opportunity to inquire, too, if there is any question raised by any jurors' response to the Witherspoon questions.

And then at that time I think it would be appropriate to take the particular juror under examination

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into chambers, and I have a series of questions which I will ask him regarding pretrial publicity, any opinions he may have formed, and so forth.

I will give counsel in chambers an opportunity to follow up on that within reasonable limits, and then we will go back into the courtroom and proceed with any remaining voir dire examination.

MR. STOVITZ: Will the defendants' personal presence be required?

THE COURT: That is a matter that I think poses a problem of space.

MR. STOVITZ: I was thinking that seeing as the jurors will be facing the defendants while their counsel were questioning them on general subjects, whether or not many times the personal presence of the defendant is waived for an in-chambers question and discussion of the law, the selection of jury instructions, counsel might give consideration, at least, to the personal presence of the defendant being waived as to that portion.

After all a transcript will be available to the defendants on a day-to-day basis, so they will note the questions that are discussed, and it is not like questioning them as to whether or not they are anti-this or anti-that or prejudiced-this or prejudiced-that.

THE COURT: Well, my initial feeling is that the defendants should be present. It may well be that we will

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have to conduct this voir dire upstairs in our jury room, so there will be enough chairs for every one, which we don't have here in chambers.

If the defendants will personally waive their right to be present during the chambers portion of the voir dire, that would be another matter.

MR. STOVITZ: Perhaps what we might do is have them be present during the first 35 to 40 jurors questioned, then if they believe that the same thing is going to take place for the next 350 jurors, that they might waive bringing them back to chambers, but that is not for me to say. I merely offer that as a suggestion.

THE COURT: Now, does anyone have any comment with respect to the procedure I have just outlined?

(No response.)

MR. FITZGERALD: I have one question that may antedate getting the individual juror in chambers, and that is when your Honor makes general remarks from the bench to the panel as a whole, are you going to inform them as to the estimated length of the trial?

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THE COURT: Oh, yes.

MR. FITZGERALD: And if so, what is your reasonable time estimate?

THE COURT: That is a question I want to ask you gentlemen. You are in a better position to estimate it than I am.

MR. FITZGERALD: Here is, initially, our problem, and I don't want to editorialize, and I don't have any problem with co-counsel, but Mr. Bugliosi has made certain statements concerning the length of this trial, particularly if Mr. Kanarek is one of the attorneys in the case.

Now, I wonder if that was just puffing.

Does the prosecution and the Court take the position that it may well take two or three or four years to try the case?

THE COURT: I would like to have counsel's estimate, as close as you can give it. I realize it can't be pinpointed but, on the other hand, you are in a better position to know how long it is going to take to put on your prospective cases.

MR. STOVITZ: Once jury selection is completed, your Honor, we believe that a fair estimate is 60 court days to put on the People's case.

Would you say that, Mr. Bugliosi, 60 court days?

That is three months.

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MR. BUGLIOSI: That would be three months just to put on the People's case?

MR. STOVITZ: Yes. Once the jury is selected.

THE COURT: What about the jury selection? Do you care to venture an estimate?

MR. STOVITZ: I have no way of estimating that. We can probably tell after we start in with the first 12 jurors. We could then say: Well, it has taken us two days to talk to 12 jurors; therefore, it will take us a 150 days to talk to 300 jurors.

This is the thing that we can't estimate. I say this candidly. We have gone over and over it in our mind.

You know, you have 50 challenges for each side. That is a hundred challenges.

MR. BUGLIOSI: There will be 40 for each side.

THE COURT: Assuming the defendants can agree on their joint peremptories -- maybe they can agree -- in which case there would be only 20 peremptories.

MR. BUGLIOSI: 20 joint, and 5 on each side for each defendant, and there are four defendants, a total of 80.

MR. KANAREK: May I be heard just a moment, your Honor?

THE COURT: Yes.

MR. KANAREK: Since I am the whipping boy on this supposedly fantastic charge, I'd like to state this.

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Counsel himself is saying 60 days. Once again, if he really wishes, for the prosecution, if he really wished to shorten this trial and give the defendants a fair trial rather than this lip service, as they have indicated, it is of substance and not lip service, what we can do right here before your Honor is eliminate probably 50 of those days. There is no reason why this case should take -- why we cannot stipulate as to the overwhelming amount.

There is no question, I suppose, but seven people passed away. We don't need -- unless the prosecution wants it for prejudicial value only -- it has no probative value -- we don't need a jillion coroners, we don't need picture after picture of grime and gore, we can stipulate to a heck of a lot.

But what they want to do, I think, is that they want to pile this prejudicial material on prejudicial material in connection with each of these --

MR. STOVITZ: This is just what I mean by wasting time.

MR. KANAREK: Just a moment. Let me finish.

MR. STOVITZ: Counsel knows his statement is ridiculous. Counsel knows we don't have to stipulate to anything.

MR. KANAREK: May I finish?

MR. STOVITZ: We asked Dr. Noguchi to testify

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on all seven deaths to avoid having seven different coroners testify. But if counsel wants to take up the time to --

MR. KANAREK: I suggest --

THE COURT: Just a moment. Let me say something.

One of the things that I am going to insist on during the trial is that there not be any colloquy between counsel; at least in my presence and in the courtroom.

If you want to argue among yourselves, why, go find another arena somewhere and argue to your heart's content; but this is not going to be the forum for settling any personal grievances between you, and I am going to jump on anybody that does it, and that goes for everybody.

There has been needling back and forth on both sides, no one is free from blame, but let's forget it after now and turn over a new leaf.

If you can stipulate, I agree 100 percent, Mr. Kanarek. Whether or not that is possible or whether it may or may not be realistic is another thing, but, in any event, if you can stipulate, it is to your own advantage, I think, to do so, and to the advantage of everyone. I can't see how anybody's interest, and especially the defendants' or the People's, are going to be served by prolonging the trial.

4a f. MR. KANAREK: I agree.

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THE COURT: No matter what the objective of counsel is, I can't see that a long trial is going to enhance that objective or bring it closer to realization.

MR. KANAREK: May I ask this? I make a motion -- your Honor asked me for an offer of proof in a case with a petit jury and these other matters. They say they are going to have eighty or a hundred witnesses. I would ask your Honor for them to make an offer of proof as to each of these witnesses as to what these witnesses are going to say.

I think the Court has the power to, at that point, say that this is going to be cumulative, and I believe your Honor will find that much of what the prosecution is going to offer is cumulative, and we can slice off a good portion of it right at the beginning because they put their case on first.

When they say 60 court days for incidents which are -- they are tragic, there is no question about it, but the fact set-up behind them is not that complicated. So, I ask that your Honor -- and I make a motion --

THE COURT: In that 60-court days estimate, are you now talking about cross examination?

MR. STOVITZ: Oh, yes, of course. We offer a witness for five minutes and then --

THE COURT: I don't find that shocking to the conscience with that number of witnesses and cross

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examination and multiple defendants and multiple victims and multiple counsel. Just the sheer weight of all this takes time, as we have already seen, just getting it from the courtroom inchambers. It has to be multiplied by a factor of five over the usual trial with one defendant and one counsel.

MR. KANAREK: Then may we have an offer of proof, your Honor, as to each of these? I think sitting around as lawyers and with your Honor as the one who knocks heads together, I think your Honor and all of us could shorten this trial if your Honor would order them to make an offer of proof, as your Honor has ordered me to do in connection with what I brought before the Court.

THE COURT: What I have done with you, Mr. Kanarek, and also with Mr. Fitzgerald, is in connection with your motions, pre-trial motions.

I am not going to make anybody put on an offer of proof as to their case in chief.

MR. STOVITZ: However, your Honor, opening statements will be quite extensive and could be considered in the nature of an offer of proof.

There will be a written offer of proof made on the Gary-Hinman murder. We are still researching the point as to whether or not we can show that this comes within a similar modus operandi of the Tate and LaBianca cases. We are researching that and we are preparing a

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brief. We are going to outline the evidence on that case. There will be a written offer of proof on that well in advance of our opening statement so that counsel can make any objections and the Court can see it.

Aside from that, I think that the defendants, through their discovery, have seen what every witness is going to say, what every witness is going to testify to. We even furnished them with a 20-page statement of Linda Kasabian.

THE COURT: We are not concerned with that in a motion.

MR. REINER: May I make an inquiry of Mr. Stovitz with respect to the time estimate?

THE COURT: Yes.

MR. REINER: When you indicate that it would take 60 court days, is that broken down simply as to putting on the witness, examining him on direct and cross examination, or are you including within that the possibility that there will be disputes over the admissibility of evidence and there will have to be briefs, and there will be delays?

MR. STOVITZ: This estimate is after we have the jury selected and this offer of proof on Gary Hinman has been decided.

We feel that that will only take about three days, by the way.

In any event, we did not take into consideration

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delays of more than, say, a half a day for a particular point.

In other words, if there was going to be a writ filed all of a sudden, if there was going to be motion for mistrial made and it was going to be argued for two days, we didn't take that into consideration.

In going over this, we said: This witness will take 15 minutes. Cross examination three hours. This witness will take 10 minutes. Cross examination four hours. And so forth and so on. That is how we got the 60 days.

MR. FITZGERALD: We could give an estimate of 15 court days for our defense jointly. That is a period of three weeks.

THE COURT: For all the defendants?

MR. FITZGERALD: For all the defendants.

MR. SHINN: That is a fair estimate.

THE COURT: So that brings it up to 75 court days.

Rebuttal would be?

MR. BUGLIOSI: Three or four days.

THE COURT: That is 80.

Well, we will undoubtedly have a number of days in which motions will be argued. I have already told the defendants on Friday that if the search and seizure motion is appropriate, I would exercise my discretion to hear it during the course of the trial.

MR. BUGLIOSI: The arguments will be a minimum of a

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4a5. week and a half.

MR. SHINN: There will be other motions, too, to suppress testimony and confessions, your Honor, and there may be evidentiary hearings on those motions.

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THE COURT: Yes. There will be other days devoted to motions and objections, so it would probably be, based on what you say, somewhere between 80 and 100 trial days.

MR. STOVITZ: 80 trial days would be four months, considering 20 days in a month.

MR. FITZGERALD: I think this is important, particularly from the standpoint of your Honor announcing it from the bench in terms of the panel. Maybe people have vacations scheduled, there are several holidays that fall within that time; so we may be able to eliminate people in advance, so we don't have to waste the time of calling them into the box.

MR. BUGLIOSI: There is the penalty trial, assuming there are convictions; and we have got deliberations by the jury that will take quite a while. That would extend it a couple of weeks.

MR. STOVITZ: And, of course, there is a very important thing that we are overlooking, and that is the conduct of the defendants. We did not, in discussing this, anticipate any obstructive conduct by the defendants, and if there is obstructive conduct by the defendants that could delay the trial longer.

MR. REINER: How long did you estimate the penalty phase, your part of the penalty phase, if we get to that?

MR. BUGLIOSI: It depends. If we can get the Hinman case in under MO, there would be very little penalty, but

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if we can't get it in under MO, then we will put it on under the penalty phase, assuming conviction.

The Hinman case will take at least 3 or 4 days alone. I don't think there is going to be too much other evidence during the penalty phase against any of the defendants.

THE COURT: One of the questions or things that I will tell the jury, as I already indicated, is the estimated length of the trial. This, of course, immediately will create a waive of consternation among many of the prospective jurors, understandably.

I have given a great deal of thought to this. In the normal case counsel usually are able to stipulate to most, if not all, of the hardship cases and thereby not use up any of their peremptory challenges. Occasionally the Court will excuse a juror for hardship where counsel are unable to stipulate to it.

In this case, however, I do not anticipate -- at least at the moment; and this is subject to change -- that I will excuse any juror for hardship that counsel are unable to stipulate to with respect to an excuse. Which simply means that if you are unable to get together on the stipulations you are going to be using up your peremptory challenges on the hardship cases. So, I would suggest that it is in the best interests of all of you to be as co-operative with each other as possible on these hardship

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cases so that you don't use up your challenges.

MR. FITZGERALD: Are you also going to inform the jury panel from the bench that during the course of this lengthy trial they will be sequestered?

THE COURT: Yes, I will so inform them.

I don't intend to go into a great deal of detail except to tell them the reason for it, which, of course, is to protect them from any harassment and to prevent their being exposed to trial publicity.

MR. BUGLIOSI: That is during the trial or during the jury deliberations?

THE COURT: This will be during the trial.

MR. BUGLIOSI: During the trial they are going to be sequestered?

THE COURT: Yes. I will tell them that they will be out of direct communication with their families and friends except that I will permit their spouses to visit with them in the hotel on weekends at their own expense.

MR. FITZGERALD: On weekends?

THE COURT: On weekends.

MR. FITZGERALD: This sort of thing is going to eliminate many people.

MR. BUGLIOSI: There is a tremendous burden on the jurors.

MR. FLEISCHMAN: It will eliminate me.

THE COURT: We will try to make things as comfortable

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as possible for them. There will be a recreation room, we have some planned recreation on the weekends.

MR. STOVITZ: Is this a matter that your Honor has already decided on? Because I can see it in the Sirhan case, your Honor, in the sense that there was a question of security, there was a question of national importance, but I am just wondering as to whether or not there might not be a better solution?

I think that the jurors could be scrupulously cautioned not to watch their television news programs and not to read page one or page one of Part II of the newspapers.

When would the sequestering begin? When the witnesses first started testifying?

THE COURT: When the jury is sworn.

MR. STOVITZ: Because this, to me, is the greatest burden.

Your Honor has -- and I don't say this in comedy, your Honor -- sentenced some felons for less than three months in custody.

THE COURT: No doubt about it.

MR. FITZGERALD: Not at the Biltmore, though.

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THE COURT: It is a hardship, no doubt.

I am not sure that in all jurors view it is a hardship. At least not until it is all over. I am sure many will look forward to it at the beginning.

MR. BUGLIOSI: Maybe with some jurors who will want to get away from their spouses and with people with a personal problem who are seeking an escape.

THE COURT: I want to bring up, with respect to stipulations, for the protection of all parties, do not, in open court and in front of the jury, offer any stipulation that you have not already discussed with the other side and received their assurance that they are willing to stipulate.

I think it is highly prejudicial for an attorney to get up in the middle of a jury trial and announce some long or slanted stipulation that he has no reasonable expectation that the other side will accept, or which may sound eminently reasonable to any outsider listening to it and then force the other side into a position where they have to refuse it.

So, please bear that in mind. Do not offer any stipulation unless you have previously received assurance from all counsel in the case, both sides, that they are willing to stipulate.

MR. REINER: Your Honor, with respect to the Court's most recent comments, how are we going to handle it

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4c2. logistically as to the questions that the Court is going to put to the prospective jurors as to hardship cases? We are going to run into just hundreds of those in the beginning.

I assume that we will probably end up stipulating that each may be excused, but that may not be. We would have to have a conference on each one.

THE COURT: Usually, in the past, I have put the 12 jurors in the box, the rest of the panel sitting in the courtroom. I give them some general comments, including the length of the trial, and ask them if there is anyone who feels serving as a juror would be an undue hardship in this case, and so forth. Then we start getting hands raised, and I take each one, including out in the courtroom. In this case, I think I will simply start with the 12 in the jury box and weed any out there; at least bring them to the attention of counsel.

If you are able to stipulate to any of those, fine, we will immediately excuse them and bring in new ones to replace them.

The reason I want to change that from what I have been doing is because in this case we are going to have a larger panel out there. We will have probably in the neighborhood of fifty jurors in the panel sitting in the courtroom, and it is just too long and involved to take up all the hardship cases of everyone out in the courtroom

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rather than just the 12 in the jury box.

MR. REINER: What I was getting at, if the Court asks for a stipulation from counsel, or if the Court is interested in whether we will stipulate, will there be any objection to counsel indicating in turn that he stipulates rather than conferring? It will be difficult for counsel to get together.

THE COURT: I don't think it will be that difficult on that kind of a stipulation. You can confer with each other at counsel table.

MR. REINER: All right.

THE COURT: I really don't anticipate much of a problem there, unless someone is opposed to excusing hardship cases.

MR. FITZGERALD: The dilemma is, your Honor, I don't think both sides of the case -- both sides of the case don't want jurors of the average age of 86 years old with nothing better to do than sit on a jury.

We would like to get young blood and a reasonable cross section of the community. But a lot of people will beg out.

Now, we have got to balance their responsibility as citizens against the obvious inconvenience of it all.

On the one hand, I am perfectly willing to stipulate in most cases, but on the other hand, if we are very liberal with our stipulation in regard to hardship, we

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are going to end with the very kind of jury we don't want.

THE COURT: I realize the problem, gentlemen, and I don't know what the answer is. All I can say is that you are under no compulsion to stipulate to anything.

MR. HUGHES: Your Honor, I think the answer is a different jury panel which doesn't have these problems, people that are able to afford to sit on a jury. That is the answer.

THE COURT: We take our jury panel as it comes, Mr. Hughes. I don't have any choice in selecting the people that go into the jury panel.

MR. STOVITZ: I think some people up along Sunset Boulevard have nothing to do that have taken off a long time from work.

THE COURT: All right.

Now, I would like to establish an order of voir dire examination by counsel.

MR. KANAREK: May I ask this, your Honor, before you go into that? May I ask through the Court to invite some kind of an inspection of what the prosecution intends to actually offer by way of evidence.

You see, if we have some knowledge of what the prosecution is going to do by way of gory pictures, and so forth, we then can more intelligently voir dire.

That is why I ask, your Honor, and I would

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THE COURT: I am not going to do that, Mr. Kanarek.

MR. FITZGERALD: I have a suggested order for voir dire.

THE COURT: Yes?

MR. FITZGERALD: Myself, Mr. Reiner, Mr. Kanarek and Mr. Shinn, if that is agreeable with all counsel.

MR. REINER: Yes.

MR. KANAREK: Yes.

MR. REINER: Yes.

MR. FITZGERALD: And agreeable with the prosecution and the Court.

THE COURT: Is it agreeable among defense counsel?

MR. REINER: Agreeable.

MR. KANAREK: Agreeable.

MR. SHINN: Yes.

MR. FLEISCHMAN: May I interrupt, your Honor?

THE COURT: Yes.

MR. FLEISCHMAN: Mr. Goldman and I are only here -- I mean, when and if our client is called as a witness in this case, we will be present in court. We are only here to determine if there is anything we should know about as far as the procedure.

Can I ask your Honor what you plan to discuss further so we can determine whether or not it is worth our staying?

MR. GOLDMAN: Yes, your Honor.

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THE COURT: Oh, I intend to discuss briefly the matter of making objections and motions during the course of the trial, handling conferences at the bench or in chambers, a reminder or regarding the publicity order, the order of cross-examination.

That, generally, is what we are going to talk about.

MR. GOLDMAN: Other than the time, of course, when our client is called as a witness and the procedure of calling her as a witness is taken care of --

THE COURT: I don't really see any necessity for you gentlemen to stay.

MR. GOLDMAN: We will be present -- so the Court will know -- we will present representing her even though she is a witness at that time. We will be in the courtroom as her counsel at that time.

THE COURT: Yes, I understand.

You do not propose to be here during the balance of the trial.

MR. FLEISCHMAN: Not from what we have heard today. Certainly not.

MR. GOLDMAN: I would like to plead hardship, your Honor. Six months?

THE COURT: All right. Then Mr. Fleischman Mr. Goldman, if you wish to leave, you are free to do so.

MR. FLEISCHMAN: Thank you.

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MR. GOLDMAN: There is one matter left over.

THE COURT: Yes.

MR. GOLDMAN: If you want Mrs. Kasabian to come in personally to waive time? Or shall we file a written waiver? If so, when should we do either one?

THE COURT: If she personally signs a written waiver, that would be sufficient.

MR. GOLDMAN: All right.

THE COURT: And I will ask you to be sure that she understands what she is signing.

MR. FLEISCHMAN: Yes.

MR. GOLDMAN: Yes.

THE COURT: In other words, the waiver should specifically indicate in the body of the waiver that she understands that she has the right to be tried within 60 days of the filing of the indictment; that counsel have agreed to continue the matter until August 17th; that she is willing to give up her right to be tried sooner and consents to that date.

MR. FLEISCHMAN: We may bring her in.

MR. GOLDMAN: That date is a trial-setting conference again rather than a trial date, your Honor.

If the Court wishes to inquire, maybe we should bring her in so that she understands that in addition, because this is still not set for trial.

THE COURT: Very well.

MR. KANAREK: Your Honor, we have the problem as

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to Miss Kasabian since she is a witness. We would like to interrogate her just as we would like to interrogate any witness, a Police Officer, whoever it may be. A witness is a witness. And since she is being granted immunity, if counsel wish to be present, I suppose they can, but there is no legal reason for them to be present since she is getting immunity, and nothing that she says can be used against her --

THE COURT: That is something you can work out with her attorneys, Mr. Kanarek.

MR. KANAREK: You see, we have the problem that she is in Sybil --

THE COURT: I can't order her to speak.

MR. FLEISCHMAN: She has a right to speak with whom she pleases.

MR. KANAREK: Then, your Honor, we would, on behalf of Mr. Manson, and in view of our allegation concerning her insanity, we would ask, at this time, that certain ground rules or certain procedures be set up because I cannot visit her at Sybil Brand. She is in custody and the Sheriff will not bring her to me.

So, your Honor, Mr. Manson is being denied a fair trial. He is being denied the right --

THE COURT: How do you know the Sheriff won't bring her to you? Do you mean at Sybil Brand?

MR. KANAREK: That's right.

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THE COURT: Have you tried?

MR. KANAREK: No. But I know the procedure. The procedure is if you are not the attorney they will not bring her to you.

MR. SHINN: Unless the attorney leaves word that we can talk to her.

We applied and the captain told me to get permission from the attorney and then you can see her.

THE COURT: There is nothing new about that. An attorney usually controls the interviews of his client whether she is in jail or out.

MR. SHINN: Now she is going to be a State's witness and she is going to get immunity.

Would counsel here now inform us that he has no objection to our --

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THE COURT: I don't know whether he will or not. But it is not a matter that I want to get involved in.

MR. KANAREK: Then I would make a motion at this time. I make a motion in the alternative that either the Court order that this witness be ordered to speak with us, or else, in the alternative, we ask that the evidence be suppressed on the basis of Brady vs. Maryland because of the fact that this constitutes a suppression of evidence by State action.

The immunity --

THE COURT: What is the State action?

MR. KANAREK: The State action is the prosecution granting her immunity, your Honor.

THE COURT: I don't know whether there has been any immunity granted.

MR. KANAREK: I think it is a fair statement that there is no question but what she is going to be granted immunity.

THE COURT: This is a problem that I do not intend to get involved in. At least at this time, Mr. Kanarek.

I think it is a matter for you to take up with counsel for Miss Kasabian. Maybe something can be worked out between you.

MR. KANAREK: Very well.

THE COURT: All right, gentlemen, let's go on.

MR. GOLDMAN: Your Honor, I am still left with the

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open question of when shall we bring her in.

MR. STOVITZ: Is your Honor going to be here Thursday at all?

THE COURT: No.

MR. STOVITZ: Not even for your own calendar?

THE COURT: No.

MR. STOVITZ: Why don't you come in some time today or tomorrow?

MR. FLEISCHMAN: We will check with you.

THE COURT: 9 o'clock tomorrow morning, if you like.

MR. STOVITZ: Check with the clerk.

MR. GOLDMAN: Yes. We can check.

THE COURT: Bring her in this afternoon, as far as that goes.

MR. KANAREK: Your Honor, may I ask this question?

THE COURT: Yes.

MR. KANAREK: We are approaching a trial. We have to prepare a defense. I have to prepare a defense for Mr. Manson. We don't have the sporting theory of justice any more.

My request is, your Honor, I make a motion that we be told as to whether or not this woman is being granted immunity or not. We make a motion that the People make an election at this time. Is she a defendant or is she a witness?

We are approaching the trial and I think that

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due process and a fair trial dictate that we be allowed to know whether she is a co-defendant, or is she a witness?

MR. STOVITZ: May I make this statement for the record?

THE COURT: Yes.

MR. STOVITZ: We have given counsel -- what is it -- a 20-page statement of the testimony of Linda Kasabian. She has been listed on the list of witnesses as a party witness.

However, from the very beginning of this case I have always anticipated surprises. It is our intention, at the proper time, to call Linda Kasabian to testify.

In the event that her attorneys object to her testifying without being granted immunity, we will then petition the Superior Court -- another court, not this court, but the Superior Court -- for a grant of immunity.

In the event that the attorneys -- her attorneys -- and our office can reach an understanding whereby immunity can be given at some later date, that will be the preferable system that we will work on, we will work on the system that she will testify fully, completely, honestly and truthfully, cross examination and everything to follow, and following a second trial, because with Mr. Watson being gone, we do not want the young lady to take off for parts unknown, following a second trial in which she would then be expected to testify honestly, truthfully

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and completely as to Mr. Watson, then we will definitely petition either for a dismissal of the case or for an absolute grant of immunity, bearing in mind that the Court is the final resting place that grants immunity and that our office can merely petition for the granting, but the Court must grant the immunity.

We have had discussions with counsel from some time in February to the present date as to whether or not the immunity would be given to her. Our understanding is that in the event that she testifies fully, truthfully and completely, that our office would seek absolute immunity for Linda Kasabian.

MR. KANAREK: This procedure impedes in a most vital sense the defense of Mr. Manson because we have a right to prepare a case and, therefore, if the People are going to grant her the immunity, we move it be granted now.

THE COURT: I have expressed my opinion on the subject, Mr. Kanarek.

What about a severance of Miss Kasabian's case from the main case?

MR. STOVITZ: I think a severance has been granted by operation of law, and the fact that the trial is now in progress as to these defendants, and as to Miss Kasabian it is merely for trial setting.

It is just as a trial severance has been granted by Mr. Watson not being present. It has been granted by

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operation of law. There hasn't been a formal severance in that respect.

By her counsel seeking the continuance and agreeing to the postponement of the trial, it is, in effect, a severance.

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THE COURT: All right.

Well, let's move along, gentlemen.

Did you have anything else, Mr. Goldman or Mr. Fleischman?

MR. GOLDMAN: Well, I think that there has been a statement by Mr. Stovitz concerning Mrs.Kasabain's position on the record and of course we feel that it should be clear that, as has been stated, we have been discussing this matter since February in terms of immunity, and in as far as our position is concerned, we have at this point a clear promise that immunity will be sought, an order of immunity, and in addition the case would be dismissed, with additional immunity under 1099 granted.

Of course, the promise is based upon the fact that Mrs. Kasabian will testify truthfully, and will testify in the case.

It is our understanding, of course, that immunity will be granted either at the time that she takes the witness stand in this case, or no later than the time that she completes her testimony in this particular trial, of course all along with her promise to testify in the Watson trial.

MR. KANAREK: Your Honor, I make a motion that the deposition of Linda Kasabian be taken.

I make the motion on behalf of Mr. Manson that

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I be allowed to take her deposition, with the Court present, co-counsel present, the prosecution present, and she is in a very real sense, in a very real sense, out of the quote "jurisdiction" of the Court in the sense she is physically in California, but that this procedure is such that she is unavailable, and my position is that the right to confront, the right to a fair trial, the right to effective counsel which are all guaranteed by the due process clause of the Fourteenth Amendment, dictate that this lady's deposition be taken so that we can prepare for her presence in this case.

And I make the motion that her deposition be taken.

THE COURT: I understand you already have her statement.

MR. KANAREK: It is a far cry from a statement under oath, your Honor, a far cry.

This is what the District Attorney purports to be what she is going to say.

Is the District Attorney going to take what I might say that a witness is going to testify to as far as our case is concerned?

We must have her deposition in order to prepare for trial.

THE COURT: Well, there is nothing new in what you are saying, Mr. Kanarek. The time for pretrial motions is

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over except for the challenge to the petit jury which I have already indicated I will take up at another time.

I don't know if you people want to respond to that request, but I want to get on with our pretrial conference.

MR. STOVITZ: We have submitted, your Honor, there is no authority for it. The witness is available. If she refuses to talk to counsel, either through her own wishes or her attorney's wishes, it is not up to us.

We have not sealed her lips. She has visitors there. I understand she has two visitors a week, if she so wishes to exercise her privilege.

If she does not want to see counsel or Mr. Manson or anyone else, it is up to her.

MR. FLEISCHMAN: She gets 20 minutes a week from each of two visitors, period.

MR. KANAREK: May I ask this, then, your Honor, through the Court:

Would your Honor ask Mr. Goldman and Mr. Fleischman if they will cooperate in allowing us, allowing me to go in and interrogate Linda Kasabian?

THE COURT: That is a matter you can take up with Mr. Fleischman and Mr. Goldman personally. You don't need any help from me, and there is no help I can give you.

Speak to them, but not here. Let's get on with

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our pretrial conference.

MR. FLEISCHMAN and MR. GOLDMAN: May we be excused?

THE COURT: Yes, you can go right out.

(Whereupon, Mr. Fleischman and Mr. Goldman leave the proceedings.)

MR. BUGLIOSI: I would like to ask one question with respect to the scope of voir dire on Witherspoon.

When you are taking people literally off the streets, the first case they are sitting on as a juror, one of the biggest cases in history, where seven people were murdered; the Court is going to ask the jurors questions about the death penalty, and Witherspoon; the chances are they never thought about these questions in their lives.

From my experience, and again I think I can talk for all attorneys here, jurors don't like to speak up the first time. They are frightened. The Court asks them questions, and they don't want to talk.

Assuming that the Court is satisfied that these jurors do qualify, or do not qualify under Witherspoon, would the Court permit each of the attorneys in this case to also independently question them on the Witherspoon questions and the death penalty questions to satisfy ourselves?

What I am saying, your Honor, is that each attorney, each prosecutor, each defense attorney, they have

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ways of formulating questions which they hone down through the years, certain inclinations, certain articulations of words to ferret out answers which sometimes a juror will not answer a question when the question is asked in a certain fashion, you ask them in another fashion and all of a sudden they pop up with an answer.

Now, I know myself, I have done this in several death penalty cases, the most recent one would be Milton Floyd, on the book, I think 3 Cal. 2nd, whatever it is, and I asked each juror questions about the death penalty, and the California Supreme Court certainly never had any objection to it.

I think this is something that is necessary, your Honor, not only for the prosecution, but for the defense, that we all satisfy ourselves, even though the Court may be satisfied, that we all satisfy ourselves in our own way, using our own skills, that these particular jurors qualify or do not qualify under the Witherspoon case.

I would beseech the Court to permit latitude on these death penalty questions.

This is not just for the prosecution. I think this is for the defense. They are going to want to satisfy themselves that a particular juror does or does not qualify in Witherspoon.

We would like to utilize our own skills in our

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behalf, and I can tell the Court that this is done in nearly every death penalty case.

The California Supreme Court in case after case after case has found no problem whatsoever with all counsel interrogating in depth as to these death penalty questions that jurors sometimes do not answer the first time they are asked.

I would ask the Court to give serious consideration to permitting that. I speak from my own experience. I think Mr. Fitzgerald, Mr. Stovitz, Mr. Reiner, and the other attorneys will join in with me.

These jurors are going to sit in that box; the Court is going to ask them questions; they are going to be frightened stiff, and they are not going to answer, or if they do answer they are going to be thinking.

Then Mr. Fitzgerald is going to come along and, using his skills, and he does have skills, he is going to ask the question in a different fashion and the juror will be a little more loose, and he is going to come up with an answer that he never came up with before.

And I think this is good. So I would urgently ask the Court to permit each attorney in this case to independently satisfy himself by proper questions, by questions which the Court thinks are proper under Witherspoon, and Anderson, and Milton Floyd.

MR. STOVITZ: The reason this is important, your

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Honor, is because we have estimated the time of trial to be so long, and it has been our experience, in cases in the last six months here in Los Angeles, where the evidence has been overwhelming as to guilt, and yet as to the penalty the jury has hung up by 11 to 1, and this one juror has come out and told the others during deliberations, "Well, I thought I could, but the more I thought about the thing I realized that I could vote on guilt or innocence, but I could not vote on a death penalty no matter what," and they had their minds made up from the beginning.

And I cannot recite the cases offhand right now, but I think the Powell and Smith case was one where there was a hung jury on the penalty, and the penalty had to be retried.

Many, many times, spending another five minutes in questioning the jurors, although you might say, "Well, five minutes multiplied by 300 does extend the voir dire selection a great deal," still it would save that one juror from holding up an entire verdict.

THE COURT: Well, I will permit reasonable examination by all counsel on those issues.

MR. BUGLIOSI: On points this Court has already covered.

MR. STOVITZ: As long as not repetitive.

MR. BUGLIOSI: By definition, it has to be repetitive, only the questions will be formed differently.

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Mr. Fitzgerald, Mr. Reiner, they have their own ways of asking questions, their own ways of ascertaining the truth.

THE COURT: Well, I don't want to limit counsel to any reasonable examination, and particularly not on the death penalty.

MR. BUGLIOSI: Very good, thank you.

THE COURT: I cannot tell you in advance how far I will let you go.

MR. BUGLIOSI: I agree with the Court.

THE COURT: I have never had to cut anyone off on a voir dire examination yet. I hope this won't be the first case.

MR. BUGLIOSI: Wonderful.

THE COURT: Usually we have been able to select the jury with reasonable dispatch without any limitations on counsel.

MR. BUGLIOSI: Very good. Thank you.

MR. FITZGERALD: In that respect would you be inclined to preinstruct the jury?

Mr. Bugliosi talked earlier about the law of conspiracy. Frequently during the voir dire the defense counsel talk about presumption of innocence, reasonable doubt, circumstantial evidence.

It might be helpful if you are so inclined to instruct in some of the basic areas of laws.

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THE COURT: Well, I have done it in some cases. I would be more inclined to do it after the jury is selected and before the taking of evidence starts.

I don't really think it would accomplish very much at this stage, and I have a very difficult time selecting what instructions I want to give them, anyway.

I certainly don't want to get into detailed conspiracy instructions on voir dire.

Now, with respect to making objections and motions during the course of the trial, where you have multiple counsel, of course, you have a problem.

At the same time I don't want to foreclose anybody's right to state his objections and make his motions to protect his client's interests.

I would say this, generally, I am not going to make any hard and fast rule, but first of all, on routine objections to evidence, for example, objections to questions, if you will simply state your objections and the ground for it, in most cases there is no necessity for any argument. It is self-evident, either the objection is good or it isn't good.

In some cases, of course, where the point involved is a little more refined, it may very well be that argument should be had, or that I would request argument.

But on the routine objections and motions to

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strike, simply make the motions or the objections, state the ground therefor succinctly, and I will make the ruling.

Now, in that connection I don't know whether the defense counsel have discussed this among themselves as to whether or not when one counsel makes an objection, all of you wish to join in, if you can have a stipulation, whether you want a stipulation, all join in, and thus any counsel would signify his desire not to join in.

I don't know whether you want that sort of stipulation or not. Conceivably it could save a lot of time.

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MR. SHINN: We don't have to stipulate in the beginning, your Honor, I think when one objects other counsel say "We join, we join, we join."

MR. STOVITZ: Can't you make it deemed to have been joined in unless you say "No, your Honor, I want that evidence in"?

MR. FITZGERALD: Well, you see, there will be areas of the trial where evidence will be introduced against one defendant and not against others. It will occur actually as to all of the defendants at one time or another.

But I don't have any objection to agreeing that it is a joint objection unless otherwise indicated.

MR. REINER: That will be agreeable with myself.

However, there is one thing that Mr. Stovitz just said I think we should address ourselves to immediately before we forget it.

Mr. Stovitz said where counsel perhaps does not agree with the objection he might say "No, your Honor, I want that evidence in."

I think that type of remark in open court would be very inflammatory and prejudicial.

It will be sufficient, I think, to say that counsel for X, or counsel for the People do not join in the objection.

THE COURT: That is all you have to say.

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MR. REINER: I don't think the editorial-type comment that they want evidence in would be helpful.

THE COURT: Why don't you discuss this among yourselves, if you can agree on a stipulation between yourselves, fine. If you can't, we will forget about it.

What I do want to avoid, however, is multiple arguments on the same objection.

If one counsel makes an objection or a motion, I think he is the one who should argue it. The exception of course is where other counsel wish to join in the motion and have additional arguments, not to the same point, but on other grounds.

But simply to get up and repeat what somebody else has already said is a complete waste of time.

And I want to avoid endless trips to the bench. I realize that a certain number will be inevitable, possibly trips to the chambers will be necessary since we have a problem of accommodating a number of counsel around the bench. But to the extent that you can make your routine objections and motions without argument, and without a request to come to the bench, I think everyone will profit from it.

MR. SHINN: I think every morning before we start we should have a five-minute session in the chambers here and discuss various motions that may come up in the courtroom.

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THE COURT: Fine, I will welcome anything we can do to expedite the trial during the day.

MR. REINER: With respect to the Court's comments about which counsel may argue on an objection, although the first attorney to raise the objection would, of course, be the first attorney to be heard in argument, and attorneys that wish to make further arguments should restrict themselves to matters not previously covered, the Court did not indicate that all arguments should be made by the first attorney, because very often it is simply a matter of who can speak the first when certain matters come in that all counsel might object to.

THE COURT: As I say, there is no point in simply repeating what another attorney said.

If you have something in addition to add, in substance, or if he overlooked a ground and you wish to argue that, that is another matter.

I am not going to make a hard and fast rule. I am just suggesting you expedite matters. Nothing can be gained by simply saying the same thing a dozen times.

Now, we also should have an order for cross examination among the defendants, counsel. Do you want the same order as for the voir dire examination?

MR. SHINN: Yes, unless, your Honor, one particular defendant is mentioned, and I think that counsel should have the first opportunity to cross examine.

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MR. FITZGERALD: I agree.

THE COURT: I did not understand that.

MR. FITZGERALD: The problem is this:

There may be different evidence as to different defendants, and in the event the particular witness on the stand relates only to Susan Atkins, then that counsel ought to be allowed to cross examine first.

But we can handle that among ourselves, and I think we could handle among ourselves those exceptions to the order of cross examination.

But this order is agreeable, if it is agreeable with all counsel.

MR. STOVITZ: The only thing I say on this, I have been through multiple trials with multiple defendants and multiple defense attorneys.

Let us assume for the moment that we are presenting Ronnie Howard's statement of Susan Atkins in the jail, and this is just hypothetically speaking, and she is going to testify as to Susan Atkins only, and the jury is admonished that this testimony is to be considered only as to Susan Atkins.

So Mr. Shinn cross-examines as to Susan Atkins. Then the question rises, do the other attorneys have standing to cross examine this witness when the witness' testimony has been limited only to Susan Atkins.

Now, that is one problem.

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Another problem is:

Let us assume that Terry Melchior is a witness, and Terry Melchior testifies as to Mr. Manson and testifies as to seeing the girl at his place, and so forth and so on.

Mr. Kanarek, of course, would examine Terry Melchior.

The other attorney would cross examine Mr. Melchoir and also cross examine under cross examination.

And then Mr. Kanarek will say, "Well, wait a minute, I haven't had a chance to cross examine on the cross examination," and they get off of the point of cross-examining on the direct examination, and they are each cross-examining on each other's cross examination.

The cross examination can go on interminably.

That is why I have estimated the length of trial to be sixty days.

I have no solution in mind as to how you can control it. I think as each instance arises, your Honor is going to have to watch that.

But the cross examination on other cross examination is the thing that adds up most of the time.

THE COURT: I could not agree more, Mr. Stovitz, I have had it happen. It is a difficult problem.

I don't know what the answer is.

MR. STOVITZ: "We object, it's outside of the scope

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of direct examination, but wait a minute, he testified to that on cross examination, I have to clear it up on that point."

THE COURT: I know, and sometimes it is a matter of substance that should be gone into. I can understand counsel's desire to go into it.

Well, we will just have to take the matters as they come up.

Again I can see no service being done to any party in this case by unduly prolonging examination, whether it is cross or direct.

You can only accomplish so much, and when you have reached that point, from then on it's a matter of diminishing returns. I trust that I will never have to reach the point where I have close somebody's right to proceed further.

MR.KANAREK: Your Honor, in connection with my request for a deposition of Linda Kasabian, may I have a ruling, your Honor?

THE COURT: Yes, the motion is denied, Mr. Kanarek.

MR. KANAREK: Thank you, your Honor.

THE COURT: Now, if there is any request to have testimony re-read, please, all of you direct your request to the Court, not the reporter. His instructions from me are that he does not pay any attention to any of you. He only takes his orders from me.

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So if you want something read make a request to the Court and you will find no problem. I will always grant counsel's request, unless it gets to the point where someone is simply asking to have re-read something that they would like the jury to hear for a second time, not because they did not hear it, but for emphasis, in which case I will probably ask you to talk to the reporter during a recess.

You can have it re-read to yourself at that time.

MR. STOVITZ: On that point, do you think it is not good conduct for counsel to ask the reporter in the presence of the jury, "Mark that"? I have had that happen to me several times.

THE COURT: That's right, no communication should be directed directly to the reporter.

With respect to appearances and punctuality, gentlemen, I will expect you, as I mentioned the other day, to be scrupulously punctual. I am afraid you are going to have to give this case top priority as far as whatever commitments you may have.

Now, do any counsel have any comments with regard to the seating arrangements at the counsel table, and for the defendants?

As you know, we have a limited area; we have a lot of people. I don't have any particular choice as to

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where anyone sits other than the usual sides, that is, prosecution on the usual side and the defense on the other.

MR. FITZGERALD: Yes, I have some suggestions.

During voir dire I do not need to be seated precisely next to my client; as a matter of fact, I would prefer to be seated next to other counsel, particularly when we begin to exercise joint challenges.

During the trial, though --

THE COURT: Incidentally, on the question of joint challenges, Mr. Fitzgerald, would you announce the joint challenges on behalf of the defendants, if you are able to agree on any?

MR. FITZGERALD: Certainly.

THE COURT: So we have one person doing it.

MR. FITZGERALD: But during the trial itself, we have all discussed this actually in another connection, that is, in the connection of the defendants being absent from the courtroom, we have all discussed the necessity to be able to contemporaneously communicate with our clients at the table, and in that respect during the trial proper, during the evidentiary portion of the trial we would like to be seated next to our client.

THE COURT: Well, of course, that is the problem that I just mentioned. I don't think we have enough lineal table space to accommodate everybody.

And now we have another counsel, Mr. Hughes,

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who apparently is going to be present.

Perhaps the best we can do is simply have the defendants seated immediately behind their counsel so you can turn around, have their chairs placed up reasonably close.

I just don't think we have enough space at the table for everybody.

MR. BUGLIOSI: Are we presupposing that the defendants are going to be in court?

THE COURT: Naturally.

MR. BUGLIOSI: Can we resolve that issue?

MR. FITZGERALD: I am hopeful they will be here. I am hopeful every day they will be here.

MR. BUGLIOSI: Have they communicated with you on that issue?

MR. FITZGERALD: Actually none of us have been able to talk to our clients today.

THE COURT: If you have any questions about the seating after we see exactly how it develops, I will happy to listen to them.

MR. KANAREK: I have one suggestion if I may, your Honor, and that is in view of the defendants being away from the courtroom at this time, I would make a motion that your Honor order a video setup so that Mr. Manson -- I think the cost would be minimal -- so that Mr. Manson could view the proceedings in the courtroom.

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I think the same could be done for the girls with a minimum expense.

THE COURT: Well, they both have speakers now, that is, there is a speaker in the holding room which Mr. Manson was using the other day, and we also had a speaker installed up in our jury room for the three women, where the three women defendants were put the other day.

MR. KANAREK: Well, we can have this closed circuit television.

THE COURT: That poses a much more difficult problem. We don't know yet whether it will be necessary to remove any of the defendants. I certainly hope not.

But I have not had any opportunity to explore closed circuit television. I think as long as they are able to hear the proceedings, there is of course a daily transcript; there will be a daily transcript of the proceedings, and counsel have free access to their clients.

In view of that I would not think any television setup would be necessary.

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MR. KANAREK: Well, now --

MR. STOVITZ: As long as we are talking about absence of defendants, I found that many, many times, when you have multiple defendants and multiple defense attorneys, defense attorneys, after the trial gets going and they know what the proof is going to be by way of by offer of proof, they arrange with their clients that they can skip a session here and skip a session there.

I do not want to impose on their private practice or anything, but sometimes it is disconcerting because the defendants do not agree, like happened the other day.

So I just bring this out, your Honor. I have no solution for it, but if your Honor is going to allow defense counsel free substitution rules like they have in football?

THE COURT: No, I do not intend to have any free substitution rules. I expect counsel to be here, all of them, unless there is some compelling reason and they have been excused in advance.

Now, may we have a stipulation among counsel that the Court, and I am thinking now of a situation where, for example, there is a disruption for any purpose in the courtroom, I would like to have a stipulation from counsel that the Court could immediately recess at any time without giving the admonition to the jury. Simply as a matter of

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saving time.

MR. FITZGERALD: Oh, I would stipulate to that, your Honor.

MR. REINER: Yes.

MR. SHINN: So stipulated.

MR. HUGHES: So stipulated.

MR. STOVITZ: Mr. Kanarek?

MR. KANAREK: So stipulate.

MR. STOVITZ: On behalf of the People, we will so stipulate, and I believe if your Honor wants to tell the jury ahead of time that they are admonished at each session as follows, and unless it is directly requested by counsel, that admonition is deemed to be given at each session, we would stipulate.

MR. KANAREK: I would welcome the admonition. I would ask, however, that the admonition be given regularly.

THE COURT: I will give the full admonition at every recess and adjournment. I am thinking of a possible emergency or urgent situation where I simply want to terminate the proceedings because of possibly a disruption in the audience, or even among the defendants, for that matter.

MR. KANAREK: As to that, there is no problem. I so stipulate, your Honor.

THE COURT: I think, probably, to save time, we

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should have a stipulation, and probably the defendants should join in it, that a portion of the voir dire may be conducted in chambers.

MR. KANAREK: What was that?

MR. FITZGERALD: So stipulated.

MR. REINER: So stipulated.

MR. SHINN: So stipulate.

MR. KANAREK: What was that, your Honor?

THE COURT: That a portion of the voir dire examination may be conducted in chambers; that is, of individual jurors, out of the presence of other prospective jurors.

MR. KANAREK: No problem on that. We welcome that.

THE COURT: Do you all so stipulate?

MR. REINER: Yes.

MR. SHINN: So stipulate.

MR. FITZGERALD: So stipulate.

MR. HUGHES: Yes.

MR. STOVITZ: Yes, your Honor.

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THE COURT: I think that concludes on the notes that I had made regarding our pre-trial conference.

Are there any other matters anyone wishes to take up?

MR. FITZGERALD: Just two matters I think we failed to bring to the attention of the Court.

One was, as you suggested, one of the remedies suggested in the Reardon report to offset the impact of pre-trial publicity, is to request that a jury panel be sent from another county.

Now, there certainly is no enabling legislation in California for such a procedure, but so that the record is clear --

THE COURT: I know it has been done. I am not sure. I was recently reading a case. I can't remember now whether it was a California case or another state. It may have been another state. In fact, I think it was a New Jersey case. Maybe it was. It might have been the F. Lee Bailey case, State vs. Cavanaugh.

MR. FITZGERALD: At any rate, we would like to ask for a jury from another county.

We will cite as our only authority at this point the Reardon report.

Also, we wanted to make a request in regard to jury selection, in that we would request that the defendants be provided two separate and distinct juries,

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one on the issue of guilt or innocence, and the second on the issue of penalty.

We all feel that it may be necessary to make such a request in order to bring this case within the standards issue of the death penalty now before the United States Supreme Court.

THE COURT: As I recall the section -- what is it? 190.1?

MR. BUGLIOSI: It provides for the same jury, your Honor.

I think this issue has arisen on appeal.

THE COURT: It is 190.1. If the defendant was convicted by a jury, the trier of the fact shall be the same jury unless for good cause shown the Court discharges that jury, in which case a new jury shall be drawn to determine the issue of penalty.

MR. FITZGERALD: That is correct. We concede that is the present law in the State of California.

It is our contention that to try these two issues to the same jury involves a deprivation of due process and a violation of the Sixth Amendment.

We aren't requesting that your Honor take any evidence on that motion.

THE COURT: It is premature at this point.

MR. FITZGERALD: That is correct.

THE COURT: It may well be that that is a good cause

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623. argument. I never had it come up before.

MR. BUGLIOSI: I have a brief point, your Honor.

MR. STOVITZ: Are you saying that they are going to renew the motion later on or are you ruling on it?

THE COURT: I am not ruling on it.

MR. FITZGERALD: We will bring it up later on. We do not anticipate any lengthy argument whatsoever, nor will we request that any evidence be taken, either on the proposition that a jury be transmitted from another county or that the defendants be entitled to two juries, one on the issue of guilt and one on the issue of penalty.

THE COURT: I think the question of two juries is premature at this time. For the record, I will deny it, if you are making such a motion, without prejudice to renewing it.

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MR. FITZGERALD: Yes. It is a joint motion on behalf of all the defendants.

MR. REINER: Yes.

MR. HUGHES: Yes.

MR. SHINN: Yes.

MR. KANAREK: The interesting thing about the two jury situation, your Honor, if your Honor grants that we can eliminate the Witherspoon aspect of the case.

THE COURT: I don't see how I can grant it at this stage of the proceeding because there is no good cause shown. Good cause, if any, would rise out of a trial, as I see it.

We will simply have to wait and see what happens.

MR. FITZGERALD: Your Honor is suggesting that the motion be made at the conclusion of the case, at the advent of some penalty phase?

THE COURT: If and when there is a conviction or a verdict.

MR. KANAREK: Then I can't agree with my good friend, Mr. Fitzgerald, for this reason, your Honor:

It is our position that going through with the Witherspoon, the so-called Witherspoon approach, death orients a jury; in other words, the way you get death-oriented jurors; and you therefore deprive the defendant of

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a fair jury on the guilt or innocence because you bring up the topic of death or life, and the way the questions are worded, the way the voir dire goes, the defendants are deprived or fettered with death-oriented jurors.

Now, if we just have guilt or innocence to be decided, then we don't have to go through with any Witherspoon interrogation. We can eliminate a great portion of the voir dire.

THE COURT: I see your argument, but I think it is premature.

MR. KANAREK: When would your Honor consider it not premature?

THE COURT: Well, the statute says that the Court may, for good cause shown, have a separate second jury on the penalty phase. I don't think you could show any good cause, if at all, until such time as you had the trial to see what the good cause might be.

I don't think it exists in the abstract, on a purely theoretical basis. The statute provides otherwise.

MR. KANAREK: Mr. Fitzgerald's declaration in connection with the request for the order to show cause in re contempt and his declaration in connection with his motion to dismiss is good cause.

There is a permeating influence in this community against Mr. Manson, who I represent. It is all-pervasive. Mr. Manson is going to have a very

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difficult time getting a trial, a fair trial, on mere guilt or innocence. And using the homely example that is given in Bruton vs. The United States, where they say, you know, asking a little boy to stand in the corner and not think of a white elephant, when you go into that Witherspoon type of interrogation, time after time after time, and put that on top of what has gone on in this community as to this case and the activities of people connected with this case from the prosecution's standpoint, there is no question that right now there is good cause, right before the Court, in Mr. Fitzgerald's declaration.

6c f.

It is our position --

THE COURT: Are you making a motion?

MR. KANAREK: Yes, your Honor. I make the motion.

THE COURT: For what?

MR. KANAREK: For the Court to have separate juries on guilt, and if there is a finding of guilt, then we come in and select a new jury on penalty.

THE COURT: Well, I am going to deny the motion now but without prejudice. You can renew it at the end of the guilt phase if it seems appropriate at that time.

MR. FITZGERALD: Will we select a jury today or begin? Or will that go over to tomorrow morning?

THE COURT: We have your motion to dismiss which I want to hear this afternoon. I haven't had a chance to

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look at this order to show cause re contempt, and whatever else is connected with that, Declaration Initiating Contempt.

Then there is a matter that I want to take up with Mr. Shinn regarding his absence of last week. And I forgot, also, I do have an appointment that I have to keep this afternoon which requires my leaving here at 3:30.

So, I would seriously question whether we are going to get a panel today.

MR. FITZGERALD: I make that motion at this time, that we defer any selection of the jurors until 10:00 o'clock tomorrow morning.

THE COURT: That is a good motion. Does anybody object to that?

MR. STOVITZ: No objection.

THE COURT: All right.

MR. BUGLIOSI: I just have one brief point that I would like to raise.

VH 16-25

With respect to the pronunciation of my name, which doesn't bother me because it is so extremely difficult to pronounce, it has been mispronounced throughout my personal history and it doesn't bother me, but what does bother me is that I have information from two sources, that an individual came up to Mr. Kanarek -- and I can produce this person -- and told Mr. Kanarek that the way to

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get to me -- and it is wrong, it is not the way to get to me -- Kanarek's personality might, per se, but not this particular way -- is to mispronounce my name, say Bugliosi.

I am raising this issue because the Court beseeched everyone, all the lawyers, to act in a professional manner in court.

Mr. Stovitz also heard Mr. Kanarek in court practicing, as it were, practicing the mispronunciation of my name. And I want to state, on the record, and ask the Court to tell Mr. Kanarek to make an effort -- and that goes for Mr. Shinn also -- to make an effort to pronounce my name correctly.

THE COURT: Let me say this: I am not going to do anything about it. I don't know what I can do about it.

Maybe Mr. Kanarek has a speech defect.

MR. KANAREK: I ask for sworn testimony on this. I ask to be sworn.

THE COURT: Let me say this. I just finished a trial recently in which -- in this case it happened to be defense counsel -- spent the entire trial using -- the complaining witness had two names, and he was known commonly by one name and the other name was a little peculiar, and I don't know why he had used two names, but, anyway, he had two names, but all of the evidence indicated that he used the one name, and in everything that was connected

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with this case, counsel, obviously, for psychological reasons, throughout the trial always referred to him by the other name, and this, obviously, had some effect on the witness, you could see the way he reacted to it, that he was bristling a little bit.

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My only conclusion is that by the time the attorney had finished the trial he had hurt his own case because I think the jury got the idea that he was purposely trying to divert their attention or to somehow cast some unfavorable light on this witness by the use of the name, showing that he had used two names, and trying to distract their attention from his testimony, which was very damaging.

That is my own opinion. That is the way it would have affected me had I been a juror.

MR. BUGLIOSI: I appreciate your comments, your Honor.

If the Court does not instruct Mr. Kanarek at this point, I will say this on the record, I intend to tell the jury -- I intend to tell Mr. Kanarek in front of the jury -- how to pronounce my name; and thereafter, if he continues to mispronounce my name, it is going to inure to his detriment.

THE COURT: I think you have a right to tell him how to pronounce your name.

MR. BUGLIOSI: I am telling him right now for his benefit, or else it will come out before the jury. My name is pronounced Bugliosi. You can forget about the "g." "G" before "L" in Italian is silent.

And that is for you, Mr. Shinn, although I am sure it was in good faith on your part.

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As to Mr. Kanarek, it was not in good faith, and I have evidence.

MR. KANAREK: I would like to know the evidence.

THE COURT: I think I mispronounced your name.

MR. BUGLIOSI: It is an extremely difficult name to pronounce.

It doesn't bother me, but when counsel is making a deliberate attempt to mispronounce it, that is another matter. It annoys me.

MR. KANAREK: I ask for sworn testimony.

THE COURT: As to what?

MR. KANAREK: As to my intent in connection with his name.

MR. STOVITZ: Two o'clock, your Honor?

THE COURT: 2 P.M., and at that time we will take up the matter of --

MR. STOVITZ: Will the defendants be present?

THE COURT: Yes, they must be.

MR. REINER: Your Honor, something very brief?

THE COURT: I expect all counsel to be present.

MR. REINER: Is there a lectern in the courtroom?

THE COURT: Yes.

MR. REINER: A full one?

THE COURT: A full one.

MR. REINER: Does the Court have any objection, the Court being so crowded, that we conduct examination

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from the lectern?

THE COURT: I would strongly suggest it.

MR. REINER: May we place it in a position behind the prosecution that would put us in direct line with the witness?

THE COURT: All right.

Incidentally, we do have a hand microphone which can be handed from juror to juror during the voir dire examination so that their answers are amplified, and each of you -- not each of you, but each side has a microphone on the table which can be used in asking questions on voir dire.

This will greatly facilitate the hearing of everybody, particularly the panel members sitting out in the courtroom, because as you know, there is a glass panel that now partially obstructs the area between the courtroom and the jury box.

So, use the microphones, have the individual jurors use the microphone, and hand them the mike.

I will see you at two o'clock.

MR. BUGLIOSI: Thank you very much.

MR. KANAREK: Thank you, your Honor.

(Adjournment taken to the hour of 2 p.m. of the same day, Monday, June 15, 1970.)

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LOS ANGELES, CALIFORNIA MONDAY, JUNE 15, 1970

2:18 P. M.

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THE COURT: People versus Charles Manson, Patricia Krenwinkel, Susan Atkins and Leslie Van Houten.

MR. FITZGERALD: Defendant Patricia Krenwinkel is present with counsel Paul J. Fitzgerald.

MR. REINER: Leslie Van Houten is present with counsel Ira Reiner.

MR. SHINN: Miss Atkins is present, your Honor.

MR. KANAREK: Charles Manson is present, your Honor.

Your Honor, I would like to inform the Court that there is evidently some searching process that is going on outside there, outside this door.

Now, Mr. Manson desires this to be a public trial, and on behalf of Mr. Manson, your Honor, it is our position that there is no basis, there is no showing, there is no need to search every person that wants to come into this courtroom.

There are certain friends of Mr. Manson's --

THE COURT: Are you making a motion?

MR. KANAREK: Yes, your Honor. Our motion is that your Honor order the Sheriff to cease and desist. There are certain friends of Mr. Manson who are female friends of his, who are being given the indignity of personal

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search, and it is our position that Mr. Manson's friends, in fact, indeed, anyone wanting to enter this courtroom need not be given the indignity of a search to enter a courtroom in an American City, and unless there is some showing by the Sheriff, or by the prosecution, or by anybody that there is a requirement for such a search, there is absolutely no necessity for it, and on behalf of Mr. Manson it is our position it is a denial of a public trial, a fair trial.

There is the subtle indication of some kind of violence, or some kind of threat which is absolutely without any substance.

We ask your Honor to order the Sheriff to cease and desist.

We are making such a motion.

THE COURT: Your motion is denied.

The cursory search is being conducted on the order of the Court by the Sheriff's Department.

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MR. KANAREK: May we inquire upon what basis, your Honor?

THE COURT: Not at this time, sir.

Now, this morning I was presented with the defendant's motion to dismiss filed by Mr. Fitzgerald on behalf of all the defendants.

Do you wish to argue that motion, Mr. Fitzgerald?

MR. FITZGERALD: I think it is set out in sufficient detail in the motion itself, the declaration attached thereto, and the Points and Authorities.

In the interest of expediency, I might inquire of the Court if there is some specific area in which the Court would request argument. I would be happy to oblige.

THE COURT: Do the People wish to argue the motion?

MR. BUGLIOSI: Yes, your Honor.

The People would desire to present evidence in contravention of the declaration in the motion, your Honor.

THE COURT: In contravention of what?

MR. BUGLIOSI: The motion and the declaration.

THE COURT: At this time?

MR. BUGLIOSI: Yes, your Honor. But preferably in chambers.

THE COURT: What is the nature of the evidence that you wish to offer?

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MR. BUGLIOSI: I would like to call the prosecutor to the stand, or back in chambers, under oath to give his declaration of what occurred.

THE COURT: Mr. Fitzgerald, do the defendants have any objection to having the matter heard in chambers?

MR. FITZGERALD: I have discussed it with my fellow counsel and we are all of the opinion and we do request that this matter be conducted in open court in the presence of our client.

THE COURT: The motion is to dismiss. I am really not concerned with what Mr. Stovitz did or what he intended to do; that is, if, in fact, he did what is alleged in the declaration. I am concerned with the effects, if any, that such actions might have had, not for his reasons, not with his reasons for having done them.

In other words, I think perhaps you are confusing this motion with the other declaration which was filed on behalf of the defendants this morning with regard to Mr. Stovitz personally.

MR. BUGLIOSI: Your Honor, I think the Court can almost take judicial notice of the fact that this particular publication has a very limited circulation.

I would ask the Court to hold that even assuming that the declaration in support of the motion is correct, this would not constitute that type of prejudice which would entitle the defendants to a dismissal.

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We would vigorously, of course, oppose a dismissal of the action.

MR. KANAREK: May I address the Court, your Honor?

THE COURT: Did you have anything to add, Mr. Fitzgerald, before Mr. Kanarek speaks?

9 f.

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MR. FITZGERALD: In candor, I would like to point out to the Court that I was unable to find any case in the United States that stood for the proposition that a case prior to trial should be reversed because of the prejudicial dissemination of pretrial publicity.

I was also unable to find any case standing for the proposition that a case could or should be dismissed prior to trial because of the state action of an agent of the prosecution in releasing prejudicial information to the Press that has the effect of denying the defendants of a fair trial.

We are not to that point, apparently, in the United States.

However, simply because there is not at this time authority, I think we can reason substantially and sufficiently by analogy that that is the rule, although it has not been enunciated, or that that will soon be the rule, your Honor.

What I intended to do in the Points and Authorities was to set out, first of all, that the dissemination of pretrial publicity may deprive the defendants of due process of law.

Shepherd vs. Maxwell not only stands for that proposition but there are a number of other cases that point out the particularly insiduous and virulent nature of pretrial publicity.

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Now, if your Honor reads the exhibits that have been attached you will see that the dissemination in this case is one of substantial magnitude; that it is comprehensive in its scope; that it is particular in its discussion of items of evidence, the identities of witnesses, the weight and nature of testimony to be adduced.

In other words, it is a very massive, comprehensive, detailed statement of facts not yet proven.

And I don't think in America yet we have had such activity in the conduct of prosecution officials, ergo, there is no authority for the proposition, but I think in the cases cited we come very close to the proposition that if pretrial publicity does endanger a defendant's right to a fair trial, that the only remedy would be a dismissal.

We have exhausted other remedies in this case.

The California Supreme Court has denied a change of venue.

All the other remedies suggested by the scholars in regard to the problem of massive pretrial publicity have been exhausted in this case.

We contend, and I think our declaration clearly demonstrates, that the material here is prejudicial, and that it deprives the defendant of a fair trial.

THE COURT: What concerns me, nowhere do I find anything that indicates what effect, if any, this material has, assuming all of the other allegations to be true.

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MR. FITZGERALD: Well, I am assuming that the Court order in regard to publicity signed by Judge William B. Keene on December 10th contains true statements, and that it is our position that this Court order was promulgated in order to prevent against a specific -- against the dissemination of specific items of evidence on the grounds that if those items were disseminated the defendants would be deprived of a fair trial, and we contend now those items have been disseminated, therefore the defendants have been deprived of a fair trial.

And we cannot split hairs about their right to a fair trial, as the authorities point out Bridges and Patterson and Shepherd and Burger, and Estes as well as Ridow vs. Louisiana, the constitutional right to a fair trial is one of the fundamental constitutional rights of our system, and that the American Bar Association in promulgating the Reardon record adopted a standard of a reasonable likelihood of a fair trial.

In other words, we are sort of in the position where we say that any attempted dissemination of prejudicial pretrial information is in itself a deprivation of due process and the right to a fair trial, if I make myself clear.

THE COURT: That just cannot be true, not "any," it is a matter of degree, and there is no showing of any degree here.

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MR. FITZGERALD: Well, we contend that there obviously is.

That is a factual determination that your Honor must make. If you want an allegation --

THE COURT: On the basis of what facts?

MR. FITZGERALD: On the basis of the fact that this information was disseminated with the intent to deprive the defendants of a fair trial, and it brought to the public information that was not heretofore obtainable.

It brought to the awareness of the public the various items of evidence that may or may not be admissible in this case.

It brought to the attention of the public the names and identities of witnesses that may be called whose testimony may not actually come before an impartial trier of fact.

Jurors read, I think that is axiomatic, that in order to be a juror in Los Angeles County one must be literate, which includes the ability to read and write.

And I assume that the jurors read this information, and in addition to it being published in the Rolling Stones, which may or may not be of limited circulation, I don't have any evidence to that effect, the information once published in the Rolling Stones magazine was published elsewhere, with the resulting denial of due process of law to the defendants.

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If the Court please, and if the Court thinks it is necessary, perhaps we ought to set the matter down for an evidentiary hearing and we will bring in various members of the media to testify as to the circulation of their particular media, be it television, radio, newspaper.

And we will also spell out with particularity the nature and content of the matter that was disseminated as a result of the Rolling Stones article.

I can only reason by analogy that the evidentiary standards would be somewhat akin to a motion to change venue.

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THE COURT: Well, if you wish to offer additional declarations or affidavits in support of your motion, I will read them, and I will defer consideration of the motion until such time as you have offered anything further, if you care to do so.

MR. FITZGERALD: Well, I am simply arguing by analogy. In a motion to change venue, you cannot demonstrate that the defendants have been deprived of a fair trial. All one can do as counsel for the defendant is present the material to the Court, and because of this difficult problem of determining what is prejudicial and what is not, the Reardon report adopted a standard of a reasonable likelihood, and I think your Honor ought to adopt that standard here.

If, after your Honor reads this material, your Honor has a doubt or your Honor feels there is a reasonable likelihood that the defendant cannot receive a fair trial as a result, the case has to be dismissed.

You see, in a case where you have massive publicity, you almost have a wrong without a remedy. If the prosecution can deliberately and intentionally attempt to deprive somebody of a fair trial, and they do deprive somebody of a fair trial, what is the defendant's remedy? Is the defendant to be forced into an unfair trial?

THE COURT: We are not discussing the law,

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Mr. Fitzgerald, that is not the point. I am trying to determine the factual basis for your motion. The law is perfectly clear, the facts are not.

MR. FITZGERALD: The fact that it was disseminated by the prosecution?

THE COURT: What effect all this had.

If you wish to submit this on your present motion papers, I will take it under submission and rule on that basis. I am not prepared to rule this afternoon.

MR. FITZGERALD: May I have just a moment?

THE COURT: Surely.

(Defense counsel confer.)

MR. FITZGERALD: Mr. Kanarek would like to make a few comments to the Court. I will defer to Mr. Kanarek.

THE COURT: Very well.

MR. KANAREK: Yes, your Honor.

We would welcome the opportunity to bring in other evidence to the Court by way of representatives of the mass media as well as publications and other documents, your Honor.

In that connection, I would ask your Honor to consider Strobel vs. California.

In the Strobel case, which I have here, which was a 6 to 3 decision in 1952, a 6 to 3 decision against reversing, but it is interesting to note that in the

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Strobel case, which I am sure your Honor undoubtedly lived in the community at that time, there wasn't anywhere near the dissemination that there is in this case, and in the Strobel case it wasn't raised until appealed. There was no objection made at the trial level before trial.

I offer to the Court the Strobel case, if I may, which is 72 Supreme Court 599.

May I do that, your Honor?

THE COURT: Well, I have read the case in the past, Mr. Kanarek. I am generally familiar with it.

MR. KANAREK: I think there is some detail in it, your Honor, that is most significant.

For example, the point that it wasn't raised at the trial level, it was raised on appeal. And there are other points, for instance.

May I offer it to the Court?

THE COURT: Well, I won't read it at this time. You may offer it, yes. I will read it.

I am going to take the motion under submission in any event. I will read the case before I decide it.

MR. KANAREK: Your Honor indicated that your Honor would entertain further documentary and oral testimony concerning this, and we would welcome the opportunity --

THE COURT: I didn't say oral testimony. I said if you care to offer additional declarations or affidavits, I will consider them.

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MR. KANAREK: Yes, your Honor.

And in that regard, in that connection, if I may offer today's Night Final of the Herald --

THE COURT: Put it in the form of a declaration and affidavit with exhibits, in the same form that your motion was filed today.

MR. KANAREK: Certainly.

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THE COURT: And let's set a reasonable time for the filing of any additional papers.

This proceeding will not be delayed by reason of particular filings. The matter will simply go under submission and I will rule on it as soon as I can after the date for filing the last papers has gone by.

MR. KANAREK: We would welcome, your Honor, making further argument after it is submitted, if we may.

THE COURT: I will give counsel an opportunity to argue further after submission.

How much time do you need?

MR. KANAREK: Yes, your Honor. I think counsel wish, if we may, your Honor, four more days, which, let us say, would put us to next Monday, for perhaps arguing this again to the Court.

THE COURT: I will have to give the People some time to respond.

How much time do you want, Mr. Bugliosi?

MR. BUGLIOSI: Two days, your Honor. And I would like to make a comment at this time, your Honor, if Mr. Kanarek is through.

MR. KANAREK: I haven't quite finished, your Honor.

It is our point, and I think that case law backs us up, and Mr. Stovitz' testimony, I think, is significant in that it goes to the state of mind of the prosecution, and it isn't just a matter of publicity, but

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if we can show, as we believe we can, that the prosecution has deliberately, intentionally and with malice violated the Court order, knowingly violated the Court order, we think that that is significant.

THE COURT: We are not talking about that now.

MR. KANAREK: We are asking the Court to take evidence.

In other words, we ask Mr. Stovitz to take the stand and to answer this interrogation under oath.

THE COURT: All right. The defendants will have until Monday, June 22nd, to file additional supporting documents in support of their motion.

The People will have until Wednesday, June 25th, to respond, if they care to.

The Court will take the motion under submission on June 25th and will rule as soon as reasonably possible thereafter.

MR. BUGLIOSI: I would like to make just one brief comment, your Honor.

I consider Paul Fitzgerald a friend of mine, but I seriously question his motives in making this motion.

He talks about the prosecution being the disseminators of this information through that article.

In my humble opinion, the biggest disseminator of this article, unfortunately, has been Mr. Fitzgerald himself. I think he seized on a very obscure article in

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a publication with a very rather limited circulation, seized on it --

THE COURT: Mr. Bugliosi, I suggest that if these are facts that you are now alleging that you put them in the form of a declaration.

MR. BUGLIOSI: These are not facts which I am alleging. These are not facts. These are observations that I want to make for the Press.

THE COURT: I am not going to permit any statement to the press.

MR. BUGLIOSI: Your Honor --

THE COURT: Just a minute, sir.

You will not make any observation for the Press in this courtroom.

I will permit all counsel reasonable opportunity to argue the merits of any motion, but you are not broadcasting, Mr. Bugliosi.

Now, the next matter, gentlemen, I understand from our conference in chambers this morning, the defendants propose to challenge the petit jury.

Have you been able to reach a stipulation regarding the evidence to be considered by the Court on that challenge?

MR. KANAREK: No, your Honor.

I spoke with Mr. Stovitz during the noon hour but because of the fact that my office is in Van Nuys, I

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have not been able physically to get the transcripts that we alluded to.

So, if your Honor would accommodate me in that, I will do that this evening and assemble these transcripts and submit them to the prosecution for their perusal, and hopefully we will be able to obtain the stipulation that we spoke of, and I will, also hopefully, get to the Court the offer of proof -- your Honor suggested this in the form of an offer of proof -- and I think what I have is close to that, but I will redo it in line with your Honor's request.

MR. STOVITZ: Your Honor, I have here all of the transcripts in that case -- just before Judge Peracca, and starting --

THE COURT: The Smith-Powell case?

MR. STOVITZ: Yes.

It starts from Volume I and goes to Volume 215.

Now, I understand that not all of these volumes deal with the motion attacking the petit jury panel.

However, I also understand from the prosecutors that handled that case that the system that was used in selecting the jury panel back in June of 1968 is different than the system that they use in selecting the trial jury panels today; that the Public Defender's Office has attacked

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the trial jury panel in two cases just recently. Mr. Boags of the Public Defender's Office did it in the Chester Allen Johnson case, and some other deputy public defender did it in another case just recently, and the new system of jury selection was used in that case.

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THE COURT: You mentioned the Thornton case.

MR. STOVITZ: The Thornton case was even before the Powell and Smith case. The Thornton case was four years ago.

I think that if counsel would all get together as to what two or three or four points they are using to attack the trial jury panel, then we could select the testimony that was given at the most recent comprehensive hearing that they had.

But I would venture to say that the Powell and Smith case is not a good model for us to use. It would be time consuming, and of course the procedure has changed since that time.

I have those transcripts available for counsel to look through today.

THE COURT: I understand, Mr. Kanarek, you will be ready by tomorrow morning at least to propose to the People what evidence you would be willing to stipulate to.

MR. KANAREK: I have no pride of authorship; if counsel has another case, and fellow counsel agree that this case -- I could talk to Mr. Boags, and if they agree, if co-counsel agree that these issues are framed within those transcripts, I certainly have no --

THE COURT: Why don't you discuss it between yourselves, then, this afternoon after we adjourn, and tomorrow morning when we convene perhaps there will be a

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stipulation that will save some time.

MR. KANAREK: Yes, I am all for it, your Honor, I cannot represent to the Court it will be mechanically possible by the time we convene to do all that, but I certainly will expedite it.

THE COURT: All right.

Now, Mr. Shinn.

MR. SHINN: Yes, your Honor.

THE COURT: You were absent from this court on June 10th, 11th and 12th, without any notice to the Court and, so far as I know, without any excuse.

I am going to order you to show cause tomorrow morning at 9:00 A.M. why the Court should not find you in contempt for your absence, and I will hear any evidence on that point that you care to offer at that time, 9:00 o'clock tomorrow morning.

MR. SHINN: May I explain today, your Honor?

THE COURT: No, I'm not going to take it up at this time.

I have also received a declaration regarding alleged contempt on the part of Aaron Stovitz, filed jointly by defense counsel.

I have not yet had an opportunity to read or consider this declaration, and I will continue further proceedings on this matter until 9:00 o'clock tomorrow morning.

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The only other remaining matter that I am aware of is in the Hinman case, case number A-258,361, last week the Court transferred that case to Department West D, on June 18th, as far as Mr. Manson was concerned, for further proceedings.

Since Mr. Shinn was not present I did not make the transfer effective as to Miss Atkins, but I will do so now.

That will be on this Thursday, June 18th, at 9:00 A.M. in Department West D in the case of People vs. Susan Atkins, Number A-258,361.

That means that this court will not be in session on either Thursday or Friday of this week.

As I explained to counsel earlier, on Friday there will be work done in the courtroom all day, which will preclude our going to trial in this case.

Now, with the exception of the matters I have already mentioned for tomorrow morning, is there any reason why we should not commence the selection of the jury tomorrow at 10:00 o'clock?

MR. KANAREK: Yes, your Honor, I believe that the Code provides that the challenge to the jury panel must take place before the first juror is sworn.

Now, the prosecution or the Attorney General may take the position that that means before the first juror, potential juror is sworn and interrogated on voir

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dire, so therefore I don't believe that we can start the purported selection of the jury until we dispose of the challenge to the jury panel.

THE COURT: The cases hold that that means -- actually in the past the procedure was sometimes to swear one juror at a time after he had been qualified, and all challenges have been past.

The common procedure now, as you know, is to wait until the entire jury has been selected, and swear the jury as one at the close of the examination, after the challenges have been past.

I think that is what it is referring to, so there is no reason why the jury selection could not go on while the Court is reading the evidence.

11a f.

MR. KANAREK: As long as the rights of Mr. Manson are protected, I mean, if we agree --

MR. STOVITZ: We will stipulate, if you want, counsel, that the provisions --

MR. KANAREK: I think the Court made a request concerning stipulations in chambers.

THE COURT: That was with regard to stipulations in front of the jury, Mr. Kanarek.

MR. STOVITZ: We will agree that the Court's interpreation of the Code is that before the jury is sworn means the jury is sworn to hear the case, including the alternate jurors, and not the jurors as sworn to

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answer truthfully the questions on voir dire.

That is my interpretation of the Code, your Honor.

THE COURT: The cases have so held, Mr. Kanarek, you will be fully protected.

MR. KANAREK: I would be in full agreement with that, but I have not checked with Mr. Fitzgerald, Mr. Reiner, co-counsel.

THE COURT: All right, you can raise any additional points tomorrow morning.

But I see no reason at this point why the panel should not be called over and we cannot start the jury selection process at 10:00 o'clock tomorrow morning.

Is there anything further, then, this afternoon?

MR. STOVITZ: There was a motion for a continuance that was filed with the Court by Mr. Shinn on behalf of Miss Atkins.

The Court took no action but continued it to this date.

THE COURT: Do you wish to argue the motion, Mr. Shinn?

MR. SHINN: Your Honor, before I left for Japan I contacted Mr. Reiner and I informed Mr. Reiner I did file a motion for continuance, and I believe there is a declaration with this motion.

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I informed Mr. Reiner that since I have to go away on an emergency trip I would submit it on the documents, your Honor.

THE COURT: Very well.

The motion will be denied.

Is there anything further, gentlemen?

MR. HUGHES: I believe, your Honor, we still have a motion that Mr. Kanarek associate me as co-counsel, that your Honor has not ruled on.

At this time I would ask your Honor that that motion be withdrawn.

THE COURT: Mr. Manson, in chambers this morning Mr. Kanarek has stated to the Court that it was his desire to associate Mr. Ronald Hughes as co-counsel in the case; is that your desire that that be done?

DEFENDANT MANSON: My desire is to be my own attorney.

THE COURT: Well, we already ruled on that matter. That is not before the Court.

Is it your desire that Mr. Hughes --

MR. HUGHES: Your Honor, I was asking that that motion be withdrawn.

THE COURT: I beg your pardon?

MR. HUGHES: Your Honor, I was asking your Honor that that motion be withdrawn; that I not be associated in as co-counsel.

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THE COURT: You do not wish to be?

MR. HUGHES: That's right.

THE COURT: I'm sorry, I misunderstood you.

MR. HUGHES: Excuse me, your Honor.

THE COURT: Very well. Then there is nothing before the Court.

Anything further, gentlemen?

MR. STOVITZ: Does your Honor want to make any type of statement?

I understand that for the selection of the jury process that members of the Press will not be given the seats because these seats will have to be taken by the jury.

THE COURT: Well, that will all be arranged, Mr. Stovitz. I'm not going to take it up now.

MR. KANAREK: I do have this request, your Honor:

It is our position that it is most prejudicial to Mr. Manson to have people who are close to him go through -- females -- go through a searching process while we are purportedly talking voir dire to the jury.

I think it is most prejudicial to Mr. Manson, your Honor, and I beg the Court to order this searching process not --

THE COURT: I don't know what you're referring to. What searching process?

MR. KANAREK: I am talking about every person coming

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through that door is given some kind of a search.

THE COURT: Yes, there will be a cursory search of all persons coming into the courtroom.

MR. KANAREK: It is our position that this is a denial of a fair trial.

THE COURT: You already stated that objection, sir.

MR. KANAREK: Especially in the purview and observation of potential jurors.

THE COURT: It will not be in the purview and observation of potential jurors.

MR. KANAREK: With the hustle and bustle outside of the door, your Honor, the jury would have to be almost deaf, dumb and blind not to witness and know what is going on, your Honor.

THE COURT: All right. Anything further, gentlemen?

MR. STOVITZ: Nothing, your Honor.

THE COURT: This Court will adjourn until 9:00 A.M. tomorrow morning.

(Whereupon, proceedings were adjourned at the hour of 2:50 P.M. until 9:00 A.M., Tuesday, June 16, 1970, this same department.)

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1-1.

LOS ANGELES, CALIFORNIA TUESDAY, JUNE 16th, 1970

9:20 A.M.

- - -

THE COURT: Mr. Shinn, are you ready to proceed?

MR. SHINN: Yes.

THE COURT: This matter was put on calendar yesterday on an order to show cause regarding your absence last week.

MR. SHINN: May I explain my situation, your Honor.

THE COURT: Yes.

MR. SHINN: I was calendared June 10th, your Honor, in the Superior Court. I talked to Mr. Reiner, I believe, Tuesday, and I talked to Miss Atkins in the presence of Mr. Reiner.

I had on calendar, I believe, was a motion for continuance which I filed with this Court, and I informed them I would submit it on the documents.

Then I had a short matter in the Hinman matter which was transferred to Department D in Santa Monica.

I talked to Mr. Katz, and Mr. Katz informed me the case was transferred to Santa Monica.

I estimated the time of these two matters to be maybe under a half hour. So Mr. Reiner said he would appear for me on Monday morning.

At that time I was leaving for Tokyo. There was a sickness in the family. So I believe it was Thursday that I received a telegram from my secretary

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indicating that the Court wanted my appearance on Friday morning and I tried to reach Reiner, that was after five o'clock, Tokyo time.

So I finally did reach Mr. Reiner in this Department on Friday morning about 10 o'clock. I talked with Mr. Reiner and I explained to Mr. Reiner that I was in Tokyo and it would be impossible for me to get here in court by Friday morning, and at that time I did not contemplate that this matter would take three or four days, your Honor.

I had no idea.

THE COURT: Where were you on Thursday?

MR. SHINN: I was in Tokyo Thursday. I left Wednesday about 12 o'clock, your Honor.

THE COURT: You left California on Wednesday?

MR. SHINN: Yes, Wednesday about 12 o'clock, your Honor.

THE COURT: Someone told me informally that they had spoken to you on the street on Thursday afternoon.

MR. SHINN: Tokyo or here?

THE COURT: Here.

MR. SHINN: Is that person present in court, your Honor, I was in Tokyo on Thursday, your Honor.

THE COURT: Well, the person that told me that also said later she was not sure it was you, but she thought it was.

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MR. SHINN: Believe me, I was in Tokyo Thursday afternoon, your Honor.

THE COURT: What was your reason for going to Tokyo?

MR. SHINN: There was a sickness in the family, your Honor, and I had to get over there before the 15th because I knew once we started trial here, your Honor, I would never get away.

THE COURT: All right. I find that there was good cause for your absence, Mr. Shinn.

However, I want all counsel in the case to know that they are not authorized to authorize other counsel to appear for them without first getting consent of the Court, except in an emergency as you did.

As it developed, Miss Atkins declined to consent to having Mr. Reiner appear for her so the matter had to go off calendar as far as your motion is concerned.

I don't want to be in that position again. I expect counsel to be here and make every appearance on behalf of their clients unless there is some compelling reason, and you have received the Court's permission in advance.

The order to show cause is discharged.

MR. SHINN: Thank you.

THE COURT: Now, that still leaves the matter of the declaration that was filed by Mr. Fitzgerald on behalf

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of all of the defendants' counsel regarding Mr. Stovitz.

Did you wish to respond to this, Mr. Stovitz?

MR. KANAREK: I would want Mr. Manson to be present, your Honor. He is entitled to be present at every stage of the proceedings.

THE COURT: This is a personal matter involving Mr. Stovitz.

MR. KANAREK: That is our request, your Honor, that Mr. Manson be present.

MR. BUGLIOSI: Your Honor, may this matter be heard in chambers?

THE COURT: Yes, if Mr. Stovitz desires it.

MR. STOVITZ: Yes, your Honor.

THE COURT: Before we take up that matter, then, I want to go to the question of the challenge to the petit jury.

Have you been able to find the material that you were looking for, Mr. Kanarek?

MR. KANAREK: Yes, it's in the Powell and Smith case.

THE COURT: Have you been able to pinpoint it?

MR. KANAREK: If the People have their transcripts here, as they did yesterday, I can.

MR. STOVITZ: We have all four boxes of transcripts. With the permission of the bailiff we locked them up in the anteroom to your Honor's chambers.

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As I stated yesterday, it went up to two hundred and some odd volumes. We don't have it pinpointed.

I thought we had it pinpointed.

However, I have a recent case in which the issues were framed, and I think that what we could do is, during today's recess between 12 and 2:00, get together with counsel and show them the briefs on this other case, show them the transcript on this other case, and as the issues are the same we can get together on this trial rather than on the Powell and Smith trial that went on for several months, I understand.

2.

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2-1.

MR. KANAREK: I don't think that the issues that we framed, that Mr. Maple and I framed, your Honor, are in these other cases.

THE COURT: Well, as long as we are going in chambers now anyway on the other matter, you can start going into the transcripts in the Smith-Powell case and determine exactly what volume and page.

MR. KANAREK: I will be glad to, your Honor, but may I not just make the record but also convince the Court, this Order to Show Cause re Contempt has the masthead of the People of the State of California vs. Charles Manson, et al., in connection with this very case, it is part of the proceedings of this case.

This is a case where the People are asking the death sentence. On behalf of Mr. Manson he is entitled to the right of counsel, he is entitled to the right of effective counsel, he is entitled to the right to confront his witnesses, the people against him, at every stage of the proceedings.

Mr. Stovitz is against him. He is the person that wishes to put him in the gas chambers. There couldn't be anyone more adverse.

THE COURT: This is a matter that has nothing to do with the issues in the case.

MR. KANAREK: Factually it does, your Honor.

THE COURT: I am not going to argue the matter with

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2-2.

you. We will now adjourn to chambers and I will hear counsel for both sides on that matter.

(Whereupon the Court and counsel retire to chambers, and the following proceedings were had in chambers:)

THE COURT: Is everyone here? Very well.

The record will show that this is a conference in chambers at the request of the People in the matter of the declaration filed involving Mr. Stovitz.

All counsel are present.

MR. KANAREK: Your Honor, it is our request that this be done in open court.

THE COURT: You have made that request. Now, this is the third time, Mr. Kanarek. I don't think it is going to get any better if you keep repeating it.

MR. KANAREK: I don't believe that the record will reveal that I have asked that this proceedings be held in open court, your Honor.

THE COURT: I thought that is what you were talking about.

MR. KANAREK: I asked that Mr. Manson be present, your Honor.

THE COURT: I see.

MR. KANAREK: Your Honor, this is the point --

THE COURT: This is a matter which has been brought to the Court's attention involving a question of

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whether or not the publicity order has been violated and whether such violation constitutes a contempt of court. It has nothing to do with Mr. Manson. It involves only Mr. Stovitz, as far as I can see from the papers that were filed on behalf of the defendants.

MR. KANAREK: It does factually in this way, your Honor: Mr. Manson advocates, and he is fostering this order to show cause in re contempt, he is a party, your Honor, to this order to show cause re contempt the same way that a wife --

THE COURT: The only way there is a contempt is between the Court and Mr. Stovitz.

MR. KANAREK: The same thing happens in a domestic relations case, your Honor. The Court sits in this order to show cause in re contempt the same way that the Court does in a domestic relations case.

In this particular case, Mr. Manson is the advocate of this order to show cause and he has a right, as an advocate, to be present, as I say, the same way that a wife does.

THE COURT: This is not a domestic relations case and Mr. Stovitz is not a party to the action.

Now, let's proceed. You have made your objection.

MR. REINER: With the Court's permission, we have agreed among ourselves that I would argue on behalf of

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counsel.

THE COURT: All right.

MR. REINER: I think, first, just by way of introduction, I think it is necessary to indicate that we are not interested in seeing Mr. Stovitz held in contempt. That would be vindictive and pointless.

MR. KANAREK: May I interrupt Mr. Reiner on this, your Honor?

I have not -- may I confer with Mr. Reiner just a moment, your Honor?

MR. REINER: May I go on and we can confer later?

THE COURT: I am really not interested in whether you are seeking to have Mr. Stovitz held in contempt or not. Certain facts have been presented to me. If I find they constitute contempt, I probably will find him in contempt. If I find they don't, I won't, and I am not really interested in whether you want me to do it or not.

MR. KANAREK: I understand, your Honor, but, however, Mr. Reiner does not speak for me. I think he misinterpreted another agreement that we had.

MR. REINER: Your Honor, if I might be permitted to go on without interruption perhaps the point will be made clear.

When I say I do not wish to see Mr. Stovitz held in contempt, what I am indicating is that our motives are not as base as being vindictive in this matter.

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2A3.

We feel that a terribly important issue has arisen in this matter and we bring it before the Court.

We have extended every possible courtesy to Mr. Stovitz, to the extent of providing Mr. Stovitz with the tapes so that he might play it for himself and refresh his memory as to what was said so that he may not, through inadvertence, forget some of the incidents.

There are five points that we feel are important.

First, the violation re publicity is definitive. That is, in going through the order re publicity carefully, every single point made in the order has been violated in the particular interview given to the two reporters for the Rolling Stones, even to the extent of showing autopsy photos, alleging homicides that they do not even intend to offer in the trial, referring to three homicides other than the Hinman homicide, which they indicate they do not have evidence to go forward with, but they discuss the motives.

At one point they even indicate they have no evidence but that it is speculation.

THE COURT: Are you indicating that is on the tapes?

MR. REIKER: Yes.

THE COURT: What you are saying now isn't in the declaration.

MR. KANAREK: Your Honor, I prepared the declaration

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2a6. in re contempt, your Honor, and most respectfully, Mr. Reiner, I must in this instance say, is not speaking for me, and I have not agreed that he speak for me in this matter, and Mr. Hanson has not agreed.

MR. REINER: Then it should be stated that I am speaking on behalf of myself and Miss Van Houten.

THE COURT: What I am indicating is that what you are saying is not before me. I haven't seen it in the declaration and I haven't heard it on the tape.

MR. REINER: Your Honor, attached to the declaration is also an exhibit of the article, and these matters are included in the article.

THE COURT: Of course, the article is not evidence of what Mr. Stevits did. It is simply an article.

MR. REINER: What we are saying is that the information, leaving for the moment who provided this information to the reporters, information of the sort that I have just described was provided to these reporters, and that information, if by someone coming within the purview of the order re publicity, would constitute contempt.

THE COURT: The declaration which was filed by all of these defendants' counsel alleges certain things. It would appear to me that if the things alleged in the declaration are true, that there has been a violation of the order.

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2a7. I don't know if those things are true or not. I would suggest that we let Mr. Stovitz respond.

MR. KANAREK: May I be heard, your Honor?

THE COURT: I don't take these things as being true, necessarily, because they have been alleged in a declaration, but at least they present a prima facie case.

MR. KANAREK: Yes. And what we are asking, as I say, I prepared this order to show cause in re contempt and the declaration which has been executed by Mr. Fitzgerald. I followed, I attempted to follow, the law as precisely as possible. I had the books spread out, and so forth.

I believe that the procedure at this time is for your Honor to issue the order to show cause in re contempt, and then we have the hearing.

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3-1.

Now, there is no reason why Mr. Stovitz should be different than any other -- any other alleged contemner.

So we ask that your Honor issue the order to show cause in re contempt.

I also believe Mr. Stovitz is entitled to have counsel. He is entitled to bail; he is entitled to a stay in the sense of preparing for it.

I believe this is a very serious matter, but I also would be the first to advocate that he be allowed full time to prepare and not have the matter -- not have him found in contempt without having his day in court.

But we do ask, your Honor, that the law be followed; that your Honor issue the order to show cause in re contempt, and then we have the hearing; that way Mr. Stovitz is no different than myself or anyone else.

And I believe the orderly processes of justice dictate that that be done, and we do so ask your Honor.

THE COURT: Well, when I put the matter over yesterday until this morning I intended it to be an order to show cause. I may not have used those words, but I told all counsel including Mr. Stovitz that the matter regarding his alleged contempt would go over until this morning.

MR. KANAREK: Then we could -- we would ask your Honor to sign the order to show cause in re contempt.

THE COURT: Don't worry about that, Mr. Kanarek, if

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3-2.

I make an order to show cause, that is it, whether I sign it or not.

MR. STOVITZ: We understood it to be an order to show cause today, your Honor. I am prepared to testify at this time and get on with the hearing if it is agreeable with the Court.

MR. KANAREK: Your Honor, in this regard we ask time to bring in witnesses, percipient witnesses, in connection with this matter.

It is not a matter that can be d'sposed of summarily.

THE COURT: Well, I will determine how it is going to be disposed of, Mr. Kanarek. You initiated the proceeding with your declaration.

MR. KANAREK: That is correct. Now we come to this problem, your Honor --

THE COURT: Now, just a moment, I know what problem we have come to.

MR. KANAREK: Yes.

THE COURT: If you don't mind, Mr. Kanarek, I will conduct this proceeding.

MR. KANAREK: I am sorry, your Honor. I hadn't finished.

THE COURT: Mr. Stovitz did not misunderstand yesterday. He understood when I put the matter over to this morning it was in the nature of an order to show

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3-3. cause regarding these allegations.

I now want to hear from him.

MR. KANAREK: Well, then, there is lack of due process in that the County Counsel, your Honor, when a contempt is issued, an order to show cause in re contempt is issued, the County Counsel represents the Court. The Court cannot be -- it puts the Court in an impossible position as both advocate and lawyer and judicial officer.

The County Counsel must represent the Court, it is our position, otherwise Mr. Manson's position here is denied equal protection of the law.

THE COURT: Mr. Manson is not involved in this at all.

MR. KANAREK: He is the one advocating this order to show cause in re contempt.

THE COURT: All he does through his counsel, is bring certain facts to the attention of the Court. It then becomes a matter between the Court and the party involved in this case, Mr. Stovitz.

MR. KANAREK: However your Honor, I cannot agree with your Honor one hundred per cent in what your Honor has stated, but I am sure your Honor will agree with me that the County Counsel prosecutes on behalf of the position that we advocate and you can rest assured if I were the one that were in this court, your Honor, on an order to show cause in re contempt, there would be three

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County Counsel out here --

THE COURT: I don't know anything about that, Mr. Kanarek, we are going to go ahead with this now.

Now, Mr. Stovitz.

MR. STOVITZ: I wish to be sworn, your Honor.

THE CLERK: Shall I swear the witness?

MR. KANAREK: Before we proceed, your Honor, I believe we, as being the advocates, put on our case first.

THE COURT: You put on your case when you filed your declaration.

Swear the witness.

THE CLERK: You do solemnly swear that the testimony you may give in the cause now pending before this Court shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do swear.

THE CLERK: State your name, please.

THE WITNESS: Aaron H. Stovitz.

MR. KANAREK: Your Honor, may I make the record on this, or try to convince the Court --

The point of the matter is, your Honor --

THE COURT: Mr. Kanarek, now, you have done nothing but talk since we have gotten in here. You have made your objection; you stated your position.

Now, we are going to proceed.

Go ahead, Mr. Stovitz.

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3-5.

MR. STOVITZ: On June the 10th, 1970, I was shown "The Rolling Stones" by Mr. Fitzgerald. This was an issue dated June 25, 1970.

THE COURT: Let's have a little quiet.

MR. STOVITZ: That was an issue dated June 25th, 1970, which I have in front of me. I would like to refer to it as we testify, if any party wants to enter it as an exhibit I have no objection.

I read from pages 24 to and including page 48, last night, which contains the entire article involving the Manson case.

I paid particular attention to pages 28 through and including 31 which are attached to the declaration filed by Mr. Fitzgerald.

Mr. Fitzgerald was also kind enough to furnish me, although it is only two volumes of tape recordings actually, three tape recordings, one on two sides, and I listened to these tape recordings last night and compared them with the article, and I do admit that I did have a conference with a man who identified himself as David Felton, and he introduced his associate, David Dalton.

I believe the date was March 19th, but counsel says March 11th, because in the tape recording as well as the article it refers to Mr. Manson throwing the Constitution into the waste paper basket, and Mr.

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3-6, Fitzgerald says that that occurred on March 11th.

However, I believe that the -- when we are referring to the court records, it was March 19th that the conference took place.

This interview took place in my office in this building at around lunch time. It began by David Felton telling me that he was doing a special article for the Rolling Stones, and that he would like to have some background information from the prosecutor's point of view; that he had spoken to various members of the Manson family; that he had spoken to Mr. Manson himself, and he's got their version. He would like to know what we have by way of evidence.

I immediately told him that there was a publicity order in effect, and because of the publicity order I could not tell him anything concerning the facts of the case other than my rank, name and serial number.

Mr. Felton and I spoke for about ten or fifteen minutes, and in that ten or fifteen minutes we had coffee, and I told him the problems that we had facing us.

And he said "Well, suppose you just tell me what you are going to prove."

I said "No, I cannot do that because we are going to have a trial and you will find that out yourself."

I said, "However, you can go to the newspapers and read everything there is in the newspapers on it and get a pretty good idea of what took place."

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3-7.

I said, "For instance, today there was a report in the newspaper about Linda Kasabian being taken out by the District Attorney's Office, and that she might be a witness."

I said, "The author of that article did not dream that up. He went out and investigated; maybe he had somebody at this Chinese restaurant where it took place and they gave him the information."

I said, "This is what you are supposed to do."

He said, "Well, isn't there any way you can help me? I've got a deadline to meet," and the trial at that time was set for April 20th for trial.

I said, "No, I am sorry, because of this publicity order I cannot give you any of the information or any of the facts of the case."

So then we talked back and forth a little bit, and he said, "Well," he said, "what about this newspaper article; is there any truth in it? Is she going to testify as a witness?"

I said, "Look," I said, "If you promise me that you will not use my name, you will not use my words, you will not quote me in any respect, I will show you which newspaper articles deal with the facts in the case. You go out and read those newspaper articles, go out and interview the witnesses, do your own work and it will help

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3-6.

you in some respect."

He says, "Well, you don't want me to use your name."

I said "No."

He said "Can I quote you?"

I said "Of course not. You can't quote me. That would be in effect using the evidence in this case."

So we talked back and forth on that point.

And then I believe we reached an understanding that he could interview me and that my interview would consist of merely references to things that had been in the newspapers.

Mr. Fitzgerald furnished me with a partial transcript of the tape recordings, and I would like to quote from that if I may.

It starts off as follows, it has my voice on it:

"Well, let's do it this way. I will answer your questions if you give me one definite promise"--

MR. KANAREK: "All of your questions," your Honor, if I may.

MR. STOVITZ: "I will answer all of your questions if you will give me one definite promise, that you don't quote me. I believe that this Court order that the Judge has issued to protect the defendants so that they get a fair trial. If

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more law enforcement officers had made responsible comments, the Court order would not have been necessary."

MR. KAMAREK: There is an extra "S" in there that the Judge has issued to protect the defendants.

MR. STOVITZ: By the way, this transcription is not a word for word transcription. I tried to compare it with the tape yesterday as I listened to it, but there are certain things that appear on the tape that are not in the transcription, but it is a fairly accurate one.

I will start over again.

THE COURT: All right.

MR. STOVITZ:

"Well, let's do it this way. I will answer all of your questions if you give me one definite promise, that you don't quote me. I believe that this Court order that the Judge has issued to protect the defendants so that they get a fair trial -- if more law enforcement officers had made responsible comments the Court order would not have been necessary. But some police officers were shooting off their mouths and acted recklessly and used some words recklessly, and the defendant might not get a fair trial. So the Judge issued the gag order.

"Unfortunately that curtails us from telling

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3-10. you what the evidence is going to be because this is a direct violation of the Court order but, for instance, I will give you Susan Atkins."

And then on the transcription it is "Unintelligible," and we listened to the tape and I used the words "New story."

"You have read the Times article and the article in the Herald about Linda Kasabian."

I said, "You can get what you want from there." That does not appear on the transcription, but it is on the tape.

"It was in yesterday's Herald."

Then I said something else that I cannot remember now but it is on the tape.

"Now, Linda is a true flower child. She came out here."

And we started to talk, and then there was an interruption either by a telephone call or somebody coming into the office. Then either Mr. Dalton or Mr. Felton said "Can we tape record this?"

I then went on, I said, "Well, you will have to wipe it off afterward. I don't want my voice reproduced on any radio show. I know that you can't take shorthand. If you use it and wipe it off, okay. You understand that I do not know you from Adam. It was just by coincidence that Jerry

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3-11.

Cohen and Chuck Powers related that you worked for a newspaper at one time. This paper here is a pretty good sheet and that you are not square but, on the other hand, you are square shooters. So I am going to talk to you. So if you want to use it with the understanding that you will erase it, it's okay."

Someone asked me "Do you want us to use your name? Can we use your words but not your name?"

I said "You can't use my words. These are the words that will be used by other people from these newspaper articles."

I then went on and started to talk about Linda Kasabian coming out to California, moving out to the ranch, and at the end of the third tape I then told them as follows, I made some notes yesterday when I read it, I said:

"Do me a favor, when you write your article make sure that you don't publish any of the things that I tell you. You can't use any of the facts of the case other than what you picked up in the newspapers or by way of your personal interviews with witnesses."

I then went on and I told them of the witness Harold True.

I said, "Go out and talk to him; he will talk

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to you."

I said, "He hasn't any position in this case. He doesn't know whether the defendants are guilty or innocent. Go out and talk to him. Get your own views on it."

In the article I told him things in confidence such as my own personal feel for the evidence. But I told it to them feeling that at all times they would not publish it.

I notice that in the article on page 29, right below Susan Atkins' picture there is a comment that I made to them, thinking that at all times they would keep it confidential.

I said on LaBianca, "I will rap with you on the level. Our case is not that strong. There are no fingerprints, no one saw them. All we are depending on is the testimony of Susan Atkins up to now. If she doesn't testify, which she says now she isn't going to, then Linda Kasabian corroborates that."

Then I went to explain my position.

At all times when I was talking to these gentlemen, during recesses and during interruptions in the conversations, I kept stressing to them that what I was telling them was not for publication; that it was a private conference I was having with them, and that they

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would do their own investigative work from other newspaper articles or from the interviews of witnesses.

The tape recordings take about an hour and a half at a time, and as I recall we talked for a good two hours in my office.

After that I never saw the article or never had any contact with them at all.

I never received any compensation for this article, nor any promise of compensation, nor any offer of compensation.

I spoke to them as I would to a citizen wanting to give some of the background, promising me he would not publish it in any way, shape or form.

MR. BUGLIOSI: May I make a statement, your Honor?

MR. KANAREK: If I may, just to clear it up, this is in connection with the partial transcript Mr. Stovitz had in his hand.

I believe where it stated the other party, Cohen, "Do you want us not to use your name? Can we use your words but not your name?"

Mr. Stovitz answers "My words" --

THE COURT: Who prepared the transcript?

MR. FITZGERALD: I prepared the transcript personally. I listened to the tape and I typed this document personally.

THE COURT: This is your version. Mr. Stovitz is

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apparently giving his version.

MR. FITZGERALD: That is correct.

MR. STOVITZ: I have the tape here.

MR. FITZGERALD: The tape is of extremely poor technical quality. I might say I did my best to accurately put it down, but there certainly is reasonable room for difference here about one or two --

THE COURT: Do you offer this transcript as an exhibit as your version? The record now reflects what Mr. Stovitz says as his recollection of what happened and what was said.

It differs slightly from the transcript.

MR. FITZGERALD: I don't think there is any substantial material difference, but may that one page typewritten document entitled "Partial Transcript of Tape Recording" be marked Exhibit A.

THE COURT: Exhibit A -- there is an Exhibit A to the declaration which is the publicity order. And there is something else here which I imagine is B.

MR. FITZGERALD: The publicity order, I think they are 1 and 2, your Honor.

THE COURT: Well, let's just offer it as a separate exhibit A-1 on behalf of the defendants.

IMX.A-1

MR. EUGLIOSI: May I be heard, your Honor?

THE COURT: Just one second.

MR. KANAREK: May it be deemed that Mr. Fitzgerald

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has been called and sworn and testified under oath that the words --

THE COURT: No, it may not. We already made the record on that, Mr. Kanarek. He stated what it is.

MR. KANAREK: Then we offer this into evidence.

THE COURT: It has already been offered.

MR. KANAREK: Is it accepted in evidence?

THE COURT: It will be received for the purpose of this hearing.

MR. KANAREK: In evidence?

THE COURT: Let's move along, gentlemen.

Did you have something to say?

MR. BUGLIOSI: Yes, your Honor, very briefly.

I think Mr. Stovitz' statements, your Honor, "On La Bianca I will rap with you on the level, our case is not that strong."

I think this is extremely powerful circumstantial evidence. It was his state of mind everything he was telling them would not be repeated --

MR. KANAREK: Then I must object, your Honor.

MR. BUGLIOSI: May I finish?

THE COURT: Mr. Kanarek, don't interrupt.

MR. KANAREK: He has no standing. Just to make the record may I -- he has no standing to represent --

THE COURT: Anyone I want to hear on the subject has standing, Mr. Kanarek. I want to hear Mr. Bugliosi on

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it at the moment.

MR. KANAREK: Very well.

MR. BUGLIOSI: This is extremely strong evidence that Mr. Stovitz did not know, and it was his understanding that his statements would not be repeated publicly.

4fol.

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Now, I would draw the Court's attention to Page No. 2 of the publicity order which has this language:

"It is the order of this Court that no party to this action nor any attorney connected with this case as defense counsel or as prosecutor release or authorize a release for public dissemination of any purported extrajudicial statements of the defendant nor shall any such person make any statement for public dissemination as to the existence or possible existence of any document, exhibit, or any other evidence the admissibility of which may have to be determined by the Court."

It is our position, your Honor, that Mr. Stovitz did not make these remarks for public dissemination. This was a private, confidential conversation with Mr. Stovitz understanding that what he was telling these people would in no way be released to the public.

They breached that agreement. This does not constitute a violation of the publicity order, your Honor, by Mr. Stovitz. It is very, very clear that this was a private conversation. It was not supposed to be repeated. The fact that they did not live up to their agreement does not make Mr. Stovitz in contempt of this publicity order.

THE COURT: Well, do you contend that this publicity

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order is so defective that anyone of you, for example, can tell some third party in confidence with impugnity anything you wanted to and then that third party could then go out and disseminate it to the public?

MR. BUGLIOSI: I say this, your Honor --

THE COURT: I can't read it that way. I am sure that wasn't the intent.

MR. BUGLIOSI: I don't see that the publicity order, your Honor, was meant to curtail any party's freedom of speech under the First Amendment.

THE COURT: I think that is exactly what it was intended to do.

MR. BUGLIOSI: I think everyone here has spoken to other people about the case, to be honestly frank and candid. I think all of us have spoken to other people about this case, but not for public dissemination.

I don't think that the publicity order forbids people from talking privately about this case to third parties.

THE COURT: I find it difficult to believe that an experienced, knowledgeable lawyer would talk to two known reporters and expect that it was anything more than exactly what it turned out to be, an interview which they would use in whatever way they saw fit and without any restrictions on them, because they don't come under the publicity order.

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MR. BUGLIOSI: In all deference to the Court, I can't agree with that.

THE COURT: What was the purpose of the conversation if it wasn't for dissemination, for the benefit of the reporters?

MR. BUGLIOSI: I think Mr. Stovitz can make a statement to that effect. It was to help give them background, your Honor.

THE COURT: Maybe he placed too much trust in these people, but the result can hardly have been a surprise.

MR. BUGLIOSI: I think Mr. Stovitz would like to make a remark on that.

What was the purpose, Mr. Stovitz?

MR. KANAREK: Your Honor, if I may?

It is my position that Mr. Bugliosi has a conflict of interest here, a fatal conflict of interest. He has no standing, your Honor.

The Code makes it clear, your Honor, that he cannot practice law before the Court. He is on the payroll of the District Attorney, he works for the District Attorney. I think the County pays him. The law is clear that he cannot practice law privately.

This is a civil matter in which Mr. Stovitz is a defendant before the Court, the same way that Mary Brunner yesterday was a civil litigant before Judge Keene when he threw her in jail because she did something

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4-4. contemptuous, allegedly, in the Beausoleil case.

So I must, your Honor, most respectfully, object to Mr. Stovitz being defended -- Mr. Bugliosi defending Mr. Stovitz in these proceedings, and I ask the Court to order Mr. Stovitz to cease and desist in that because Mr. Stovitz is allegedly the contemnor and he has a right, as I say, to private counsel, counsel of his own choosing, and we have a right, your Honor, to advocate our position.

THE COURT: All right, you have made your point, Mr. Kanarek.

MR. STOVITZ: In answer to your Honor's question, I am an experienced prosecutor and I am a knowledgeable prosecutor. I have spoken to many newsmen for the record immediately outside the court, before going into court, and I have always abided by the Court's publicity order scrupulously.

I personally believe, your Honor, that the publicity order in this case has been able to move the case along and kept it out of the newspapers.

I was somewhat taken in by these two gentlemen who were telling me that they had an assignment, they told me they were going to do an article, that they had interviewed all these people, and that they were going to keep my confidence, not use my words, but merely use my background material to go and seek their own story from

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the newspapers.

As your Honor knows, and it is a matter of court record, there was a motion for change of venue. At that time, various newspaper articles were introduced in evidence.

Some of these newspeper articles I showed to the reporters when they were talking to me. In the very end of the tape recording, I said, "Okay, now that we have talked, go to the library, get out these newspaper articles, read them, and you will be able to see for yourself what the People's case is."

I was quite naive in believing that they would do the work themselves. I thought that they would respect my confidence.

I believe that the publicity order prevents me from talking to people who are then going to give it to other people for publication. I have not talked to people with the idea that they were going to publish anything in any newspaper or any magazine or any book.

These people told me that they were going to put an article out and they wanted some background information, and I respected their statements, and I made them promise that they would keep this confidential.

They failed to do so.

4A.

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E 4A.
Ext.

For instance, they said that they were going to keep the tape recording for themselves and not use it for any other purpose. Yet this tape recording that I have here, which was given to me by Mr. Fitzgerald, is a copy of the tape recording, and it is obvious because there is a repetition of two or three phrases when they go to a new tape. So, this tape recording is a copy of, apparently, the original tape recording.

MR. LIOLIOS: Your Honor, the Court stated that Mr. Stovitz is an experienced prosecutor and must have known that these people would have used it for any purpose that they desired, and that he should not have been surprised.

I again go back to Indiana. "I will rap with you on the level. Our case is not that strong."

I submit that Mr. Stovitz, if he knew they would paint these words, would never have said this, would never under any circumstances have said this.

I think the statement is very illuminating on Mr. Stovitz' state of mind, your Honor.

THE COURT: I am not saying that Mr. Stovitz intentionally or was consciously convinced that they were going to do it. All I am saying is that I find it difficult to believe that he would be so naive as to believe that there wasn't a good risk of something like that happening.

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4s2.

MR. EUGLIOSI: We will stipulate that he was naive on this, but I think he believed them, he took their word.

He did not make the statement for public dissemination. They are the ones who decided to disseminate it and breach the agreement that they had.

THE COURT: Does anyone else want to be heard on this?

MR. KANAREK: Yes, your Honor.

MR. REINER: Yes.

THE COURT: I can tell you right now that I am not going to rule on this at this time. I want to get the transcript and review the transcript and the evidence and then I will make a finding on it.

MR. STOVITZ: Does your Honor think it will be best to have the entire newspaper article, not just the four pages?

THE COURT: I think I have it, don't I?

MR. STOVITZ: That is just the four pages.

MR. FITZGERALD: In connection with the other motion.

THE COURT: Attached to the notice of motion is the entire newspaper, as I understood it.

MR. FITZGERALD: There were two motions before the Court.

MR. KANAREK: One is the motion to dismiss and the other is the order to show cause in re contempt, which I

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4a3.

prepared.

THE COURT: I already told you on the motion to dismiss that I would give each side an opportunity to file additional matters -- yesterday I said that -- and following next Wednesday or Thursday, the 25th of June, which would be the last day for the People to respond to anything that the defendants have filed on or before June 22nd, that I would then make a ruling on that motion.

But in consideration of this contempt matter, I will also --

MR. KANAREK: You have it in the motion to dismiss.

THE COURT: -- I will review the newspaper, the entire copy, which is Exhibit 2 to the Notice of Motion to Dismiss.

MR. KANAREK: Correct.

MR. STOVITZ: That is agreeable.

THE COURT: I assume that is what you wanted me to do.

MR. FITZGERALD: Yes.

MR. KANAREK: Yes.

And I also move that the tapes -- I think your Honor has two tapes -- we offer those into evidence in connection with this matter.

MR. STOVITZ: We have no objection to that at all.

THE COURT: I have no way of playing the tape.

MR. KANAREK: We ask that they be made a permanent

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record of this court, your Honor.

MR. STOVITZ: It was not furnished by you, Mr. Kanarek.

If the party who furnished them to me would make the offer --

MR. KANAREK: I am authorized by Mr. Fitzgerald to do that.

MR. FITZGERALD: If you have no objection?

MR. STOVITZ: I have no objection.

THE COURT: I will see that they are marked for identification. I am not going to permit them to come into evidence without any foundation and without my having heard them.

MR. KANAREK: I see.

I believe that we can -- May I speak to Mr. Stovitz a moment?

MR. STOVITZ: You can say anything you want to on the record.

MR. KANAREK: Then in that case, I will ask Mr. Stovitz: Does he object to the foundation?

MR. STOVITZ: I say these tapes have my voice on them and have the voice of the person that I am speaking to.

I do not say that these tapes are the entire transcription of the conversation because it is obvious from listening to them that we were talking about

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4a5. ten or fifteen minutes before we started on the tapes and that there were interruptions in between.

THE COURT: We will just mark the tapes for identification. There is no point in offering them in evidence.

I haven't heard them and I have no way of playing them. They are meaningless so far as exhibits in evidence. They don't mean anything to me.

MR. KANAREK: Yes, your Honor. We would get them played for the Court. We offer them.

MR. FITZGERALD: Is your Honor interested in listening to them?

THE COURT: I don't know whether I am or not. I don't know what is on them.

MR. FITZGERALD: In the event you become interested, your Honor, maybe we can make arrangements for your Honor to hear them.

THE COURT: It is not a matter of what I am interested in. You people are putting on your respective cases. I will consider whatever is before me whether I am interested or not.

MR. STOVITZ: I think that the tapes are illuminating in this respect: No. 1, you will see that the authors of the article quoted in the newspaper article practically verbatim my words but in different sequence. They didn't follow the same sequence. It is illuminating there.

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4a6.

It is also illuminating to find out the nature of my tone of voice and what I believed at all times; but I want your Honor to be made perfectly aware, just like in Defendants' Exhibit A, that there was previous conversation had before the tape recording was started. There was a conversation, and I testified under oath --

THE COURT: How long does it take to play these tapes?

MR. STOVITZ: An hour and a half; a half hour for each side.

THE COURT: We don't have time today. If you want to set another date for the playing of the tapes, if that is what both sides want, I will listen to them, but not today.

MR. KANAREK: Fine.

May we mark the tapes, your Honor?

THE COURT: We will mark them.

MR. STOVITZ: Mr. Fitzgerald's exhibit B? Is that all right?

MR. FITZGERALD: Yes.

MR. KANAREK: They are on behalf of Mr. Manson also.

MR. BUGLIOSI: Mr. Stovitz was making another remark.

MR. STOVITZ: Yes.

I testified under oath that the conversation that I had about the tapes being confidential and private, in a confidential conversation, was stated before the

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4n7. tapes started, as evidenced by Defendants' Exhibit A.

THE COURT: Then when do you want to play the tapes? Tomorrow morning?

MR. STOVITZ: I will stipulate that the Court can hear them outside of the presence of the parties.

THE COURT: In other words, I want to play them some time other than during the normal time of hours of trial. I don't want to take up trial time, the time we have for selecting the jury. If we can do it before or afterwards, fine. I think before is best.

4B.

4B-1

MR. FITZGERALD: I don't know if it is agreeable with everybody but I would suggest that your Honor could listen to the tapes at a time convenient to your Honor, not necessarily in the presence of counsel.

THE COURT: Who has a player?

INX.B. tape.

MR. STOVITZ: I have one today.

THE COURT: If someone wants to leave me a player, I will play these in the morning before the trial starts.

MR. STOVITZ: I would like to get one from our exhibit room, your Honor, rather than use my son's.

We will make one available if counsel can't get one.

MR. KANAREK: Your Honor, I have no objection to the Court hearing them at the Court's leisure. However, your Honor, I would like to hear also what the words are that are uttered.

THE COURT: I have no objection to that.

MR. KANAREK: Since Mr. Stovitz says I may do it on the record, may it be stipulated that these tapes go into evidence?

MR. STOVITZ: I have no objection.

MR. KANAREK: I guess, then, they may be in evidence?

THE COURT: All right. Then I will receive them in evidence.

MR. KANAREK: On behalf of Mr. Manson.

THE COURT: And I will listen to them as soon as I

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b 4b-2.

am provided with a machine by someone to listen to them on.

MR. SHINN: Please be careful, your Honor, that you don't press the wrong button and erase them. If you press the wrong button it erases them.

MR. KANAREK: May we ask this, your Honor, that when they are played, because I suppose all of us have mechanical problems with tape recorders, may the court reporter be present?

I move the court reporter be present and that he take down word for word whatever he hears as a official court reporter from those tapes.

MR. STOVITZ: I object on behalf of the court reporters. That is cruel and unusual punishment.

The tapes are not of good quality, your Honor, they are reproductions of, apparently, the original. I had a great deal of difficulty listening to them. I had to use an earphone at times to hear what was said.

THE COURT: I am not going to do that, Mr. Kanarek. I will listen to them. They are in evidence.

MR. KANAREK: This is our request, your Honor.

I would ask, then, that your Honor defer -- we will bring in experts in the tape recording field, because we need the transcript.

We need the transcript of those tapes.

THE COURT: For what?

MR. KANAREK: We need it for perhaps proceedings in

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this court as well as proceedings in other courts, and any destruction of those tapes will deny Mr.Manson due process not only before this Court but before possibly any and all other courts, and I will ask, then, that they be reproduced by experts in the tape recording field.

THE COURT: Not in this proceeding they are not going to be, Mr. Kanarek. We are going to bring this proceeding to an end very quickly now and get on with some other things.

MR. KANAREK: Right.

And we would ask your Honor to protect the integrity of the tapes.

THE COURT: You are the one that wanted them in evidence and they are now in evidence.

MR. KANAREK: I am suggesting a way which will protect the evidence and at the same time allow your Honor to hear them.

Now, if there is any chance that they are going to be wiped out, I am sure by mistake or by someone pushing the wrong button on the tape, I am moving at this time that --

THE COURT: Are there any copies?

MR. STOVITZ: These are copies of the originals, as is obvious, your Honor.

THE COURT: Where are the originals?

MR. STOVITZ: I don't know, your Honor. Mr.

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Fitzgerald furnished these to me yesterday.

As your Honor turns over tape 1 to the side of tape 2 -- to the other side -- you will see that a sentence or two is repeated. There is also a little repetition somewhere else along the line. So, it is obvious that these are copies of another original.

MR. KANAREK: These are very important for Mr. Manson, your Honor, and no one can be hurt by my bringing in --

THE COURT: Why is it important to Mr. Manson?

MR. KANAREK: Because our position is clear.

THE COURT: Not to me it isn't.

MR. KANAREK: Mr. Manson cannot get a fair trial in this community. No matter what they say when they get on the stand --

THE COURT: I am asking you about the tapes. You made the statement about the tapes. Why are they important?

MR. KANAREK: These are very valuable evidence not only in this court but possibly the Federal District Court, the Court of Appeal, the Supreme Court of California, the Ninth Circuit and the United States Supreme Court.

Mr. Manson is charged with some serious crimes here. These crimes that he is charged with are such that alone --

THE COURT: We all recognize that they are serious,

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but I am still trying to find out what the tapes have to do with it?

MR. KANAREK: They show that as a result of State action, Mr. Manson has been denied -- denied -- a fair trial as contemplated by the Constitution. He has been denied a fair trial because of the publicity. Shepard vs. Maxwell --

THE COURT: I don't want to hear all of those arguments again, Mr. Kanarek. I see your point now.

We are not now hearing the motion to dismiss, which I will have to rule on next Wednesday or some time thereafter.

MR. KANAREK: We ask the integrity of the tapes.

THE COURT: Do you have any suggestions about the tapes?

I suggest that they be withdrawn and whenever someone wants to come in here with a machine and play the tapes for me I will be happy to listen to them.

MR. KANAREK: May I suggest that we leave them in the custody of the court, and I will ask the Court not to play them until we get -- I would rather have them here so there is no chance of them getting lost, and then have the Court not listen to them or do anything with them mechanically until at a time when I am present on behalf of Mr. Manson.

I ask that they remain here, your Honor, and

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4b6. be untouched, unplayed, in view of the possibility that they may --

THE COURT: At the moment they are in evidence and I am not going to do anything with them until someone works out some kind of a procedure that permits me to hear them.

MR. KANAREK: Thank you, your Honor.

MR. BUGLIOSI: Your Honor, may I bring up two points at this time?

THE COURT: Just a moment.

Are you still talking about this matter?

MR. BUGLIOSI: No.

THE COURT: All right.

As I have indicated to you, I do not wish to rule on this matter until I have had an opportunity to review the transcript and the exhibits and the tapes -- if someone wants to play them for me -- and I would anticipate probably ruling on this at the same time as I rule on the motion to dismiss.

Now, is there anything else on this matter?

MR. BEINER: May I be heard?

MR. KANAREK: Yes, your Honor. One thing.

I would ask to be notified prior to the time that those tapes are played. I gather it wouldn't be done unilaterally.

MR. STOVITZ: I suggest that Mr. Kanarek bring a

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tape recorder up, make an appointment with the Court, and I will stipulate to my absence, that I need not be present, and Mr. Kanarek providing the tape recorder could listen to it with the Court. I have no objection to that.

MR. KANAREK: It is the Judge that makes the order, and I will follow whatever the Judge orders, except that I ask to be present.

THE COURT: To make it perfectly clear, I won't listen to the tapes unless all of you are present or you have indicated to me that you don't care to be present.

MR. KANAREK: Thank you, your Honor.

THE COURT: So you will have to work out something between yourselves then.

In the meantime, the Clerk will keep the tapes in his custody.

Anything further?

4C.

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4C-1.

MR. REINER: Yes.

MR. BUGLIOSI: I have two unrelated matters, but go ahead, Mr. Reiner.

MR. REINER: This is a related matter. I realize the proceedings have gone on for an extended period of time, but I have not yet been heard, your Honor.

There are two points that I think are terribly important that we want to make on behalf of Miss Van Houten.

One, we do dispute the question of the conduct on the part of Mr. Stovitz with respect to whether this was to be published or not published. We feel that it is clearly indicated by the tape and by the article that this was intentional conduct, that at the time that he made these remarks to the reporters that it was his intent and his knowledge that these remarks were to be repeated in a periodical but that they would not be attributed to him by name, but that he fully expected that all of this information would find its way into a periodical.

What we would want to point to is the remark by Mr. Stovitz early in the article "For your readers to fully understand," and then he goes on and gives some background. So, he is speaking in terms of readers.

Secondly, the two reporters were brought in by two other reporters from the Los Angeles Times, one of whom has been covering the case from time to time, Jerry Cohen, and also another reporter, Ron Einstoss, who has covered

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the trial as his beat up until quite recently.

So, I think that would indicate that there was knowledge and intent on the part of Mr. Stovitz that this information be published.

Thirdly, the point was made by Mr. Stovitz, and I think also perhaps by Mr. Dugliosi, that the information that was given to these reporters was information that had already found its way, at least in substantial part if not entirely, into the newspapers. And I think that raises a question also that is answered by what I find to be substantial and convincing evidence in the transcript itself that this information had been provided previously to the Los Angeles Times, also by the District Attorney's Office, perhaps Mr. Stovitz individually, but the District Attorney's Office in any event.

Now, the clear and convincing evidence that I am referring to is simply this: It is indicated therein that Mr. Stovitz had these two reporters in his office; that he opened up the file and he laid it out on his desk, and he started going through it, laying out what amounts to substantially the entire case of the People.

During the course of doing this, a reporter who was assigned to the trial, Ron Einstoss, came into the room and sat there for a period of time, conversed with the parties, and then left.

Now, the very fact of a reporter being assigned

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to the trial by the Los Angeles Times leaving while the prosecutor is laying out his entire case to two other reporters leads to only one inescapable conclusion, and that is that the reporter had already had access to everything that had been laid out before these two reporters. There is no other rational explanation unless we are to assume that the reporter for the Los Angeles Times had a monumental disinterest in all the facts in the possession of the District Attorney's Office.

This being absurd, the only other conclusion is that this reporter walked out of that interview because it was old hat to him; and in fact, it undoubtedly was, because substantially all of this information had previously and has, up to this date, appeared in the Los Angeles Times, including information that has come off of the autopsy protocols that would not appear elsewhere, and I am referring to the article that appeared yesterday morning in the Los Angeles Times where they detailed every single stab wound, and they must have gotten that information through the process of discovery by going through the People's case because that is to be found only in the autopsy protocol or some document lifted from the protocol.

So, your Honor, the Los Angeles Times has been privy to information that could only come from the District Attorney's Office.

That raises the issue to a higher level,

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because we heard yesterday from Mr. Bugliosi that the Rolling Stones is a periodical with a limited circulation. But the Los Angeles Times is not such a publication, it has a massive circulation.

MR. STOVITZ: This is why I wanted your Honor to hear the tape. I believe at the end of the first reel of the tape Mr. Einstoss does come into the office, and he and Mr. Felton talk, they remembered an instance where Mr. Felton loaned Mr. Einstoss some hippie clothing, and Mr. Einstoss seeing that he was engaged in a conference with somebody, left the office, like anybody else would.

It was lunchtime, your Honor, and he was coming in and probably going to have a cup of coffee.

I deny all of the insinuations that counsel has attributed to Mr. Einstoss as far as he knowing all the case.

First of all, Mr. Cohen has been covering the case for the Los Angeles Times, not Mr. Einstoss, and a new fellow now has the case.

Secondly, my statement "When you tell your readers," I was intending by that to have the man that I was talking to write down his own words to the readers so that they could understand the background information; that it wasn't any facts that I was giving them at that time.

In fact, if your Honor listens to the very

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last tape, you can again see where I say "After you get this article all written," I say, "Go very carefully over it so that you make sure you don't introduce any of the facts that have not been in the newspapers before."

THE COURT: All right. Anything further, gentlemen, before we go back?

MR. STOVITZ: Yes. Just one thing on an unrelated matter.

MR. BUGLIOSI: Two things, your Honor.

No. 1, could the Court order an extra copy of the transcript for the prosecution? In other words, a copy --

MR. STOVITZ: Not the voir dire.

MR. BUGLIOSI: -- of the daily transcript? Could we have an extra copy, one for Mr. Stovitz and one for myself.

MR. STOVITZ: It is necessary for interviewing the witnesses. There are so many witnesses. On occasion I have to interview a witness and Mr. Bugliosi has to be elsewhere.

MR. BUGLIOSI: I just finished the Valley State case and in that case each of the prosecutors had a copy, and it has been done in the past, your Honor.

MR. STOVITZ: And it may be necessary if Mr. Watson returns, on a discovery motion, to furnish him with a copy of the testimony of the trial, and in this way, the prosecution having two copies, we would furnish him with

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4c6. one copy. So, I don't think that the Court system would suffer financial loss if we had two copies.

MR. BUGLIOSI: One for Mr. Stovitz and one for myself, your Honor.

THE COURT: All right. That will be the order.

THE CLERK: Original plus six, your Honor?

THE COURT: Whatever the number is.

4D.

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MR. KANAREK: Your Honor, I also have some attorneys working with me in connection with this case.

What I am asking is this: Is there a mechanical problem in putting another piece of paper in the typewriter? I mean, with some typewriters --

THE COURT: Yes, there is also a considerable expense.

MR. KANAREK: In collating it?

THE COURT: In producing it.

MR. KANAREK: Pardon me, your Honor?

THE COURT: Get to the point, Mr. Kanarek. Do you want something?

MR. KANAREK: While it is being done, your Honor, I ask that I be able to have another copy.

THE COURT: The motion will be denied.

Anything else?

MR. REINER: Yes. There is one point that I wanted to bring to the attention of the Court.

I think, in a manner of speaking, it is a matter of record in the case so far before the Court, but because of the way in which it arose, the Court may be unaware of it.

I am not certain of the communication that the Court has had with Judge Keene who previously was hearing the matter, and I think it is significant with respect to the question of intent in the matter before the Court presently.

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4d2.

There was a previously alleged violation of the order re publicity by Mr. Stovitz that came to my attention.

THE COURT: We are not concerned with that. That has not been raised in this proceeding.

MR. REINER: But it would be part of the Court's record and I don't know if the Court is aware of it.

THE COURT: I am aware of only what you gentlemen have presented to me.

MR. REINER: Our position would be, and perhaps I am in error, but my understanding is if there is a prior instance in the Court's record indicating that Mr. Stovitz had received certain admonitions by the Court --

THE COURT: If it is in evidence, I will consider it.

MR. REINER: Very well.

May I indicate to the Court the unusual circumstances as to why it will not physically be within the Court's record, but it is within the Court's record, but it is within the Court's knowledge.

THE COURT: I don't want to hear your conversation about it, Mr. Reiner. That isn't going to assist me at all.

MR. REINER: Perhaps it could be made a part of the record simply with a statement. I am sure that Mr. Stovitz would not disagree.

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THE COURT: This hearing is now closed with the exception of hearing the two tapes if and when counsel could agree on some method of playing them.

MR. KANAREK: Then we would object.

What Mr. Reiner is referring to is a matter that Mr. Reiner was very careful about protecting the record, and he had conversations with Judge Keane.

THE COURT: I am not interested in that. You people filed a declaration and set forth some exhibits. That is the only thing before me.

If you wanted to add something to it, you should have done so.

I am not interested in hearing some conversation about it now. It isn't evidence.

MR. KANAREK: In the law of contempt, your Honor, previous activity of the contemnor is pertinent.

THE COURT: I am not going to take any more time with it now, Mr. Kanarek.

If you had something to present, you should have presented it.

MR. KANAREK: I didn't get a chance.

THE COURT: You had your chance.

MR. KANAREK: We only had the declaration.

MR. BUGLIOSI: Your Honor, this should have been done by me but in view of the multiple motions I forgot to turn in to the Court my 30-page interview with Susan

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Atkins.

I will make the statement at this time that I consider it to be work product of an attorney, I, myself, and, therefore, not discoverable by the defense.

But if the Court sees fit to permit the defense to inspect it or photostat it, that would be all right, but I don't think it is discoverable.

These are the notes that I took during my conversation with Susan Atkins.

THE COURT: It is a record of the conversation that you had with her, isn't it?

MR. BUGLIOSI: Yes, your Honor.

I hadn't been able to find them. Susan Atkins is no longer a witness for the prosecution. She is of no concern to me whatever.

THE COURT: Is it a verbatim record?

MR. BUGLIOSI: No.

THE COURT: I haven't read it, but I can see from just glancing at it it appears in question and answer form.

MR. BUGLIOSI: Right. As I am interviewing her and ask the question, I put down "Question," and as she gives me the answer, I put down "Answer." It is Q and A. I mean, it is Q and A but it is not verbatim.

THE COURT: It is a record made by you as a party to a conversation of what the conversation was?

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MR. BUGLIOSI: Yes. But it is not verbatim.

THE COURT: All right.

MR. KANAREK: Many police reports, your Honor, are not and the prosecution uses them.

MR. SHINN: May I ask Mr. Bugliosi what this document is? Can he pinpoint it down for me?

MR. BUGLIOSI: Yes. These are notes of my conversation, notes in question and answer form of my conversation with Miss Susan Atkins on the evening of December the 4th, 1969, I would say between 5:30 and 8:30, at Paul Caruso's office in Beverly Hills. It was not tape recorded.

THE COURT: I think it does come within the discovery order and a copy should be furnished to each of defense counsel.

MR. BUGLIOSI: I make it available, then, for their inspection and copying.

THE COURT: Then why don't you retain it until such time as I indicate to you that they want to inspect and copy it.

MR. KANAREK: I want it right now.

THE COURT: We won't do it right now.

MR. STOVITZ: Why don't we give it to Mr. Shinn, who is Susan Atkins' lawyer, and he can make copies.

THE COURT: If that is agreeable, you can do that.

I don't need to remind you that this comes within the publicity order. I am sure I don't need to

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remind you of that.

And I hope I don't need to but I will state that my interpretation of the order -- and if there is any question about what the order says, I will modify it now to this extent -- includes any dissemination of the prohibited matters set forth in that order to anyone who is not authorized to receive it by the expressed terms of that order, whether it happens to be one person or the public generally, because I anticipate that when some one unauthorized person hears or sees or otherwise receives information that is prohibited from being disseminated by that order, there is a high risk it will be disseminated to others who are also unauthorized, and perhaps to the public generally.

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So what I am doing is taking a much more restricted view of that order, apparently, than has been taken heretofore, and to that extent it will be modified.

MR. KANAREK: Your Honor, just one point: In connection with the Order to Show Cause in Re Contempt, your Honor, we have not -- we have not finished our evidence in connection with that case.

THE COURT: As far as I am concerned, you have.

MR. KANAREK: Of course, your Honor has the power to cut us off, but all we have is a declaration. On our side we have other matters we would like to bring to the Court's attention, and your Honor --

THE COURT: You may make an offer of proof if you like, put it in writing, support it with whatever you like.

MR. KANAREK: Very well, your Honor. Thank you.

THE COURT: Now gentlemen, I think we are ready to call the jury panel over.

Before you go back into court on this matter of the challenge to the petit jury, will you during the noon hour see if you can get together and decide exactly what portions of the transcript and whatever other cases you like should be considered by the Court on this challenge.

MR. KANAREK: I certainly will. I will pinpoint it with --

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THE COURT: I don't intend to hold up the selection of the jury because this can be done while the selection is going on.

MR. STOVITZ: May I suggest this, I have shown, we have all of the transcripts in the Powell-Smith case here; I will be glad to show counsel another case where the same point was raised.

Counsel says, well, he raised additional points in Powell and Smith. There is such a thing known as an agreed statement of facts; and if counsel wants to use these transcripts to cull out an agreed statement of facts of the issues and the testimony of the witnesses, we will be glad to read it; but again I say that the burden on the Court of reading all of those volumes, three months of testimony, would be too great.

MR. KANAREK: Judge Older can protect himself well, I'm sure. He seems capable of protecting himself.

And furthermore there weren't three months in the sense that all of the proceedings -- Mr. Stovitz was not present, your Honor, and I would be glad to do what your Honor said and --

THE COURT: I can tell you gentlemen I have no intention of reading three months' transcripts in another case.

I expect this to be pinpointed, and you select precisely what portions of those transcripts you want the

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Court to read.

MR. FITZGERALD: At least as to three major issues in the jury challenge we can handle by stipulation. We will phrase it properly.

But generally Mr. Stovitz and I have had a tentative discussion about stipulating to registered voters, the amount of money jurors are paid, and one or two other procedures in selecting a jury.

That narrows the issues down to about one or two that the Court would have to receive evidence on.

MR. KANAREK: As far as the transcripts, they can be accepted by reference.

MR. STOVITZ: Someone has to read them. I have to read them, Mr. Kanarek.

MR. KANAREK: Your Honor, this happened before Judge Ferraca. I am sure your Honor has the greatest respect for Judge Ferraca.

Anything that happened there was not dilatory or obstructionist. It happened, and we will offer those, and then the Court -- we offer them to the Court, and then the Court has -- the Court can do as the Court sees fit.

THE COURT: Well, the point I want to make is, if you are going to stipulate, let's get at it. Let's do it within the next day or so at the most.

MR. STOVITZ: I think we will have to be realistic,

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your Honor. I think Thursday and Friday will give Mr. Fitzgerald and I an opportunity to get to this point.

THE COURT: All right, then by the first of next week --

MR. STOVITZ: I think we agreed the jury is not sworn until it is finally sworn, including the alternates. In other words, the defendants will not be prejudiced by the voir dire of the jury, and we will get to it on Thursday and Friday.

Don't you think, Mr. Fitzgerald, we will get to it on Thursday and Friday?

MR. FITZGERALD: Yes, I think we can do it.

THE COURT: In the meantime Mr. Kanarek can be selecting the portions of the transcripts he wants the Court to consider.

MR. KANAREK: Yes, your Honor. Talking about it, it seems a lot more than it is, because actually they are set forth.

THE COURT: Now, gentlemen, I have been giving some further consideration about voir dire of the jury, particularly in connection with the hardship.

I anticipate we are going to get an overwhelming display of lack of enthusiasm on the part of the prospective jurors when I announce to them the length of the expected trial and the fact that they are going to sequestered.

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I suggest that we do this:

We will put the initial twelve people in the jury box, and I will make some preliminary remarks, and when we get to the point of the hardship questions I will question individually those who raised their hands, just to generally get the background of their thinking and what their situation is; and then after I have completed the questioning of each of those in the jury box who indicated a possible hardship, I will ask you all to come to the bench so that we can -- you won't have to be in the position of whispering back and forth and shaking your heads or nodding your heads, and you can indicate whether you care to stipulate to excusing all of those who indicated hardship or what.

MR. FITZGERALD: In regard to the hardship, I talked to the district attorneys about it, and we all feel that we don't want anybody on this jury who is going to discover that once they are selected they are going to be sequestered, and so on, and then take out their wrath either against the prosecution or the defense.

So with the Court's permission, I would like to go into that in the voir dire of the prospective jurors.

I would like to make very sure that they understand that they are going to be locked up and what this entails, and so forth and so on.

THE COURT: They will have to understand it when

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I tell them the first time. I don't think I have that much trouble with the language.

If I tell them they are going to be locked up, they are going to be locked up.

Now, one other thing, gentlemen: I am going to permit you to proceed without restriction, but I can tell you again I read in the newspaper this morning, I don't know where these things come from, but somebody has estimated it would take three or four months to select a jury.

I can promise you it will not because long, long before we ever get to that period, if we haven't got a jury I am going to take over the voir dire myself.

We will have a jury in a very short time after that. I don't want to do it. I want you gentlemen to select the jury or to conduct your voir dire with as free a hand as possible, but I can tell you that that does not mean that we are going to go on endlessly.

So if after -- I don't know what arbitrary period I am going to set for myself; if it appears we are not making much progress there are going to be radical changes in the voir dire procedure.

All right, is there any reason then why the panel should not be called over?

MR. STOVITZ: No reason, your Honor.

VARIOUS DEFENSE COUNSEL: No reason, your Honor.

THE COURT: I propose to call initially 48 plus 12, the 12 will go into the jury box and then there will be 48 remaining members of the panel in the courtroom.

That is about really all of the seats that

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we have unless we cut out all of the media.

Some of these people have come a long way and made preparation for it, so I think that number is about as many as we can conveniently handle at a time.

MR. KANAREK: Yes, your Honor; there is a reason.

It is our position, your Honor, that the trial cannot go forward without Linda Kasabian.

Now, Linda Kasabian is a named defendant in this case. She is present; she has been before the Court.

Now, what is occurring here is improper. Mr. Manson wishes Linda Kasabian to be present in this courtroom along with all the other defendants. There is no reason in the world why she should be given any special treatment, and we ask that she be here.

We are not ready to go to trial unless all of the defendants are present.

Now -- and the new law does not provide for her not to be here. This is purportedly the trial, the voir dire is going to start, and so we have to have Linda Kasabian here. She is a named defendant.

THE COURT: She is not being tried with the other defendants.

MR. KANAREK: That representation -- But there has been no severance, your Honor. If there is a motion to sever, we are going to oppose it.

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Now we either have it, your Honor --

THE COURT: All right. You have made your point. You are making a motion that is overruled, and we are now going to proceed.

(Recess.)

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THE COURT: People vs. Charles Manson, Susan Atkins, Patricia Krenwinkel and Leslie Van Houten.

MR. FITZGERALD: Those defendants are all present and ready to proceed.

MR. SHINER: Ready for Defendant Van Houten, your Honor.

MR. BUGLIOSI: People are ready, your Honor.

THE COURT: The Clerk will swear the panel.

THE CLERK: Will all the prospective jurors please rise. Will you raise your right hand, please.

You and each of you do solemnly swear that you will well and truly answer all such questions as may be asked of you touching on your qualifications to act as trial jurors in the case now pending before this Court, so help you God?

(All prospective jurors answer in the affirmative.)

THE CLERK: Walter Coubrough, C-o-u-b-r-o-u-g-h.

Mrs. Genevieve Manning, M-a-n-n-i-n-g.

Mrs. Florence Alsberge, A-l-s-b-e-r-g-e.

Thomas F. Tosaya, T-o-s-a-y-a.

Pedro R. Dominguez, D-o-m-i-n-g-u-e-z.

Marilyn Pfeifer, P-f-e-i-f-e-r. Is that Miss or Mrs.?

MRS. PFEIFER: Mrs.

THE CLERK: Susumu Suzuki, S-u-z-u-k-i.

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Rudolph K. Thompson, T-h-o-m-p-s-o-n.

Daniel Garcia, G-a-r-c-i-a.

Mrs. Edna M. Norwood, N-o-r-w-o-o-d.

Mrs. Cora Muehlberger, M-u-e-h-l-b-e-r-g-e-r.

Miss Darlene M. Gaton, G-a-t-o-n. Is that spelt correctly, your last name, ma'am?

MISS GAYON: G-a-y-o-n.

THE CLERK: Thank you; may I change the spelling, your Honor.

Twelve jurors, your Honor.

THE COURT: Ladies and gentlemen, my remarks will be directed not only to the 12 prospective jurors sitting in the jury box, but also to all of the members of the jury panel out in the courtroom.

In this case the defendants are Charles Manson, Susan Atkins, Patricia Krenwinkel and Leslie Van Houton.

The Defendants Charles Manson, Susan Atkins and Patricia Krenwinkel have been charged in eight counts of an indictment as follows:

In Count I they have been charged with the crime of the murder of Abigail Anne Folger, on or about August 9, 1969.

In Count II, with the murder of Wajciech Frykowski, on or about August 9, 1969.

In Count III with the murder of Steven Earl

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Parent, on or about August 9, 1969.

In Count IV with the murder of Sharon Marie Polanski, on or about August 9, 1969.

In Count V with the murder of Thomas John Sebring, on or about August 9, 1969.

In Count VI with the murder of Leon A. La Bianca, on or about August 10th, 1969.

In Count VII with the murder of Rosemary La Bianca, on or about August 10, 1969.

And in Count VIII with conspiracy to commit murder on or about the eighth day through the tenth day of August, 1969.

Miss Van Houten has been charged in three Counts of the indictment as follows:

In Count VI with the murder of Leno A. La Bianca, on or about August 10th, 1969.

In Count VII with the murder of Rosemary La Bianca on or about August 10th, 1969, and in Count VIII with conspiracy to commit murder on or about the 8th through the 10th day of August, 1969.

To all of these charges the defendants have entered pleas of not guilty.

Mr. Manson is being represented by Mr. Irving Kanarek.

Mr. Manson, would you stand, please, and face the prospective jurors so they may identify you.

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Thank you, you may be seated.

And Mr. Kanarek, would you stand, please.

Do any of you know Mr. Hanson or Mr. Kanarek? If the answer to any of my questions is yes, would you kindly raise your hands.

Miss Patricia Krenwinkel is being represented by her attorney, Paul J. Fitzgerald.

Miss Krenwinkel, would you please stand and face the prospective jurors. Thank you.

And Mr. Fitzgerald, would you stand.

Do any of you know Miss Krenwinkel or Mr. Fitzgerald?

Miss Susan Atkins is being represented by Mr. Daye Shinn.

Miss Atkins, would you please stand and face the prospective jurors? Thank you.

And Mr. Shinn would you stand?

Do any of you know Miss Atkins or Mr. Shinn?

And Miss Van Houten is being represented by Mr. Ira Reiner.

Miss Van Houten, would you stand, please, and face the prospective jurors.

And Mr. Reiner, would you stand.

Do any of you know Miss Van Houten or Mr. Reiner?

Ladies and gentlemen, the attorneys in this

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case in conference with the Court have estimated that this trial could take several months and possibly as much as six months.

From the time the jury is selected, at which time they will be sworn, the jury will be sequestered, which simply means that you will not be permitted to go home until the trial has been concluded, and you will be living in a hotel when you are not in court.

You will of course be out of direct communication with your friends and family. However, you will be permitted to have your spouses visit you on the weekends at the hotel at their own expense.

I anticipate that this could work a hardship on many people, and at this time I would like to ask those of you in the jury box if you were called upon to serve as a trial juror in this case whether it would work some undue hardship upon you that would cause you to want to not serve, or which you think might affect your ability to be a fair and impartial juror in this case?

(There is a show of hands among the 12 seated prospective jurors.)

THE COURT: I will take you in order.

Yes, Mr. Coubrough.

MR. COUBROUGH: Yes.

THE COURT: Is that pronounced Coubrough?

MR. COUBROUGH: It is pronounced Coubrough. That

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is the Scotch way to say it.

THE COURT: What is your situation, Mr. Colbrough?

MR. COLBROUGH: Well, I am now until the 1st of July on. In the middle of July I am taking a trip to Scotland.

THE COURT: You have a vacation planned for July.

MR. COLBROUGH: Yes, I'm sorry; I would like to be on it.

THE COURT: I think you raised your hand, Mrs. Manning.

MRS. MANNING: Yes.

THE COURT: What is your situation?

MRS. MANNING: I am the mother of six, and I cannot very well be away from them for six months.

THE COURT: You have six children at home?

MRS. MANNING: I have four children at home, and the youngest is ten.

MR. SCOTT: Does your Honor want us to get the microphone for the jurors?

THE COURT: Yes, we do have a hand microphone. I think it might assist the jurors being heard.

What are the ages of your children?

MRS. MANNING: I have one --

THE COURT: Depress the button on the microphone, please.

MRS. MANNING: Does that help?

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THE COURT: Are you holding the button down?

MRS. MANNING: Yes. Is it plugged in?

THE COURT: Let's try it now.

MRS. MANNING: I have an 18, a 16 and a 10, and the oldest one at home is in college; he is 23.

THE COURT: Apparently our microphone is not working so I will have to ask you to keep your voice up as much as you can.

MRS. MANNING: It is better, I guess, without the microphone.

THE COURT: Go ahead.

MRS. MANNING: Our oldest boy is 23 and is in college full-time.

The next one is 18, and then 16, two girls, and the youngest is a boy of 10.

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THE COURT: All right, thank you.

THE COURT: Did you raise your hand, Mrs. Alsberge?

MRS. ALSBERGE: Yes.

THE COURT: What is your situation?

MRS. ALSBERGE: I am the copy editor and proofreader for the director and speaker of the Voice of Prophecy program, an international radio broadcast. It goes on the air every Sunday morning.

And then also I have my vacation trip scheduled for Alaska in August.

THE COURT: All right.

Mr. Tosaya.

MR. TOSAYA: Yes.

THE COURT: Did you raise your hand?

MR. TOSAYA: Yes, I did, your Honor. I am the sole provider for my family, and in my capacity as merchandise manager of Ducommon Metals and Supply, I'm merchandise manager and liaison manager.

This also entails traveling out of the country on contract negotiations in various cases.

As it is right now, I have been reporting into the office on Saturdays, trying to get caught up on as much of the work as I can.

THE COURT: Would this create a great hardship on you, to be a juror in this case for that period?

MR. TOSAYA: I believe it would, your Honor.

THE COURT: Mr. Dominguez, did you raise your

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hand?

MR. DOMINGUEZ: No, I did not.

THE COURT: Mrs. Pfeifer?

MRS. PFEIFER: No, I did not.

THE COURT: Mr. Susuki, did you raise your right hand, sir?

MR. SUSUKI: Yes, I did.

THE COURT: What is your situation?

MR. SUSUKI: Well, I have a house guest right now, and we are planning a vacation beginning the early part of July.

THE COURT: Perhaps I should explain that you will not be sequestered until the jury is finally selected.

Now, we don't know exactly how long that will take, but it can easily take several weeks; so if you have something planned between now and then, you would not be -- unless you were planning to go on vacation -- you would not be prevented from doing it.

MR. SUSUKI: My sister's family is visiting now, on the way -- I have to look after them for the next twelve days.

THE COURT: When did your jury service commence?

MR. SUSUKI: It might have ended already.

THE COURT: Your service is ended?

MR. SUSUKI: I think either today or a few more days, for that matter.

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THE COURT: I see.

Mr. Thompson, did you raise your hand?

MR. THOMPSON: Yes, I did.

THE COURT: What is your situation?

MR. THOMPSON: First of all, I am planning on going on vacation a week from Thursday, which is not all too important.

Secondly, my wife is supposed to give birth to a child in October, and I think it would require my presence at home.

THE COURT: Mr. Garcia, did you raise your hand?

MR. GARCIA: Yes, I did.

THE COURT: What is your situation?

MR. GARCIA: More or less the same thing. I had my vacation planned for the last couple of months in July, and also I have children at home, and they are at an age where I think I cannot stay away too long. I have to be with them.

THE COURT: You have young children at home?

MR. GARCIA: Yes, I do.

THE COURT: Mrs. Norwood, did you raise your hand?

MRS. NORWOOD: Yes, I did; I don't have any small children or vacations coming up, but my husband is older than I am.

I wouldn't mind the day part of it, but it is the night. I don't think he should be left alone for

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that amount of time.

THE COURT: Mrs. Muehlberger, did you raise your hand?

MRS. MUEHLBERGER: Yes, I did.

There are no personal reasons why I could not serve except I do have a small business; unless I can get somebody to take charge of it for me I would not be able to serve.

It is possible I could get my sister to come down from Utah, but I don't know.

THE COURT: Is that something you might find out in the next day or so?

MRS. MUEHLBERGER: Yes, I could find out and probably could call tonight to find out.

If I can get them to come and stay in my house for six months or so, which I have done in the past, I could serve; but unless I can, I couldn't.

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THE COURT: You say it might take several days before you knew?

MRS. MUEHLBERGER: Well, I can call them tonight, and I might be able to get an answer today right away, and they might not be able to say right away.

I will know when I call them.

If I could manage that, I could do all right. But if I can't, I won't be able to.

THE COURT: Would you attempt to find out, please?

MRS. MUEHLBERGER: Yes, I will do that.

THE COURT: Miss Gayon, did you raise your hand?

MISS GAYON: No, I didn't.

THE COURT: You did not?

MISS GAYON: No.

THE COURT: Would counsel approach the bench, please.

(Whereupon, the following proceedings were had AT THE BENCH, within the presence but without the hearing of the prospective jurors, all counsel and the Court being present:)

THE COURT: The first was Mr. Coubrough.

MR. FITZGERALD: Stipulate he may be excused.

MR. KANAREK: I cannot stipulate, your Honor; the jury is acceptable to Mr. Manson.

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THE COURT: All right.

MR. FITZGERALD: I was referring to the stipulation that Mr. Coubrough might be excused.

THE COURT: That is what I was referring to.

MR. KANAREK: This jury is acceptable. Mr. Manson is ready to go to trial.

THE COURT: You are not willing to stipulate to any of them being excused?

MR. KANAREK: No. Mr. Manson wants to go to trial. The jury is acceptable.

THE COURT: All right, in that event then we will proceed with it.

MR. FITZGERALD: Your Honor, this gentleman indicated -- he appears to be an elderly gentleman -- he appears to speak with an accent; he says he wanted to go on a vacation to Scotland.

That is not going to benefit the defendants to force a man like that to give up an undoubtedly well-deserved vacation.

THE COURT: I agree.

MR. FITZGERALD: Most of the defendants are going to stipulate.

MR. BUGLIOSI: I think the Court has the power to excuse him for hardship irrespective of whether Mr. Manson, through his attorney, enters into the stipulation, your Honor.

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I think the Court has that power.

MR. REINER: On behalf of the defendant Van Houten we agree that all persons who indicated hardship may be stipulation be released.

THE COURT: Mr. Kanarek, I want to be sure that I understand you:

There are eight persons in the box at the moment who have indicated it would be an undue hardship as to them; and I take it from what you said that you are not willing to stipulate to excuse any of them.

MR. KANAREK: I can't. Mr. Manson is ready to go to trial.

THE COURT: You can of course, but I take it you don't want to.

MR. KANAREK: Well, I am not stipulating. I will couch it in those terms.

THE COURT: All right then, I will proceed with the voir dire, gentlemen. I have some other questions I want to put to them while they are in the court.

Then we will go into chambers. I will take one at a time and then we will go into chambers on our voir dire, as I mentioned to you yesterday.

(Thereupon, the following proceedings were had

IN OPEN COURT,

within the presence and hearing of the

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prospective jurors:)

THE COURT: I am not going into the questions that I just raised with you any further at this time, ladies and gentlemen, but I am going on to some other matters.

Now, you have heard the charges which have been filed against the defendants in this case.

Is there any one of you who feels that because of the nature of the charges, or for any other reason, you could not serve as a fair and impartial juror in this case?

If the answer to any of my questions is yes, would you raise your hand.

(No response.)

THE COURT: A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt he is entitled to an acquittal.

Are each of you willing to give all the defendants in this case the benefit of the presumption of innocence?

(No response.)

THE COURT: I take it from your silence that you are willing to do so.

Would each of you follow all of the Court's instructions in this case even though those instructions

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on the law may differ from what your opinion as to the law is, or as to what you think it should be?

It is the function of the jury to determine the issues of fact from the evidence received here in this court during the course of the trial, and it is the function of the Court to instruct you on the law which is applicable to this case at the conclusion of the trial.

I may also give you instructions during the course of the trial.

Is there any one of you who has any mental reservation whatever with respect to following all of the Court's instructions implicitly, as I give them to you?

(No response.)

THE COURT: In a case such as murder, where the penalty may be either life imprisonment or death, the Court is required to ascertain whether any of you entertain such conscientious opinions regarding the death penalty that you would be unable to make an impartial decision as to any defendant's guilt or whether by reason of such conscientious opinions you would automatically refuse to impose the death penalty?

If any of you do entertain such opinions, the law requires that you may neither be compelled nor permitted to serve as trial jurors in this case; and later on I am going to put some specific questions to each of you.

lfs

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At the outset of the trial the Court has no way of knowing whether you will be called upon to determine the question of penalty, because that will depend upon what your verdict is as to each defendant on the issue ofguilt.

In a murder trial in this State where the charge is as I have read to you, we have what is known as the bifurcated proceeding.

That means that the trial is divided into two parts, or it may be divided into two parts.

The first part is known as the guilt phase and the question to be determined in that phase of the proceeding by the jury is whether or not a defendant is guilty or not guilty.

If a defendant is found not guilty, or he is convicted of a lesser crime then murder in the first degree, then there is nothing further for the jury to decide, and the question of penalty is decided by the Court.

However, if the verdict is guilty of murder in the first degree, then there is a second proceeding known as the penalty phase.

At that time the jury must then determine which of the two alternatives, life imprisonment or death, shall be imposed.

Our Legislature has formulated no standards

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by which you are to be guided in the selection of the penalty if the case gets to that stage, but rather leaves to the absolute discretion of the jurors which of the two penalties, that is, life imprisonment or death, shall be imposed.

I am now going to ask each of you two separate questions, and I want you to give me your very honest opinion.

I would also admonish you that sometimes it happens that the first answer you give may not be the answer that you really want to give upon further reflection.

I have had it happen, for example, that a prospective juror would answer the questions one way on one day, and then after going home and reflecting on the questions overnight he would come back and say that he wanted to change his answers, which is perfectly all right and I hope you will certainly do that if in fact that occurs.

The first question is this:

Do any of you entertain such conscientious opinions regarding the death penalty that you would be unable to make an impartial decision as to any defendant's guilt regardless of the evidence that develops during the trial?

Now, you will notice that that question is

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directed to the first phase or the guilt phase of the trial.

Mr. Coubrough, do you entertain such opinions?

MR. COUBROUGH: No.

THE COURT: Mrs. Manning, do you?

MRS. MANNING: No.

THE COURT: Mrs. Alsberge?

MRS. ALSBERGE: No.

THE COURT: Will you keep your voice up, please, because the reporter has to take down every word, and he can only take down what he hears.

Mr. Tosaya, do you entertain such opinions?

MR. TOSAYA: No, your Honor.

THE COURT: Mr. Dominguez, do you?

MR. DOMINGUEZ: No, your Honor.

THE COURT: Mrs. Pfiefer, do you?

MRS. PFEIFER: No.

THE COURT: Mrs. Suzuki?

MRS. SUZUKI: No, your Honor.

THE COURT: Mr. Thompson, do you?

MR. THOMPSON: I do not believe in the death penalty, no.

THE COURT: I'm sorry, sir.

MR. THOMPSON: I said I don't believe in the death penalty.

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THE COURT: You say you don't believe in the death penalty.

MR. THOMPSON: I don't believe that I can vote death on someone.

THE COURT: Well, I'm going to ask you another question which will get to that specific point, but the question I'm asking you now is not whether you believe in it but whether your beliefs regarding it, no matter what they are, would prevent you from rendering an impartial decision as to the question of a defendant's guilt in the case.

MR. THOMPSON: No.

THE COURT: In other words, if I understand you correctly, you correct me if I am wrong, notwithstanding your opinions, you believe you could be impartial in rendering a verdict on the question of whether any defendant is guilty or not guilty?

MR. THOMPSON: Yes.

THE COURT: All right, sir.

Mr. Garcia, do you entertain such conscientious opinions?

MR. GARCIA: No, sir.

THE COURT: Mrs. Norwood, do you?

MRS. NORWOOD: No, your Honor.

THE COURT: Mrs. Muehlberger, do you?

MRS. MUEHLBERGER: No.

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THE COURT: Miss Gayon, do you?

MISS GAYON: No.

THE COURT: Now, the second question is this:

Do you entertain such conscientious opinions regarding the death penalty that you would automatically refuse to impose it without regard to the evidence developed during the trial.

Now, you will notice that this question is directed to the second or penalty phase of the trial.

Here, what I'm asking you is are your opinions such that regardless of what the evidence in the case shows you would automatically refuse to impose the death penalty?

Mr. Coubrough, do you entertain such opinions?

MR. COUBROUGH: No.

THE COURT: Mrs. Manning, do you?

MRS. MANNING: No.

THE COURT: Mrs. Muehlberger, do you?

MRS. MUEHLBERGER: No, your Honor, but I would hate to have to do it.

MR. FITZGERALD: I could not hear.

(Whereupon the reporter reads the record.)

THE COURT: Well, I don't think anyone would want to do it, but as a juror it may become your duty to do it, and what I want to know is could you accept that duty

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and consider all the evidence before making up your mind, or do your opinions regarding the death penalty make it such that you would automatically refuse to impose it without regard to the evidence that is developed during the trial?

MRS. ALSBERGE: No, your Honor.

THE COURT: Well, your answer is not clear because my question was somewhat ambiguous.

Let me put the question to you directly again, and then you can answer it directly:

Do you entertain such conscientious opinions regarding the death penalty that you would automatically refuse to impose it without regard to the evidence developed during the trial?

MRS. ALSBERGE: No, your Honor.

THE COURT: And, Mr. Tosaya, do you entertain such opinion?

MR. TOSAYA: Yes, I do. I don't believe in the death penalty.

THE COURT: Well, it's possible not to believe in it and still not automatically refuse to impose it without regard to the evidence.

Is it your belief that you would automatically refuse to impose it regardless of the evidence?

MR. TOSAYA: Yes.

THE COURT: You have no question in your mind about

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that?

MR. TOSAYA: I have done a lot of soul searching on that point and, yes, I do believe that my answer would hold true that I could not impose it.

THE COURT: Under any circumstances?

MR. TOSAYA: Yes.

THE COURT: Do counsel wish to inquire further?

MR. KANAREK: Your Honor, we have accepted the jury and we wish to take these 12 people, Mr. Manson -- we did this before there was any kind of mention of what the People's position was.

THE COURT: All I want to know, Mr. Kanarek, do you wish to ask any questions of this gentleman or do you not?

MR. KANAREK: I have no desire to ask any questions. Our position is we are ready to go to trial.

THE COURT: Mr. Stovitz, do you?

MR. STOVITZ: Yes, your Honor, and I think perhaps --

THE COURT: Excuse me, I was looking at Mr. Bugliosi instead of Mr. Stovitz.

MR. STOVITZ: I think in light of the fact that we are going to question the various jurors in chambers --

THE COURT: I did not anticipate that our examination in chambers would be on this subject, only on the question of pretrial exposure and publicity.

I think this should be a matter to be taken up right here.

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MR. STOVITZ: We are satisfied with the Court's questions and with the juror's response, that he should be challenged for cause, your Honor.

MR. BUGLIOSI: The People would formally move that Mr. Tosaya be removed for cause on the ground of Section 1073 of the Penal Code.

THE COURT: Before I rule on it I want to give all counsel a chance to ask questions individually of Mr. Tosaya.

MR. FITZGERALD: I have no questions of Mr. Tosaya.

MR. REINER: No questions on behalf of Defendant Van Houten.

THE COURT: Mr. Shinn?

MR. SHINN: No questions, your Honor.

THE COURT: Mr. Kanarek?

MR. KANAREK: Yes, your Honor, it is our position as we have indicated of the publicity, that any 12 have all been exposed.

Now, as far as this gentleman is concerned, I believe there is no reason he could not be a fair and impartial juror in this case, and your Honor has requested we ask questions of him --

THE COURT: It is not a request. I'm giving you an opportunity.

MR. KANAREK: Well, your Honor, we have no questions to ask.

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THE COURT: Very well, then sit down, sir.

It has been made unmistakable to the Court that by virtue of Mr. Tosaya's opinions he would automatically refuse to impose the death penalty, accordingly Mr. Tosaya is excused.

You are excused, thank you, sir.

THE CLERK: Shall I call another name, your Honor?

6 fls.

THE COURT: Yes.

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THE CLERK: Mrs. Ann Miller; A-n-n, M-i-l-l-e-r.

THE COURT: Mrs. Miller, have you heard and understood everything that has been said here this morning?

MRS. MILLER: Yes.

THE COURT: I am going to put the same two questions to you regarding the death penalty.

First, do you entertain such conscientious opinions regarding the death penalty that you would be unable to make a fair and impartial decision as to any defendants' guilt regardless of the evidence developed during the trial?

MRS. MILLER: No.

THE COURT: And secondly, do you entertain such conscientious opinions that you would automatically refuse to impose the death penalty regardless of the evidence developed during the trial?

MRS. MILLER: No.

THE COURT: I did not ask you yet but I will whether you believe that because of the nature of the trial or possibly the duration it would work any undue hardship on you?

MRS. MILLER: Well, I have elderly parents. I don't know whether that would count. I have to see them every day, whenever possible, and sort of do things for them.

THE COURT: Of course, it would not be possible

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for you to see them every day.

Well, you can be considering that question then and I will go on, then, to Mr. Dominguez.

I want to ask you the second question, Mr. Dominguez, pertaining to the so-called penalty phase.

Do you entertain such conscientious opinions regarding the death penalty that you would automatically refuse to impose it without regard to the evidence?

MR. DOMINGUEZ: No, your Honor.

THE COURT: Mrs. Pfeifer, do you entertain such an opinion?

MRS. PFEIFER: No.

THE COURT: Mr. Suzuki, do you entertain any?

MR. SUZUKI: No.

THE COURT: Mr. Thompson?

MR. THOMPSON: No.

THE COURT: All right. Now, I want to be absolutely clear that we understand each other.

Mr. Thompson, I understand you to say, then, that regardless of what the evidence shows in this case, because of your constientious beliefs regarding the death penalty, you would automatically refuse to impose it; is that correct?

MR. THOMPSON: Yes.

MR. KANARECK: Your Honor, as far as your Honor's question is concerned, I must object in that it calls for

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a conclusion.

THE COURT: Is that correct?

MR. THOMPSON: Yes.

THE COURT: All right.

Do counsel wish to inquire of Mr. Thompson?

MR. FITZGERALD: May I, your Honor?

THE COURT: Yes.

MR. FITZGERALD: Mr. Thompson, do you consider yourself to be a person with an open mind, generally speaking?

MR. THOMPSON: Yes, I do, generally.

MR. FITZGERALD: Could you listen to what your fellow jurors had to say in the jury room during the course of deliberations?

MR. THOMPSON: Yes, certainly.

MR. FITZGERALD: And I take it that you would listen carefully to what they had to say, would you not?

MR. THOMPSON: Yes.

MR. FITZGERALD: Is it possible, Mr. Thompson, that after listening to the evidence in any penalty phase of this trial, and after discussing the matter with your fellow jurors, you would change your mind?

MR. THOMPSON: No. Not on that subject, no.

MR. FITZGERALD: What makes you so sure, if you are able to state it, that you wouldn't or couldn't?

MR. THOMPSON: I don't believe that I would have

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the right to impose a death penalty on someone.

MR. FITZGERALD: Is that based on some moral or religious belief?

MR. THOMPSON: It is based on a moral belief, a belief of my own.

MR. FITZGERALD: Did you say it was a moral belief on your part?

MR. THOMPSON: Yes.

MR. FITZGERALD: I have no further questions.

THE COURT: Anyone else?

Mr. Thompson's answers to my questions make it unmistakably clear that he would be unable to impose a death penalty under any circumstances and, accordingly, you are excused, Mr. Thompson.

MR. KANAREK: May the record reflect that both this excusal and the previous excusal is over the objections of Mr. Manson.

THE COURT: Very well.

Thank you, Mr. Thompson.

MR. KANAREK: Thank you, Mr. Thompson.

THE CLERK: Mrs. Marie H. Messner; M-a-r-i-e, H-e-s-s-n-e-r.

MR. KANAREK: Your Honor, I didn't get that spelling.

THE CLERK: I will spell it for you again.

M-a-r-i-e, H-e-s-s-n-e-r.

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MR. KANAREK: Thank you.

THE CLERK: Miss.

THE COURT: Miss Mesmer, have you heard and understood everything that has been said here this morning?

MISS MESMER: Yes, sir.

THE COURT: Do you have any unusual circumstances that would make it an undue hardship for you to serve as a trial juror in this case?

MISS MESMER: No, I have not.

THE COURT: I am going to put the same two questions to you that I put to the other jurors regarding the death penalty.

The first is: Do you entertain such conscientious opinions regarding the death penalty that you would be unable to make an impartial decision as to any defendant's guilt regardless of the evidence in the case?

MISS MESMER: No, I do not.

THE COURT: And the second one is: Do you entertain such conscientious opinions regarding the death penalty that you would automatically refuse to impose it without regard to the evidence in the case?

MISS MESMER: No, I would not.

THE COURT: Very well.

Then, Mr. Garcia, I will put the second

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question to you.

Do you entertain such conscientious opinions regarding the death penalty that you would automatically refuse to impose it without regard to the evidence in the case?

MR. GARCIA: No, your Honor.

THE COURT: Do you, Mrs. Norwood?

MRS. NORWOOD: No.

THE COURT: Do you, Mrs. Muehlberger?

MRS. MUEHLBERGER: No.

THE COURT: And do you, Miss Gayon?

MISS GAYON: No.

THE COURT: The attorneys will be permitted to inquire of the prospective jurors.

The reason for this examination is to permit them to explore your state of mind to determine whether there is any legal cause why any of you should not sit as trial jurors in this case, and to insure that both sides have a fair and impartial jury.

A portion of this examination will be conducted in my chambers, and the reason for that is because this portion of the examination will pertain to what exposure, if any, any of you may have had with regard to publicity concerning this case and what effect, if any, that exposure may have had.

We simply don't want each of you to be

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informing the other prospective jurors of what experiences you may have had.

Then we will return to the courtroom after that portion of the examination and the attorneys will then continue their examination of you here in open court.

I think we have time to commence with the first of the chambers examinations, and we will start with Mr. Coubrough.

Just a moment, Mr. Coubrough.

After the attorneys have come into chambers with me, I will ask the bailiff to bring you in.

6a fls.

MR. FITZGERALD: I wonder, your Honor, if I might be permitted to ask Mr. Coubrough just a few questions that might obviate any necessity of a conference or a voir dire examination in chambers?

THE COURT: Very well.

MR. FITZGERALD: It is on the hardship issue, your Honor.

Mr. Coubrough?

MR. COUBROUGH: Yes.

MR. FITZGERALD: Are you a native of Scotland?

MR. COUBROUGH: Yes. I was born in Scotland, yes.

MR. FITZGERALD: And you are planning to return to Scotland this summer?

MR. COUBROUGH: On a trip.

MR. FITZGERALD: Have you made reservations in connection with that trip?

MR. COUBROUGH: Yes.

MR. KANAREK: Your Honor, may we approach the bench.

THE COURT: No, not at this time, Mr. Kanarek. We will be in chambers in just a few minutes.

MR. KANAREK: Well, your Honor --

MR. FITZGERALD: Are there other people that are going on this trip to Scotland with you?

MR. COUBROUGH: Yes. My wife and I.

MR. FITZGERALD: Has it been some time since you

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have been to Scotland, Mr. Coubrough?

MR. COUBROUGH: Six years ago.

MR. FITZGERALD: And how long have you been planning this trip?

MR. COUBROUGH: Seven weeks.

MR. FITZGERALD: Now, I want you to think carefully about the question that I am about to ask you.

MR. COUBROUGH: Yes.

MR. FITZGERALD: If you were selected as a juror in this case and you were required to give us the next six months of your time, would that pose a substantial inconvenience to you and your wife?

MR. COUBROUGH: Yes, it would.

MR. FITZGERALD: In what respect?

Would you explain it for us?

MR. COUBROUGH: Well, I have paid my fare and everything. I would lose all that money.

MR. FITZGERALD: You paid for your ticket, and you will lose your money?

MR. COUBROUGH: Oh, yes.

MR. FITZGERALD: I have no further questions.

I would, your Honor, plan to challenge this juror for cause on the grounds of hardship.

If the Court would care to interrogate in that area, I have no objection.

THE COURT: Under what provision of the Code,

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Mr. Fitzgerald?

I think the question answers itself, doesn't it?

MR. FITZGERALD: If you were selected as a juror, do you think you would have difficulty being fair and impartial to both sides in this case?

MR. COUBROUGH: I don't think so.

MR. FITZGERALD: If you were forced to give up your vacation, do you think you could still be fair to both sides?

MR. COUBROUGH: Well, according to the evidence I would decide.

MR. FITZGERALD: You wouldn't bear any resentment as a result?

MR. COUBROUGH: No.

MR. FITZGERALD: Thank you.

THE COURT: All right. We will go into chambers at this time.

Ladies and gentlemen, I am sure we will not finish before the noon recess. I am going to excuse all of you except Mr. Coubrough at this time until 2:00 p.m. this afternoon.

Will you come in in just a moment, Mr. Coubrough?

MR. COUBROUGH: Yes.

MR. KANAREK: Your Honor, Mr. Hanson wishes to be

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present at this proceedings in chambers.

(Whereupon, the following proceedings were had IN CHAMBERS, out of the presence of the prospective jurors:)

MR. REINER: Your Honor, before the examination of Mr. Coubrough begins --

THE COURT: Just a moment, we are not all present yet.

MR. REINER: I am sorry.

THE COURT: Let's bring in Mr. Coubrough, Juror No. 1.

All right. The record will show that all of the defendants are present with their counsel. Mr. Coubrough, Juror No. 1, is present.

I am afraid we are not going to have much time to go into this before we recess for lunch, Mr. Coubrough, but perhaps I can ask you one or two questions --

MR. COUBROUGH: Yes.

THE COURT: -- and get your answers.

How long have you lived in California?

MR. COUBROUGH: 32 years.

THE COURT: Now, I suppose that you have read or heard something about this case?

MR. COUBROUGH: Oh, yes. I read the paper every

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day.

THE COURT: Now, what I would like you to tell us is, what have you read, heard, or seen concerning this case or any of the defendants or any of the victims or anyone else connected with this case or the crimes that have been alleged to have occurred?

Can you describe it?

MR. COUBROUGH: Well, I have read and I have seen the pictures in the paper.

THE COURT: What pictures?

MR. COUBROUGH: Of the defendants. But so far as detail, I read it, and that is it.

GBF

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THE COURT: Well, do you now remember anything specifically that you have read about this case that you can relate?

MR. COUBROUGH: Well, the only thing specific is when it first happened with the Tate case, the young boy that was killed.

THE COURT: Either the Tate or the La Bianca?

MR. COUBROUGH: I can remember about the young boy that was killed.

THE COURT: You read that in the newspaper?

MR. COUBROUGH: Yes.

THE COURT: Do you remember anything else that you read?

MR. COUBROUGH: No. That is about all. Just my regular routine; I read the paper.

THE COURT: Do you watch TV?

MR. COUBROUGH: Once in a while. I listen mostly to the ball game at night.

THE COURT: The radio? Do you listen to the radio?

MR. COUBROUGH: Yes.

THE COURT: Now, as the result of anything that you have read or seen or heard regarding this case, have you formed any opinion as to the guilt or innocence of any of the defendants?

MR. COUBROUGH: No, I haven't formed any opinion

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because, like I say, really, there hasn't been much evidence in the paper.

THE COURT: Well, of course, there have been many articles over the months.

MR. COUBROUGH: Yes.

THE COURT: I don't know how much of that you have read.

Do you read the paper every day?

MR. COUBROUGH: Yes.

THE COURT: When you do read the paper, do you always read about this case, if there is something in it?

MR. COUBROUGH: I won't read about the case, I will glimpse the headlines. That is about all as to the case.

THE COURT: Would you say that you have formed any opinion one way or the other?

MR. COUBROUGH: No, I haven't.

THE COURT: About whether any particular defendant is guilty or not guilty?

MR. COUBROUGH: No, I haven't.

THE COURT: Do you have an open mind?

MR. COUBROUGH: Yes.

THE COURT: Do you believe that you are able to put out of your mind all of the publicity regarding this case or any of the defendants and consider only the evidence that comes out during this trial in making your

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decision as to the guilt or innocence of any defendant?

MR. COUBROUGH: Right. Because I think a lot sometimes of the things in the paper don't belong there.

MR. BUGLIOSI: I didn't hear that last about things in the paper?

(The record was read by the reporter.)

THE COURT: Do you think you could sit as a trial juror in this case as though you had never been exposed to any publicity about this case?

MR. COUBROUGH: Right.

THE COURT: It would have no effect on you at all?

MR. COUBROUGH: No.

THE COURT: Are you sure of that?

MR. COUBROUGH: Like I say, I would decide after I heard all the evidence.

THE COURT: Are you willing to give the Court your promise now that you can decide and that you would decide this case solely on the evidence received during the trial?

MR. COUBROUGH: Yes.

THE COURT: And that you would not permit yourself to be influenced in that decision by anything that you have read, seen, or heard about the case?

MR. COUBROUGH: Well, it depends on what the evidence would be.

THE COURT: Let me finish the question.

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MR. COUBROUGH: Okay.

THE COURT: And that you would not allow yourself to be influenced by anything that you have read, heard, or seen about the case or any of the defendants before this trial started?

Are you willing to give the Court your assurance that you could do that?

MR. COUBROUGH: No. Like I say, the only way I would decide is by the evidence.

THE COURT: Well, maybe you didn't understand my question.

What I am saying is, are you willing to promise the Court at this time --

MR. COUBROUGH: Yes.

THE COURT: -- that if you are selected as a juror you will render your verdict solely on the evidence that comes out during this trial and not allow yourself to be influenced by anything that you have heard, read, or seen about the case?

MR. COUBROUGH: Right.

THE COURT: All right.

Would you like to inquire, Mr. Fitzgerald?

MR. FITZGERALD: Yes.

THE COURT: Well, let's not get into it now because it is already after 12:00.

We will resume at 2 o'clock, Mr. Coubrough.

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When you come back at 2 o'clock, we will come back into chambers, and then the attorneys will have an opportunity to ask you some questions at that time, sir.

MR. COUBROUGH: Thank you.

THE COURT: We will recess until 2:00 p.m.

MR. KANAREK: Your Honor, on behalf of Mr. Manson, he feels that as far as he is concerned that the trial is over, that what has happened in the press, what has happened in the press has tried him already, your Honor.

THE COURT: All right. You have made that motion a number of times, Mr. Kanarek. I don't think we have to repeat it now.

We will recess until 2:00 p.m.

(Whereupon, a recess was taken until the afternoon of the same day at 2:00 p.m.)

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LOS ANGELES, CALIFORNIA, TUESDAY, JUNE 16, 1970 2:00 P.M.

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(Whereupon the following proceedings were had in the chambers of the Court out of the presence and hearing of the prospective jurors, all defendants and all counsel including the two Deputy District Attorneys being present:)

THE COURT: Now, the record will show that all of the defendants are present with their respective counsel. The counsel for the People are present.

Mr. Fitzgerald was about to commence asking Mr. Coubrough some questions.

MR. FITZGERALD: Before I do that, please, I wonder if counsel for both sides might be heard briefly on the issue of whether the Court has the inherent power to excuse any prospective juror --

THE COURT: I don't think there is any question about the law. I do have.

MR. FITZGERALD: We were going to ask that your Honor exercise that power in regard to this particular prospective juror.

Counsel for both sides with the legitimate exception of Mr. Kamarck feel that it would serve no good purpose to have this particular juror give up his vacation, et cetera.

MR. STOVITZ: On behalf of the People, we would so

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stipulate.

MR. REINER: On behalf of Leslie Van Houten we will so stipulate.

THE COURT: Stipulate to what?

MR. STOVITZ: That the Court may excuse this juror on its own motion without any necessity --

THE COURT: I don't need a stipulation for that.

MR. STOVITZ: Yes, but --

THE COURT: Mr. Kanarek is not willing to stipulate so there is no stipulation.

I do not intend to exercise my discretion, at least at this time.

8 fls. Now, let's proceed, gentlemen.

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INTERROGATION OF MR. COUBROUGH

BY MR. FITZGERALD:

Q You indicated, sir, that you read a newspaper daily; is that correct? Every day you read a newspaper?

A Well, not every day. Once in a while it was the headlines.

Q Do you regularly subscribe to a newspaper?

A Yes. I get the Times delivered.

Q Is the Times delivered to your door?

A Yes.

Q Do you subscribed to any other newspaper?

A No, that is all.

Q Were you here in Los Angeles during the month of August, September, October, November, and December of 1969?

A Yes.

Q And have you been in Los Angeles during January, February, March, April, and May?

A I have been here 32 years.

Q Continuously?

A Yes.

Q Here in Los Angeles County?

A Yes.

Q Now, do you remember reading about the death of Sharon Tate?

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A Yes.

Q Do you remember what you read?

A No, I can't remember exactly.

I remember reading about that young boy that was killed outside the place, that was in on the case; a young boy that was killed. He was visiting them.

Q Did you read how many people were killed?

A It seems like there were five.

Q After you read this, did you discuss it with anybody?

A Nobody except my wife, just in the house.

Q Did you and your wife discuss this?

A Yes. She was reading about it, too.

Q Do you remember, in substance, what you and your wife discussed in connection with the killing?

A No. We never did discuss it much at home.

Q Do you remember reading anything about the backgrounds or history of any of the victims in the case?

A No, except that they lived out at a ranch or something. I can't remember what the name of it was.

Q I am talking about the people who died, the decedents. Did you read about their background or history?

A A little bit.

Q A little bit?

A Yes.

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Q Do you remember, in substance, what you read?

A No, not too much.

Q You know how those people died, the victims, from your reading?

A Well, I think the one lady -- was it Tate? -- I think she was stabbed about 20 times or something.

Q And what about the others?

A I can't remember too much about the other ones.

Q Did you read anything about the defendants in this case?

A No.

Q Did you read about anybody being arrested in this case?

A Yes. The people you have now.

Q Do you remember any of their names, reading about them?

A Well, one was Manson. One was Ashton. Is there an Ashton or something?

Q Atkins?

A Yes. Atkins, yes.

Q Did you read about anybody else being arrested?

A Yes, I did, but I couldn't give you the names.

Q Do you remember what you read about Manson?

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A No. I read about his Family, that is all; supposed to be.

Q The Manson Family?

A Yes.

Q You read about the Manson Family?

A Yes.

Q Can you tell us, in substance, what you recall from what you read about the Manson Family?

A Oh, it was just about these young ladies had been some of the Family.

Q Did you read anything about their relationship, if any, with Mr. Manson?

A Yes, but that I wouldn't like to talk about.

Q Is there some reason you wouldn't like to talk about it?

A No.

Q Did you say you didn't want to talk about that?

A Yes. About what was happening. That's right.

Q Would you state a reason for it why you wouldn't care to talk about that?

A No, I couldn't state a reason. These kind of things that go on, I don't like them.

Q Do you think it would be in bad taste to talk about them?

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A Yes.

Q Well, are you willing to tell us about it? We are not in open court; we are back alone in chambers.

A Yes.

Q Can you tell us what you read about the relationship these girls in the Manson Family had with Charles Manson, if you can?

A Well, that would be hard to explain, but I did read the part about what happened, about the mother, and also about the Bianca, the other couple that was killed.

Q La Bianca?

A Yes. I heard of them driving there.

Q Did you read the Sunday paper December the 14th, the Los Angeles Times?

A I guess I would, because I get the Sunday paper.

Q Did you read any statement in the December 14th issue of the Los Angeles Times about somebody's story about what had happened?

A Yes. It was one of the ladies, the story was in the paper.

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Q BY MR. FITZGERALD: Did you read that story?

A Yes, I think it was Miss Atkins, was it?

Q What did you think after you read that story?

A Well, I didn't think too much about it.

Q Did you think anything about it?

A Well, I thought maybe it was true at the time.

Q Did you discover later that it was not true?

A No, I have not.

Q Did you at any time change your opinion?

A No. I have not.

MR. FITZGERALD: I have no further questions.

MR. KEENEN: I will pass.

MR. FITZGERALD: I would exercise a challenge for cause.

THE COURT: Mr. Kanarek?

MR. KANAREK: I have no questions, your Honor.

THE COURT: Mr. Shinn?

MR. SHINN: I have a few questions, your Honor.

INTERROGATION OF MR. COUBROUGH

BY MR. SHINN:

Q Sir, did you read about any other criminal acts of the defendants besides the Tate and La Bianca?

A No, that is about the only -- except

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Mr. Hinman or something.

Q Oh, you read about the Hinman case?

A Yes.

Q When was this?

A A little bit.

Q What?

A I read a little bit, not too much.

Q Was it recent or, say, three or four months ago?

A Oh, it was three or four months ago.

Q And did you read anything about this Hinman case in connection with these defendants today?

A Yes, yes.

Q Do you recall whose name was mentioned?

A A fancy name, it's a long name. I don't know really what his name is.

Q Did it sound like Beausoleil?

A No. I'm talking about the lady.

Q The lady that was what?

A She was -- she was against Hinman, and I remembered where she and some other girl had covered his face with a cushion or something.

Q Where did you read this, in a magazine?

A And she changed her mind.

Q Did you read this in a magazine or in a newspaper?

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A I guess I read this in a newspaper.

Q And at this time you don't recall any names?

A I can't remember that lady's name.

Q That is the only one you remember?

A If you would mention the name I would tell you.

Q Well, I don't want to mention names. If you don't know I don't want to mention the name, it might be suggestive, you know.

A Yes.

Q Did you read any books or magazines regarding this case?

A No, I don't read books or magazines, just the paper.

Q No detective magazines?

A I did years ago, but not any more.

MR. SHINN: I have nothing further.

THE COURT: Mr. Stovitz, do you have any questions?

MR. STOVITZ: Yes.

BY MR. STOVITZ:

Q Have you ever read a publication known as The Rolling Stones?

A No, I haven't, no.

Q Have you ever heard of it?

A I have heard of it, yes, but definitely I

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have never read it.

MR. STOVITZ: Nothing further.

MR. BUGLIOSI: No questions, your Honor.

MR. FITZGERALD: We would challenge this juror for cause.

THE COURT: I want to put some questions to Mr. Coubrough again in the light of his testimony, wherein his memory has apparently been refreshed as to some of the things from the questions counsel has asked.

I want you to think very carefully about the questions I'm going to ask you, Mr. Coubrough, and give me your absolutely honest answer, whatever it is.

MR. COUBROUGH: Yes.

BY THE COURT:

Q Do you believe that you are able to put out of your mind all of the publicity regarding this case or any of the defendants, and consider the evidence in this case fairly and impartially as though you had never been exposed to such publicity?

A No.

Q You don't think you will be able to do that?

A I could not decide until I heard all of the witnesses.

Q Well, from your answer I think maybe you did not understand the question.

A Maybe.

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Q What I'm asking you is, do you think that if you are selected as a juror in this case --

A Yes.

Q -- that you could put out of your mind everything that you've learned about the case before you came in here --

A Yes.

Q -- and act fairly and impartially --

A Yes.

Q -- based only on the evidence brought out during the trial?

A Yes, right.

Q Do you think you can do that?

A Yes.

Q Do you think you could follow the Court's instructions?

A Oh, yes.

Q No matter what they are?

A Right.

Q You understand that it is your duty to follow the Court's instructions?

A Yes.

Q Even though the law might be different than you think it should be?

A Yes.

Q You would still follow the instructions I

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give you?

A Right.

Q And you would decide a case in accordance with those instructions and based only on the evidence in this case?

A Right.

Q Not on anything that you have heard outside of the courtroom?

A No.

Q You give me your promise that you would do that?

A Yes.

THE COURT: Well, I'm going to disallow the challenge, Mr. Fitzgerald.

MR. FITZGERALD: Could I be heard just very briefly?

THE COURT: All right.

MR. FITZGERALD: The Reardon report suggests that whenever a juror has read any substantial item of pretrial publicity, that that in itself should be the basis for a challenge for cause.

I would point out that in this case the respective juror has referred to an exhibit received in evidence in connection with the motion to sever.

It is a document entitled "Susan Atkins, Two Nights of Terror," that appeared in the December 14th

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issue of the Los Angeles Times.

I think at best the juror's answers are ambiguous.

I would ask your Honor to resolve that ambiguity in favor of the defendants' right for a fair trial and ask that you grant our challenge.

THE COURT: I don't think the answers are ambiguous. I think they are perfectly clear.

I see no ground for allowing the challenge.

MR. FITZGERALD: I think the record should indicate that he said he read, and he thought it was true, and his opinion has not changed.

THE COURT: Of course the record will speak for itself as to what he said, but he has now stated that notwithstanding anything that he has read heretofore or seen or heard, that he is able to put that out of his mind, and decide the case on the basis of the evidence received during the trial and the Court's instructions?

Is that right, Mr. Coubrough?

A Yes.

BY THE COURT:

Q You say that without any mental reservation of any kind?

A I do.

THE COURT: All right, the challenge is disallowed.

MR. KANAREK: We join the challenge for cause.

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your Honor.

THE COURT: On what basis?

MR. KANAREK: The same basis Mr. Fitzberald has stated.

THE COURT: You may take Mr. Coubrough to the courtroom and bring in Juror No. 2, Mrs. Genevieve Manning.

Thank you, sir.

MR. COUBROUGH: Judge, can I speak to you now?

THE COURT: No, not personally.

MR. COUBROUGH: It was about being excused. I just wanted to explain something.

THE COURT: Well, we will have to take that up later.

MR. KANAREK: Well, your Honor, in view of Mr. Coubrough's personal plans in this case, I conferred with Mr. Manson.

Mr. Manson does not want to interfere with Mr. Coubrough's personal plans.

THE COURT: Then I take it you are willing to stipulate that Mr. Coubrough may be excused?

MR. KANAREK: That's right.

THE COURT: Are all counsel willing to join in that stipulation?

MR. FITZGERALD: So stipulated.

MR. REINER: So stipulated.

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MR. STOVITZ: So stipulated.

MR. BUGLIOSI: So stipulated.

MR. SHINN: So stipulated.

THE COURT: Then you are excused, Mr. Coubrough.

MR. COUBROUGH: Thank you, but I will sit out here.

THE COURT: Yes. Is the Clerk here?

MR. STOVITZ: He just went outside.

So that the record is abundantly clear, Mr. Coubrought has been excused by the Court upon stipulation of all counsel due to the inconvenience of the length of trial to Mr. Coubrough.

THE COURT: It was by stipulation of counsel. Whatever reason you stipulated is a matter for you to decide.

(Mrs. Genevieve Manning, Juror No. 2, enters the chambers of the Court.)

THE COURT: Would you sit down there, please, Mrs. Manning.

MR. STOVITZ: May I inquire of all counsel, does any counsel object to proceeding with this juror before we seat 12 jurors in the box?

I think it will be inconvenient to remove the court out to the courtroom again just to seat a 12th juror in the box, when we have this lady here and we can proceed with the questioning of this lady.

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THE COURT: Does anyone have any objection?

MR. REINER: No objection.

MR. FITZGERALD: None.

MR. KANAREK: No objection at this point, your Honor.

MR. SHINN: No objection.

THE COURT: Mrs. Manning, I'm going to put several questions to you, and then the attorneys will have an opportunity to ask you some questions too.

Now, the first question is this:

Would you tell us what you have read, heard or seen concerning this case or any of the defendants, the victims or anyone else connected with the case, or the crimes alleged to have been committed by any of these defendants.

Did you understand the question?

MRS. MANNING: Yes, unfortunately.

BY THE COURT:

Q I'm referring now to newspapers, radios, television and any other media that you may have been exposed to.

A Would you like me to tell you what I have seen or what I have been impressed with and seen?

Q Yes.

A Because there is a difference. Some news coverage, and the rest of it that I see and I discount almost completely, other coverage I would be much more

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impressed with.

Q Well, to begin with why don't you tell us generally what you have seen and heard and read, and then you can tell us specifically what has impressed you, what opinions if any you have formed regarding these matters?

A I would say that I have not formed an opinion as to the guilt or innocence of the defendants.

This has not been a problem. I did not know of any of the victims of the murder, and did not know who they were. Their names meant nothing to me.

There wasn't anyone of the people that I had ever heard of or was aware of as even people, so that this was, in reading about it, I read that there were eight people who were killed, not anyone person any more important than another, or more known to me than another.

I have read of the existence of the commune in which these people were said to be living. I have three older boys, and it was a distasteful type of situation as far as my own feelings on it were concerned.

I did not think it was the type of situation that I would like any one of my family to be living in.

I don't know of anything else that I have -- I have seen it in the papers and I heard it on the News, and I have not been too impressed with it one way or another.

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Q Have you formed any opinions as to the guilt or innocence of any of the defendants?

A I think not. I would say that I would be able to listen to the case and judge it from that. I do not think I have predecided whether or not there is guilt or innocence.

Q You think that you would be able to put what you now know about the case out of your mind and decide it only on the basis of evidence received during the trial?

A I think I would be able to. I couldn't say positively. I don't know how I would hear evidence. I think that I would hear it fairly and make a decision from that. I am not able to state exactly whether I could.

MR. KANAREK: May I have read back the witness's last answer?

THE COURT: Yes.

(The record was read by the reporter.)

MR. KANAREK: Thank you, your Honor.

THE COURT: Do you wish to inquire, Mr. Fitzgerald?

MR. FITZGERALD: If I may.

VOIR DIRE EXAMINATION

BY MR. FITZGERALD:

Q Mrs. Manning, you regularly read a newspaper?

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A Yes.

Q Is a newspaper delivered to your home?

A Yes. Two of them.

Q What papers?

A We get the Valley Tribune, which is a San Gabriel Valley paper, and the L.A. Times.

Q Do you read those papers every day? Are they daily newspapers?

A Yes. I read Dear Abbey and the Astrological Forecast, and will read about Cambodia and VietNam, the military situation.

As far as the type of scandal news or headline news is concerned, it hardly even appeals to me at all.

Q Does anybody else in your family regularly read newspapers?

A Yes.

Q Do you frequently discuss with other members of your family material contained in the newspaper?

A Yes, we do.

Q Were you present here in Los Angeles from August 1969, through December 1969, and from January 1970, through May of 1970?

A Not in Los Angeles. I lived out in San Gabriel Valley. In the area, yes.

Q In Los Angeles County?

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A Yes.

Q Did you read anything about the death of Sharon Tate?

A Yes, I did.

Q Do you recall when you read that first?

A No, I really don't.

Q Do you recall in which of the two papers you read this material?

A No.

Q Did you discuss the death of Sharon Tate with anybody?

A I don't think that I did, because Sharon Tate meant nothing to me.

It was mass murders that we probably did discuss, but not Sharon Tate.

Q Were mass murders as a result of the publicity in this case discussed by you and other members of your family?

A Probably. And still I couldn't -- It did not enter too much into our discussions.

We have a 10-year-old youngster, and I would say that for that reason we have avoided that type of discussion of newspaper coverage.

Q Did you learn from the newspaper anything about the background or the history of the decedents in the case, all of the victims? Did you read about their

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background and history?

A (Pause.)

Q Did you read, for example, that Sharon Tate was a movie star and her husband was a movie producer?

A Yes, I read that.

Q Did you also read about the background and history of other decedents?

A It seems to me that I remember a Folger, who was the coffee heiress, and we use Folger's coffee. And I think that was probably the connection.

Q Did you read anything about any of the defendants in this case?

I will take them one at a time. Did you read anything about Charles Manson?

A Yes.

Q Did you read anything about him in connection with his arrest for this charge?

A I don't have any idea whether I read it or heard it on the news or heard it in a conversation or what.

I don't recall how I became aware of the fact that Charles Manson was charged.

Q If at all possible, I would like you to confine your remarks to what you read in the newspapers. I know it is difficult to differentiate sometimes, but try as much as possible to keep your remarks to what you have read, if you could, in the paper.

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A. Yes.

Q. Did you read anything that you can remember distinctly reading in the newspaper about Charles Manson?

A. (Pause.)

Q. Let me ask you this: In connection with Charles Manson, regardless of whether you saw it on television, heard it on the radio or read it in the newspapers, what, if anything, did you learn about Charles Manson?

A. Well, I don't know that I have learned anything about him.

Q. Did you read about his background?

A. No, I did not.

Q. Do you know anything about the past history of Mr. Manson?

A. No.

Q. Did you read or did you hear anything about Mr. Manson in connection with his arrest in this case?

A. I don't know.

Q. Can you distinctly recall hearing or reading anything about any of the other defendants in this case, that is, Patricia Krenwinkel, Susan Atkins, or Leslie Van Houten, also known as Leslie Sankston?

A. I read about one youngster who had a baby recently. Is that one that you mentioned? I read about a girl being pregnant who was involved with this.

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Q And having a baby in jail?

A Yes.

Q You are referring to a defendant that is not present at this time.

Do you recall reading anything about the female defendant in this case?

A I read that one was being extradited from Texas. Is that one?

Q You read about some relationship, apparently, between those girls on trial and Mr. Manson; is that correct?

A Yes.

JA-1

Q What did you read or hear in that regard?

A That these were people who lived in Mr. Manson's commune, were members of his family. It was stated in what I read that these were members of his family, and that term was used in a different way than I would have considered members of my family.

Q In what respect was it a family different than your family, now, based on what you read or heard?

A Well, the mother and father in our family are the parents of the children, and this would be the difference, you see, because it was evident to me that Mr. Manson was not the parent of the women. He might have been the parent of a child, but he was not the husband of three different women, or four or five, or whatever number who were living in the commune.

Q Did you read at any time that Charles Manson engaged in sexual relations with any of the female members in this family or commune?

A No.

Q You reasoned that inasmuch as he was the father of a child; is that correct?

A Yes, I would have assumed that.

Q Did you read where any of these defendants were arrested?

A It seems to me at a ranch which was their home, their commune, and I know the name of the ranch was

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the Spahn Ranch.

I have no idea where it is or what the location of it is.

Q Did you read anything about the Spahn Ranch at all?

A That it had been used as a movie set; rather, where movie scenes were held.

Q Do you own a radio?

A Yes.

Q Do you regularly listen to a radio?

A No, I do not.

Q Do you have a radio in your home?

A Yes, we have a radio in the home.

Q Do you drive an automobile?

A Yes.

Q Do you have a radio in your automobile?

A NO, we don't.

Q Have you ever heard anything on the radio about this case?

A I don't imagine I have. I don't think I have, because I do not regularly listen to a radio.

My sons have a radio on for the jazz music, and I don't hear any news on it.

Q Do you listen customarily to news broadcasts on the radio?

A Not the radio, no.

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Q Do you own a television set?

A Yes.

Q More than one?

A One.

Q Do you watch television on a regular basis?

A Yes, I do.

Q Do you watch the news broadcasts on television?

A Yes.

Q Do you watch a particular news show or commentator?

A Yes.

In fact, I watch two regularly.

Q What two are those?

A I watch the Tom Reddin News, and then I watch Bill Bonds.

Q Is that Bill Bonds, Channel 7?

A Yes.

Q Is that referred to as the Eye Witness News?

A Yes.

Q Did you see anything on Bill Bonds, Channel 7 Eye Witness News in connection with the discovery of any evidence in this case?

A I don't have any idea. I don't know.

Q Did you see anything on television in connection with this case on either of the two channels you have mentioned?

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A Yes. What, I don't know.

Q I take it that you do not know any of the defendants personally?

A No, I don't.

Q Do you know anybody who knows the defendants personally?

A No.

Q I take it, then, the information you have concerning the defendants you obtained from some media source?

I am referring to radio, newspaper, television, magazines, or periodicals. Is that a fair statement?

A Well, you can leave out magazines and periodicals. It was from news media or papers.

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Q Now, you learned from somewhere in the news media that certain aspects of the commune were distasteful to you personally; isn't that correct?

A Yes, I would say so.

Q And upon what do you base that opinion?

A Being the parent of a child that I would hope would not live in a situation such as that as was described.

Q What I am trying to get at is: What did you learn from the media that led you to form that opinion? In other words, what did you hear on the radio, watch on television, or read in the newspaper that led you to the opinion that it would be personally distasteful to you to have one of your children in such a relationship or living arrangement?

If you are able to answer the question.

A I don't know. I can't sort it out.

Q And I take it there is some doubt in your mind whether you would be able to take out of your mind everything that you read or heard about this case on television, over the radio, or in the newspapers?

A No. I said that I thought I would be able to hear evidence and judge it fairly.

Q You think you could?

A Yes.

Q Is there some hesitation on your part?

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A (Pause.)

Q Is it also possible that you could not?

A Yes, it is possible that I could not.

Q At what point in time would you be able to determine whether it was not possible?

A (Pause.)

Q At any time in advance of trial could you tell us positively?

A I do not know.

Q Well, is it fair to say that you would have to listen to the evidence and wait and see?

A I would say so.

MR. FITZGERALD: Thank you.

MR. REINER: If the Court please?

MR. FITZGERALD: Excuse me. I have concluded my questioning, your Honor.

THE COURT: Very well.

MR. REINER: May I inquire?

THE COURT: Yes.

MR. REINER: Thank you.

VOIR DIRE EXAMINATION

BY MR. REINER:

Q Do you recall last August when you first heard of these killings?

A Yes.

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Q At the time that you first heard of it, did you first hear of it from the newspaper or from television, if you remember?

A I don't know.

Q At the time you first heard of these killings, do you recall hearing either on television, radio, or in the newspapers that the victims had been stabbed and shot?

A I believe so. My first reaction was that it was an extraordinarily brutal thing. It seems to me that this was my reaction.

Q Do you recall any speculation in the media that this was a ritualistic-type killing? Do you reading any speculation about that possibility?

A Yes, I believe I do.

Q Do you recall hearing -- and when I say "hearing," understand that I mean from any source, the newspapers, radio, television --

Do you recall speculation in the media -- Strike that.

Do you recall hearing that the victims, some of the victims, had their hands tied?

A No, I don't.

Q Do you recall hearing that some of the victims had a rope around them?

A I don't think so.

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Q Do you recall that in addition to the persons who were killed at the Tate home that a young boy was also killed on the property?

A I did hear that.

Q Do you recall reading or hearing that this young boy was not connected with the people who were in the home, that he was just simply on the premises at that particular time?

Do you recall that?

A Yes.

Q Do you recall hearing that the telephone wires to that residence had been cut?

A No, I do not.

Q Do you recall that Sharon Tate was pregnant?

A Yes.

Q Do you recall any speculations in the media that her body had been mutilated?

A It seems to me that I did hear that Sharon Tate had been either stabbed to kill the baby or kicked, and I am not positive that I did hear that, but it seems to me that I heard this.

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BY MR. REINER:

Q Do you recall hearing about a young boy who lived on the premises in the back who was initially arrested?

A Yes.

Q Do you recall that shortly thereafter he was cleared and released by the police?

A Yes.

Q Do you recall that the word "Pig" was written on a portion of the wall or door in the blood of one of the victims?

A I don't think so.

Q Do you recall that the very next night a similar homicide also occurred in the Los Angeles area?

A Yes, I recall that.

Q Do you recall that this involved two victims by the name of La Bianca?

A An elderly -- this was startling to me -- I mean these were elderly people?

Q This was a man and his wife.

A Yes.

Q Do you recall they were elderly?

A Yes.

Q And you indicate it was startling?

A Yes.

DEFENDANT MANSON: May I object, your Honor? All he is doing is telling her things she may never have read.

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He is stimulating her memory.

THE COURT: Mr. Manson, speak through your attorney.

MR. KANAREK: I do move at this point that Mr. Manson be co-counsel. It would be most advantageous.

THE COURT: The motion is denied; it has been denied on numerous occasions.

Let's proceed.

Q BY MR. REINER: Mrs. Manning, what was the age of the victims La Bianca that you found so particularly startling?

A Well, these were people of an age group that I could very easily identify with in comparing them to myself.

Q Do you recall at that time that you first heard of that particular crime that there was speculation in the news media that it was somehow possibly related to the Tate murders of the night before?

A Yes, I remember hearing that there was some connection or it was likely some connection.

Q And do you recall hearing or reading that there had been words also written on the wall in blood?

A I don't believe so.

Q Do you recall hearing the announcement in early December by the Police Department that the case, the murder had been solved?

A I have no idea when I heard it, and that

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Charles Manson was --

THE COURT: Did you hear that?

MRS. MANNING: Pardon?

THE COURT: Did you hear that?

MR. REINER: Perhaps I might rephrase it.

MRS. MANNING: That the case had been solved?

THE COURT: Yes. Did you ever hear anybody say that?

MR. MANNING: I don't think I heard that, but I heard that --

THE COURT: Then the answer would be no to his question, wouldn't it?

MRS. MANNING: I'm sorry.

Q BY MR. REINER: Do you recall a televised news conference by Chief of Police Edward Davis indicating that they had solved the case and they were in the process of making arrests?

Do you recall a newscast of that sort?

A No.

Q At or around -- strike that.

You do recall, though, hearing at some point in time that Charles Manson and certain other persons had been arrested, is that correct?

A Yes.

Q And that was the first time in your life that you had heard of Charles Manson, is that right?

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A Yes.

Q And beginning with that particular point in time you began to hear different things about Charles Manson, is that correct?

(No response.)

I'm referring to just anything you might have heard about Charles Manson?

A Yes.

Q Do you recall that Susan Atkins testified before the Grand Jury that resulted in the Indictments that are here?

A Yes.

Q Do you recall that just shortly after she testified before the Grand Jury that a story that purported to be her confession was published in the Los Angeles Times?

A No.

Q Did you read that particular confession?

A No.

Q You do receive the Los Angeles Times?

A Yes.

THE COURT: What was the answer, you did read it or you did not?

MRS. MANNING: No, I did not.

THE COURT: All right.

MRS. MANNING: No, I did not.

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Q BY MR. REINER: Now, on the particular day that this purported confession came out, were you aware that there was a confession or a purported confession in the Times on that day, or did it just escape your notice?

A Oh, I think that I was aware of it.

Q How was it that you were aware of the fact that there was a purported confession in the Times?

A Possibly one of my kids said, "Did you see the confession by Susan Atkins?"

And I said, "No."

Or they said it was in the paper.

Q Then you had been informed by your family or certain members of your family that a confession of Susan Atkins had appeared in the Los Angeles Times?

A Yes, I think that is how I found out.

Q You have now since these arrests have occurred heard of the Spahn Ranch?

A Yes.

Q And the information that you have received from the media is that this is the place where Mr. Manson and certain other persons lived, is that correct?

A Yes.

Q And this is the commune that you referred to?

A Yes.

Q And this is the place that you had heard that they lived together and considered themselves to be a

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family?

A Yes, sir.

Q And that they engaged in acts of free love at this particular commune?

Had you heard that?

A No, I don't think so.

Q And had you heard through the media that Mr. Manson was reputed to have a very strong influence upon the girls?

A Yes, I had.

Q Had you heard through the media that this had been characterized by some as a sort of hypnotic influence upon the girls?

A Yes, I had heard that.

Q Have you seen these defendants in the last few months since they have been arrested on television, while watching the Tom Reddin Report, or the Bill Bonds News?

A I don't believe so.

Q Well, do you watch the Tom Reddin Report each evening on a generally regularly basis?

A Yes, generally.

Q And you also watch the Eyewitness News with Bill Bonds on a regular basis?

A Yes, sir.

Q And you watch it from the beginning to the

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and on a regular basis?

A This is the late news, it's a half hour, and it's certainly condensed from the afternoon version.

Q In any event would it be a fairly reasonable, accurate statement to say that since last December up to the present it was your general, regular practice to view the Tom Reddin News in its entirety, and the Bill Bonds Evening News in its entirety?

A Most of the time.

Q Have you heard any other person, friends or acquaintances of yours, express any opinion or attitude or view with respect to Mr. Manson, the other defendants, the commune, their life style, or anything of that sort, since the arrests occurred last December?

MR. BUGLIOSI: Your Honor, isn't this going beyond the scope of what we are here for?

THE COURT: I believe so.

MR. BUGLIOSI: We are here because of the publicity issue. He is now going into other matters.

THE COURT: I think it could be shortened up, Mr. Reiner.

MR. REINER: What I am referring to is the matter discussed by the Court in Louisiana vs. Rideau, where they indicate, there was some point of attitudes, opinions and the like of friends and acquaintances with respect to the trial --

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THE COURT: That may be. The purpose of this chambers' examination is simply to determine what the exposure a prospective juror had and what effect, if any, it had on his opinions.

MR. REINER: Yes, your Honor.

THE COURT: I want you to keep in those narrow limits.

Now, when we go back into court you can of course expand your voir dire examination to other than pretrial publicity.

MR. REINER: I appreciate that, but specifically Louisiana vs. Rideau, which was a pretrial publicity case, and in that case the Supreme Court did state an element to be considered was not only the material that had come to a prospective juror from a news media, but opinions, attitudes that had been reflected to the prospective juror by the prospective juror's friends and acquaintances in the community who themselves had been exposed to media information.

THE COURT: All right, let's get on with it then.

Q BY MR. REINER: Now, Mrs. Manning, had friends of yours from time to time, or at any time, or acquaintances of yours in the last six months or so, ever expressed an attitude or an impression or an opinion about Mr. Manson or any of the other defendants?

A Yes.

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Q And was this attitude, opinion, or impression substantially the same as the attitude that you have expressed to us in the last 30 minutes or so?

A Yes.

MR. REINER: I have no further questions.

THE COURT: Mr. Kanarek.

MR. KANAREK: I have no questions, your Honor.

THE COURT: Mr. Shinn?

MR. SHINN: I have a few questions.

BY MR. SHINN:

Q You stated that you take two papers?

A Yes, sir.

Q And one is the Times?

A Yes, sir.

Q And the other is a local paper?

A Yes.

Q And do you make it a habit to read from cover to cover each newspaper?

A No.

Q What do you read mostly?

A I read the Editorial pages as a rule.

I read the news of any importance.

I am very little concerned with the scandals or the -- or about murders. I will usually read Dear Abbey.

Q You made a statement you do not read about murders, is that correct?

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A Not ordinarily. I mean, I do not read the splashy items, the items that seem to be the reason why they are put in the papers, so as to get people to read them.

The headline is usually very catchy, and the rest of it -- I can skip those very easily.

Q You just stated not ordinarily.

Does that mean that regarding this case you did read it?

A I don't believe I did. I don't think I did.

Q You don't think, but you don't know for sure?

A No.

Q Did you read any magazines or books regarding this case at all?

A No, sir.

Q Did any member of your family to your knowledge read any books or magazines regarding this case?

A If so they have not discussed it with me.

Q Now, you stated that you watched Channel 2 and Channel 7, is that right?

A No, I think it's Channel -- I think Tom Reddin is on 5.

Q I am sorry, 5 and 7.

Now, I believe 5 comes on what, twice a day?

A I watch him at 10 o'clock at night until 11.

Q You don't watch the one from six to seven or

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five to six?

A No.

Q And Channel 7 comes on once a day too?

A He is on afternar, but I see him at 11 o'clock to 11:30.

MR. SHINN: I have nothing further, your Honor.

THE COURT: All right.

BY MR. BUGLIOSI:

Q Ma'am, have you ever heard of the publication called Rolling Stone?

A No.

Q I am referring -- I am not referring to the recording group but a periodical, a publication, the Rolling Stone?

A No, sir.

Q To your knowledge you never read that paper, that periodical?

A No.

MR. BUGLIOSI: No questions.

THE COURT: Let me ask you a few more questions, Mrs. Manning.

BY THE COURT:

Q Do you believe that you will be able to put out of your mind all of the publicity regarding this case or any of the defendants, and consider the evidence in this case fairly and impartially as though you had never

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been exposed to such publicity?

A I think so.

MR. KANAREK: May I have that question read back? I was speaking with Mr. Reiner. I did not hear.

THE COURT: All right, read it back.

(Whereupon the reporter reads the question as follows:

"BY THE COURT: Q. Do you believe that you will be able to put out of your mind all of the publicity regarding this case or any of the defendants, and consider the evidence in this case fairly and impartially as though you had never been exposed to such publicity?")

Q BY THE COURT: Do you believe you are able to fairly and dispassionately weigh all of the evidence received during this trial and in accordance with the instructions of the Court, base your verdict solely on the evidence received during the trial?

A Yes.

Q And will you give the Court your promise now that you will do so?

A Yes, I will.

MR. FITZGERALD: We will challenge this juror for cause. We believe her answers are equivocal.

She said "I think I can" earlier.

THE COURT: On what basis, what cause?

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MR. FITZGERALD: As the results of pretrial publicity.

THE COURT: What section of the Code?

MR. FITZGERALD: Actual bias. I will get you the Code Section.

THE COURT: Yes.

MR. KEINER: We will also challenge this juror for actual bias.

MR. SHINN: We also challenge.

THE COURT: The challenge is disallowed.

Would you escort Mrs. Manning back into the courtroom, please?

Let's see, it is time to take our recess. We will take a 15-minute recess at this time and then we will resume with Mrs. Alsberge.

MR. STOVITZ: May the record show it is 3 o'clock.

THE COURT: One moment, before you leave, Mrs. Manning, will you please not discuss the matters that have been gone into in chambers with any of the other prospective jurors.

MRS. MANNING: All right.

THE COURT: I want to admonish counsel not to discuss what goes on in here in chambers during this portion of the voir dire with anyone else.

I think this comes again under the publicity order, and I don't want the prospective jurors to learn

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about what is going on in here from reading it in the newspaper or any other way, for that matter.

MR. SHINN: You mean from this morning or just now.

THE COURT: What?

MR. SHINN: You mean from now on?

THE COURT: Yes, from now on. Hopefully it hasn't happened yet, but if it has let's stop it now.

MR. KANAREK: I might say this, your Honor, since we are all here and the prosecution is represented, that the lady said she could not make up her mind until she heard part of the case, as a result of Mr. Fitzgerald's very astute examination, she stated that right now her mind is made up and she isn't sure until after she heard some more.

THE COURT: Let's take our recess now, gentlemen.

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(Recess.)

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THE COURT: The record will show all defendants are present with their respective counsel, and counsel for the People are present.

Will you send in Juror No. 3, Mrs. Florence Alsberge.

MR. BUGLIOSI: Your Honor, Mr. Coubrough, after he was examined --

MR. STOVITZ: Your Honor, Juror No. 3 is not Florence Alsberge.

MR. BUGLIOSI: Yes, she is.

After he was examined on the limited issue of publicity, Mr. Kanarek joined the other defense counsel and the prosecution in the motion to have him excused for hardship.

Now, perhaps we could talk to Mr. Kanarek about the other seven and avoid voir diring these particular seven individuals on the pretrial publicity issue, because on Mr. Coubrough we spent 15 minutes on that limited issue after which time Mr. Kanarek, somewhat belatedly, joined in on the stipulation, thereby wasting 15 or 20 minutes of precious court time.

Perhaps this can be done with the other hardship cases and thereby eliminate the issue of pretrial publicity, at least with respect to those seven.

How do you feel, Mr. Kanarek, about that?

MR. KANAREK: Your Honor made an order that there

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would be no colloquy inter se, and I will answer this Court at any time that this Court asks me anything.

THE COURT: All right, Mr. Kanarek, I appreciate your complying with my previous instructions.

Mr. Bugliosi, and I assume other counsel who previously indicated they were willing to stipulate to having excused certain of the jurors who indicated that it would be an undue hardship for them to serve, would like to know whether you have had any change of mind and whether you would like to stipulate to excusing any of those persons?

MR. KANAREK: Well, in response to that, including the lady that is now here, I think she indicated some such hardship also.

The position that we have is this, your Honor. It is a matter of degree, as far as hardship.

I don't wish to impose upon anyone, and Mr. Manson doesn't wish to impose upon anyone, but there are degrees of hardship.

THE COURT: We are talking now about the eight people that indicated -- Mr. Coubrough was one of the eight -- who indicated in the first 12 that were seated that as to them it would be a hardship.

Are you willing to stipulate to any of them or not? You don't have to.

MR. KANAREK: May I have a moment with Mr. Manson?

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THE COURT: Yes.

MR. KANAREK: Mr. Manson says that it is agreeable with him, your Honor.

So, therefore, I consider that his wishes are very important in this matter and I therefore will so stipulate.

THE COURT: All right.

Now, specifically, Mrs. Alsberge, I believe you were one of the jurors who asked to be excused because of hardship?

MRS. ALSBERGE: Yes.

THE COURT: Are you all willing to stipulate that Mrs. Alsberge may be excused?

MR. STOVITZ: I think that your Honor's inquiry on direct outside was not -- I wouldn't classify it as cursory, but, like Mr. Kanarek says, hardship is relative. If we could have this in court here.

For instance, there may be a graduation that some juror wants to attend, or some other type of celebration. That juror may consider it a hardship and another juror might not consider it a hardship.

THE COURT: What is the problem? I am asking you if you want to stipulate?

MR. STOVITZ: We would stipulate that the cases of true hardship --

THE COURT: It is not a matter of the grade of

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hardship at this point. I am asking you if you want to stipulate?

MR. STOVITZ: Yes, we would stipulate, but we would want again to ask your Honor to ask the juror whether or not sitting on this jury, figuring that we select a jury in a month, that we have a jury from now (a month), sitting on the jury four months and being sequestered from their family would, in fact, create an unbearable hardship that would cause her great inconvenience so that she could not devote her full time and attention to this trial.

THE COURT: As long as you stipulate, all of you, what difference does it make?

MR. STOVITZ: Well, because it just is that we have exhausted too many jurors that way.

THE COURT: If you have any question , don't stipulate.

MR. STOVITZ: If all defense counsel are willing to stipulate that this jury be excused, we would so stipulate, your Honor, but we would like to do it on an individual basis.

THE COURT: That is the only way it will be done.

Do you join in that, Mr. Kanarek?

MR. KANAREK: Yes.

MR. BUGLIOSI: So stipulate.

MR. REINER: So stipulate.

MR. SHINN: So stipulate.

MR. FITZGERALD: Yes.

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THE COURT: All right, Mrs. Alsberge, you are excused. We thank you very much for coming down here today.

Would you please not discuss this matter with the other prospective jurors or the press?

MRS. ALSBERGE: All right.

THE COURT: Thank you.

MRS. ALSBERGE: Thank you.

MR. KANAREK: Thank you, Mrs. Alsberge.

MRS. ALSBERGE: Thank you.

MR. STOVITZ: Now that the juror has left the chambers, may I say something?

As I recall, this lady gave, out in open court, a substantial reason for the hardship. Now, the next person that we are going to bring in is Ann Miller who was not one of the jurors that was replaced, and she stated there was no hardship.

MR. FITZGERALD: She said that she had elderly parents that she liked to see every day, and you pointed out, your Honor, that she couldn't if she were sequestered.

We will offer to stipulate on her.

MR. REINER: Yes.

MR. BUGLIOSI: Join.

MR. SHINN: So stipulated.

MR. KANAREK: Join.

THE COURT: All counsel stipulating that Mrs. Ann

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Miller may be excused, we will excuse Miss Ann Miller.

MR. STOVITZ: Genevieve Manning, the second juror that we have not excused, was examined extensively and stated sufficient grounds for hardship due to the fact that she had so many children at home, that there will be no one to take care of them.

If counsel wants to reconsider the fact, we would be willing to stipulate that Genevieve Manning be excused.

MR. FITZGERALD: So stipulated.

MR. REINER: So stipulate.

MR. BUGLIOSI: So stipulate.

MR. SHINN: So stipulate.

MR. KANAREK: So stipulated, your Honor.

THE COURT: Then Mrs. Genevieve Manning will be excused by stipulation.

I don't have my notes from the bench in chambers here but my recollection is that Mr. Dominguez did not wish to.

MR. BUGLIOSI: He was not a hardship, nor was Marilyn Pfeifer, nor Cora Muehlberger or Darlene Gayon.

THE COURT: Mr. Fuzumu Fuzuki would be next.

MR. BUGLIOSI: Yes.

THE COURT: Do you stipulate?

MR. REINER: Yes.

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MR. FITZGERALD: Yes. We offer to stipulate he may be excused. He has got a vacation coming up.

MR. REINER: So stipulated.

MR. STOVITZ: So stipulate on behalf of the People.

MR. SHINN: So stipulated, your Honor.

MR. KANAREK: So stipulated.

THE COURT: Mr. Susumu Suzuki will be excused by stipulation of counsel.

What about Miss Marie Mesmer?

MR. REINER: So stipulate.

THE COURT: I don't recall what she answered.

MR. FITZGERALD: I don't remember the problem. I think she was okay.

MR. STOVITZ: She took over from Mr. Thompson. I don't believe she indicated.

THE COURT: Let's wait until we go back to open court and I will inquire of her again.

MR. FITZGERALD: No. 9, Mr. Garcia, indicated that he had a vacation and he had children that needed his personal supervision.

We would offer to stipulate that he may be removed.

MR. REINER: Join.

MR. BUGLIOSI: So stipulated.

MR. SHINN: So stipulate.

MR. KANAREK: Join.

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THE COURT: Mr. Daniel Garcia will be excused by stipulation of counsel.

What about Edna Norwood?

MR. FITZGERALD: She indicated that she had a husband that was older than she was. I got the impression that he was an elderly man that required her attention.

That is the way that I understand it.

Is that your understanding?

MR. BUGLIOSI: Yes.

MR. STOVITZ: Yes.

MR. FITZGERALD: I would offer to stipulate on that one also.

MR. REINER: Join.

MR. BUGLIOSI: So stipulate.

MR. CHINN: So stipulated, your Honor.

MR. KANAREK: So stipulated, your Honor.

THE COURT: Then Mrs. Edna Norwood will be excused by stipulation of counsel.

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MR. STOVITZ: Mrs. Muehlberger was going to call back East to see if her relatives could take over the small business that she had.

I wonder if we could inquire of her first so as to save her a long-distance telephone call?

THE COURT: If we could do what?

MR. STOVITZ: Cora Muehlberger stated she had to call back East to see if her relatives could take over her business.

Perhaps if we inquired of her as to her knowledge of pretrial publicity, and we found that there was no challenge for bias or prejudice, that she could make the phone call.

If she did have a bias or prejudice, it would save her the long-distance telephone call.

MR. FITZGERALD: My position would be, and I don't know whether your Honor wants to honor it, my position would be I don't want a juror in this case who is going to be spending her time sequestered in her hotel, worrying about the economic status of her business.

I would offer to stipulate, if your Honor is willing to entertain the stipulation.

THE COURT: She has not really asked to be excused, as I understand it.

MR. STOVITZ: That's right.

THE COURT: She just asked for a little time to

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find out whether she could arrange her affairs.

If you wish to excuse her by stipulation, I don't see any objection to it.

MR. STOVITZ: Your Honor, this is what I was afraid of, because there will be many of the people who are employed, and they will be compensated by their employment for just so much time, and they will ask the same thing -- to check with their employer to see whether or not their employer will continue to compensate them.

I think it is only fair to allow the juror that time.

We are not going to have a jury by tomorrow, anyway. Every one of the jurors we excused, there will be that fewer jurors we will have to select; so I suggest we bring her in, question her further on her biases and prejudices, and then give her an opportunity to make the phone call.

THE COURT: Well, the next juror for our in-chambers examination will be Mr. Dominguez, No. 5.

It may be that by the time we get to Mrs. Muehlberger, she will have an answer.

MR. STOVITZ: May we have the same stipulation that the twelve jurors need not be seated in the box in order for us to question them: Mr. Pedro Dominguez?

MR. FITZGERALD: So stipulated.

MR. REINER: So stipulated.

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MR. SHINN: So stipulated.

MR. KANAREK: I will stipulate to that at this time, your Honor.

I mean, it is getting quite depleted.

THE COURT: Well, we can examine only one at a time in chambers. I really don't see what different it makes.

If you want the box full, we can fill it up.

MR. KANAREK: No, I am just saying --

THE COURT: They are either sitting in the box or in the courtroom. It's not really a great problem.

However, I will assume then by stipulation we may continue this procedure until counsel indicates otherwise, and objects to the procedure, at which time if they do object we will consider a change in procedure and fill up the jury box before we continue with the chambers voir dire.

Let's ask Mr. Pedro Dominguez, No. 5. Perhaps before we start with Mr. Dominguez, perhaps I should ask the various people who have been excused to step in for a moment, and then we will excuse them officially and ask them not to talk to anybody about their in-chambers voir dire.

Mr. Murray, will you ask Mrs. Manning, No. 2, Mrs. Miller, and Mr. Susuki, No. 7, Mr. Garcia, No. 9, and Mrs. Norwood, No. 10?

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(Jurors enter the chambers.)

THE COURT: The record will show Mrs. Manning, Mrs. Miller, Mr. Suzuki, Mr. Garcia, and Mrs. Norwood are present.

By stipulation of counsel, ladies and gentlemen, each of you is excused from further service in the case.

I wish to thank you for being here today, and I would like to admonish you not to discuss -- Mrs. Manning is the only one who has been in chambers here -- not to discuss what occurred in chambers with any of the other prospective jurors or with anyone else.

All right, thank you very much; you are excused.

EXCUSED JURORS: Thank you.

THE COURT: Isn't Mrs. Miller here?

THE BAILIFF: The clerk says Mrs. Miller has left. Was she excused? She was given a slip by the clerk.

THE COURT: Is Mrs. Alsberge here?

THE BAILIFF: No, your Honor. She is the one that left.

The clerk apparently thought she was Juror No. 3.

THE COURT: She was; Mrs. Alsberge was No. 3.

THE BAILIFF: What number was Mrs. Miller?

THE COURT: Mrs. Miller perhaps was excused. She

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was 4.

Is she out there now?

THE BAILIFF: No, Mrs. Alsberge was the lady who did leave.

THE COURT: Well, these people may leave now; thank you.

(Mrs. Miller enters the chambers.)

THE COURT: Mrs. Miller?

MRS. MILLER: Yes.

THE COURT: You had indicated this morning that it would be an undue hardship for you to serve in this case.

MRS. MILLER: Yes.

THE COURT: And by stipulation of the attorneys you will be excused at this time.

I wish to thank you very much.

MRS. MILLER: Thank you.

MR. KANAREK: Thank you.

THE COURT: Now then, Mr. Dominguez, I want to ask you several questions, and I will ask you to think very carefully about your answers and give me the most frank and honest answers that you can.

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BY THE COURT:

Q First of all, what we would like to know is, what have you read, heard or seen concerning this case?

A Not much, not really much in the case.

Q Well, I take it you read the newspapers.

A The Los Angeles Times once in a while.

Q Have you read any accounts of the -- After the murders were announced in the newspapers did you read the account of it at that time?

A No, no, I did not keep track of it.

Q When did you first find out about the case?

A Oh, way --

Q When did you first know there was some murders of the victims that I named this morning when I read to you the allegations in the indictment?

A Well, quite a few months back, quite a few months back.

Q How did you find out about it?

A I read it in the papers and also TV, the TV News.

Q Can you remember any particular thing that was brought to your attention about who the victims were, for example? Do you remember the names of any of the victims?

A I only remember one name distinctly on TV News, that is Mr. Manson; that is the only name I

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remember.

Q I'm asking about the victims.

A No, I did not keep track of it.

Q Mr. Manson was the only defendant that you recall hearing or reading about?

A He is the only one I'm aware of seeing on TV.

Q Do you recall any of the details about the crimes?

A Not much, no, not much.

I did not pay too much attention. I am too involved with my home work usually to play around with TV.

Q As a result of anything you have read, seen or heard about this case, have you formed any opinion as to the guilt or innocence of any of the defendants?

A No, I cannot form an opinion, all I can do is go by the TV News I saw, or I might have heard other people yakking about it, but I cannot form an opinion on just that.

Q Then you have not formed any opinion, is that right?

A No, no, I have not.

THE COURT: Do you wish to inquire, Mr. Fitzgerald?

MR. FITZGERALD: Yes.

BY MR. FITZGERALD:

Q Do you regularly read a newspaper, Mr. Dominguez?

A No.

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Q Is there one delivered to your home?

A Just Sundays.

Q Is that the Sunday Los Angeles Times?

A Yes.

Q Do you recall reading the Sunday Los Angeles Times on December 14th, 1969?

A December -- that is Christmas -- I don't think I got it then.

I got it much later than that. I would say about four months, four months ago I started the Times on Sundays.

Q Do you buy a newspaper occasionally?

A Once in a while.

Q You don't buy one on a regular basis, is that correct?

A No, no.

Q Do you see a newspaper where you work?

A Yes, I do.

Q During your coffee break or something like that?

A Periodically, now and then, not too often. I don't usually spend time with a paper.

Q Do you see a paper, whether you read it or not, do you see papers lying around where you work?

A No.

Q Do you own a television set?

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A Yes.

Q Do you watch television?

A Yes, I do.

Q Do you watch news programs on television?

A Not too much, no.

Q When you do watch news programs do you watch one or two or more?

A Well, usually I stay on Channel 9, or I will stay with Channel 13 in the evening when I watch one program.

Q Do you watch any particular newscasters?

A No.

Q Do you know any newscasters' names?

A From the TV?

Q Yes.

A The only one -- yes, I know two of them, Bill Bonds and Putnam.

Q Do you watch George Putnam?

A Not often, I don't care for him.

Q Do you watch Eyewitness News on Channel 7 with Bill Bonds?

A Once in a while.

Q Do you know of any television personalities that are on that news program besides Mr. Bonds?

A No.

Q Do you own a radio?

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A Yes.
Q At home?
A Yes.
Q Do you have more than one radio at home?
A Yes.
Q How many do you have?
A Three.
Q Do you own a car?
A Yes.
Q Do you own a radio in your car?
A Yes, I do.
Q Either at home or in your car do you listen to radio broadcasts of news events?
A Yeah, you can say that. I listen to that KABC pretty often.
Q The talk show on KABC?
A Yes, the conversation, right.
Q Did you ever hear this case discussed on one of those talk shows?
A No, not particularly, not this case.
Q Were you here in Los Angeles during the year 1969?
A Yes.
Q Have you been in Los Angeles during the preceding months of 1970?
A Hold it a second, I moved out of Los Angeles

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a year ago to Montebello.

Q I'm talking about Los Angeles County.

A Yes, I have.

Q What have you read or heard or seen from media sources about Charles Manson?

A Oh, what have I heard from him?

Q I don't want you to say what you heard from other people.

A No, so, the TV alone you are referring to, TV.

Q The television, radio or newspaper.

A Let's see, last time I think about a month ago they had a clipping on TV, a short few seconds of it. I think he was being interviewed. I cannot remember who it was, but I did see him on TV again for the next time.

Q I take it you don't know anyone who knows Mr. Manson personally?

A No.

Q I take it the information you have about Mr. Manson is from either reading it, hearing it on the radio or watching it on television, is that a fair statement?

A That's right.

Q Can you tell us everything you know about Charles Manson?

A Personally not much, I cannot quote to you

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dates or names or nothing.

It's just what do you do when you are standing there and they put a ten-second clipping of Mr. Manson on the TV; that's about all. I did not think much of it.

Q You understand that we are not saying that you are at fault in any respect?

A No, I realize.

Q Do you know what Mr. Manson is charged with, did you know what he was charged with before you came to court?

A No, not from what I heard. Comparing it to what I heard from the Judge today, no.

Q What did you think he was charged with?

A All I remember is -- not charged -- I cannot even use that word.

I know they associated with him, with the killing of some people, that is all that I know.

Q Do you know who those people were?

A No, names? No, I don't know them.

Q Do you know anything about the background or the history of any of the people who died?

A Let's see -- only one lady comes to mind.

Q Who is that?

A And that is the young girl that was killed in that house.

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But I don't know her name. Is her name --

Q Sharon Tate?

A Yes, this might be it. The only one involved with this case, I don't know, that is --

Q Do you know anything about the female defendant in this case?

13b fls A No.

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Q Does the name Susan Atkins mean anything to you?

A No.

Q Patricia Kronwinkel?

A Other than today, no.

MR. FITZGERALD: I have no further questions, your Honor.

THE COURT: Mr. Keiner.

BY MR. KEINER:

Q During the last 10 months or so since the crimes occurred last August have you had occasion to ever hear any of your friends or acquaintances comment, make a comment with respect to Mr. Manson?

A No.

Q During the last 10 months have you ever heard a single bad word about Mr. Manson from any source whatsoever?

A Bad word?

Q Uh-huh, critical word, any slightly critical comments about Mr. Manson?

A This is from anyone around me?

Q Yes.

A Conversationwise?

Q Yes.

A Oh, yes, I heard people make an expression.

Q You have from time to time heard some critical

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comment with respect to Mr. Manson?

A Oh, yes.

Q What sort of comment was that?

A His attire, his physical dress, his long hair. This is typical, almost all people complained about that.

Q Then you have heard people comment adversely and critical of his clothes and long hair, is that correct?

A Yes.

Q Have you ever heard a single word of criticism of Mr. Manson with respect to any other aspect of his behavior?

A No.

Q Have you ever heard a single critical word of Mr. Manson's alleged involvement in certain crimes of murder?

A No.

Q The name, Manson, though, is familiar to you?

A I cannot help that, you hear it everywhere, you hear it.

Q What do you hear?

A Mr. Manson, you know, he looks bad, he doesn't appeal to people's judgment; his attire, his hair, you hear that pretty often.

Q In the last 10 months you have heard pretty often that Mr. Manson does not look and dress as many

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13b3.

persons would like but you heard nothing else about Mr. Manson in the last five months?

A That's right.

Q Prior to coming to court today were you aware that he has been charged with certain crimes of murder?

A No, no, I haven't been.

Q Were you aware he was set to go to trial on charges of something or other?

A Yes, I did hear that.

Q What did you suppose he was being charged with, if it occurred to you at all?

A No, I really can't answer. You hear so much. I cannot put my finger on any specific item.

Q Well, then, you did not know whether he was charged with murder or burglary or auto theft or passing bad checks or anything else before you came to court today, is that correct?

A No, no, not really, no, you know, you hear all kinds of remarks but what can you really say.

MR. REINER: I have nothing further.

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THE COURT: Mr. Kanarek?

MR. KANAREK: No questions, your Honor.

THE COURT: Mr. Shinn?

MR. SHINN: Yes, your Honor.

BY MR. SHINN:

Q Mr. Dominguez, you said you had homework. What kind of homework?

A Calculus and electronics.

Q In other words, you go to school?

A Yes.

MR. SHINN: Nothing further, your Honor.

THE COURT: Mr. Bugliosi?

BY MR. BUGLIOSI:

Q Have you ever heard of the publication called Rolling Stone, sir? It is a periodical. I think it comes out twice a month. It is called Rolling Stone.

A No.

MR. BUGLIOSI: No further questions.

THE COURT: Very well.

Would you escort Mr. Dominguez back into the courtroom and bring in Mrs. Marilyn Pfeifer, Juror No. 6, please.

MR. DOMINGUEZ: Thank you.

THE COURT: Thank you, Mr. Dominguez.

Sit down, please, Mrs. Pfeifer.

I am going to ask you several questions and

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then the attorneys will have an opportunity to ask you questions.

As I mentioned out in the courtroom, the reason we have you come in here is because we want to find out what, if anything, you have read, seen and heard about the case and what effect, if any, that exposure to pretrial publicity may have had in the way of causing you to form any opinions, and so forth.

First of all, will you tell us to the best of your ability, what you have read, heard or seen concerning this case?

A As to reading, we subscribe to the Los Angeles Times, and that is the only publication I read.

I was exposed to news media on both television and radio.

BY THE COURT:

Q When did you first learn about the crimes?

A I was attending UCLA at the time and working, I would imagine reading about it in the newspaper.

Q At or about the time that it first came to you?

A Yes.

Q Last August?

A Yes.

Q Do you read the paper usually every day?

A I try to. At the time I was both working and

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going to UCLA, and when I was studying it was toward finals at the time, and when I wasn't studying I read what papers I could get my hands on.

Q When you read the newspaper, do you usually read about this case, if there is something in there about it?

A Did I at the time?

Q Yes.

A Yes.

Q In other words, did the case have some special interest to you so that you always read about it whenever you did read the newspaper, if there was something in there?

A Yes. When I picked up the paper, yes, it was interesting to me and I did read it.

Q Did you read in the newspaper or did you hear from some other source along about December that the defendants in this case had been arrested?

A Yes.

Q Do you remember what it was that you read about them at that time?

A I recall that some of them had been arrested, I think it was in the desert area, with a Volkswagen bus or something like this.

MR. KANAREK: Your Honor, I can't hear.

MRS. PFEIFER: I am sorry.

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Some of them had been arrested together, and there was some relation to a Volkswagen bus, or some type of vehicle like that, and that several of them -- at least a couple of them -- were fighting extradition. And that is about it. Nothing definite.

I recall at the same time there was a lot of publicity about where -- the way they had been living, where they had been living out in Simi or that area, and I was raised in Tarzana, so that is fairly close to my home, and that was interesting because we were in that area from time to time.

BY THE COURT:

Q Did you read in the newspaper any story or statement by Miss Atkins?

A I recall seeing her on television several times, and as far as reading statements about her in the newspaper, I don't recall any.

Now, I may have. It could be that I did not associate statements in the newspaper with Miss Atkins or anyone in particular. I was reading about the case.

I don't think I could tell you right now who had said what.

Q Did you --

A I am not trying to be vague.

Q I understand.

Did you see or hear anything on TV concerning

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the case or any of the defendants?

A Yes.

You mean since this happened?

Q At any time.

A Yes. We usually watch the 5:00 to 6:00 o'clock news, and if they were on there or someone was on there speaking about it, then I was exposed to it if I was watching television.

I have seen, I think, all of the defendants on television.

Q Would you say that what knowledge you have of the facts surrounding the alleged crimes and the defendants came mostly from the newspaper?

A Yes.

Q Have you read any magazine articles of any kind?

A No. We don't subscribe to any. No, I never read any magazine articles.

Q Any radio?

A Yes, I listened to the radio.

Q The news?

A I think the most exposure I had to it was through the newspaper.

Q Now, as a result of this exposure, have you formed any opinion as to the guilt or innocence of any of the defendants?

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