

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. 1007

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 600 State Building 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 In Propria Persona
For Defendant-Appellant Patricia Krenwinkel:	PATRICIA KRENWINKEL In Propria Persona

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1 you as to what the law is at the close of the trial.

2 Is there anyone who would be unable to do that?

3 Do you all believe that you would be able to
4 dispassionately consider and weigh the evidence in this
5 case and determine the case solely on the basis of that
6 evidence and in accordance with the Court's instructions?

7 Is there any one of you who believes he could
8 not do that and, if so, would you kindly indicate by
9 raising your hands?

10c

10c-1

1 All right. I hope this subject will never
2 have to come up again, but please remember the admonition
3 because it will apply to anything which you may be
4 exposed to from any source throughout the course of the
5 trial.

6 Have you concluded your voir dire examination,
7 Mr. Stovitz?

8 MR. STOVITZ: No, not as to Mrs. McKenzie, your
9 Honor. We just commenced and then this matter came up.

10 May I, with the permission of the Court,
11 question Mrs. McKenzie for cause?

12 THE COURT: Very well.

13 MR. FITZGERALD: I wonder if counsel might approach
14 the bench before we leave this matter?

15 THE COURT: Very well.

16 (Whereupon all counsel approached the bench
17 and the following proceedings occurred at the bench
18 outside of the hearing of the prospective jurors:)

19 MR. FITZGERALD: Throughout the course of this
20 examination we have been referring to a newspaper article
21 that appeared in the Los Angeles Herald-Examiner of
22 Tuesday, June 30.

23 I would like to mark that as an exhibit so
24 that if there is any question, the record is clear as
25 to its contents.

26 Unfortunately, I do not have a similar

10c-2

1 article that appeared in the Los Angeles Times.

2 I don't want to hold the newspaper up in
3 front of the jury, but at some convenient time may that be
4 marked as a Defendant's special exhibit?

5 MR. STOVITZ: Not to go to the jury, just on this
6 motion?

7 MR. FITZGERALD: Yes.

8 THE COURT: Just for what motion?

9 MR. STOVITZ: Whatever motion is to be made here.

10 MR. REINER: I am about to make a motion, your
11 Honor, if Mr. Fitzgerald is finished.

12 MR. KANAREK: I join in that request.

13 MR. SHINN: I do too.

14 THE COURT: The article will be marked as Defendant's
15 Special Exhibit --

16 MR. STOVITZ: I believe it is C.

17 THE COURT: Whatever the next in order is, for the
18 purpose of this hearing.

19 It is not to be displayed to any prospective
20 juror.

21 MR. REINER: Your Honor, I will move that all jurors,
22 all prospective jurors in the courtroom, those in the box
23 and those in the audience, be excused for cause for the
24 reason that they have been exposed to and infected by the
25 comments of Mr. Younger, and because these questions were
26 asked in open court in the presence of other prospective

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10c-3

1 jurors, what Mr. Younger wasn't able to accomplish in the
2 paper and on television, by asking the questions of Mr.
3 Nordland, who is an avid reader, by his description,
4 the prospective jurors have been infected by those
5 comments.

6 It painfully illustrates, your Honor, the
7 difficulty we have when we must examine jurors openly.

8 The jurors who haven't heard it then hear it when they are
9 in the presence of the other jurors giving answers. It
10 is self-defeating. It was self-defeating in this case.

11 The jurors, with two exceptions, had all
12 heard of Mr. Younger's remarks but were not precisely
13 aware of the basis. Mr. Nordland, being an avid reader
14 and watching the TV news for two and a half hours in
15 the evening, was very much aware of the underlying basis,
16 and in his answers to questions he so instructed every
17 person in this courtroom.

18 I think that the Court should have initially
19 permitted counsel -- should have gone along with counsel's
20 request that these jurors be examined separately in
21 chambers, so this would not have occurred. But the Court
22 decided to accept the judgment of the defendants, which
23 I think was irresponsible, and not accept the judgment of
24 counsel, which I felt was informed and responsible judg-
25 ments.

26 MR. KANAREK: Your Honor --

10c-4

1 MR. REINER: And I might indicate further --

10d-1

2 THE COURT: Mr. Reiner, I might say that you have
3 changed your spots as many times as a chameleon on this
4 subject in this trial.

5 You objected to holding the proceedings in
6 chambers, and then you turned around and made exactly the
7 opposite request, that they should be held in chambers.

8 Now, it was fairly evident to me from your
9 voir dire examination of these jurors that you were
10 deliberately attempting to make sure that everyone of
11 those jurors knew everything that Mr. Nordland had heard
12 and read.

13 Your examination could have been designed
14 in such a way that you did not have to elicit that informa-
15 tion. It was, in my opinion, done for that purpose.

16 MR. REINER: If the Court is finished?

17 THE COURT: I seriously question the good faith of
18 the argument that you are making right now.

19 MR. REINER: Very well, your Honor. Then I feel
20 that I want to respond to the Court's questioning of my
21 good faith.

22 Your Honor is obviously confusing me with
23 other counsel in this case, I do not know whom, because I
24 have at all times asked that all proceedings of this
25 sort be held in chambers. I had never asked that these
26 proceedings be held in open court.

10d-2

1 It is only my client who has asked that it
2 be held in open court.

3 The Court will recall that we had a lengthy
4 exchange, at which time I begged the Court to have these
5 proceedings in chambers and to ignore the judgment of my
6 client, which judgment I said, at that time, was irresponsi-
7 ble, and again repeat that it is irresponsible.

8 Now, the questions that I asked these jurors
9 did not educate them. I carefully avoided going into
10 other matters. I just simply asked them if they had heard
11 of the underlying basis before coming to this court.

12 The Court will recall that it was Mr. Nord-
13 land who specifically laid it all out. Am I supposed to
14 assume that absolutely no one in this courtroom is
15 listening to him? I had to repeat it to ask the questions.
16 It was known when Mr. Nordland answered Mr. Fitzgerald's
17 questions. I felt that it was then my responsibility
18 to inquire of Mr. Nordland. He educated the jurors, as
19 I feared someone would, whether or not they knew it in
20 advance.

21 I deeply resent your implication that I am
22 not acting in good faith. I am most certainly acting in
23 good faith.

24 THE COURT: Let me point out to you that on at
25 least two specific instances that I know of, both admitted
26 by you, you deliberately disclosed to the press,

1 knowing full well that these matters are being published,
2 matters pertaining to the defendants in this case.

3 MR. REINER: I have not.

4 THE COURT: You have.

5 MR. REINER: The two instances that you must be
6 referring to, your Honor, is one time when I told them that
7 Mr. Manson addressed the Court and asked for permission to
8 represent himself.

9 That does not go to any aspect of this case
10 that would be harmful. That was at a time when you said
11 that we might quote the transcript, and that is what I did.

12 The other occasion is when I indicated to
13 the press that I had filed a document, an order to show
14 cause re contempt of Mr. Younger, and I did not make any
15 comment other than to indicate that I had filed the
16 document and the contents thereof.

17 THE COURT: The newspaper articles speak for them-
18 selves, sir. Where did the details come from if they didn't
19 come from you?

20 MR. REINER: The details in the article are that I
21 simply filed a document which alleged that Mr. Younger had
22 advance knowledge of a book that had since been published,
23 a book that we have examined each juror about.

24 THE COURT: And which, according to your statement
25 that you must have made to the press because it is in the
26 newspaper article, that book purportedly contained

1 the confession of Susan Atkins.

2 MR. REINER: I said it contained a statement of
3 Susan Atkins.

4 THE COURT: That is not what the newspaper article
5 says.

6 MR. REINER: I appreciate that is not what it says,
7 but I indicated to the reporter that it contained the
8 statement of Susan Atkins.

9 This is a well known statement that
10 virtually every juror is aware of.

11 THE COURT: I find your conduct highly inconsistent.
12 In one respect you profess to be concerned about publicity
13 and in another --

14 MR. BUGLIOSI: I have a comment to make concerning
15 the Court's comment about Mr. Younger's irresponsibility
16 that I want on the record, your Honor.

10e fls17 THE COURT: All right.

OE-1
1 MR. BUGLIOSI: I strenuously object to the Court's
2 observation that Mr. Younger's comment was irresponsible.

3 I wouldn't mind the Court, of course, as the
4 Court already knows, that Mr. Younger is the District
5 Attorney, that Mr. Stovitz and I are merely his arm or his
6 agents in this court, and hence, when the Court tells the
7 jury that Mr. Younger has done something irresponsible,
8 it is tantamount to telling the jury that the prosecution
9 has done something irresponsible.

10 I would urgently ask the Court that in the
11 future, if I or Mr. Stovitz, or if any defense attorney,
12 does something which the Court feels is irresponsible,
13 that this matter be taken up outside the presence of the
14 jury.

15 The remark by the Court couldn't possibly have
16 been helpful to the prosecution. It could very conceivably
17 have been very, very injurious.

18 THE COURT: I think the jury is entitled to know,
19 after hearing all of you, that there is nothing of substance
20 involving that press conference with which they are to be
21 concerned, and I wanted to bring it home to them very
22 forcefully so that they can put it out of their minds.

23 MR. BUGLIOSI: I can't quarrel with the Court telling
24 the jury that they are not to take that press conference
25 into consideration in determining the guilt or innocence
26 of these defendants, but the statement of the Court that it

22
1 was an irresponsible act is harmful.

2 THE COURT: I made it quite clear to them that they
3 were not to consider it in any way and not to let it affect
4 them, and I specifically asked each of them -- well, you
5 heard the questions. The record is perfectly clear.

6 MR. BUGLIOSI: I realize you made that point clear,
7 but the prosecution was chastised in front of the jury.

8 THE COURT: I wouldn't say they were chastised.
9 I set the record straight in front of the jury for the sole
10 purpose not of chastising Mr. Younger but letting the jury
11 know that so far as they are concerned there is nothing of
12 substance whatever in that press conference with which they
13 are to be concerned.

14 MR. BUGLIOSI: I don't have any quarrel with the
15 Court's telling the jury that.

16 THE COURT: Then let's proceed.

17 The motion will be denied.

18 MR. KANAREK: If I may be heard briefly?

19 I make a motion for a mistrial on the grounds,
20 your Honor, that mere admonishment will not suffice.

21 Your Honor, absolutely what has occurred in
22 connection with the District Attorney's actions has denied
23 Mr. Manson the right to effective counsel, denied him
24 equal protection of the law, and denied him due process and
25 a fair, public trial.

26 On behalf of Mr. Manson, I urge the Court to

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1 grant a mistrial and ask that all of these jurors be
2 dismissed.

3 That is my position, your Honor, and I do make
4 that request of the Court.

5 I think it is clearly prejudicial, beyond any
6 possible power to correct.

7 I refer the Court to the language in Bruton vs.
8 the United States about mere admonishment.

9 THE COURT: Well, I am convinced from hearing the
10 jurors on the voir dire examination that there is no need
11 for declaring a mistrial with respect to the matters that
12 came out of the press conference.

13 If anything, I think it's probably inured to
14 your benefit, Mr. Kanarek, but that is beside the point.

15 I am convinced that the jurors or prospective
16 jurors have not been influenced by any dispute you may have
17 with the District Attorney. That would not in any way
18 affect their opinion on the issues in this case.

19 Motion denied.

20 MR. KANAREK: I make a motion for an evidentiary
21 hearing and would ask that an evidentiary hearing be held
22 in connection with this subject matter wherein the
23 District Attorney, District Attorney Younger, would be
24 subpoenaed to the Court and we would take testimony from
25 him and from other sources in connection with this matter.
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1 THE COURT: That motion will be denied.

2 MR. REINER: Your Honor, I will join with Mr.
3 Kanarek's objection that Mr. Younger has interfered with
4 the defendant's right to effective counsel, with respect
5 to Leslie Van Houten as well as with respect to Mr. Manson,
6 for this reason:

7 Earlier Mr. Bugliosi, when arguing to the
8 Court in favor of holding a hearing, argued that the
9 jury's attitude towards Mr. Kanarek would surely flow
10 over to the detriment of other defendants; that being
11 Mr. Bugliosi's judgment at that time, which I agree with,
12 if they have such an attitude toward Mr. Kanarek that it
13 could flow over, I feel that the interference with Mr.
14 Manson's right to counsel by Mr. Younger would perhaps have
15 some effect on Leslie Van Houten.

16 I would join with Mr. Kanarek on behalf of
17 Leslie Van Houten for that reason.

18 MR. STOVITZ: Submit it.

19 MR. FITZGERALD: Join on behalf of Patricia
20 Krenwinkel, and submit the matter.

21 I might say at first blush, the motion does
22 not appear to have much merit as to co-defendants, but
23 when one takes into consideration there is a conspiracy
24 charge in Count VIII, which is an allegation that the
25 defendants are connected with and associated with one
26 another for criminal activity; when one takes into

1 consideration that the prosecution intends to show that
2 these defendants acted in concert, what is done to one
3 of the attorneys, unfortunately, inures to the detriment
4 of the other attorneys, and therefore interferes with
5 defendants' respective rights to counsel.

6 THE COURT: I don't think the motion has any merit
7 whatever.

8 MR. KANAREK: In connection with the George
9 Putnam Show heard last evening, the offer of proof is:

10 That District Attorney Younger stated in
11 substance:

12 "We know these people will ask for an
13 appeal, on conviction. That appeal will be they
14 did not have a competent attorney; that Mr. Manson
15 did not have a competent attorney, as Mr. Manson
16 has stated in a public record, that Kanarek is
17 the worst attorney in town, and the worst possible
18 attorney to be given him.

19 "And I have in my hands," referring to
20 statements by Mr. Younger, "testimony from eight judges
21 and several lawyers stating Kanarek has been
22 obstructionist, and I am presenting this to the
23 State Supreme Court so we can have a pretrial
24 declaration as to his competency."

25 That is the offer of proof as to what would
26 show up in an evidentiary hearing.

1 Furthermore, the evidentiary hearing would
2 show that Mr. Manson did not so make -- did not intend
3 any such statement on his part, that Mr. Manson's
4 position, as he previously enunciated in this court,
5 was that he wanted me to be his attorney because I was
6 the best attorney from his standpoint and the worst
7 attorney from the standpoint of the prosecution.

8 It is our position that District Attorney
9 Younger deliberately distorted that so that I would then
10 be tarred with the feather of being the worst attorney
11 in town.

12 And that is not what Mr. Manson's state
13 of mind is.

14 THE COURT: That is not before the Court.

15 MR. KANAREK: But that will be part of the evidence
16 that we would ask the Court to consider.

17 THE COURT: That motion will be denied.

18 We will proceed with our voir dire.

19 (Whereupon the following proceedings were
20 had in open court in the presence and hearing of the
21 prospective jurors:)

22 MR. STOVITZ: May we proceed, your Honor.

23 THE COURT: Yes, Mr. Stovitz.
24
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26

1 VOIR DIRE EXAMINATION OF MRS. THELMA S. MC KENZIE
2 BY MR. STOVITZ:

3 Q Mrs. McKenzie, I don't believe I questioned
4 you this morning, did I?

5 A No.

6 Q It seems like it has been so long, I
7 completely forgot.

8 You heard the statement I made to the other
9 prospective jurors, that we are interested in obtaining
10 12 impartial jurors, jurors that can decide this case
11 solely on the evidence, solely on the exhibits that they
12 see and hear right here in this courtroom.

13 Are you such a juror?

14 A Yes, I am.

15 11a fls.

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1a-1 1 Q Now, Mrs. McKenzie,, many of us have prejudices,
2 some against pistachio ice cream and some against pineapple,
3 and we are afraid if we admit our prejudices it shows some
4 sort of ignorance, or some sort of sign of not being open-
5 minded.

6 Now, many people can be open-minded and still
7 admit that they are prejudiced in certain fields.

8 You understand that?

9 A Yes.

10 Q And this is what we are attempting to do.

? 11 We are attempting to suggest certain views to
12 you. Have you looked back in your own background? Have
13 you looked back in your own background; have you put your-
14 self in the place of the prosecution attorneys; have you put
15 yourself in the place of the defense attorney and said,
16 "If/^Iwas that attorney there would I want somebody in my
17 frame of mind to sit on this jury?"

18 The only way we can know this is to suggest
19 certain things to you.

20 Now, we necessarily cannot tell you what the
21 evidence is, but you have told us that you would go by that
22 evidence whichever way it comes out.

23 Is that right?

24 A Yes.

25 Q Now, assume for the moment that that evidence --
26 both the People's and the defense, convinces you beyond any

1 reasonable doubt that this young lady that I am standing
2 behind right now, this young lady, Leslie Van Houten, is
3 guilty of murder in the first degree.

4 Would you have the courage to come back in a
5 couple of months and say "Yes, my verdict is murder in the
6 first degree"?

7 A Yes.

8 Q The fact that she is a young lady would in no
9 way deter you from rendering that decision, if that
10 decision was based on the evidence, is that right?

11 A That is correct.

12 Q All right now, let us assume that in producing
13 the evidence in this case the People rely in part upon
14 circumstantial evidence, and you say to yourself, "Boy, oh
15 boy, all my life I have said I would never convict anybody
16 on circumstantial evidence."

17 First of all, do you have that view that you
18 would never convict anyone on circumstantial evidence?

19 A No.

20 Q So if you heard some circumstantial evidence in
21 this case you would consider it along with the other
22 evidence, is that right?

23 A Yes.

24 Q All right, now, assume for the moment that in
25 connection with one or more of the defendants in this case
26 we introduce evidence of a conspiracy, and that evidence of

1 the conspiracy convinced you beyond any reasonable doubt
2 that there was in fact a conspiracy to commit murder.

3 If that evidence beyond any reasonable doubt
4 convinced you as to all of the elements of that conspiracy.

5 Could you picture such a frame of evidence?

6 A Yes.

7 Q In a conspiracy the Court will tell you that
8 all parties, whether they commit the particular crime of
9 murder or not, are guilty of murder because of the
10 doctrine of conspiracy.

11 Could you follow that instruction?

12 A Yes.

13 Q Do you have any prejudice at all about
14 convicting one person when he is not the actual killer or
15 murderer?

16 A No.

17 Q All right, then, let us assume for the moment
18 that you have arrived at your verdict, and in your mind you
19 say to yourself yes, I'm convinced that this young lady
20 over here, Patricia Krenwinkel, is guilty of murder in the
21 first degree.

22 But there is a possible doubt, a possible
23 doubt, a shadow of doubt.

24 Would you be able to follow the Court's
25 instructions and say, "I will put aside all possible doubt
26 because that doubt is not reasonable," and vote accordingly?

1a4
1 A Yes.

2 Q So then I take it you would not require
3 conclusive proof or proof positive before you would bring
4 in a verdict of guilt.

5 Do you understand the difference between proof
6 positive and proof beyond a reasonable doubt?

7 Two and two is four, you understand that?

8 A Yes.

9 Q But for the purpose of proving any issue in a
10 criminal trial the prosecution need not prove it to that
11 absolute certainty.

12 You understand that?

13 A Yes.

14 Q All right now, let's assume that you have come
15 back with your fellow jurors and have voted first-degree
16 murder as to one or all of these defendants.

17 You understand there will be a second phase of
18 this trial?

19 A Yes.

20 Q And during that second phase of the trial we
21 will put on evidence pertaining to one defendant or several
22 defendants.

23 The Court will instruct you that this evidence
24 applies only to Defendant A or to Defendant B.

25 Will you be able to follow that instruction?

26 A Yes.

1 Q Now, you are going to go back in the jury room
2 and deliberate as to the proper penalty to be imposed.

3 You understand that?

4 A Yes.

5 Q You understand that you have an absolute
6 discretion in deciding that proper penalty?

7 A Yes.

8 Q Now, are you of the frame of mind that under
9 no circumstances would you vote for a death penalty
10 because that particular defendant did not inflict the
11 particular fatal blow in question?

12 MR. KANAREK: Object, your Honor, on the grounds it
13 is improper voir dire.

14 MR. STOVITZ: May I have the question read, your
15 Honor?

16 THE COURT: Read the last question, please.

17 (Whereupon, the reporter reads the pending
18 question as follows:

19 "Q Now, are you of the frame of mind
20 that under no circumstances would you vote for a
21 death penalty because that particular defendant
22 did not inflict the particular fatal blow in
23 question?"

24 THE COURT: Overruled, you may answer.

25 A No.

26 Q BY MR. STOVITZ: So then you can

1 envision circumstances where a person who was found guilty
2 of first-degree murder should suffer the death penalty
3 even though he did not himself inflict the fatal blow?

4 A Yes.

5 Q Now, Mrs. McKenzie, how long have you worked
6 for the County of Los Angeles?

7 A Ten years, a little over ten years.

8 Q What particular office do you work at?

9 A East Los Angeles.

10 Q The fact you are a County employee, the fact
11 Mr. Bugliosi and myself are County employees would in no
12 way influence your verdict in this case?

13 A No.

14 Q The fact we might get our pay checks from the
15 same auditor's office would in no way influence your verdict
16 in this case?

17 A No.

18 Q The fact that we both get the same holidays,
19 things like that, you understand it has nothing to do with
20 the evidence in this case, right?

21 A Yes.

22 Q Now, Mrs. McKenzie, going to that \$64 question
23 that we ask ourselves at the end, if you were in my place,
24 you know everything about your own background that you
25 know, is there any reason why you could not be fair to
26 both sides?

1 A None that I know of.

2 MR. STOVITZ: Thank you very kindly.

3 People pass for cause.

4 THE COURT: Do you wish to wait until after the recess,
5 Mr. Fitzgerald, before you inquire?

6 MR. FITZGERALD: May we?

7 THE COURT: All right, we will take our afternoon
8 recess at this time, ladies and gentlemen. Do not converse
9 among yourselves or with anyone else on any subject
10 relating to this case, nor form or express any opinion
11 regarding the case until it is finally submitted to those
12 of you who are selected as jurors.

13 15 minutes, please.

14 (Recess.)

11B

11b-1

1 (The following proceedings were had in
2 open court in the presence of the prospective jurors,
3 all defendants and counsel being present:)

4 THE COURT: I want to announce that we will adjourn
5 at 4:00 p.m. today rather than 4:15.

6 The defendants and all counsel are present;
7 all the prospective jurors are in the jury box.

8 The defendants may exercise their next
9 joint peremptory challenge.

10 MR. FITZGERALD: There is no unanimity. A
11 joint peremptory will not be exercised, your Honor.

12 THE COURT: Very well.

13 MR. FITZGERALD: Patricia Krenwinkel will accept
14 the jury as it is now constituted.

15 THE COURT: Mr. Reiner?

16 MR. REINER: Yes, your Honor, we will thank and
17 excuse Juror No. 5, Mr. Dominguez.

18 THE COURT: Thank you, Mr. Dominguez. You are
19 excused.

20 THE CLERK: Mrs. Rachel Quesinberry. R-a-c-h-e-l;
21 Q-u-e-s-i-n-b-e-r-r-y.

22 (Whereupon, Mrs. Rachel Quesinberry came
23 forward and was seated in seat No. 5 in the jury box.)

24 THE COURT: Mrs. Quesinberry, did I pronounce
25 your name correctly?

26 MRS. QUESINBERRY: Quesinberry.

11b-2

1 THE COURT: All right.

2
3 VOIR DIRE EXAMINATION OF MRS. RACHEL QUESINBERRY
4 BY THE COURT:

5 Q Have you heard and understood everything
6 that has been said in court since you came into this
7 case?

8 A Yes.

9 Q If you were selected as a trial juror would
10 you be able to serve?

11 A I am not sure, I think so

12 Q Would you care to tell us what your doubt
13 is about?

14 A Well, I do work and I am not sure if I will
15 be paid if I am here.

16 Q Who is your employer?

17 A IBM.

18 Q IBM?

19 A Yes.

20 Q And you are not sure what their policy is?

21 A No, I am not.

22 Q Is there some way that you could find that
23 out between now and tomorrow?

24 A Yes.

25 Q Would you do that, please?

26 A Yes.

11b-3

1 Q I am going to ask you the same two questions
2 regarding the death penalty that I put to the other
3 prospective jurors.

4 Have you had an opportunity to think about
5 these questions and your answers to them?

6 A Yes.

7 Q The first one is, do you entertain such
8 conscientious opinions regarding the death penalty that
9 you would be unable to make an impartial decision as to
10 any defendant's guilt regardless of the evidence developed
11 during the trial?

12 A No.

13 Q And the second question is:

14 Do you entertain such conscientious opinions
15 regarding the death penalty that you would automatically
16 refuse to impose it regardless of the evidence developed
17 during the trial?

18 A Yes.

19 Q Do you mean by that that you have now made
20 up your mind, and nothing can change it on that point?

21 A Yes.

22 Q Regardless of what the evidence showed you
23 would be unable and you would refuse to impose the death
24 penalty?

25 A Yes.

26 Q Have you held that belief for some time,

1 Mrs. Quesinberry?

2 A Yes.

3 Q Do you have any mental reservation whatever
4 regarding that?

5 A No.

6 Q Can you conceive of any possible case or
7 factual situation in a case where you might be willing to
8 impose the death penalty if there were a verdict of guilty
9 of murder in the first degree?

10 A No.

11 THE COURT: Do counsel wish to inquire.

12 MR. FITZGERALD: No, your Honor.

13 MR. REINER: No, your Honor.

14 THE COURT: Mr. Shinn and Mr. Kanarek, do you wish
15 to inquire?

16 MR. SHINN: Pass for cause, your Honor.

17 MR. KANAREK: No questions.

18 MR. STOVITZ: We would ask that this juror be
19 excused.

20 THE COURT: Very well.

21 MR. FITZGERALD: We jointly oppose it on due process
22 and equal protection grounds.

23 THE COURT: You are excused, Mrs. Quesinberry.
24 Thank you.

25 THE CLERK: Mrs. Opal A. Downs; O-p-a-l; D-o-w-n-s.

26 (Whereupon Mrs. Opal A. Downs came forward

1 and was seated in seat No. 5 in the jury box.)

2
3 VOIR DIRE EXAMINATION OF MRS. OPAL A. DOWNS
4 BY THE COURT:

5 Q Mrs. Downs, have you heard and understood
6 everything that has been said in court since you came into
7 the case?

8 A Yes, I have.

9 Q If you were selected as a trial juror in
10 this case would you be able to serve?

11 A I really don't feel that I could because
12 Douglas Aircraft where I work does not pay my wages
13 after 20 days.

14 Q Have you discussed that with someone at
15 Douglas?

16 A Well, that was the understanding that I had
17 with their industrial relations.

18 Q We have had in the past in other matters
19 I seem to recall, people working at Douglas -- I'm not
20 sure now what their announced policy was with respect to
21 these people.

22 Is this something that you could determine
23 between now and tomorrow?

24 A Oh, I could check it out again. I will
25 check it out again. But I also -- I also want to add this:
26 I do not feel that I should get tied up on this jury

1 because of the length of it, because I have a daughter
2 that is 19 years old that I'm trying to get through
3 college.

4 And it lies solely upon my wages that she
5 gets through college, and also she has ill health, and
6 there is a lot of medical bills, and things on that order
7 that I could not do on the \$5 a day that I get here.

8 THE COURT: Well, I can understand that, but if
9 you received your compensation from Douglas, that hard-
10 ship would not be present, would it?

11c fls 10

1 A Well, there is another reason, and it is
2 personal, that I don't want to make public here in the
3 courtroom.

4 The reason why I do not want to sit on this
5 jury --

6 MR. KANAREK: Your Honor, may we approach the bench,
7 your Honor?

8 MR. STOVITZ: Maybe we can ask the juror to
9 approach the bench and that would obviate it.

10 MR. FITZGERALD: She may approach alone.

11 THE COURT: Would you be willing to disclose this
12 to me, Mrs. Downs?

13 MRS. DOWNS: Yes, I will disclose it to you if you
14 like, but I don't want it made public.

15 THE COURT: In turn, would you have any objection to
16 my disclosing it to the attorneys in the case only?

17 MRS. DOWNS: I am afraid if it was made public to
18 the attorneys, there are too many things that get into the
19 paper, and I did not want this to come into the paper,
20 by all means. I'm sorry.

21 MR. REINER: Your Honor, we would have no objection
22 if your Honor were to take this in camera all alone without
23 disclosing it to counsel.

24 or I will have no objection --

25 THE COURT: Well --

26 MR. STOVITZ: Perhaps the best way to handle it, if

c2
1 the juror would hand a note to the bailiff addressed
2 secretly to your Honor, it would not be in the court
3 record and your Honor would see fit to disclose it to
4 attorneys only in a session similar to what we have done
5 in the past on one or two other items.

6 THE COURT: If I were to obtain the assurance of
7 each counsel that it would not be disclosed to anyone
8 else, would that be sufficient to your purpose?

9 A Yes.

10 THE COURT: All right, then, will you please come up
11 here and tell me what it is.

12 MR. STOVITZ: On behalf of the People we waive our
13 right to be present at that session.

14 THE COURT: Do all counsel join?

15 MR. FITZGERALD: I join.

16 MR. REINER: I join.

17 MR. SHINN: I join.

18 MR. KANAREK: I join.

19 (Whereupon, Mrs. Downs approaches the bench
20 where a short conference was held with the Court and she
21 returns to her seat in the jury box.)

22 THE COURT: Will counsel approach the bench, please?

23 (The following proceedings were had at the
24 bench out of the hearing of the prospective jury:)

25 MR. KANAREK: I will stipulate this little portion
26 can be sealed and given to the County Clerk.

1 THE COURT: We already have a publicity order covering
2 conferences at the bench.

3 MR. KANAREK: Very well, your Honor.

4 THE COURT: Mrs. Downs' problem is she says she has a
5 daughter who is not the daughter of her present husband,
6 a daughter by a former marriage, and her present husband
7 and her daughter do not get along well at all, and if she
8 is called on the jury she is going to have to find some
9 other place for her daughter to live.

10 That is her problem.

11 MR. STOVITZ: I will stipulate she may be excused.

12 MR. SHINN: So stipulated.

13 MR. REINER: So stipulated.

14 MR. FITZGERALD: So stipulated.

15 MR. KANAREK: So stipulated.

16 THE COURT: All counsel stipulate to excuse this
17 prospective juror.

18 (The following proceedings were had in open
19 court in the presence and hearing of the prospective jurors:)

20 THE COURT: You are excused, Mrs. Downs, thank you.

21 THE CLERK: Mrs. Clara E. Johanssen. C-l-a-r-a,
22 J-o-h-a-n-s-s-e-n.

23 (Whereupon, Mrs. Clara E. Johanssen was seated
24 in seat No. 5 in the jury box.)
25
26

1 VOIR DIRE EXAMINATION OF MRS. CLARA E. JOHANSEN
2 BY THE COURT:

3 Q Mrs. Johansen, have you heard and understood
4 everything that has been said in court since you came into
5 this case?

6 A Yes, I have.

7 Q If you are selected as a juror in this case are
8 you able to serve?

9 A Well, I am not sure whether my employer will
10 go on paying my wages past the 20 days.

11 Q Who is your employer?

12 A Haven Insurance Agency in Hawthorne.

13 I am the first one from this agency that has
14 ever had to serve on a jury, so this is sort of a test case
15 with them.

16 I don't think they want to set a precedent,
17 either.

18 Q Where is your company located?

19 A Hawthorne.

20 Q Is this something you could ascertain between
21 now and tomorrow?

22 A I think so.

23 Q Apart from the question of your possible
24 compensation, is there any other reason why you would not
25 be able to serve?

26 A No, nothing I can think of.

1 Q All right. Well, if there is any question in
2 your mind, or your supervisor or your manager, you might
3 point out to them this is a valuable public service, one
4 of the bulwarks of democracy, and many enlightened companies
5 now are taking the position that when an employee serves on
6 a jury he is entitled to be paid his full compensation for
7 as long as that service lasts, notwithstanding he may be
8 only called for 20 or 30 days initially.

9 Then if you will please check on that and let
10 us know tomorrow the results of that.

11 A Yes, I will.

12 Q I am going to ask you the same questions
13 regarding the death penalty, Mrs. Johanssen.

14 Do you entertain such conscientious opinions
15 regarding the death penalty that you would be unable to
16 make an impartial decision as to any defendant's guilt
17 regardless of the evidence developed during the trial?

18 A No.

19 Q Do you entertain such conscientious opinions
20 regarding the death penalty that you would automatically
21 refuse to impose it regardless of the evidence developed
22 during the trial?

23 A No.

24 THE COURT: Mr. Fitzgerald, you may inquire.

25 MR. FITZGERALD: Thank you, your Honor.
26

11d-1

1 VOIR DIRE EXAMINATION OF MRS. JOHANSEN
2 BY MR. FITZGERALD:

3 Q What is your business or occupation?

4 A I am an insurance secretary.

5 Q And I believe you just stated you were
6 employed by an insurance agency.

7 What do you do there?

8 A Well, I handle the commercial property fire
9 insurance, and I take dictation from the head man there.

10 Q I take it you are married?

11 A Yes, I am.

12 Q By whom is your husband employed?

13 A Southern California Water Company in
14 Gardena.

15 Q In what capacity is he so employed? What
16 does he do?

17 A He installs water service lines.

18 Q Do you have any children?

19 A Two, a married daughter of 22 and a son of
20 20 at home.

21 Q Where in the County do you reside?

22 A Torrance.

23 Q Have you ever served as a juror before?

24 A Just once on a case during this tour of
25 duty.

26 Q Was it a criminal case?

11d-2

1 A Yes, it was.

2 Q Did it involve a charge similar to the one
3 here?

4 A No.

5 Q From your seat in the audience were you able
6 to hear the questions that I asked the other prospective
7 jurors?

8 A Yes.

9 Q If I were to ask you those same questions
10 would your answers be approximately the same?

11 A Yes, they would.

12 Q Is there any question you feel I should
13 address to you?

14 A No.

15 Q Are you familiar with any of the locations,
16 any of the witnesses, any of the victims, any of the
17 attorneys, anything like that?

18 A No, nothing.

19 Q Do you have any friends or relatives in law
20 enforcement?

21 A No.

22 Q Do you have any quarrel with the various
23 propositions of law we discussed, presumption of innocence,
24 reasonable doubt?

25 A No, none.

26 Q Can you think of any reason why you cannot be

11d-3

1 fair and impartial?

2 A No, I cannot.

3 Q Do you have any particular objection that is
4 going to influence you in deciding this case in regard to
5 the defendants' life style, or the way they dress or the
6 way they act or the way they look?

7 A No, certainly not.

8 Q Do you feel that you could give these
9 defendants the same fair trial you could give any defendant
10 in any criminal case?

11 A Yes, I could.

12 Q You are not going to require less evidence to
13 convict these defendants than you would anybody else, are
14 you?

15 A No.

16 Q Can you think of any reason at all why you
17 cannot be fair and impartial?

18 A No, I cannot.

19 MR. FITZGERALD: Pass for cause.

20 THE COURT: Mr. Reiner?

21 MR. REINER: Yes, your Honor.

22
23 VOIR DIRE EXAMINATION OF MRS. CLARA E. JOHANSEN
24 BY MR. REINER:

25 Q Mrs. Johanssen, you did hear the questions I
26 put to the prospective jurors earlier in the day, did you not?

11d-4

1. A Yes, I did.

2. Q I am going to repeat some of those questions,
3. substantially all of them.

4. You will understand it is necessary that we
5. ask some of these questions, the more important ones, of
6. each individual juror?

7. A Yes.

8. Q Now, you will be instructed that you must
9. presume that Leslie Van Houten is innocent. Will you accept
10. that instruction?

11. A Yes.

12. Q Do you in fact, as you sit here now, believe
13. that Leslie Van Houten -- strike that.

14. Do you in fact presume that she is innocent
15. until and unless you receive any evidence to the contrary?

16. A Yes.

17. Q And when I speak of evidence to the contrary,
18. you understand that "evidence" means evidence beyond all
19. reasonable doubt?

20. A Yes, I do.

21. Q So that after presuming at the beginning of
22. the case that Leslie Van Houten is innocent, if the evidence
23. that comes in thereafter is only enough to create a
24. suspicion in your mind that she might be guilty, you would
25. acquit her, would you not?

26. A Yes, I would.

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Q A suspicion that someone might be guilty is insufficient?

A Right.

Q If there are any subconscious inclinations you might have with respect to convicting any of the defendants because some of them in your view are guilty, will you make every conscious attempt to discipline your thinking so that you will not convict any defendant for whom there is insufficient evidence?

A Yes.

Q You will not allow your emotions to overwhelm your judgment in this matter?

A No.

Q Are there any reservations in your mind with respect to any of the statements that you have made?

A No, there are not.

Q Because of the publicity in this case.

Incidentally, you have heard of these defendants prior to being called as a prospective juror, have you not?

A Yes.

Q You are at least in general terms familiar with the crime, or you were familiar with the crime before you were called as a prospective juror?

A Yes.

Q Do you feel that it would be more difficult

1 in this case than in the typical and obscure case to keep
2 an open mind during the course of the trial; that it
3 would require greater discipline on yourself to decide
4 the case based solely on the evidence than it would be
5 the case if this were an obscure case?

6 Would it be a little more difficult in
7 this case to try it correctly?

8 A No, I don't think so.

9 Q Do you feel then, notwithstanding anything
10 that you have heard or seen in the newspapers or television
11 or radio or comments that you have heard within the
12 community from your friends and acquaintances, that you
13 would not have even a difficult time at all deciding this
14 case based solely on the evidence?

11e fls5 A So, I would not.

1 Q You did observe the conduct of Leslie Van Houten
2 today, yesterday, and I believe on a prior occasion, did
3 you not?

4 A Yes.

5 Q Without regard to your interpretation at this
6 time, I won't ask you to reveal it, but will you allow her
7 conduct in this court, such as it is, or such as it may be,
8 to influence your judgment as to her guilt or innocence?

9 MR. STOVITZ: I object to the question, your Honor,
10 as improper voir dire examination.

11 MR. REINER: Perhaps I may rephrase the question.

12 Q Do you understand the question --

13 Strike that and I will rephrase it.

14 Would you allow Miss Van Houten's conduct here
15 in court -- I am not referring to her conduct on the witness
16 stand which is something that should be considered, of
17 course -- but her conduct as she sits here in court, would
18 you allow that to influence your judgment as to the
19 sufficiency of the evidence as presented to you?

20 A No, I would not.

21 Q If you were offended by her conduct in any way
22 you would still acquit her if the evidence was insufficient?

23 A Yes, I would have to.

24 Q And if it occurred to you that perhaps
25 Leslie Van Houten would want to be convicted, if any of
26 these defendants are convicted, would you nonetheless acquit

1 her if the evidence were insufficient?

2 A Yes, I would.

3 Q You would not allow her wishes in this matter
4 to control; you would allow the evidence to control your
5 judgment?

6 A Yes.

7 Q Perhaps you recall earlier one of the Deputy
8 District Attorneys asking other prospective jurors whether
9 they had the courage to inflict the death penalty on any or
10 all of the defendants.

11 Do you feel that it would take courage to
12 inflict the death penalty on any or all of the defendants?

13 Do you think it would take personal courage to
14 do that?

15 A Yes, it would. But I can do it.

16 Q Do you feel it would take courage on your part
17 to acquit even a single defendant in a case as notorious
18 as this one?

19 A Not if I felt they were not guilty, or had a
20 reasonable doubt.

21 Q Does it accord with your judgment that the
22 general public opinion is that these defendants should all
23 be convicted?

24 Is that your view of the general public opinion?

25 A No.

26 MR. KANAREK: May we approach the bench?

1 THE COURT: Did you say something, Mr. Kanarek?

2 MR. KANAREK: Yes. May we approach the bench?

3 I would like to have the last question read.

4 THE COURT: Are you objecting to the last question?

5 MR. KANAREK: Yes.

6 THE COURT: Read the question, please.

7 (Whereupon, the reporter reads the record as
8 follows:

9 "Q Does it accord with your judgment
10 that the general public opinion is that these
11 defendants should all be convicted?

12 "Is that your view of the general public
13 opinion?"

14 THE COURT: I will sustain an objection to that
15 question.

16 Q BY MR. REINER: Mrs. Johannsen, you have heard
17 this case and the persons in it discussed from time to time,
18 have you not, over these last few months?

19 A Yes, I have.

20 Q That would include exposure to television,
21 radio, newspapers and perhaps friends and acquaintances in
22 your day-to-day activities?

23 A Yes, right.

24 Q And these comments in sum and substance related
25 to the particular crimes involved.

26 Isn't that true?

11E4
1 A Yes, sir.

2 Q And is it correct that the general tenor of
3 these remarks with regard to the crimes would be that the
4 crimes were grotesque?

5 A Yes.

6 Q Now, beginning last December you learned of the
7 names of the defendants, or some of the defendants for the
8 first time, is that true?

11F
9 A Right.

11f-1

1 Q Prior to that time you did not know the
2 name of Mr. Manson or any other defendant in this case?

3 A No, I did not.

4 Q Since that time you have learned of the
5 names of the defendants, and they have become familiar
6 to you?

7 A Some of them, yes.

8 Q Which ones have become familiar to you
9 and which ones have not?

10 A Charles Manson, Susan Atkins -- those two,
11 mainly.

12 Q I see. Prior to coming to court, the
13 name of Leslie Van Houten was not familiar to you?

14 A No, it was not.

15 Q Was the face or likeness of Leslie Van
16 Houten familiar to you?

17 A No.

18 Q During the last few months since last
19 December when these arrests occurred, you had occasion
20 to view various commentators on television with regard
21 to this case?

22 A That's right.

23 Q And this would also include articles in
24 the newspaper and exposure to radio?

25 A Yes, some.

26 Q And comments by friends and acquaintances in

1 your day-to-day activities?

2 A Yes.

3 Q Isn't it true that most of the people that
4 you came in contact with indicated at least in their
5 general opinion that these defendants or some of them
6 were guilty?

7 A Yes.

8 MR. KANAREK: Your Honor --

9 THE COURT: Mr. Kanarek, the question has been
10 answered.

11 MR. REINER: May I proceed, your Honor?

12 THE COURT: You may.

13 BY MR. REINER:

14 Q Notwithstanding the general attitude among
15 your friends and acquaintances in the community on a
16 day-to-day basis was that some of these defendants, if
17 not all of these defendants, should be convicted, would
18 you have the courage to acquit even a single defendant if
19 you felt that the evidence was insufficient to warrant
20 a conviction?

21 THE COURT: I think that question is improper,
22 Mr. Reiner, as a misstatement of what the prospective
23 juror has previously stated.

24 Will you rephrase the question.

25 BY MR. REINER:

26 Q Notwithstanding what you have heard with

1 regard to the guilt or innocence of any of these
2 defendants in this case, would you nonetheless have
3 the courage of your convictions to acquit even a
4 single defendant in this case if at the conclusion of
5 the case in your judgment the evidence presented in
6 court was insufficient to prove the guilt of that
7 defendant beyond all reasonable doubt?

8 A Yes, I would.

9 Q And you would not feel that there was any
10 pressure, or if you did feel that there was any pressure,
11 you would ignore any pressure that you feel from friends
12 and acquaintances towards convicting all of these
13 defendants?

14 A Yes, sir.

15 Q There was unfortunately a press conference
16 called by Mr. Younger, District Attorney Younger, with
17 regard to one of the counsel in this case, Mr. Kanarek.

18 Did you see that press conference on
19 television?

20 A Yes, I did.

12 fls.

12-1

1 Q Did you read about it in the newspaper?

2 A No.

3 Q Do you appreciate that there are four defendants
4 in this case and that they are represented by individual
5 lawyers?

6 A Yes.

7 Q And that Mr. Kanarek speaks for Mr. Manson,
8 I speak for Miss Van Houten, and the other lawyers speak
9 for their respective clients?

10 A Yes, I understand.

11 Q And that other than the fact that we happen to
12 be in the same courtroom at the same time in the same trial,
13 that there is no other involvement between the particular
14 attorneys in this case.

15 Do you understand?

16 A Yes.

17 Q So that any attitude that you may have based
18 upon Mr. Younger's comment at that press conference, or
19 for any other reason, you would not allow that attitude to
20 spill over and affect your judgment of any other attorney in
21 this case, would you?

22 A No.

23 Q Now, in the event that a witness by the name
24 of Linda Kasabian should testify, there will be the
25 question of whether or not she is an accomplice to these
26 killings.

1 A Yes.

2 Q The Court will give you a definition to be used
3 during the deliberations on what an accomplice is.

4 Will you apply that definition, whatever it is?

5 A Yes, I will.

6 Q And you will not apply some other definition
7 that perhaps you may or may not have heard in some other
8 case?

9 A No.

10 Q Now, if you decide in your own judgment that
11 Linda Kasabian was an accomplice to these killings, will you
12 then apply the instruction that the Court will give you as to
13 the consideration that you may give or that you must give
14 to the testimony of Linda Kasabian?

15 A Yes.

16 Q And if the Court instructs you that in the
17 event that you conclude that Linda Kasabian was an accom-
18 plice to these killings, that you may not consider her
19 testimony for any purpose whatsoever unless there is
20 independent corroborating evidence.

21 A Yes.

22 Q And you will follow that instruction whether
23 you agree with it or disagree with it; is that true?

24 A I will.

25 Q Do you have any strong feelings about that
26 particular instruction?

1 A No.

2 Q When I say "independent corroborating evidence,"
3 do you appreciate that I am now referring to independent
4 corroborating evidence that relates to Leslie Van Houten?

5 A Yes.

6 Q So that if there is independent corroborating
7 evidence that relates to one or more other defendants, you
8 will not regard the testimony of Linda Kasabian with
9 respect to -- you will not consider the testimony of
10 Linda Kasabian with respect to Leslie Van Houten; is that
11 true?

12 A Right.

13 MR. REINER: Thank you very much.

14 Pass for cause, your Honor.

15 MR. SHINN: Pass for cause.

16 THE COURT: Mr. Kanarek?

17 MR. KANAREK: No questions, your Honor.

18 THE COURT: Mr. Bugliosi?

19 MR. BUGLIOSI: Thank you.

20
21 VOIR DIRE EXAMINATION

22 BY MR. BUGLIOSI:

23 Q Mrs. Johanssen, you indicated that you had a
24 son who was 20.

25 A Yes.

26 Q Is he living with you, ma'am?

1 A Yes, he is.

2 Q Is he employed at all, Mrs. Johanssen?

3 A He is in the process of looking for a new job.

4 Q He has graduated from high school, I take it?

5 A Yes, he has.

6 Q And he is not going to college?

7 A No.

8 Q You have indicated, Mrs. Johanssen, that you are
9 not opposed to the death penalty; is that right?

10 A That's right.

11 Q And you said that you would have the courage to
12 return verdicts of death against these defendants if you
13 thought it was a proper case under all the circumstances;
14 is that correct, ma'am?

15 A Yes.

16 MR. KANAREK: I object to that question, your Honor.

17 THE COURT: Overruled.

18 MR. BUGLIOSI: Q Your answer is yes, ma'am?

19 A Yes, it is.

20 Q Mrs. Johanssen, could you vote for the death
21 penalty for a female defendant?

22 A Yes.

23 MR. KANAREK: Your Honor, I am sorry, I didn't hear
24 that question.

25 THE COURT: The last question?

26 MR. KANAREK: That's right.

1 THE COURT: Would you read the last question?

2 (The question was read by the reporter.)

3 MR. BUGLIOSI: Q The question is, could you vote
4 for the death penalty for a female defendant?

5 A Yes, I could.

6 Q Can you conceive of any circumstances, Mrs.
7 Johanssen, under which you would be willing to vote for a
8 verdict of death against a particular defendant even though
9 the evidence at the trial showed that this particular
10 defendant did not himself personally kill a fellow human
11 being?

12 A Yes.

13 MR. KANAREK: May we approach the bench, your
14 Honor?

15 THE COURT: The same question has been asked a number
16 of times. Are you objecting to the question?

17 MR. KANAREK: Yes, your Honor.

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1 THE COURT: The objection is overruled.

2 You may answer.

3 MRS. JOHANSSSEN: Yes, I can conceive of that.

4 BY MR. BUGLIOSI:

5 Q Do you understand the rule of conspiracy,
6 Mrs. Johanssen, that says that one conspirator is
7 criminally responsible for and equally guilty of the
8 crime committed by his co-conspirators?

9 A Yes, I understand that.

10 Q You heard Mr. Stovitz and I talk about that
11 rule on the last couple of days, have you not?

12 A Yes.

13 Q Have you done any thinking about it,
14 Mrs. Johanssen?

15 A Yes, I have.

16 Q Do you understand the rule of law?

17 A I do.

18 Q Do you have any prejudices against it,
19 ma'am?

20 A No, I do not.

21 Q You don't disagree with it, do you?

22 A No.

23 Q Can you promise me, ma'am, that you will
24 unhesitatingly follow the Court's instructions on that
25 rule of law if you find it applicable to the facts in
26 this case?

12a-2

1 A Yes, I will.

2 Q Assuming, Mrs. Johanssen, that a particular
3 witness for the prosecution is deemed to be an accomplice.
4 Will you follow the Court's instruction that only slight --

5 MR. FITZGERALD: Objection, your Honor.

6 This is improper voir dire, and it is a
7 misstatement of the law.

8 In that connection, I submit CALJIC 3,10,
9 11, 12 and 13.

10 MR. BUGLIOSI: I would submit People vs. Wayne,
11 41 Cal. 2d 814, at page 822.

12 THE COURT: We haven't heard the question yet,
13 gentlemen. I can't rule on it until I hear it.

14 MR. FITZGERALD: It is initially objected to for
15 the use of the term "slight." That does not appear in the
16 instructions.

17 MR. BUGLIOSI: May we approach the bench on this,
18 your Honor?

19 THE COURT: No.

20 I am going to sustain the objection on the
21 basis of what I have heard so far, Mr. Bugliosi.

22 I think the question can be put in another
23 form to elicit the point that you are interested in now
24 without instructing the jurors.

25 MR. BUGLIOSI: May I approach the bench, your
26 Honor, on this issue and give the Court the authority that

12a-3

1 I believe I have on this particular question?

2 THE COURT: I am going to sustain the objection to
3 this question. I don't care what your authority is.
4 The form of the question is bad.

5 MR. BUGLIOSI: Q Mrs. Johanssen, if the Court
6 instructs you that the evidence in corroboration of an
7 accomplice can be circumstantial evidence, will you follow
8 the Court's instruction on that, ma'am?

9 A Yes, I will.

10 Q Do you realize, Mrs. Johanssen, that the
11 prosecution in all criminal trials only have the burden
12 of proving a defendant guilty beyond a reasonable doubt?

13 Do you understand that, ma'am?

14 A Yes, I do.

15 Q You understand that we do not have the burden
16 of proving any defendant's guilt beyond all doubt?

17 A Yes.

18 Q Are you of such a frame of mind, Mrs.
19 Johanssen, that before you would return a verdict of
20 guilty for these defendants you would require of the
21 prosecution that we remove not only reasonable doubts
22 from your mind but that you would require that we remove
23 all possible doubt?

24 A No.

25 Q Do you recall my discussion about
26 circumstantial evidence, Mrs. Johanssen?

12a-4

1 A Yes, I do.

2 Q Did you get the distinction by way of that
3 cookie jar example between circumstantial evidence as
4 opposed to direct evidence, ma'am?

5 A Yes.

6 Q Do you have any objection whatsoever to
7 sitting as a juror on a case where the People rely in
8 part on circumstantial evidence, ma'am?

9 A No.

10 Q Are you confident, Mrs. Johanssen, that
11 you can give the People of the State of California,
12 the prosecution, a fair trial?

13 A Yes, I am.

14 Q Is there any doubt in your mind about that?

15 A No.

16 Q Do you recall that the last few days I have
17 asked several other jurors questions which I am not
18 asking you now?

12b fls. 19

19 A Yes.

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12B-1 1 Q And when you were out in the spectator's section
2 of the courtroom, Mrs. Johanssen, were you mentally asking
3 yourself those same questions?

4 A Yes, I was.

5 Q Was there any question that I asked or
6 Mr. Stovitz asked which caused you to say to yourself that
7 you would have answered it differently from the way the
8 majority of the jurors were answering the questions?

9 A In general, no.

10 Q There is nothing that you can think of that you
11 would want to tell me at this point?

12 A No.

13 MR. BUGLIOSI: Thank you, Mrs. Johanssen.

14 Pass for cause, your Honor.

15 THE COURT: It is the people's next peremptory
16 challenge.

17 MR. BUGLIOSI: The People thank and excuse Miss
18 Rose Pahn.

19 THE COURT: Thank you, Miss Pahn. You are excused.

20 THE CLERK: Mrs. Barbra A. Lynch, B-a-r-b-r-a,
21 L-y-n-c-h.

22 (Whereupon, Mrs. Barbra A. Lynch was seated in
23 seat No. 4 in the jury box.)
24
25
26

1 VOIR DIRE EXAMINATION OF MRS. BARBRA A. LYNCH
2 BY THE COURT:

3 Q Mrs. Lynch, have you heard and understood
4 everything that has been said in court since you came into
5 the case?

6 A I believe so.

7 Q If you are selected as a juror in this case,
8 would you be able to serve?

9 A It would be a hardship because my only
10 daughter is planning to be married in August, and in a
11 real family that only happens once in a lifetime.

12 Q Is there anything other than that fact that
13 would create a hardship for you?

14 A Well, I don't know if this is the proper time
15 to say that I do have a prejudice about the life style of
16 the defendants.

17 Q We will get to that in a minute.

18 I was inquiring now as to any undue hardship
19 which might result if you were called upon to serve.

20 A No.

21 Q What is the date of your daughter's marriage?

22 A August 15th.

23 THE CLERK: That would be Saturday, your Honor.

24 THE COURT: Q Saturday?

25 A Yes.

26 Q All right.

1 I am going to ask you, Mrs. Lynch, the
2 questions regarding the death penalty that I put to the
3 other prospective jurors.

4 Have you had an opportunity to think about
5 these questions and your answers to them?

6 A Yes, I have.

7 Q All right.

8 The first question is: Do you entertain such
9 conscientious opinions regarding the death penalty that
10 you would be unable to make an impartial decision as to any
11 defendant's guilt regardless of the evidence developed
12 during the trial?

13 A No.

14 Q Do you entertain such conscientious opinions
15 regarding the death penalty that you would automatically
16 refuse to impose it regardless of the evidence developed
17 during the trial?

18 A No.

19 THE COURT: Do you wish to inquire, Mr. Fitzgerald?

20 MR. FITZGERALD: Thank you, your Honor.

21
22 VOIR DIRE EXAMINATION

23 BY MR. FITZGERALD:

24 Q What is your business or occupation?

25 A I am a homemaker.

26 MR. KANAREK: Your Honor, could the lady speak up

1 just a little bit?

2 THE COURT: Would you hold the microphone just a
3 little closer, please?

4 MR. KANAREK: Thank you very much.

5 MR. FITZGERALD: Q Is your husband employed?

6 A Yes, he is.

7 Q By whom is he employed?

8 A Los Angeles County.

9 Q What does he do for the County of Los Angeles?

10 A He is an assistant superintendent of buildings,
11 Department of Building & Safety, with the County Engineers.

12 Q Does he work out of a particular office?

13 A The Second and Main Office, the Main Office.

14 Q Do you have any children, ma'am?

15 A I have three.

16 Q The oldest?

17 A Is a boy.

18 Q Age?

19 A 24.

20 Q The youngest?

21 A A boy 20.

22 Q Where in the County do you reside, just
23 generally speaking?

24 A Whittier.

12c-1

1 Q Have you ever served as a juror before?

2 A No, I haven't.

3 Q And I believe you have indicated that the
4 life style or the apparent life style of the defendants
5 you react to in some fashion?

6 A That is true.

7 Q Rather than have me ask you a whole series
8 of questions not really knowing what is going on in your
9 mind, Mrs. Lynch, why don't you try to provide us with
10 what your feelings are in regard to the defendants and
11 their life style, even though it may be embarrassing.

12 We would appreciate what you honestly feel.

13 A Well, I feel that the term "Family" in
14 connection with them is a mockery. It is more like a
15 harem.

16 THE COURT: Hold the microphone a little closer,
17 please, and speak right into it. Turn the end of it so
18 the end faces your mouth.

19 MRS. LYNCH: Yes, sir.

20 MR. FITZGERALD: Q I take it that you have read
21 some publicity in connection with this case?

22 A Yes, I have.

23 Q Have you read newspaper coverage of the case?

24 A Yes.

25 Q Have you also read about this case in
26 certain periodicals?

12c-2 1

A Yes.

2

Q Magazines?

3

A Yes.

4

Q Have you seen material in connection with this case on television?

5

A Yes.

6

Q Have you heard material concerning this case on the radio?

7

A Yes.

8

Q I take it you have heard certain things on radio and TV and seen certain things in the newspaper in connection with these defendants, Leslie Van Houten, Patricia Krenwinkel, Susan Atkins and Charles Manson?

9

A Some of them.

10

Q And you have heard something in connection with what you refer to as the Family; is that correct?

11

A Yes.

12

Q Now, let me ask you this: Do you know anybody who knows personally any of the defendants?

13

A No.

14

Q Do you know anybody who has met these defendants, Mrs. Lynch?

15

A No.

16

Q Your knowledge, Mrs. Lynch -- correct me if I am wrong -- your knowledge of these defendants is based upon what you have read in the newspapers and periodicals,

17

18

19

12c-3

1 seen on television or heard on the radio; is that
2 correct, ma'am?

3 A That's right.

4 Q And you have heard something in connection
5 with a Family; is that correct, ma'am?

6 A Uh-huh.

7 Q Could you give us a synopsis --

8 THE COURT: Would you please answer yes or no
9 instead of uh-huh. The reporter has to take down the
10 answers.

11 MRS. LYNCH: Yes.

12 THE COURT: We can't tell from that whether it is
13 affirmative or negative.

14 MRS. LYNCH: Yes, sir.

15 MR. FITZGERALD: Q Would you give us a synopsis
16 or summary or could you paraphrase what you have heard
17 in connection with some Family that may somehow be
18 associated with the defendants?

19 MR. STOVITZ: Sorry for the interruption, Mr.
20 Fitzgerald.

21 I object to the question as it gives the
22 juror an opportunity to tell, perhaps, other jurors what
23 they have not seen, heard or read, and it may have some
24 effect of causing the other jurors to learn things about
25 this case that may not be introduced in evidence.

26 THE COURT: Objection sustained.

1 I think we will take an adjournment at this
2 time, Mr. Fitzgerald.

3 MR. STOVITZ: May we, after the jury leaves the
4 courtroom, your Honor, have a few moments with your Honor
5 here in court? We have one or two matters that we would
6 like to discuss.

7 THE COURT: Very well.

8 We will adjourn until 9:45 tomorrow morning,
9 ladies and gentlemen.

10 Do not converse among yourselves or with
11 anyone else on any subject relating to the case nor
12 form or express any opinion regarding the case until it
13 is finally submitted to those of you who are finally
14 selected.

15 9:45 tomorrow.

16 We will be in recess for a few minutes.

17 Is this something that you wanted to take
18 up in chambers or in open court?

19 MR. BUGLIOSI: It can be in open court, your
20 Honor.

21 (Whereupon all prospective jurors leave
22 the courtroom and the following proceedings occurred in
23 open court, all defendants and all counsel being present:)

24 THE COURT: All parties and counsel are present.
25 None of the prospective jurors are present.

12-D-1

1 MR. BUGLIOSI: Just a few points, your Honor.

2 Number one, I would request on behalf of the
3 prosecution that the Court rule within a few days on
4 Mr. Stovitz's contempt action.

5 I would suggest perhaps Friday afternoon. I
6 think Friday is a day where the Federal Courts are not in
7 session. Perhaps the Court could excuse the jury Friday
8 afternoon and hear the matter. Or if the Court does not
9 want to excuse the jury at all, perhaps it could be heard
10 Friday morning before the court session, or maybe Monday
11 morning.

12 In any event, your Honor, we would urge the
13 Court to rule as expeditiously as possible on that particu-
14 lar issue.

15 The second point, your Honor, we would
16 request that the Court instruct the jury that when they go
17 home at night or in the daytime, the morning, not to
18 read the newspapers or listen to the radio or watch
19 television with respect to this case.

20 Now, granted one or more jurors may violate the
21 Court's instruction or disobey the Court's instruction.

22 On the other hand, some of them might decide to
23 follow the Court's instruction, and perhaps all of them will.

24 I think we should start out with the assumption
25 that they will all obey the Court's instruction.

26 There is too much coverage of this case right

12B2

1 now that is prejudicial, I would say, to both sides.

2 The jurors are the exclusive judges of the facts
3 and the evidence, Your Honor, and I do not think they should
4 be exposed to some of the things that are being said over
5 television.

6 So, we would urgently request the Court to
7 instruct the jury.

8 THE COURT: Said by whom over television?

9 MR. BUGLIOSI: Said by, perhaps, both sides, your
10 Honor, or perhaps third parties.

11 In any event, I don't see how the jury, who are
12 the sole and exclusive judges of the fact, can profit in
13 that function by listening to television about this case.

14 During the trial of this matter the Court has
15 indicated that the Court intends to sequester the jury for
16 that very purpose, so that they will not be exposed to
17 publicity concerning the case. It seems to me, to be
18 consistent, the Court should, at this time, also instruct
19 the jury not to read the newspapers or listen to the radio
20 or watch television on any matter concerning this particular
21 case.

22 THE COURT: I might point out to you, as you are well
23 aware, Mr. Bugliosi, that the District Attorney of this
24 County has consistently opposed the publicity order.
25 He opposed the augmentation of that order covering matters
26 in chambers and conferences at the bench outside of the

12B3 1 presence of the jury and any release of information from
2 the transcript covering those proceedings.

3 I find it a little difficult to understand the
4 consistency of your present position in view of the
5 position that the District Attorney has taken.

6 MR. BUGLIOSI: The District Attorney of this County,
7 your Honor, has not said that the jury should be privy
8 to things or happenings that occur back in chambers or up
9 at the bench. He has never said that.

10 He has said that the occurrences back in
11 chambers or up at the bench, the transcript of those
12 proceedings should be made available to the press.

13 The District Attorney realizes, and he has
14 made this abundantly clear, that there are many things
15 that the jury should not hear or be privy to.

16 So, in all deference to the Court, I do not
17 see any inconsistency.

18 THE COURT: The inconsistency is apparent to anyone.

19 Go ahead, Mr. Bugliosi.

20 MR. BUGLIOSI: Does the Court wish to rule or indicate
21 how it feels about those two particular issues at this
22 time?

23 THE COURT: As far as the matter involving Mr. Stovitz,
24 I do not, at this time, wish to indicate anything one way
25 or the other.

26 As far as the request for further admonition to

1 the jury, I have no objection to that.

2 MR. BUGLIOSI: Admonishing the jury?

3 THE COURT: Yes.

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MR. BUGLIOSI: Thank you for that, your Honor.

The third point is prospective.

I am wondering if the Court -- it is hard for the Court to make a statement at this point, but I wonder if the Court, at the time of jury instruction three or four months from now is going to instruct solely on CALJIC?

The position of the District Attorney's Office -- and I think the defense -- will be that the Court should only use CALJIC as a guide, and if we, or the defense, can give the Court authority for any proposition of law not contained within CALJIC, perhaps the Court should also give that instruction.

I am referring to, perhaps, language of the California Supreme Court directly in point on a particular issue.

The reason I am raising that at this time is that the California Supreme Court in the Wayne case, People vs. Wayne, 41 Cal. 2d, has clearly said that only slight -- they have used the word slight -- only slight evidence is necessary to corroborate the testimony of an accomplice.

Now, I grant the Court that that language is not contained in CALJIC, but I can't say that CALJIC is the law. These are only proposed instructions. To my knowledge, the Court wouldn't have to give any

1 instructions in CALJIC, the Court could formulate its own
2 instructions.

3 Now, if the Court is of the frame of mind
4 that it will not be handcuffed, as it were, by CALJIC,
5 then I think the issue has to be resolved at this time
6 whether or not this word "slight" is a proper word.

7 If it is a proper word, your Honor, we
8 would request that we voir dire the jury on the accomplice
9 issue using that particular word.

10 THE COURT: The objection to the question was
11 sustained not with reference to anything in CALJIC but
12 because, as I have indicated to both sides repeatedly,
13 I do not want to get into any differences of opinion
14 before the prospective jurors as to what the instructions
15 will be.

16 The only reason I have permitted you to go
17 into the question of instructions at all is simply for
18 illustration, not for instruction or indoctrination, and
19 when you start to argue about what the meaning or what
20 the instruction is going to be that is finally given by
21 the Court or the nuances of definitions regarding these
22 technical matters, I simply am not going to permit it
23 as part of any voir dire examination.

24 I have told you that. I repeat it now. It
25 is improper and not necessary.

26 The same point which you are trying to get

1 at, Mr. Bugliosi, I assume can be arrived at by rephrasing
2 the questions in some other form.

3 MR. BUGLIOSI: The only thing, your Honor, in
4 rephrasing, the word "slight" apparently has to be
5 dropped out of the picture, and the prosecution does not
6 want to forget about the word "slight."

7 THE COURT: If your question turns solely on
8 whether the word "slight" can be used or not used, then
9 I would say it is probably an improper question.

10 MR. BUGLIOSI: An improper question?

11 THE COURT: Yes. Then I think you are attempting
12 to indoctrinate or instruct where you should be testing
13 the state of mind of the juror with regard to possible
14 bias.

15 MR. BUGLIOSI: The vice of the Court's present
16 posture is that the defense can go into this business
17 of accomplice --

18 THE COURT: I haven't said that you can't go into
19 it, Mr. Bugliosi. You apparently keep wanting to misunder-
20 stand what I say.

21 You may inquire but the thrust of your
22 question has to be in a different direction.

12f fls.

2-F-1

1 MR. BUGLIOSI: But Mr. Reiner's question -- and his
2 questioning is proper -- I have not objected to, although
3 originally he misstated the law with respect to accomplices;
4 but right now I think he is stating the law of accomplice.
5 Now, if he can state the law of accomplice, questioning the
6 jury on that issue, it seems to me that in rebuttal the
7 prosecution can also expand on what Mr. Reiner has said.

8 Mr. Reiner has told the jury that the
9 corroboration has to be totally independent evidence.
10 Now, that is correct. But it is also correct that that
11 totally independent evidence can be slight, and the position
12 of the People is, if my statement of the law is correct,
13 and if Mr. Reiner can make a correct statement, ergo,
14 we should be able to make a correct statement to the jury.

15 THE COURT: All I can say is, again, you are talking
16 about the very thing that I have told you I don't want to
17 be raised in front of the prospective jurors, and that is
18 technical definitions as to what the law or the
19 instructions are.

20 The question is not whether they understand the
21 technical definition but whether or not they are willing
22 to follow it, whatever it is, as it is finally given to them.

23 MR. BUGLIOSI: Very well, your Honor.

24 THE COURT: Anything further, gentlemen?

25 MR. FITZGERALD: Yes.

26 MR. KANAREK: Yes, your Honor. I'm sorry.

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MR. FITZGERALD: I will defer to Mr. Kanarek.

MR. KANAREK: Your Honor, there is a problem in connection with the 30 pages of notes that Mr. Bugliosi represented to the Court that he found, his original notes.

It turns out, your Honor, and I may not be stating it right, I don't know, but Mr. Bugliosi has still not come up with the 30 pages of notes. What he has come up with is purportedly a copy, which is a Xerox or Thermofax, or some kind of a copy, which is predominantly, to a great extent, illegible.

Now, he represented to the Court, your Honor, that he had found those 30 pages of notes.

Now, this is most important. These are the original notes that Mr. Bugliosi took when he spoke with Susan Atkins, not making any changes or anything.

All we want is what he represented to the Court, and he has not -- he keeps saying --

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13-1

1 THE COURT: Well, let's hear from Mr. Bugliosi as
2 to what he has.

3 MR. BUGLIOSI: I think Mr. Kanarek is implying that
4 the District Attorney's Office, your Honor, has a particular
5 type of photostat machine -- there is no patent on it
6 apparently --

7 THE COURT: He wants to see the original notes.

8 MR. BUGLIOSI: I think he is implying we have a
9 particular type of Xerox machine, never patented --

10 THE COURT: He is not implying that. Let's not avoid
11 the subject.

12 Do you have the original notes or don't you?

13 MR. BUGLIOSI: I told Mr. Kanarek if I found the
14 original notes I would give them to him.

15 Susan Atkins own attorney, Daye Shinn, has
16 seen the original notes and told Mr. Kanarek that what
17 Mr. Kanarek has in his hands right now is identical to the
18 original notes.

19 THE COURT: That does not satisfy the question.

20 MR. BUGLIOSI: I told Mr. Kanarek, and I will tell the
21 Court, if I find these original notes, Susan Atkins'
22 testimony is of no concern to me right now, and I have
23 tubs of papers down there, if I find the original notes I
24 will give them to Mr. Kanarek.

25 THE COURT: I take it that you have not found the
26 original notes, is that correct?

3-2
1 MR. BUGLIOSI: No, I found a photostatic copy of them
2 and I have given Mr. Kanarek a photostatic copy, but
3 apparently that does not please Mr. Kanarek.

4 MR. KANAREK: No, it does not, your Honor.

5 THE COURT: Well, if he doesn't have it you cannot
6 inspect it, Mr. Kanarek. It is just that simple. He says
7 if he finds it he will furnish it.

8 MR. KANAREK: I believe he represented to the Court
9 that he found his original notes.

10 MR. BUGLIOSI: That was not my language. I found the
11 notes, Mr. Kanarek. You might speak to Mr. Shinn who has
12 looked at the yellow, original notes. He is Miss Atkins'
13 attorney. He is totally satisfied.

14 THE COURT: This point has been covered, Mr. Kanarek.
15 Is there anything else, gentlemen?

16 MR. KANAREK: Very well, your Honor.

17 THE COURT: It has been covered in the discovery
18 order; nothing has been changed since then. You will have
19 the right to inspect the original notes if, as, and when
20 they are located.

21 MR. KANAREK: As of right now we have not seen them.
22 We will take by way of motion or whatever else we feel is
23 necessary --

24 THE COURT: No motion is necessary. I am telling
25 you you have the right to see them.

26 Mr. Bugliosi is representing to the Court that

3-3
1 he has not been able to find them.

2 MR. FITZGERALD: I have a matter I would like to
3 bring to the attention of the Court.

4 As the Court adjourned this afternoon I was
5 questioning a juror with regard to the information she
6 read in connection with this case or heard on the radio or
7 had seen on television.

8 I asked her a question, to relate in open
9 court what she had heard in connection with the so-called
10 Manson Family.

11 Mr. Stovitz interposed an objection and your
12 Honor sustained it.

13 I would like to go into this matter again
14 tomorrow morning, and I don't want to be traipsing to the
15 bench.

16 THE COURT: I will consider it in the morning,
17 Mr. Fitzgerald.

18 MR. STOVITZ: Does your Honor intend to have a full
19 session Monday morning, in view of the Weber case?

20 THE COURT: Absolutely.

21 (Whereupon, an adjournment was taken to
22 reconvene at 9:45 a.m., Thursday, July 2, 1970.)
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LOS ANGELES, CALIFORNIA, THURSDAY, JULY 2, 1970

9:54 A.M.

(The following proceedings were had in the chambers of the Court out of the hearing of the prospective jurors, all counsel being present:)

THE COURT: The record will show all counsel are present.

I wanted to find out why you were late this morning, Mr. Kanarek.

It is now, according to the clock in chambers here, six minutes to 10:00.

MR. KANAREK: I was here by ten minutes to 10:00, your Honor.

I had to park right next to the parking lot adjacent to Olvera Street.

THE COURT: I know you have to park somewhere, but why are you late?

MR. KANAREK: That is the reason I was five minutes late, your Honor. I just had to drive around from parking lot to parking lot and that was the closest one. I did not anticipate I would have to go to that far away a parking lot.

I am parked --

THE COURT: Every morning there seems to be something, or at least there have been several mornings

1 MR. KANAREK: I think it was yesterday and today,
2 is about the only time I have been late, I think, in the
3 last couple of weeks, your Honor.

4 Yesterday I was in court and had asked for
5 priority.

6 I was in the courthouse before 9:00 o'clock.

7 THE COURT: I am not talking about that. I can
8 understand when you are in another court you may not be
9 able to get back exactly on time.

10 What I am talking about is the unnecessary
11 tardiness caused by not finding a parking place.

12 Everybody else has the same problem; yet they
13 are here on time.

14 MR. KANAREK: I miscalculated by about, I gathered
15 about five minutes.

16 THE COURT: That is what I want to avoid, Mr. Kanarek,
17 and I admonish you again.

18 MR. KANAREK: Yes, sir.

19 THE COURT: I expect all counsel to be on time. We
20 have enough unavoidable delays caused by one thing or
21 another. I want to avoid the avoidable.

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1 MR. KANAREK: I agree with the Court, your Honor.
2 I will just try to get down maybe a half hour earlier or
3 something like that.

4 THE COURT: I don't want to have to take any
5 drastic action, Mr. Kanarek. I am trying to understand
6 the problems of all counsel. This is a problem I don't
7 understand because I know that it can be solved, I know
8 it is possible for you to be here on time, no matter how
9 difficult it is to find a parking place.

10 So, I am just telling you to consider
11 this to be an admonition.

12 MR. KANAREK: Yes, sir.

13 THE COURT: And let's not have it again.

14 MR. KANAREK: Yes.

15 THE COURT: Anything else before we resume?

16 We simply don't have the time to waste in
17 this case.

18 MR. KANAREK: I apologize to the Court and
19 counsel, your Honor, for being late.

20 THE COURT: Anything else, gentlemen, before we
21 resume?

22 Mr. Fitzgerald did raise the question
23 regarding an objection that I sustained to a question
24 that he asked Mrs. Lynch yesterday which, in substance,
25 asked her to give a synopsis of everything that she had
26 learned about the defendants, I believe, from the standpoint

1 of the publicity.

2 I don't believe thatthat is a proper
3 question. I think the inquiry into any possible bias
4 or challenge for cause can be gotten out without having
5 her recite everything that she has seen, read or heard.

6 After all, it is not what she has seen,
7 read or heard which is the important point, but what
8 effect, if any, it has had on her. The same thing seen
9 by ten different people may have ten different effects.

10 I see no occasion to recite before all
11 of the other prospective jurors everything that she has
12 read, seen and heard.

13 MR. FITZGERALD: I didn't create the publicity,
14 your Honor, and if I ask her a question she is just going
15 to come out with baldfaced conclusions.

16 I think I am entitled to find out what
17 she bases those conclusions on.

18 I will abide by the Court's ruling.

19 MR. KANAREK: Your Honor, may I just make the
20 record?

21 I have joined with Mr. Fitzgerald, your
22 Honor. We have a situation --

23 THE COURT: Joined in what?

24 MR. KANAREK: In his last comments.

25 I think we have a situation, if we have
26 jurors who wish to be on the jury for one reason or the

1 other, who wish to be sequestered, they are willing to
2 go through certain ordeals to be on this jury, I think
3 human experience and our experience in the courts are
4 such that we can -- and I would like the record to
5 reveal on behalf of Mr. Manson -- it is our belief that
6 we can infer that these people have some kind of a
7 dedication in their mind to getting on the jury, and
8 perhaps being less than candid with the Court and counsel,
9 to the detriment, I believe, of Mr. Manson; especially the
10 way the prosecution has conditioned the minds of the
11 public; and it is my belief that merely asking a person
12 "Are you prejudiced" after hearing all of this, and
13 they say "No, I can set this aside," and then saying
14 that means that they are not prejudiced and that there
15 is no actual bias, I think it is winking at the true
16 facts of life.

2a fls. 16

1 THE COURT: I am not saying that you are limited to
2 asking a person whether he is prejudiced or not. That is
3 not what I said at all.

4 I have permitted you wide latitude in going
5 into these questions, but I did sustain an objection to a
6 particular question which Mr. Fitzgerald asked, and I was
7 simply explaining to him what my thinking was on that.

8 MR. KANAREK: Yes, your Honor.

9 MR. REINER: Your Honor, if I may be heard?

10 I agree with your Honor's analysis of the
11 problem, the quandary we face and the problem that exists
12 when we ask one juror in the presence of other jurors,
13 which some may have heard and other jurors not, but I
14 think the problem is created by the Court's insistence
15 that these matters be heard in open court when counsel has
16 asked that the jurors be asked individually in chambers
17 out of the hearing of the other jurors.

18 THE COURT: Let's not go back over that, Mr. Reiner.
19 I don't insist on it, as I explained to you.

20 You were, along with other counsel, objecting to
21 the proceedings in chambers.

22 MR. REINER: No, your Honor, that is incorrect. That
23 is absolutely incorrect. There is no point in stating some-
24 thing incorrect. That is incorrect. I argued vigorously
25 against it.

26 I don't know how the Court can say I wanted it

1 done in open court.

2 THE COURT: If that is true, then it certainly is
3 not true that the other defense counsel did not oppose
4 conducting proceedings in chambers.

5 Mr. Fitzgerald, as a matter of fact, walked
6 out of chambers yesterday, for some reason or other; but,
7 in any event, he and others have expressed vigorous
8 opposition to any proceedings in chambers. The District
9 Attorney has expressed opposition to proceedings in
10 chambers and keeping those matters confidential, including
11 the transcript.

12 I have told counsel that if all of them are
13 willing to stipulate to having these matters heard in
14 chambers, and their clients are willing to waive any
15 objections, they will be held in chambers; but my present
16 feeling is that counsel are attempting to put the Court in
17 a position between their clients and themselves with regard
18 to this matter, and I have made my position clear.

19 MR. FITZGERALD: I personally think the Court has
20 misquoted the record.

21 MR. REINER: Absolutely.

22 THE COURT: In what respect?

23 MR. FITZGERALD: In respect to where you said that we
24 objected to proceedings in chambers.

25 This record will adequately reflect that I
26 initially made the motion to have the jurors voir dired in

1 chambers on certain matters.

2 THE COURT: You did not.

3 MR. FITZGERALD: I did, and the record will so
4 reflect.

5 THE COURT: The record will reflect that you objected
6 to having any further proceedings in chambers.

7 MR. REINER: Your Honor, I think the record is clear.
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1 MR. FITZGERALD: My reading comprehension is as good
2 as your Honor 's, and I can show you chapter and verse --

3 THE COURT: I have made my point. If all parties and
4 counsel desire to have the proceedings in chambers I will
5 accede to that.

6 Unless all are willing I will not.

7 MR. REINER: That is precisely what we are addressing
8 ourselves to; all counsel have agreed it be in chambers.

9 THE COURT: I am talking about the parties also.

10 MR. REINER: That is exactly --

11 THE COURT: I don't want to go over it again.
12 I made the point clear.

13 MR. BUGLIOSI: Do you intend to admonish the jury
14 hereafter not to read the newspapers, watch television or
15 listen to the radio?

16 THE COURT: Yes, I do.

17 (The following proceedings were had in open
18 court in the presence and hearing of the prospective jurors,
19 all defendants and their counsel, and the two deputies
20 district attorney being present:)

21 THE COURT: All parties and counsel are present.

22 All of the prospective jurors are in the jury
23 box.

24 You may proceed, Mr. Fitzgerald.
25
26

VOIR DIRE EXAMINATION OF MRS. LYNCH

BY MR. FITZGERALD:

Q I believe yesterday you had indicated, Mrs. Lynch, that you had some feelings or some ideas about the so-called Manson Family.

Is that a fair and accurate statement?

A Yes.

Q I don't think your microphone is on; it has a little button.

What was your answer?

A Yes.

Q And those feelings that you have about this so-called Manson Family are as a result of reading something about them, or hearing something about them on the radio or seeing something about them on television, is that correct?

A Yes, until you -- I am willing to listen, if you have something to offer otherwise.

Q We appreciate that.

But I take it that as you heard certain information or read certain information about these defendants and the so-called Manson Family, you had some feelings as a result of reading or hearing this material, is that correct?

A Yes.

Q And some of this material that you read or you

1 saw or you heard influenced you adversely, at least in your
2 mind, against these defendants, isn't that correct?

3 A Not in connection with this charge.

4 Q Would it be fair to say that it did, though,
5 in terms of their general moral character?

6 A Yes.

7 Q And I take it that the feelings that you had
8 about their general moral character were honestly-held
9 opinions?

10 A Yes.

11 Q You were not trying to be capricious in your
12 reasoning or in your feelings. They were honestly-held
13 opinions?

14 A That's correct.

15 Q What was it that you read or heard about the
16 Manson Family that gave you those adverse feelings?

17 A There was a number of things.

18 I heard they were arrested in Inyo County for
19 car theft.

20 THE COURT: Keep the microphone a little closer,
21 please.

22 MRS. LYNCH: I understand they were arrested in Inyo
23 County for car theft, and, oh, I understand that there are a
24 number of young ladies involved that have a relationship
25 other than a father-brother relationship with various
26 men who belong to a group.

1 I understand there are even children --

2 THE COURT: Just a moment, Mrs. Lynch.

3 That will be enough, you may go to something
4 else, Mr. Fitzgerald.

5 MR. KANAREK: May we approach the bench?

6 MR. FITZGERALD: May the juror finish her response?

7 THE COURT: No.

8 MR. FITZGERALD: So the record is made clear, is the
9 Court making and sustaining its own objection?

10 THE COURT: That's right.

11 Q BY MR. FITZGERALD: I take it that when you read
12 this material that you are talking about, or that you heard,
13 you felt that it was true, is that right?

14 A You cannot believe everything you read but --

15 Q You cannot discount everything you read?

16 A No, there's a possibility of truth as well as
17 untruth.

18 Q And the opinions you held you formed as a result
19 of that possibility, or those possibilities, as the case
20 may be?

21 A Well, as I reminded you, they are just opinions,
22 and if you have something to offer I am willing to listen.

23 Q What if I did not have anything to offer?

24 A Well, then you cannot be a personal witness to
25 everything that happened, you cannot know personally all the
26 people, and so you come together with your thoughts and
either you are open to correction -- it is always possible

1 to make a mistake.

2 MR. KANAREK: Your Honor, may we approach the bench
3 at this time as to this juror?

4 THE COURT: Not at this time. Wait until the voir
5 dire is concluded, Mr. Kanarek.

6 Q BY MR. FITZGERALD: You said that you would
7 certainly be willing to listen to anything we had to offer.

8 Would it be fair to say that you would be
9 perfectly willing to listen and see if we, the defendants,
10 could change your mind?

11 A Yes.

12 Q And that implies, does it not, that you do have
13 some idea in your mind, at least, about their general
14 moral character at this point?

15 A Yes.

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1 Q And would it be fair to say that it would be
2 difficult for you to set aside that feeling you have about
3 their general moral character in arriving at a decision
4 in this case?

5 A Well, I understand that you are to presume
6 a defendant innocence until he is proven beyond a reasonable
7 doubt guilty.

8 Q That's correct.

9 A Yes.

10 Q You will have a little difficulty doing that
11 inasmuch as you have some opinions about the defendants'
12 general moral character, would you not?

13 A I think a person should be fair when they are
14 judging evidence.

15 Q Without telling me any particular denomination
16 or religious affiliation you have, do you have some strong
17 religious feelings of some kind?

18 A No.

19 Q Are you a member of some organized religion?

20 A No.

21 THE COURT: Mrs. Lynch, you are sitting directly
22 under one of the speakers and I believe that is what is
23 causing the noise with the microphone.

24 Will you point the microphone in another
25 direction rather than straight up.

26 MRS. LYNCH: All right.

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THE COURT: Thank you.

BY MR. FITZGERALD:

Q Your reaction to the defendants, then, is based on some general moral standards you have adopted for yourself and perhaps your family?

A That is reasonable.

Q In other words, you are not comparing the defendants in this case against some objective moral standard; you are comparing them with some subjective moral standard that you yourself hold?

A Yes.

Q Let's say that instead of these defendants that were on trial there were four persons on trial who were of your particular moral persuasion.

I take it that it would be easier for you to arrive at a verdict in that case, would it not?

A I understand you arrive at a verdict by examining the evidence.

Q Yes, that is correct.

What I am trying to get at is your ability, yours, as a juror, in evaluating the evidence.

Is it going to be very difficult for you to carefully and impartially analyze the evidence as to these defendants inasmuch as you do have some feelings about them?

A I think that everyone has feelings, but you can

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1 be fair when you are judging evidence.

2 Q Do you have any knowledge of psychology or
3 psychiatry as a result of a course of study?

4 A Oh, one semester of psychology.

5 Q Have you formed any opinion concerning the
6 validity of either psychology or psychiatry as a forensic
7 science, as a science generally?

8 A (No response.)

9 Q Well, let me ask you this:

10 Do you think psychiatry is a medical science?

11 A Yes.

12 Q Do you have any personal opinion concerning
13 psychiatrists as individuals?

14 A I don't know any.

15 Q Do you believe that psychiatrists are
16 reputable?

17 A For the most part.

18 Q Would you automatically disregard what a
19 psychiatrist said?

20 A No, neither would I automatically accept it.

21 Q And do you have any bias that you know of
22 against psychiatrists?

23 A No.

24 Q Should a psychiatrist be called to testify
25 in this case in regard to the sanity or mental illness or
26 mental or emotional disturbance or disorder of a witness

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1 in this case, would you carefully analyze that testimony in
2 arriving at a verdict or examining the credibility of
3 such a witness?

4 A I believe you carefully analyze each witness.

5 Q But you don't have any bias against
6 psychiatric or psychological evidence?

7 A No.

8 MR. FITZGERALD: All right. This concludes my
9 questioning, your Honor.

10 We challenge the juror pursuant to Penal Code
11 Section 1073 for existence of a state of mind on the part
12 of the juror with reference to the case and/or to the
13 parties, which would prevent her from judging with entire
14 impartiality, without prejudice to the substantial rights
15 of the defendants.

4 fls.

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1 MR. REINER: We will join on behalf of Defendant
2 Leslie Van Houten.

3 MR. KANAREK: May we approach the bench?

4 MR. BUGLIOSI: Your Honor, could we withhold the
5 at-bench conference until Mr. Stovitz has voir dired
6 this particular juror?

7 THE COURT: Is that agreeable, Mr. Kanarek?

8 MR. KANAREK: Certainly, your Honor.

9 THE COURT: All right.

10 MR. KANAREK: Yes, certainly.

11 THE COURT: You may take the matter up after Mr.
12 Stovitz finishes his questioning.

13 MR. KANAREK: Thank you.

14 MR. REINER: Excuse me, your Honor. I will pass
15 any questions I have with respect to this prospective
16 juror.

17 THE COURT: What about you, Mr. Shinn?

18 MR. SHINN: Pass, your Honor.

19 THE COURT: And you, Mr. Kanarek?

20 MR. KANAREK: Pass any questions.

21 THE COURT: All right.

22
23 VOIR DIRE EXAMINATION OF MRS. LYNCH
24 BY MR. STOVITZ:

25 Q Mrs. Lynch, as you sit here now, from what
26 you have heard and what you have seen, do you feel that

1 the defendants are guilty?

2 A Legally a defendant is presumed --

3 Q Not legally. Your own personal feelings,
4 Mrs. Lynch. How do you feel as you are sitting there
5 as a juror?

6 A I can't say. There has been no evidence
7 shown me one way or the other.

8 Q You have certain impressions from what you
9 have read and what you have seen, have you not?

10 A Yes. That is what they are, they are
11 impressions. I never claimed they were decisions.

12 Q Now, as to those impressions, Mrs. Lynch,
13 have those impressions caused you to cast a burden on
14 the defendants to prove their innocence?

15 A They aren't required to prove anything.

16 Q We are not talking about the law, Mrs. Lynch.
17 We are talking about your own personal feelings.

18 Do you remember the question I asked the
19 other jurors? If you knew everything about yourself that
20 you know, and if you were sitting in the place of one of
21 the defense attorneys here knowing this, are these
22 impressions you have, Mrs. Lynch, such that would cause
23 the defense to have to produce evidence to dispel those
24 impressions?

25 A I think that I can be a fair person.

26 Q All right. Mrs. Lynch, we have no doubt that

1 you can be fair and impartial. However, Mrs. Lynch,
2 you realize that later on, if you were to consider this
3 case and go into the jury room and make a statement to
4 your fellow jurors, "See, first impressions are what I go
5 by; I knew they were guilty the moment I looked at them
6 and now I am convinced about it." That would be wrong,
7 and this is what we want to know.

8 Both the prosecution and the defense are
9 eager to find 12 fair jurors that start off this case
10 with a clean slate, so to speak.

11 Now, you are not required to serve on this
12 case if you have some impression from what you have seen
13 and what you have read, from what people have told you,
14 from your own personal environment, so to speak.

15 Will you tell us about those, Mrs. Lynch?

16 A I have already this morning, and I have no
17 impressions on a murder charge.

18 Q All right.

19 Now, yesterday you told us that you were
20 going to check with your employer.

21 A No.

22 MR. STOVITZ: That was another juror. All right.

23 Thank you very much.

24 THE COURT: Have you concluded your questioning,
25 Mr. Stovitz?

26 MR. STOVITZ: Yes, your Honor.

1 VOIR DIRE EXAMINATION OF MRS. LYNCH
2 BY THE COURT:

3 Q Mrs. Lynch, as a result of your feelings
4 about the defendants, and possibly other people's life
5 style, do you feel that perhaps you would lean a little
6 bit toward the prosecution in this case, that you would be
7 more likely to convict because of your feelings regarding
8 these other matters?

9 A (Pause.)

10 Q Let me put it another way.

11 Do you think perhaps, because of your beliefs,
12 you would require the defendants to affirmatively prove
13 their innocence in some way?

14 A I have never been a juror before, sir. All
4a fls¹⁵ I can go on is what I have heard.

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1 Q All I want to know is -- I am delving into
2 your conscience now -- your personal beliefs as you sit
3 there right now. How do you feel about it?

4 Do you feel that you may, because of your
5 beliefs, tend to lean one way or the other rather than
6 being entirely impartial?

7 A I should hope that I could fairly judge from the
8 evidence. I wouldn't want to feel otherwise.

9 Q I am sure you would try, Mrs. Lynch, but
10 sometimes our beliefs cause us to lean a little bit one way
11 or the other which would keep us from being entirely
12 impartial notwithstanding the fact that you might be
13 conscientiously trying to, and I am sure you would, and
14 there is nothing wrong with this. We all have beliefs
15 about one thing or another which we hold which affect our
16 ability to make judgments about these things, and that is
17 all we are asking you. There is nothing wrong about it.
18 We simply want to know what your honest, personal beliefs
19 are at the moment.

20 Do you think that you tend to lean toward the
21 prosecution because of these beliefs?

22 A That seems to me to imply a prejudgment that
23 they are right and I have nothing to go on that they are
24 right.

25 Q That is true; but what I want to know is what
26 is your personal belief about it? What is your feeling at

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1 the moment?

2 A I thought I stated all that.

3 Q Well, you have made some statements about what
4 the law is.

5 Q If you ask me if I would care to serve as a
6 juror on this case or not, I think I could give you a
7 definite answer.

8 Q That is not what I am asking you, Mrs. Lynch.

9 A I know.

10 Q What I want to know is what are your personal
11 beliefs about, for example, the presumption of innocence.

12 Do you honestly presume and are you willing to
13 continue that presumption of innocence regarding each of
14 the defendants until such time, if ever, the People are able
15 to prove their guilt beyond a reasonable doubt?

16 A Yes.

17 Q Do you honestly believe and hold that belief
18 now?

19 A Yes.

20 Q And you don't tend to favor the prosecution or
21 the defendants because of any beliefs that you now hold?

22 A Well, I didn't realize that my impression and
23 personal beliefs have to be a part of the job of being a
24 fair juror.

25 Q Well, you see, the purpose of this
26 examination now, Mrs. Lynch, is to permit the Court and the
attorneys to learn if a juror holds any beliefs which would

3
1 prevent him from being entirely neutral at the outset,
2 impartial.

3 A Well, that is why I brought up my prejudice,
4 because I thought that instead of a lot of long, complicated
5 questions that get short yes or no answers, it would be
6 better to have it out.

7 So, I would rather not serve on this case.

8 Q Because of your personal beliefs regarding --

9 A I believe in honesty.

10 Q Why would you rather not serve, Mrs. Lynch?

11 A Oh, perhaps I am a middle-class, conservative
12 person and I am out of another person's world, perhaps.

13 Q Do you think that might affect your judgment
14 in this case?

15 A I should hope not but it could.

16 Q As you sit there now, do you believe that it
17 would?

18 We are concerned with your state of mind at
19 this particular moment in time, Mrs. Lynch, and you have
20 not yet answered my question directly as to whether or not
21 you believe that your beliefs would cause you to tend to
22 lean one way or the other at this point, that is, toward
23 the prosecution or toward the defense.

24 A Yes, they would.

25 Q They would?

26 A Yes.

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1 THE COURT: All right.

2 Any further questions, gentlemen?

3 MR. REINER: Nothing further.

4 MR. FITZGERALD: Nothing.

5 THE COURT: Do you wish to approach the bench?

6 MR. KANAREK: Well, if your Honor feels it is necessary,
7 certainly, your Honor.

8 THE COURT: I don't feel it is necessary, Mr. Kanarek.
9 I thought you had requested to.

10 MR. KANAREK: In view of the witness' statements,
11 I would be willing to accommodate her.

12 THE COURT: Do you all join in Mr. Fitzgerald's
13 challenge?

14 MR. KANAREK: I'd rather do it by stipulation, your
15 Honor.

16 May we approach the bench then?

17 THE COURT: Very well.

18 (Whereupon, all counsel approached the bench
19 and the following proceedings occur at the bench outside
20 of the hearing of the prospective jurors:)

21 MR. KANAREK: As your Honor knows, we previously asked
22 that each juror be interrogated separately in the courtroom
23 with all other jurors present, and I would rather, in the
24 presence of the jury, stipulate to letting the lady go
25 rather than enunciating a challenge for cause in the presence
26 of the jury, but since we are at the bench, I do concur.

1 THE COURT: Mr. Fitzgerald has made a challenge.
2 I have to rule on that. Do you want to join in that
3 challenge?

4 MR. KANAREK: Yes.

5 THE COURT: Do you join?

6 MR. SHINN: Yes.

7 THE COURT: Join?

8 MR. REINER: Yes.

9 THE COURT: Do you want to be heard?

10 MR. BUGLIOSI: No objection. We will stipulate, your
11 Honor.

12 THE COURT: Very well. The challenge will be
13 allowed. Mrs. Lynch will be excused for cause.

14 (Whereupon, all counsel return to their
15 respective places at the counsel table and the following
16 proceedings occurred in open court within the presence and
17 hearing of the prospective jurors:)

18 THE COURT: You will be excused, Mrs. Lynch. Thank
19 you very much.

20 THE CLERK: Mrs. Thelma Thompson; T-h-e-l-m-a,
21 T-h-o-m-p-s-o-n.

22
23 VOIR DIRE EXAMINATION OF MRS. THELMA THOMPSON
24 BY THE COURT:

25 Q Mrs. Thompson, have you heard and understood
26 everything that has been said in court since you came into

1 the case?

2 A I believe so.

3 Q If you were selected as a juror in the case
4 would you be able to serve?

5 A It would be inconvenient but I would be able,
6 your Honor.

7 Q Well, I would imagine it would be inconvenient
8 for everybody, Mrs. Thompson.

9 I am going to ask you the same two questions
10 regarding the death penalty.

11 Have you had an opportunity to think about
12 these questions and your answers to them?

13 A Yes, I have.

14 Q All right.

15 The first question is: Do you entertain such
16 conscientious opinions regarding the death penalty that
17 you would be unable to make an impartial decision as to any
18 defendant's guilt regardless of the evidence developed
19 during the trial?

20 A No.

21 Q Do you entertain such conscientious opinions
22 regarding the death penalty that you would automatically
23 refuse to impose it without regard to the evidence
24 developed during the trial?

25 A No.

26 THE COURT: Mr. Fitzgerald, do you wish to inquire?

1 MR. FITZGERALD: Yes, please.

2
3 VOIR DIRE EXAMINATION

4 BY MR. FITZGERALD:

5 Q Mrs. Thompson, are you employed?

6 A Yes, I am.

7 Q By whom are you employed, ma'am?

8 A The Monrovia Unified Schools.

9 Q The Monrovia Unified Schools?

10 A Right.

11 Q Are you married, ma'am?

12 THE COURT: Would you point that microphone in some
13 other direction other than straight up, please?

14 MR. FITZGERALD: I think that microphone is all right,
15 Mrs. Thompson. I will use this one.

16 Q I take it that you are married, Mrs. Thompson?

17 A Divorced.

18 Q What was the nature of your husband's business
19 or occupation?

20 A He was a teacher.

21 Q Do you teach in elementary or secondary
22 education?

23 A Secondary.

24 Q Do you teach at Monrovia High School?

25 A Yes, I do.

26 Q Have you taught there for a number of years?

1 A Yes, I have.

2 Q Do you know the defendant, Leslie Van Houten?

3 A No, I do not.

4 Q Do you know about her connection with the city
5 of Monrovia?

6 A Her connection with the city of Monrovia?

7 I don't know what you mean.

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1 Q Do you know anything about Leslie Van Houten?

2 A No other than what I have heard here and
3 read.

4 THE COURT: Can you all hear out in the courtroom?

5 VOICES: No.

6 THE COURT: Will you try to use the microphones,
7 Mrs. Thompson?

8 You will have to hold it right up close to
9 your mouth.

10 MRS. THOMPSON: Yes, sir.

11 MR. FITZGERALD: Q Do you teach a particular
12 subject, Mrs. Thompson?

13 A I teach two periods, English and Journalism,
14 and I do public relations work. I am chairman of the
15 Department.

16 Q Do you also live in the Norovis area of
17 the County of Los Angeles?

18 A Yes, I do.

19 Q Have you served on a jury before, Mrs. Thompson?

20 A Yes, about 20 years ago.

21 Q 20 years ago?

22 A Yes.

23 Q I take it there is nothing about that
24 experience that is going to influence you in arriving at
25 a verdict here?

26 A No.

4c-2

1 Q Are you familiar with any of the locations
2 or any of the persons we mentioned, or do you have any
3 affiliation or connection with the Police Department or
4 the District Attorney's Office or the attorneys or any-
5 thing like that, Mrs. Thompson?

6 A No, I don't.

7 Q From your seat in the audience, Mrs. Thompson,
8 were you able to hear the questions that I addressed to
9 the other prospective jurors?

10 A Yes, I did.

11 Q If I were to ask you those same questions,
12 Mrs. Thompson, would your answers be about the same?

13 A Yes, they would.

14 Q Would they differ in any material respect,
15 ma'am?

16 A No.

17 Q Now, I take it that you have read the news-
18 papers in connection with this case, have you not?

19 A Yes, I have.

20 Q Are you a regular subscriber to the Los
21 Angeles Times or the Herald-Examiner?

22 A The Los Angeles Times.

23 Q Los Angeles Times?

24 A Yes.

25 Q And do you read it regularly in addition
26 to subscribing to it, Mrs. Thompson?

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1 A Yes, I do.

2 Q Have you followed this case at all?

3 A Yes.

4 Q Did you read the early publicity in connec-
5 tion with the offenses themselves back in August of
6 1969, ma'am?

7 A Not very much because I was out of the
8 country in August.

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1 Q When did you return?

2 A At the end of August.

3 Q And have you resided in Los Angeles County
4 continuously since the end of August, 1969?

5 A Yes.

6 Q Now, have you read anything about the
7 defendants themselves, or have you seen anything on
8 television in connection with the defendants?

9 A Nothing other than what has been on the news.

10 I mean, I have not tried to make a study
11 of it; I have read about the case as I have read about
12 other cases and other news.

13 Q Yes. Did you read though about the defendants
14 themselves, anything about them, their background, their
15 history, their attitudes, their good character?

16 A I don't believe so, particularly other than
17 what was in the news article.

18 I was able to give a resume of them because
19 I don't know very much about them.

20 Q As a result of being exposed to such
21 publicity in connection with the defendants in the case
22 did you form an opinion in regard to any aspect of this
23 case?

24 A No, I have not.

25 Q Have you formed an opinion as to the
26 defendants personally, that is to say, whether you like

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1 or dislike them?

2 A No, I have not.

3 Q Do you react particularly to anything you
4 think the defendants represent to you?

5 A No.

6 Q Is there any reason because of the defendants'
7 purported life style that you would be unable to be totally
8 fair and impartial in evaluating the evidence of their
9 guilt?

10 A No.

11 Q Do you think that you would have the courage
12 to acquit the defendants of the charge of murder?

13 A Yes.

14 Q Do you have any quarrel with the proposition of
15 law that defendants in criminal cases are presumed to be
16 innocent?

17 A No, I agree with it.

18 Q And their guilt must be proven beyond any
19 reasonable doubt?

20 A Right.

21 Q Would you be able to give us your own individual
22 opinion in arriving at a verdict?

23 A Yes.

24 Q You don't think that you would be swayed by
25 any outside pressure or influence to arrive at a verdict
26 in this case, do you?

A No.

1 Q Do you feel that you are going to be
2 intimidated by representatives of the State of California
3 or anything like that in arriving at a verdict?

4 A No.

5 Q Do you understand that when the prosecution
6 refers to the People of the State of California they
7 are referring to a legal title?

8 A Yes.

9 Q Do you understand that?

10 A Yes.

11 Q You understand that you are one of the People
12 of the State of California?

13 A Yes.

14 Q I am one of the People and Mr. Manson and
15 Miss Krenwinkel are one of the People of the State of
16 California?

17 A Right.

18 Q Do you attach any particular significance to
19 the fact that these defendants are charged by way of an
20 indictment by the People of the State of California?

21 A No.

22 Q Do you understand that an indictment is
23 simply a formal accusation?

24 A Right.

25 Q It is just an accusatory piece of paper?

26 A Yes.

1 Q Now, the fact the defendants have been
2 arrested is not evidence of their guilt, is it?

3 A No.

4 Q And the fact that they are on trial or the fact
5 that they have been indicted by a Grand Jury somewhere is
6 not evidence of their guilt, is it?

7 A No, it is not.

8 Q And I take it that you would follow
9 instructions in that regard and not speculate from any
10 of those facts that they are more likely to be guilty
11 than innocent?

12 A I did not get the beginning of the sentence,
13 so I cannot answer yes or no.

14 Q Okay.

15 You are going to be instructed by the Court
16 that you are not to infer or speculate from the fact that
17 they have been arrested, or been indicted, that they are
18 more likely to be guilty than innocent.

19 You will follow that instruction?

20 A I will follow the instruction.

21 Q Do you have any knowledge of psychology or
22 psychiatry as a result of some course of study?

23 A Only what I had in getting the teaching
24 credential.

25 Q Have you formed any opinion concerning the
26 validity of psychiatry?

1 A No.

2 Q Some people, for example, don't believe in
3 psychiatric testimony?

4 A I believe in it.

5 Q Have you formed any opinion concerning the
6 validity of psychiatric testimony in court?

7 A I would accept it as any other testimony.

8 Q Should a licensed medical doctor who is a
9 psychiatrist testify in this case in regard to the
10 sanity or mental status of any one of the witnesses in
11 this case, would you examine his testimony by the same
12 standards you would any other kind of expert testimony?

13 A Yes, I would.

14 Q You would not, for example, require any
15 more from a psychiatrist than you would from some other
16 kind of expert witness, would you?

17 A No.

18 Q Are you familiar with the term Lysergic Acid
19 Diethylamide, LSD?

20 A Oh, I have heard of it a great deal.

21 Q In your work --

22 MR. KANAREK: I'm sorry, I did not hear that last,
23 your Honor.

24 THE COURT: The question or the answer?

25 MR. KANAREK: The answer.

26 THE COURT: Read the answer, please.

1 (Whereupon the reporter reads the answer
2 as follows:

3 "A Oh, I have heard of it a great deal.")

4 BY MR. FITZGERALD:

5 Q Is that in connection with your teaching
6 duties?

7 A No, I don't teach about it at all. I am not
8 an expert.

9 Q Is it a topic of conversation or the subject
10 of speeches in your public speaking courses?

11 A No.

12 Q What is the nature of your experience and/or
13 knowledge or expertise with Lysergic Acid?

14 A Only the magazine and newspaper articles
15 that I read about it.

16 I don't consider myself an expert in the
17 field at all.

18 Q If the defendants in this case should
19 present psychiatric evidence concerning the nature and
20 extent and the effect of the chronic use of Lysergic
21 Acid, do you think you would be able to base your
22 evaluation of that testimony solely on what you hear in
23 court rather than what you read by way of magazine
24 articles, newspaper articles or any other source?

25 A Yes.

26 Q You understand unfortunately that in a court

1 of law we must base our decision on the evidence as actually
2 produced in court, rather than anything that has been
3 accumulated in the general public domain?

4 A Yes.

5 Q And you won't have any problem doing that?

6 A No.

5a fls. 6

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1 Q Are you familiar with any of the publicity
2 surrounding Mr. Kanarek?

3 A Yes.

4 Q Is that going to influence you in arriving at a
5 verdict one way or another in this case?

6 A No.

7 Q Is that going to influence you in your
8 determination of the guilt or innocence of any of the
9 defendants in this case?

10 A No, it is not.

11 Q Do you have any particular aversion or reaction
12 to the purported life style of the defendants?

13 A No, I have not.

14 Q Do you have any problem dealing with or
15 communicating with persons or people?

16 A I don't think I do.

17 MR. FITZGERALD: All right, nothing further.

18 THE COURT: Mr. Reiner?

19 MR. REINER: Thank you, your Honor.

20

21 VOIR DIRE EXAMINATION OF MRS. THOMPSON:

22 BY MR. REINER:

23 Q Mrs. Thompson, for how long have you been a
24 teacher in Monrovia High School?

25 A Since the Fall of 1949.

26 Q Is your husband a teacher in Monrovia High

5A2
1 School as well?

2 A No.

3 Q A different school?

4 A He is retired, but we have been divorced for
5 20 years.

6 Q I see.

7 You do not recall Leslie Van Houten as a student
8 at Monrovia High School?

9 A No, I have tried to, but I have not.

10 Q Do you recall Leslie Van Houten as the home-
11 coming princess, I think, in 1963 or '4 at your school?

12 MR. BUGLIOSI: Your Honor, I object to this. This is
13 completely irrelevant voir dire.

14 It is obvious what the motivation of Mr. Reiner
15 in that question is, your Honor. I move to strike that
16 question.

17 MR. REINER: Your Honor, may I be heard?

18 MR. BUGLIOSI: She already said she never heard of
19 her; she doesn't recall her. What is this business of --

20 THE COURT: If you are making an objection in this
21 court, stand on your feet, sir, and make it.

22 MR. BUGLIOSI: I made my objection, your Honor, I think
23 this Court heard the objection.

24 THE COURT: You may sit down.

25 MR. FITZGERALD: I move to strike Mr. Bugliosi's
26 remarks as gratuitous.

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1 THE COURT: The objection is sustained.

2 The jury is admonished to disregard the remarks
3 of counsel.

4 MR. KANAREK: May we approach the bench?

5 THE COURT: Very well.

6 (The following proceedings were had at the
7 bench out of the hearing of the prospective jurors:)

8 MR. BUGLIOSI: I want to be heard. What is the
9 purpose of telling me to sit down. I am an officer of this
10 Court. I think this is unbelievable. I have never been
11 told yet to sit down.

12 THE COURT: Well, you were just told, Mr. Bugliosi.

13 MR. BUGLIOSI: I realize that, but I also realize
14 that I am representing the People of the State of
15 California --

16 THE COURT: Then why don't you comport yourself as
17 an attorney?

18 MR. BUGLIOSI: I was, and I have been in the courts
19 of this State for six years handling big cases, and I
20 have never yet been told to sit down.

21 I want to know why the Court saw fit to tell me
22 to sit down.

23 THE COURT: Because you had finished your statement.

24 MR. BUGLIOSI: You ordered me to sit down before I
25 had a chance to sit down.

26 Why didn't you give me a chance to sit down

1 first? I did not want the Court prejudicing the People's
2 case.

3 THE COURT: Then I suggest, Mr. Bugliosi, that you
4 follow the same rules of decorum and conduct as any other
5 attorney has been following in this case.

6 I have told you before when you have something
7 to say, when you make an objection or argument, stand up.

8 MR. BUGLIOSI: I want to be heard further.

9 I want it to be made abundantly clear I don't
10 like this. I resent it.

11 THE COURT: You don't like what?

12 MR. BUGLIOSI: I don't like the Court's conduct. The
13 Court told me to stand up; swell, no problem, I stood up.
14 I made my objection.

15 I am asking the Court right now why does the
16 Court see fit to tell me to sit down? I don't like that.

17 THE COURT: I don't think I told you to sit down.
18 I think I said, "you may sit down," after you said you had
19 nothing more to say.

20 MR. BUGLIOSI: I would have sat down on my own or, if
21 I wanted to, I would have gotten up and gotten a drink of
22 water.

23 The Court told me to sit down. I don't
24 appreciate that type of conduct from the Court.

25 THE COURT: I might say, Mr. Bugliosi, you are going
26 to follow the same rules of decorum and conduct in this court

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1 as anybody else.

2 If I have to make a comment for you to stand up
3 on your feet when you address the Court, I will do it.

4 MR. BUGLIOSI: I am not objecting to that. I am
5 not objecting to that. I am not objecting to that.

6 I am objecting -- I want the record to be clear
7 I am objecting to the Court telling me to sit down.

8 I am an officer of this court. I am
9 representing the People of the State of California.

10 THE COURT: Lower your voice. You are speaking too
11 loud.

12 MR. BUGLIOSI: I am sorry.

13 MR. REINER: If I may indicate for the record, the
14 Court did instruct Mr. Bugliosi to sit down almost
15 instantly --

16 THE COURT: You don't need to get into this portion
17 of the argument, Mr. Reiner.

18 Do you have something else to say?

19 MR. REINER: I join with Mr. Bugliosi; as to your
20 Honor's attitude towards counsel in this case, your attitude
21 toward Mr. Bugliosi is similar to other counsel in this
22 case, namely myself. I join with Mr. Bugliosi in his
23 complaint.

24 THE COURT: I don't know what you're talking about,
25 Mr. Reiner. It has nothing to do with the matter on hand.

26 MR. REINER: Very well, with respect to the objection

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1 raised by Mr. Bugliosi to the question that the Court
2 sustained, this prospective juror was in fact a teacher at
3 a very small high school in a small community here in
4 the Greater Los Angeles area at the time Leslie Van Houten
5 was a student.

6 She said she does not recall her. I certainly
7 believe her when she says that.

8 However, Leslie Van Houten had some prominence
9 at the school, as a high school homecoming princess.

10 Now, that being the case, it is altogether
11 possible that her memory could be jogged. I'm sure
12 Mr. Bugliosi is reasonably concerned that this may influence
13 the prospective jurors favorably towards Miss Van Houten.

14 I agree it might.

15 Merely because it may influence them, that she
16 might have had a life style different from the one that is
17 apparent now, nevertheless it is a proper and appropriate
18 question.

19 THE COURT: She already answered the question,
20 Mr. Reiner. She said she tried to recall, and she is unable
21 to recall.

5b-1

1 MR. REINER: Now, I wish to help her along to see if
2 I can. Of course I have that absolute right to do so --

3 THE COURT: You have an absolute right?

4 MR. REINER: "Absolute" is an incorrect word ever
5 to use in the law, I certainly have a right to do so.

6 It is incredible that I cannot try to refresh
7 this juror's memory, that Leslie Van Houten was in the
8 school newspaper as a homecoming princess, at a time
9 fairly recent when she was a teacher at the school.

10 Certainly to my experience I am not held to
11 just the witness's observation.

12 THE COURT: All right, I will permit the question.

13 Anything else, gentlemen?

14 MR. BUGLIOSI: May I be heard on that, your Honor.

15 I would not have objected to the question if
16 the juror had not already said she never heard of her. She
17 never heard of her.

18 THE COURT: In view of the fact that she apparently
19 had some prominence at the school I think he is entitled
20 to ask her that question.

21 MR. BUGLIOSI: Very well, your Honor.

22 (The following proceedings were had in open
23 court in the presence and hearing of the prospective jurors:)

24 THE COURT: You may proceed, Mr. Reiner.

25 MR. REINER: Thank you, your Honor.
26

VOIR DIRE EXAMINATION OF MRS. THOMPSON

BY MR. REINER:

Q Mrs. Thompson, each year there is a homecoming celebration of sorts at Monrovia High School, is that true?

A Right.

Q And as a teacher you in some way or another participate in some of the activities in regard to homecoming, is that true?

A Well, I help to record them in the weekly paper.

Q With respect to helping to record them in the weekly paper, do you recall -- I believe it was 1963 or possibly '64 -- that Leslie Van Houten was school homecoming princess?

A I do not recall it.

Q Do you know a young student presently going to Monrovia High School by the name of Bessie Van Houten, Leslie Van Houten's younger sister?

A No, I don't.

Q Do you know a student by the name of David Van Houten, Leslie's little brother presently going to Monrovia High School?

A No, I don't.

Q Well, let's see, perhaps you are acquainted with some of Leslie's prior teachers.

Do you know a Miss Gilman on the faculty of

1 Monrovia High School?

2 A Gilman?

3 Q Yes, Miss Gilman.

4 A No -- Gilbert.

5 Q Do you know a Mrs. Johnson?

6 A Yes, homemaking teacher.

7 Q Do you know a Miss Clemens?

8 A Yes, art teacher.

9 Q Do you know a Mr. Simmons?

10 A Yes, he is now assistant principal.

11 Q Do you know a Mr. Jones?

12 A Yes, he has been gone for two or three years.

13 I have not seen him since he left.

14 Q Do you know a Miss Trueblood?

15 A Only by name, she is not there now.

16 Q Do you read from time to time the local

17 Monrovia newspaper, The Daily News Post?

18 A Yes, I sometimes write for it.

19 Q Do you recall seeing a full page of stories,
20 pictures, with respect to Leslie Van Houten shortly after
21 her arrest?

22 A I know there was such an article there but I
23 did not know her.

24 Q Would it then be a fair statement, or may I
25 reasonably conclude from your answers that you were aware
26 that a resident or previous resident of Monrovia had been

1 arrested in connection with these particular crimes?

2 A Yes, I was.

3 Q But you did not know the name?

4 A That's right.

5 Q And even at this time the name does not
6 ring a bell to you?

7 You just recall that a prior resident of
8 Monrovia was arrested in connection with these charges?

9 A I tried to recognize her when I came in the
10 court, but I could not.

11 Q When you came in the court did you look at
12 Leslie Van Houten to determine whether you could recognize
13 her?

14 A Yes, before they were identified I looked, but
15 I could not identify her.

16 Q Where had you learned it was Leslie Van Houten
17 rather than one of the other girls who was supposed to be
18 from Monrovia?

19 A I did not get that question.

20 Q I understood your previous answer to be,
21 when you came into the court you looked at Miss Van Houten
22 to see if you could possibly recognize her and you couldn't?

23 A I looked at the three girls and I did not
24 know which was which.

5c fls.

SC-1

1 Q Oh, all three girls, I see.

2 Now, do you feel that the fact that her younger
3 sister and her younger brother are presently at Monrovia
4 High School, that it may very well come to pass that you
5 would be their teacher as they go through high school, that
6 this would put some pressure upon you in this case, the sort
7 of pressures that you perhaps would not wish to expose
8 yourself to?

9 A No, I don't believe so.

10 Q Being very pragmatic about it, do you think you
11 could condemn Leslie to death and look forward to the
12 prospective teaching of her younger brother or sister?
13 Do you think that would put great pressure on your judgment
14 in this case, perhaps more than you wish to assume?

15 A It certainly would not be pleasant.

16 Q I am sure it will not.

17 A But it would not change what I would do.

18 Q Taking the other side of the note, if the
19 evidence in this case should indicate that perhaps one or
20 more defendants are guilty but there should be insufficient
21 evidence to establish the guilt of Leslie Van Houten, would
22 you then acquit Leslie Van Houten?

23 A Yes.

24 Q Would you feel that perhaps you would be
25 subject to great criticism for acquitting Leslie Van Houten
26 by persons who might suggest after this case is over that

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1 the reason that you have acquitted Leslie Van Houten is
2 not because you believe there was insufficient evidence but
3 because you, perhaps, would see yourself in the position of
4 living within the community of Leslie Van Houten's family
5 and perhaps might even find yourself the teacher of her
6 younger brother and sister.

7 Of course, you would be subject to that sort of
8 criticism, but do you feel that would affect your judgment?

9 A It would not change my judgment, no.

10 Q Do you feel you could acquit her if the evidence
11 was insufficient?

12 A Yes.

13 Q Without concerning yourself about any possible
14 later claim that your reason for doing so was not the
15 legitimate reason, that is, there was insufficient evidence,
16 but was for perhaps the more human reason that you did not
17 want to be in the position of convicting someone when you
18 had to associate perhaps closely even with members of the
19 family?

20 A It was a long question, but I think I can do
21 what I'm supposed to do.

22 Q Very well, thank you very much.

23 MR. REINER: I have no further questions. I will
24 pass for cause, your Honor.

25 THE COURT: Mr. Shinn?

26 MR. SHINN: Pass for cause, your Honor.

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1 THE COURT: Mr. Kanarek.

2 MR. KANAREK: No questions, your Honor.

3 MR. BUGLIOSI: Does the Court wish to take its morning
4 recess, your Honor?

5 THE COURT: Yes, we will take our morning recess at
6 this time, ladies and gentlemen. Do not converse among
7 yourselves or with anyone else on any subject relating to
8 the case, nor form or express any opinion regarding the
9 case until it is finally submitted to those of you who are
10 selected as jurors.

11 15 minutes, please.

6 12 (Recess.)
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1 (The following proceedings occurred in
2 chambers, all counsel being present, the defendants being
3 absent:)

4 THE COURT: The record will show that all counsel are
5 present in chambers.

6 I asked to have you come in so that I could go
7 over a few matters with you in an effort to avoid any
8 abrasive situations such as occurred a few minutes ago in
9 court.

10 Let me state again the rules that I expect
11 counsel to follow in the proceedings so that there won't
12 be any misunderstanding, and then I will hear from any of
13 you that wish to be heard from.

14 I have no objection to a counsel remaining seated
15 at counsel table if all he is going to do is state an
16 objection and the grounds thereto. That is common practice
17 in the courts.

18 However, if there is going to be any argument
19 or anything other than a bare motion or a bare objection
20 and a brief statement of the grounds -- I am not talking
21 about argument now, I am talking about the grounds -- then
22 I expect counsel to stand up and address the Court.
23 That is common courtesy. It is a common practice in every
24 court that I have ever been in.

25 one of the difficulties that has occurred,
26 and I think all counsel have done it from time to time -- at

6-2
1 least many have -- is that instead of stating at the outset
2 what it is you are talking about, whether you are making a
3 motion, an objection, or what, just to launch into some
4 discussion or objection or comment without ever letting the
5 Court know what the point of your statement is; and
6 furthermore, in some instances, doing it while seated at the
7 counsel table.

8 I think that was the cause behind what happened
9 this morning. Mr. Bugliosi, on several occasions you have
10 simply reached over and grabbed the microphone and in a
11 loud voice launched into some comment or criticism, and
12 so on.

13 MR. BUGLIOSI: Right. Let me briefly be heard on
14 that.

15 THE COURT: Just a moment. I will give everybody a
16 chance to talk.

17 I understand that in the heat of litigation,
18 people, including the Judge, sometimes say things spon-
19 taneously that perhaps would have been better left unsaid.

20 I want to avoid those situations. In the first
21 place, I think they are entirely unnecessary, and I want to
22 avoid them to the extent that we possibly can. For that
23 reason, I think that it is absolutely essential that counsel
24 conform to the reasonable rules and requirements of the Court.
25 That is the purpose of them.

26 We are not going through some show just for the

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1 sake of a show. These rules are designed to permit every-
2 body to be heard, to make their objections, their motions,
3 and so forth, and if argument is required or necessary, or
4 desired by the Court, then that should be done at the bench
5 or in chambers and out of the presence of the jury.

6 As I say, in a case where you have this many
7 parties and this many attorneys, it is absolutely essential
8 that these rules be complied with.

9 So, again, if you wish to address the Court,
10 state at the outset what it is you are attempting to do,
11 whether you are making a motion, a request, an objection, or
12 what. State the grounds. Then, if you desire argument,
13 or if argument is desired by the Court, we can either have
14 it at the bench or out of the presence of the jury in
15 chambers.

16 Mr. Bugliosi, you wanted to comment?

17 MR. BUGLIOSI: Just briefly on the standing up.

18 Normally I do, your Honor. Not always. Nor-
19 mally, I do stand up and I make my objections.

20 In this particular case, I haven't been doing
21 that so much because there is a microphone seated on counsel
22 table and I naturally go toward the microphone which is on
23 the table.

24 However, I will try to stand up henceforth and
25 make my objections.

26 Now, with respect to the Court's conduct this

1 morning, I have stated my position very clearly on the
2 record; the Court, I am sure, heard everything that I said.
3 I don't believe it is necessary for me to restate it at
4 this time unless the Court has any doubt as to what my
5 position is.
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1 THE COURT: Well, it was occasioned, Mr. Bugliosi,
2 by the very thing I was just talking about. Instead of
3 standing up and making an objection and requesting argument
4 at the bench, you started right out speaking very loudly
5 through the microphone, making a comment or criticism or
6 something regarding what was going on without stating in
7 advance just exactly what you were doing. This, of
8 course, triggered off comments by other counsel. Then we
9 were engaged in a colloquy in front of the prospective
10 jurors, which is precisely what I want to avoid.

11 MR. BUGLIOSI: I think I have stated two or three
12 times -- and I am not going to state it ad nauseam --
13 that is not why I made my statements up at the bench on
14 the Court's conduct -- it had nothing to do with the
15 Court's telling me to stand up and address the Court.
16 I don't see why I have to state it a fourth time, why I
17 made the statements that I did up at the bench.

18 THE COURT: All right. Anything further?

19 MR. REINER: Yes. Perhaps there are some things
20 that I should say along the line of this subject that has
21 been brought up.

22 I have no objection to any of the court
23 rules, and I don't think I have ever indicated any
24 objection to any of the court rules.

25 I think my objection -- and perhaps it might,
26 in some respects, be the objection of other counsel -- is

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1 the Court's attitude toward counsel. ✓

2 It is personally offensive when it occurs
3 in chambers, and it is humiliating and embarrassing when
4 it occurs in open court before the prospective jurors.

5 I have been told to sit down after I have
6 finished saying what I have to say and indicating that I
7 have nothing further to say. As soon as the words were
8 out of my mouth on a couple of occasions, I have been told
9 to sit down.

10 THE COURT: I don't recall any of those occasions,
11 Mr. Reiner.

12 MR. REINER: I might also indicate that on two
13 occasions the Court, when it no longer wished to hear
14 from me, turned its back on me. Once was in chambers
15 and once on the bench.

16 At the time on the bench --

17 THE COURT: I have never turned my back on anybody,
18 sir.

19 MR. REINER: I point to the particular time in the
20 record that the Court --

21 THE COURT: That simply is not true.

22 MR. REINER: In any event, the Court has seen fit
23 on a number of occasions -- altogether too many times --
24 I feel one time is too many, but there have been a number
25 of occasions -- when I have raised what I thought to be
26 serious objections to a question, the Court has, instead

1 of addressing itself to the merits of the matter of
2 what I was raising, has questioned my motives and
3 terminated the discussion and moved on to something
4 else.

5 Yesterday the Court -- I believe it was
6 yesterday -- the Court termed one of my motions, or
7 whatever it was, absurd. The motion at that time before
8 the Court was to dismiss the entire jury panel because
9 they had been infected by a press conference of the day
10 before, and to bring in an entirely new and different
11 jury panel.

12 Now, whether or not the Court feels there is
13 merit in that, it is certainly not absurd; and further
14 than saying it is not absurd, a lawyer, to have failed
15 to raise that type of an objection and make that sort
16 of a motion, would not be competently trying this case.

17 This motion, incidentally, was made after
18 it was demonstrated that all but one person on the jury
19 had seen or heard of the press conference.

20 I think, at that point, I was obliged to make
21 such a motion. If the Court wished to deny it, very well.

22 THE COURT: Do you have the reference in the
23 transcript to this particular portion that you are talking
24 about, Mr. Reiner?

25 MR. REINER: Of course it was in the transcript.
26 Everything was reported. I don't have the transcript with

me.

Does the Court not recall it?

THE COURT: I don't recall the incident.

6b fls.

1 MR. REINER: Your Honor also questioned my motives
2 in even asking questions of the juror on that point, and
3 I asked only one question of that juror, and I repeated
4 that question as I went down the line.

5 I asked them two questions. I asked them,
6 one, whether or not they had seen or heard of the press
7 conference, without reference to the details.

8 Secondly, I asked them whether they had
9 heard of the underlying basis for Mr. Younger's objection
10 to Mr. Kanarek from television, radio or the newspaper,
11 or whether they heard of it for the first time in open
12 court, when Mr. Nordland, who described himself as an
13 avid reader, described the underlying basis.

14 Now, obviously, I am not educating the jury
15 at that time, but the Court said I was educating the jury
16 and questioned my motives, and I think my motives were
17 abundantly clear.

18 Before going out there, I indicated to the
19 Court and other counsel that because of the possibility
20 of that occurrence, I wished to have it done in chambers.

21 Again, if the Court wishes to have it in
22 open court and doesn't wish to accept the judgment of
23 counsel, that is fine, although I disagree with it, but
24 I don't think my motives should be questioned when I
25 raised the objection timely and then asked the appropriate
26

1 questions in open court to establish the basis therefor.

2 I think that, perhaps, may be the underlying
3 basis.

4 THE COURT: Your conduct on some occasions, Mr.
5 Reiner, has been inconsistent with some of the things
6 that you have said to the Court. That is why I mentioned
7 it.

8 I don't question the motives of any counsel,
9 but where the inconsistencies are apparent, I have
10 referred to them.

11 MR. REINER: The inconsistencies are apparent?
12 I don't think they are apparent. We discussed that
13 yesterday.

14 THE COURT: Then we disagree on that point.

15 MR. REINER: I have not yet said anything that I
16 thought prejudiced the defendant or any of the defendants.
17 I, perhaps, tried to prejudice the District Attorney
18 as a matter of rebuttal; and remember, this was in
19 response to the District Attorney's comments. I didn't
20 initiate this.

21 THE COURT: I don't know what the purpose of what
22 you are saying now is. We seem to be getting far afield
23 from what we started out to talk about.

24 MR. REINER: I thought this was a general discussion
25 to try to resolve what apparently is certain conflict
26 between the Court and counsel.

1 THE COURT: I don't find that there are any con-
2 flicts. I just made a few comments. That is hardly
3 unusual.

4 I assume, of course, that every attorney will
5 continue to act in a professional manner and abide by the
6 Court's rules, and I want to avoid any unnecessary
7 difficulties, that is all. That is the only reason I called
8 you in here.

9 I think if those rules are followed, we
10 won't have a bit of trouble. The minute we violate them,
11 then you have an exchange, you have a colloquy, you have
12 an abrasive situation, and that is the thing that I want
13 to avoid.

14 MR. REINER: The difficulties I have had from time
15 to time in the trial, to my knowledge, to my recollection,
16 have never involved the violation of a rule, just certain
17 activities that have occurred.

18 THE COURT: Is there anything further, gentlemen?

19 MR. KANAREK: No. Thank you.

20 THE COURT: All right, let's proceed.

21 (Whereupon all counsel returned to the
22 courtroom and the following proceedings were had in open
23 court, all counsel, the defendants and prospective jurors
24 being present:)

25 THE COURT: All parties and counsel are present, all
26 of the prospective jurors are in the jury box.

You may proceed, Mr. Bugliosi.

MR. BUGLIOSI: Thank you, your Honor.

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VOIR DIRE EXAMINATION

BY MR. BUGLIOSI:

Q Mrs. Thompson, do you have any children, ma'am?

A Yes. I have a son 28.

Q Is he employed?

A Yes.

Q Here in Los Angeles?

A Yes. For IBM.

Q I understand, Mrs. Thompson, that you are not opposed to the death penalty; is that correct?

A That is correct.

Q Do you feel that the religious doctrines of any church that you may belong to prevents you from voting for a verdict of death?

A No.

Q Do you recall the discussion a few days ago about the fact that there might be two trials here, Mrs. Thompson, a guilt trial and then a penalty trial?

A Yes.

Q And in the guilt trial, the sole issue will be guilt versus innocence, and in the penalty trial the issue will be death versus life imprisonment; do you understand that?

A I understand.

Q That there will not be a second trial unless these defendants are convicted of first-degree murder.

1 A Yes.

2 Q Will you promise, Mrs. Thompson, that during
3 the first trial, that is, the trial in which the guilt or
4 innocence of these defendants will be an issue, that you
5 will not let the issue of the death penalty enter into your
6 deliberations?

7 A No, I won't.

8 Q It has no place during the first trial; do you
9 understand that?

10 A I understand.

11 Q After hearing all of the evidence in this case,
12 Mrs. Thompson, and considering all the circumstances, if
13 you felt that this was a proper case for the imposition of
14 the death penalty, would you personally have the courage
15 and would you be willing to vote for a verdict of death?

16 MR. KANAREK: Your Honor, I object on the grounds
17 that this is improper voir dire.

18 THE COURT: Overruled.

19 You may answer.

20 MRS. THOMPSON: I would have the courage.

21 MR. BUGLIOSI: Q Could you vote for the death
22 penalty for a female defendant?

23 A Yes.

24 Q Are you of such a frame of mind, Mrs. Thompson,
25 that you could not, under any circumstances, vote for the
26 death penalty for these three female defendants solely

1 because of their age?

2 A No.

3 Q Are you of such a frame of mind, Mrs. Thompson,
4 that you would never, under any circumstances, vote for
5 the death penalty for a particular defendant unless the
6 evidence at the trial showed that this particular defendant
7 himself personally killed a fellow human being?

8 MR. KANAREK: Objection, your Honor, on the grounds
9 of improper voir dire, and I make a motion to approach
10 the bench.

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1 MR. STOVITZ: Haven't we approached the bench
2 sufficiently in regard to this issue?

3 THE COURT: Is it in regard to this question,
4 Mr. Kanarek?

5 MR. KANAREK: Yes, I believe it is improper voir
6 dire examination because of the absolute discretion vested
7 in the jury, there is no necessity for that question except
8 for the prosecution's viewpoint.

9 THE COURT: All right, read the question, please.

10 (Whereupon, the reporter reads the question as
11 follows:

12 "Q : Are you of such a frame of mind
13 that you would never under any circumstances
14 vote for the death penalty for a particular
15 defendant unless the evidence at the trial
16 showed that this particular defendant himself
17 personally killed a fellow human being?")

18 THE COURT: The objection is overruled.

19 You may answer.

20 MR. BUGLIOSI: Your Honor, just very briefly --

21 MR. STOVITZ: The objection is overruled.

22 MR. BUGLIOSI: All right. I am concerned about
23 these continuing objections by Mr. Kanarek, when the Court
24 has already ruled on that.

25 THE COURT: Let's proceed.

26 Q BY MR. BUGLIOSI: Do you recall the question,

1 ma'am?

2 A I think so, the answer should be no.

3 Q Can you conceive a circumstance where you
4 would be willing to vote for a death penalty for an
5 individual defendant even though he, himself, was not
6 actually the perpetrator?

7 MR. KANAREK: Asked and answered. I object to it on
8 the same ground.

9 THE COURT: All right, the question has been asked
10 and answered.

11 Let's proceed.

12 Q BY MR. BUGLIOSI: Do you understand the rules
13 of conspiracy, Mrs. Thompson, which makes a conspirator
14 fully guilty of the crimes committed by his co-conspirators
15 even though he does not commit the crimes himself or
16 perhaps was not present at the scene?

17 A I understand.

18 Q Have you done any thinking about that rule of
19 law in the last few days?

20 A Yes, I have.

21 Q Do you have any prejudice against that rule of
22 law?

23 A No, I have not.

24 Q And you promised me you would unhesitatingly
25 follow the Court's instruction on that rule of law if you
26 found it applicable to the facts in this case?

A Yes.

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1 Q Do you recall a discussion about accomplices;
2 do you recall that, ma'am?

3 A Yes, sir.

4 Q If his Honor instructs you that for one to be
5 an accomplice one must knowingly and with criminal intent
6 aid by act or advice in the commission of the crime, will
7 you follow the Court's instruction on that?

8 A Yes.

9 MR. KANAREK: I object on the grounds of pre-
10 instruction.

11 THE COURT: overruled, you may answer.

12 A Yes.

13 Q BY MR. BUGLIOSI: Assuming that Linda Kasabian
14 is deemed to be an accomplice in this case -- we intend
15 to call her, as Mr. Reiner accurately predicted -- if the
16 Court instructs you that it is not necessary that the
17 evidence in corroboration corroborate every fact to which
18 an accomplice testifies, will you follow the Court's
19 instruction on that?

20 A Yes.

21 Q If the Court instructs you further that the
22 corroborating evidence may be circumstantial evidence,
23 will you follow the Court's instruction on that?

24 A Yes.

25 Q If the Court instructs you, and defense
26 counsel and of course the prosecution have to agree to this,

7-4
1 that the law requires that the prosecution prove the
2 defendants guilty beyond a reasonable doubt, you have
3 heard us talk about that?

4 A Yes, I have.

5 Q Would you require any burden of the prosecution,
6 Mrs. Thompson, over and above that which the law requires?

7 A No.

8 Q Am I correct in assuming then that you would not
9 require that we prove the guilt of these defendants beyond
10 anything more than simply a reasonable doubt?

11 A Right.

12 Q Do you understand that in all criminal trials,
13 whether it is a murder case or a petty theft case, the
14 prosecution has the same identical burden of proof,
15 that doctrine of reasonable doubt.

16 Do you understand that?

17 A Yes.

18 Q It is no greater in a murder case than in a
19 petty theft case. Do you understand that?

20 A I understand.

21 Q Do you feel, Mrs. Thompson, that, "Gee whiz,
22 a murder is 100 times more serious than a petty theft, and
23 the prosecution should have a much greater burden in a
24 murder case," do you feel that way?

25 A No, no.

26 Q I take it you would not require that we prove

-5
1 the guilt of any of the defendants beyond all possible,
2 conceivable doubt, but just beyond a reasonable doubt, is
3 that correct?

4 A That's correct.

5 Q Do you realize, Mrs. Thompson, that although
6 a defendant at the start of a criminal trial is presumed to
7 be innocent, if his guilt is proven beyond a reasonable
8 doubt this presumption of innocence is thereby rebutted and
9 no longer exists.

10 Do you understand that?

11 A Yes.

12 Q You understand that if you are selected as a
13 juror on this case, that as a juror you and your co-jurors
14 will be the sole and exclusive judges of the facts of this
15 case.

16 Do you understand that?

17 A I understand.

18 Q Do you realize that in determining credibility
19 of a witness, whether the witness is telling the truth or
20 not, you can take into consideration such factors as the
21 witness' demeanor on the witness stand, the witness'
22 manner of testifying, the witness' interest in the outcome
23 of the case, or any bias or prejudice the witness might
24 have for or against the prosecution or the defense?

25 Do you understand that?

26 A Yes.

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1 Q Do you realize that after listening to the
2 testimony of a particular witness, and observing that
3 witness's demeanor, it is perfectly permissible, and even
4 normal and to be expected, that sometimes you will give
5 more weight to the testimony of one witness than the
6 testimony of an opposing witness on that point.

7 You realize that?

8 A Yes.

9 Q To my knowledge, Mrs. Thompson, there are only
10 two types of evidence, direct evidence and circumstantial
11 evidence.

12 If there is another type I have not been told
13 about it yet.

14 Now, in that cookie jar example, do you recall
15 that Johnny eating the cookies was circumstantial evidence
16 of the fact that he may have taken the cookies?

17 You realize that?

18 A Yes.

19 Q You realize, Mrs. Thompson, that even if
20 Johnny's fresh fingerprints were found on the cookie jar,
21 that would also be circumstantial evidence?

22 A Yes.

23 Q Not direct evidence?

24 A Yes.

25 Q In fact even if Johnny confessed to his
26 mother and he said, "Yes, ma'am, I took the cookies," that

7a-2

1 is circumstantial evidence?

2 Do you understand that?

3 A Yes.

4 Q Direct evidence really is eyewitness testimony,
5 you understand that?

6 A Yes.

7 Q All other types of evidence, no matter how
8 powerful and strong it may be, is circumstantial evidence?

9 A Yes.

10 Q You realize that probably by definition that
11 some types of circumstantial evidence are more powerful and
12 more incriminating than other types?

13 You understand that?

14 A Yes.

15 Q You understand further on the other hand that
16 some types of direct evidence are more powerful --

17 MR. KANAREK: Your Honor, I object on the grounds
18 counsel is arguing his case at this point. It is not
19 proper voir dire.

20 THE COURT: Well, I think you are getting into the
21 realm of instruction, Mr. Bugliosi.

22 I will sustain the objection on that ground.

23 BY MR. BUGLIOSI:

24 Q In this case, Mrs. Thompson, the People will
25 rely on direct evidence, that is, eyewitness testimony,
26 then we are also going to rely in part on circumstantial

7a-3

1 evidence?

2 A I understand.

3 Q Do you have any objection at all to sitting
4 as a juror on a case when the People rely in part on
5 circumstantial evidence?

6 A No, I haven't.

7 Q If the Court instructs you, Mrs. Thompson,
8 that the prosecution does not have the burden of proving
9 the motive of these defendants for committing these murders,
10 will you follow the instruction on that?

11 A Yes.

12 Q If the Court further instructs you, however,
13 that the prosecution has the right to offer evidence of
14 motive, and that if we do offer evidence of motive, you
15 may consider this evidence as circumstantial evidence of
16 their guilt.

17 Will you follow the Court's instruction on
18 that?

19 A Yes, I will.

20 Q Now and then, Mrs. Thompson, a juror will go
21 back in the jury room -- actually I am just going by what
22 I have heard; I have never been back there myself -- will
23 go back there with the idea, "Don't confuse me with the
24 facts; I have already made up my mind."

25 You are not going to be that way, obviously?

26 A I hope not.

1 Q Let us assume further, Mrs. Thompson,
2 that back in the jury room, three, four, five months
3 from now -- let's hope it's not that long, we will try
4 to be as brief as possible -- but lawyers are kind of
5 traditionally gabby, but we will try to keep it brief
6 in this case.

7 Let's say, Mrs. Thompson, that you find your
8 view to be a minority view, say ten of the other jurors
9 or maybe 11 of the other jurors are entertaining a view
10 different from yours.

11 I take it that you will not be inflexible,
12 but rather you will listen very carefully to the views
13 expressed by your co-jurors, if you found these views
14 to be reasonable and persuasive, you will at least
15 reconsider your position.

16 Am I correct on that, ma'am?

17 A You are correct.

18 Q You realize that when defense attorneys
19 properly ask you whether you will give their clients
20 a fair trial, that the prosecution, that is, the People
21 of the State of California, are also entitled to a fair
22 trial.

23 Do you understand that?

24 A Yes.

25 Q Can you think of any reason whatsoever
26 why you might not be able to give the People of the State

1 of California a fair trial?

2 A No, I cannot.

3 Q There is no doubt in your mind about that?

4 A No doubt.

5 Q Can you think of any reason whatsoever other
6 than the inevitable hardship that we all apologize to you
7 for, that you would rather not sit as a juror on this case?

8 A No.

9 MR. BUGLIOSI: Thank you, ma'am.

10 THE COURT: Pass for cause?

11 MR. STOVITZ: Yes, your Honor.

12 THE COURT: The defendants may exercise their joint
13 peremptory challenge.

14 MR. FITZGERALD: There will be no exercise of a
15 joint peremptory challenge. ✓

16 Patricia Krenwinkel will accept the jury as
17 now constituted.

18 THE COURT: Mr. Reiner?

19 MR. REINER: Thank you, your Honor.

20 May I have a moment.

21 Your Honor, we will thank and excuse Juror
22 No. 6, Mr. Nordland. ✓

23 THE COURT: Thank you, Mr. Nordland, you are excused.

7b fls. 23

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1 THE CLERK: Arthur C. Barringer; A-r-t-h-u-r,
2 B-a-r-r-i-n-g-e-r.

3 (Whereupon, Arthur C. Barringer took seat No. 6
4 in the jury box.)

5
6 VOIR DIRE EXAMINATION OF ARTHUR C. BARRINGER
7 BY THE COURT:

8 Q Mr. Barringer, have you heard and understood
9 everything that has been said in court since you came into
10 the case?

11 A Yes, I have, sir.

12 Q If you were selected as a juror in this case
13 would you be willing and able to serve?

14 A I don't think I would, sir.

15 Q What is your situation, Mr. Barringer?

16 A For health reasons.

17 Q Is this something that requires regular or
18 periodic medical attention?

19 A I might explain it this way:

20 That about three and a half or four years ago
21 I had a nervous condition, and I feel the nature of this
22 case might interfere and perhaps redo the undoing of what
23 I already had, the medical attention I have had.

24 MR. STOVITZ: I believe it is the consensus of
25 opinion that the Court may exercise its discretion in
26 excusing the juror for hardship.

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1 If you want us to approach the bench further on
2 this point we will be glad to do so.

3 THE COURT: I am not sure I understand your statement.
4 Perhaps you'd better approach the bench.

5 MR. STOVITZ: All right.

6 (The following proceedings were had at the
7 bench out of the hearing of the prospective jurors:)

8 MR. STOVITZ: Yes, after the juror's remark I
9 approached each counsel separately, and Mr. Reiner was
10 willing to stipulate to excusing.

11 However, Mr. Fitzgerald stated that the Court
12 should exercise its own discretion under the case I cited
13 the other day in excusing the juror for hardship on its
14 own motion.

15 We certainly feel that the Court has that
16 authority and if your Honor wanted to question this juror
17 further at the bench, as you did with the other juror,
18 that would be agreeable with us.

19 But when a juror expresses a position that he
20 did have a nervous condition at one time, knowing the
21 statistics as they are, say one out of 20 people have some
22 type of mental illness, it may be a case like this would
23 trigger him and make him go into some sort of state that
24 would make him again nervous.

25 I certainly think that the juror has expressed
26 sufficient for a stipulation for hardship.

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1 However, counsel do not want to stipulate,
2 so I ask your Honor to exercise your Honor's own discretion
3 in excusing this juror.

4 THE COURT: Were all counsel approached and refrained
5 from stipulating?

6 MR. REINER: No, there was not a unanimity of opinion.
7 Some wish to stipulate and some not.

8 MR. KANAREK: I would stipulate.

9 MR. FITZGERALD: I am not inclined to stipulate..

10 MR. STOVITZ: But Mr. Fitzgerald will agree that the
11 Court has the discretion to excuse the juror on its own
12 motion.

13 MR. FITZGERALD: Certainly.

14 MR. STOVITZ: Mr. Shinn, you also agree with that,
15 that the Court has the discretion to excuse the juror on its
16 own motion?

17 MR. SHINN: Yes.

18 MR. REINER: I would agree that the Court has such
19 discretion, and the Court in this case should exercise it.

20 I would agree to so stipulate.

21 THE COURT: I am not sure I heard what you said.

22 MR. REINER: I would agree to stipulate. However, I
23 think the better procedure would be for the Court to
24 exercise its discretion to take the onus off of counsel in
25 this matter.

26 THE COURT: There is no onus on counsel of any kind.

1 This is held out of the presence of the prospective jurors.
2 They don't know if you are stipulating or not.

3 MR. REINER: That is true.

4 MR. STOVITZ: It doesn't count as a peremptory in any
5 shape or form.

6 THE COURT: I fail to understand what you are talking
7 about.

8 MR. REINER: Some jurors have been excused by
9 stipulation of counsel and some not.

10 In situations where the juror has not been
11 excused this may inure to the prejudice of one counsel or
12 another, if the jury begins to speculate on who is
13 responsible for not stipulating.

14 In this case I am willing to stipulate. However,
15 I think it is appropriate for the Court to take the
16 action.

17 THE COURT: If you are worrying about my remarking to
18 the prospective jurors that it is by stipulation of counsel,
19 I can simply say they are excused. I don't have to say it
20 is by stipulation, if you are objecting to that.

21 Is that what you prefer?

22 MR. REINER: I don't think that was the problem
23 raised by Mr. Fitzgerald.

24 THE COURT: You don't care to stipulate?

25 MR. FITZGERALD: No, I'm not going to enter into a
26 stipulation that this juror may be removed.

1 What Mr. Stovitz is suggesting is that your
2 Honor has power to excuse the juror on your Honor's own
3 motion.

4 I would agree with Mr. Stovitz's statement.
5 Your Honor has taken a position in the past
6 that you don't want to excuse the jurors.

7 THE COURT: That is right, and I'm not going to
8 excuse this gentleman, at least at this time.

9 All right, let's proceed.

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7c-1

1 (The following proceedings were had in open
2 court in the presence and hearing of the prospective
3 jurors, all counsel and the defendants being present:)

4
5 VOIR DIRE EXAMINATION OF MR. BARRINGER

6 BY THE COURT:

7 Q Mr. Barringer, I'm going to turn to some
8 other matters at the moment.

9 Have you had a chance to consider the questions
10 I have asked the other prospective jurors regarding the
11 death penalty, and your answers thereto?

12 A Yes, sir, I have.

13 Q I'm going to put the same questions to you
14 now.

15 Do you entertain such conscientious opinions
16 regarding the death penalty that you would be unable to
17 make an impartial decision as to any defendant's guilt
18 regardless of the evidence developed during the trial?

19 A No, sir.

20 Q Do you entertain such conscientious opinions
21 regarding the death penalty that you would automatically
22 refuse to impose it without regard to the evidence
23 developed during the trial?

24 A Yes, sir, I do.

25 Q Is this an opinion that you have held for
26 some time?

7c-2

1 A It is.

2 Q Can you conceive of any possible set of
3 facts or any type of case where you would not automatically
4 refuse to impose the death penalty?

5 A Could I explain just one thing, sir?

6 Q Yes.

7 A I have dealt with young people all my life,
8 for the last 40 years, and I have also held in my
9 estimation that the death penalty is the wrong thing,
10 and I still maintain that and will forever.

11 I am 68 years of age, and I am not about to
12 sentence somebody in a case of this kind.

13 Q Well, you understand of course that a person
14 may in a philosophical sense or way disapprove or oppose
15 something, and still be willing to consider it in a
16 particular context, and that is what I am asking you now.

17 I have to find out from you whether your
18 opinion is such that you have already made up your mind
19 at this point that you could under no circumstances
20 impose it, or whether in fact you would be willing to
21 listen to the evidence before you made that decision?

22 A I would not be willing to listen to the
23 evidence.

24 Q And you have made up your mind?

25 A Yes, sir.

26 Q There is no question or mental reservation?

1 A None at all.

2 THE COURT: All right, do counsel wish to inquire?

3 MR. FITZGERALD: No.

4 MR. REINER: No, your Honor.

5 MR. STOVITZ: No, your Honor.

6 People ask that the juror be excused for
7 cause.

8 MR. FITZGERALD: We jointly oppose the challenge
9 on due process and equal protection grounds.

10 THE COURT: Very well.

11 You are excused, Mr. Barringer, thank you.

12 MR. BARRINGER: Thank you.

8 fls.

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1 THE CLERK: Mrs. Clarissa Rily; C-l-a-r-i-s-s-a,
2 R-i-l-y.

3 Is the last name spelled correct, Mrs. Rily?

4 MRS. RILY: Right.

5 (Whereupon, Mrs. Clarissa Riley was seated in
6 seat No. 6 in the jury box.)

7
8 VOIR DIRE EXAMINATION OF MRS. CLARISSA RILY

9 BY THE COURT:

10 Q Mrs. Rily, have you heard and understood
11 everything that has been said in the case since you came
12 into it?

13 A Yes, I have.

14 Q If you were selected as a juror in this case,
15 would you be able to serve?

16 A No. No, I wouldn't.

17 Q What is your situation?

18 A I work and maintain a home for my 17-year-old
19 son, and since I am a widow, I am the only one he has for
20 care and supervision. He cannot be left over a long
21 period of time alone.

22 Q Is he living at home at this time?

23 A Yes.

24 Q And will continue to do so over the next
25 several months?

26 A Yes. He is in high school.

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1 Q For the moment, Mrs. Rily, I am going to ask
2 you some other questions.

3 Is there anything else other than what you have
4 already mentioned about the hardship?

5 A No.

6 Q Have you had an opportunity to consider the
7 questions regarding the death penalty and your answers as
8 to those questions?

9 A Yes, I have.

10 Q Do you entertain such conscientious opinions
11 regarding the death penalty that you would be unable to
12 make an impartial decision as to any defendant's guilty
13 regardless of the evidence developed during the trial?

14 A No.

15 Q Do you entertain such conscientious opinion
16 regarding the death penalty that you would automatically
17 refuse to impose it without regard to the evidence
18 developed in the trial?

19 A Yes.

20 Q Is that a belief that you have held for some
21 time?

22 A Yes, it is.

23 Q Is that before you were called as a prospective
24 juror in this case?

25 A Yes, it is. I just couldn't do it, that is
26 all.

Q Do you feel that your mind is unalterably made

1 up at this time on that point?

2 A Yes. I just have great sympathy for anyone in
3 trouble and I just couldn't do that.

4 Q Can you conceive of any set of facts or any type
5 of case where you would be willing to consider the
6 evidence before making up your mind as to whether or not
7 to impose the death penalty?

8 A No.

9 Q Was your answer no?

10 A No. I am sorry.

11 Q Do you feel, then, that without any question
12 or mental reservation your mind is made up on that point?

13 A Yes, sir.

14 Q And under no circumstances could you ever
15 impose the death penalty?

16 A No, sir, I couldn't.

17 THE COURT: Do you wish to inquire?

18 MR. FITZGERALD: No, your Honor.

19 MR. REINER: No, your Honor.

20 MR. STOVITZ: The People exercise a challenge for
21 cause, your Honor.

22 MR. FITZGERALD: The defendants would jointly oppose
23 the removal of this juror for cause on the ground that it
24 violates the Due Process clause of the Fifth and Fourteenth
25 Amendment and the Equal Protection clause, and also that
26 this juror's statements do not fall within the purview of

1 1074 of the Penal Code, Subdivision 8 thereof.

2 THE COURT: You will be excused, Mrs. Rily.

3 Thank you.

4 THE CLERK: Grast Barker; G-r-a-s-t, B-a-r-k-e-r.

5
6 VOIR DIRE EXAMINATION OF GRAST BARKER

7 BY THE COURT:

8 Q Mr. Barker, have you heard and understood every-
9 thing that has been said in court since you came into the
10 case?

11 A Yes, I think so.

12 Q If you were selected as a juror in this case,
13 Mr. Barker, would you be able to serve?

14 A I think so. It would be quite a hardship, but
15 I think so.

16 Q I take it, then, that you would be willing to
17 serve and you are not asking to be excused; is that right,
18 sir?

19 A Yes, that's right.

20 Q I am going to put the same questions to you
21 regarding the death penalty, Mr. Barker.

22 Do you entertain such conscientious opinions
23 regarding the death penalty that you would be unable to
24 make an impartial decision as to any defendant's guilt
25 regardless of the evidence developed during the trial?

26 A No, sir.

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1 Q Do you entertain such conscientious opinions
2 regarding the death penalty that you would automatically
3 refuse to impose it without regard to the evidence
4 developed during the trial?

5 A No, sir.

6 THE COURT: Mr. Fitzgerald, do you wish to inquire?

7 MR. FITZGERALD: Thank you, your Honor.

8
9 VOIR DIRE EXAMINATION OF MR. BARKER

10 BY MR. FITZGERALD:

11 Q Mr. Barker, what is your business or occupa-
12 tion?

13 A I work for the Bank of America. I have been
14 with them 23 years.

15 Q And what do you do for the Bank of America,
16 Mr. Barker?

17 A I am a loan officer.

18 Q Credit evaluations of people and determining
19 whether or not they are eligible for a loan?

20 A Yes.

21 Q And whether their credit standing is suffi-
22 cient?

23 A Yes. For a commercial loan, Time Plan Loans,
24 all types of loans, yes, sir.

25 Q Do you work out of a particular Bank of
26 America facility?

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A East Los Angeles.

Q Are you married, sir?

A Yes, sir.

Q Do you have any children?

A I have two children.

Q Are they grown?

A One is 20, one 28.

Q In what area of the County do you reside,
Mr. Barker?

A I live in Duarte.

Q Have you lived there for some period of time?

A About 20 years.

Q Do you have any feelings about these
defendants in this case?

A Feelings?

Q Yes.

A From what I have read, yes. I don't think
I approve of the type of living that I have read about,
some of the stories or articles that I have read.

Q You have read the newspaper in connection
with these defendants; is that right?

A Yes.

Q Have you read anything in magazines or
periodicals about these defendants?

A I think so.

Q Have you seen things on television in regard

8a-3

1 to these defendants?

2 A Yes, sir.

3 Q Have you heard things on radio in regard to
4 these defendants?

5 A Yes.

6 Q From any of those sources, Mr. Barker, have
7 you learned anything about the good character of these
8 defendants?

9 A Not that I could observe.

10 Q Have you heard anything good about these
11 defendants at all, Mr. Barker?

12 A No.

13 Q Have you heard anything on the radio or
14 seen anything on television, read anything in the news-
15 paper, read anything in any magazine or periodical,
16 that would lead you to believe that these defendants are
17 innocent, sir?

18 A Would you repeat that, please?

19 Q Yes.

20 You don't know anything about this case other
21 than what you have read in the newspaper, heard on the
22 radio, seen on television, or read in magazines; is
23 that right?

24 A That's right, sir.

25 Q You don't know anybody that knows any of
26 the defendants personally, do you?

Ga-4

1 A No, sir.

2 Q And I take it that you don't have any other
3 source of information about this case or these offenses
4 other than what you have read or heard in the media?

5 A No, sir.

6 Q Now, considering everything that you have
7 read or heard, Mr. Barker, has there been anything there
8 in what you have read or heard that leads you to believe
9 that these defendants are innocent?

10 A I don't think I have read anything that
11 would say one way or the other on it.

12 Q You haven't read anything or heard anything
13 in the media that would lead you to believe that they
14 are guilty?

15 A No.

16 Q You haven't read anything to the effect
17 that they are guilty of killing any of these people?

18 A No.

19 Q You have formed some opinions, though, about
20 the way these defendants have lived in the past; right?

21 A Yes, sir.

22 Q And you learned that from the media; right?

23 A Yes, sir.

24 Q And you formed an opinion that you didn't
25 approve of the way of life or type of life?

26 A That's right.

Bb file.

8-1

1 Q Would it be fair to say that you wouldn't want
2 your son or your daughter to live the way --

3 MR. STOVITZ: He has two sons.

4 MR. FITZGERALD: Excuse me. I am sorry.

5 Q You have two sons?

6 A I have a son and a daughter. A daughter that
7 was just married.

8 Q You wouldn't want either your son or your
9 daughter to engage, apparently, in the kind of life style
10 that you think these defendants have engaged in before;
11 is that right?

12 A That is correct.

13 Q In your lifetime, Mr. Barker, have you ever been
14 angry with anybody? At any time during your life?

15 Are you familiar with the emotion of anger?

16 A Yes.

17 Q Would you say that it has been possible for
18 you, in your experience, to be fair with people when you
19 are angry with them?

20 A Well, I think that sometimes when you are
21 angry you lose sight of fairness.

22 Q And has it also occurred to you -- correct me
23 if I am wrong, Mr. Barker -- has it also occurred to you
24 that when you don't approve of people sometimes it is
25 difficult to be fair and impartial in your dealings with
26 them?

8B2

1 A Yes, that is true.

2 Q You would have some difficulty in this case in
3 trying to be fair and impartial, wouldn't you?

4 A Yes.

5 MR. FITZGERALD: Thank you very much, sir.

6 THE COURT: Mr. Reiner?

7 MR. REINER: Yes, your Honor.

8 May we take the noon recess at this time?

9 THE COURT: Yes.

10 Before we recess, I wanted to ask Mrs. Johanssen
11 whether you have had an opportunity to get the
12 information we were discussing yesterday?

13 MRS. JOHANSEN: I was able to talk to the assistant
14 personnel manager last night, and it is very much in doubt
15 that they would pay me, although they are having a huddle
16 on it this morning with management.

17 THE COURT: I am sorry, I didn't hear you.

18 MRS. JOHANSEN: They are getting together with
19 management on it today.

20 THE COURT: On this question?

21 MRS. JOHANSEN: To confirm this, yes.

22 THE COURT: And you will know when?

23 MRS. JOHANSEN: This evening.

24 THE COURT: All right. Fine.

25 Will you let me know, then, tomorrow?

26 MRS. JOHANSEN: Yes.

1 MR. STOVITZ: Will your Honor give the additional
2 admonition to the jurors that your Honor indicated you
3 would?

4 THE COURT: Do not converse among yourselves nor with
5 anyone else on any subject relating to the case nor form
6 or express any opinion regarding the case.

7 I admonish you further, ladies and gentlemen,
8 not to read, listen or watch anything in the press, radio
9 or TV regarding this case while you are prospective jurors,
10 or if you are selected as jurors, and not allow yourself to
11 be influenced by anything which you may read or see inad-
12 vertently regarding this case.

13 We will adjourn at this time until 2:00 p.m.

14 (Whereupon, at 12:00 p.m. the court stood in
15 recess.)
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1 LOS ANGELES, CALIFORNIA, THURSDAY, JULY 2, 1970 2:18 P.M.

2 - - -

3
4 THE COURT: All parties and counsel are present. All
5 the prospective jurors are in the jury box.

6 Mr. Reiner, you were about to inquire.

7 MR. REINER: Yes, your Honor.

8 MR. KANAREK: Your Honor, may I address the Court.

9 I would like to apologize to the Court,
10 counsel and the prospective jurors, your Honor.

11 I had an obligation to be in another court
12 at 1:30, and the court did not get to the courthouse at
13 1:30. It was sometime after 1:30 before the Court
14 arrived.

15 THE COURT: All right, Mr. Kanarek.

16 MR. KANAREK: I apologize for being late.

17
18 VOIR DIRE EXAMINATION OF MR. BARKER

19 BY MR. REINER:

20 Q Mr. Barker, you own a television set, is
21 that true?

22 A Yes, sir.

23 Q And do you have a radio?

24 A Yes, sir.

25 Q In your home?

26 A Yes, I do.

1 Q In your car?

2 A In my car.

3 Q And you subscribe to a newspaper?

4 A Yes.

5 Q Which paper is that?

6 A The Monrovia Duarte News Post.

7 Q Monrovia?

8 A Yes.

9 Q Another Monrovia resident.

10 Do you subscribe to any other newspaper?

11 A Let me see -- not right now, no.

12 Q Have you recently subscribed to any other

13 newspaper?

14 A No.

15 Q Do you read any other newspaper whether you

16 subscribe to it or not?

17 A Oh, now and again I have read a paper but

18 not regularly.

19 Q Other than the Monrovia newspaper that you

20 previously mentioned do you from time to time read the Los

21 Angeles Times?

22 A From time to time, let's say I do get the

23 Sunday Times.

24 Q The Sunday Times?

25 A Yes, sir.

26 Q And you have been receiving the Sunday Times

1 for, oh, the last six or seven months?

10 fls. 2

A Yes, sir.

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1 Q Do you read the Los Angeles Herald Express --
2 I am sorry -- the Herald Examiner?

3 A No, I don't think so.

4 Q In connection with the television shows that
5 you watch, Mr. Barker, do you, from time to time, watch
6 television news?

7 A Yes.

8 Q Do you watch the evening news or the dinner-
9 time news?

10 A The evening news, the 11:00 o'clock news
11 sometimes.

12 Q Do you have any particular newscaster that
13 you watch more than others, sir?

14 A No.

15 Q Which newscaster do you watch?

16 A Let's see -- (Pause)

17 Q Indicate them by name or perhaps by channel.

18 A Well, I guess it is Channel 2, and Channel 11.
19 George Putnam I have seen.

20 Q You do watch the George Putnam News on Channel
21 11?

22 A Yes. Occasionally, yes.

23 Q And the Jerry Dunphy News on Channel 2?

24 A Yes.

25 Q The story of this case and the persons involved
26 in it was carried in the Monrovia newspaper that you sub-
scribe to, was it not, sir?

1 A Yes.

2 Q And mention was made of the fact, was it not,
3 that one of the defendants in this case had previously
4 lived in Monrovia; is that true?

5 A Yes.

6 Q And that her family continues to live in
7 Monrovia?

8 A Yes.

9 Q You were aware of that before coming to court?

10 A Yes, sir.

11 Q Were you aware that it was Leslie Van Houten,
12 sir?

13 A Yes, sir.

14 Q When you read the Sunday Times, Mr. Barker,
15 did you read the articles that were in the Sunday Times as
16 they relate to this case, or you have, have you not,
17 over these last few months?

18 A I have, some of them.

19 Q Do you recall, Mr. Barker, a particular article
20 that appeared last December about one defendant in this
21 case, Susan Atkins? Without reference to the content of
22 that article, sir, do you recall the article that I am
23 talking about?

24 A I don't recall it.

25 Q I am referring specifically to December the
26 14th. Do you recall seeing on the front page of the

1 Sunday Times of that date an article ostensibly by
2 Susan Atkins?

3 A I don't recall it, no, sir.

4 Q You indicated earlier, Mr. Barker, in response
5 to some questions put to you by Mr. Fitzgerald that you
6 haven't heard or read or seen anything in the newspapers,
7 radio or television that would suggest that any of these
8 defendants are guilty; is that true?

9 A You say "suggest"?

10 Q Yes, I say suggest.

11 A I would have to say that, to my knowledge, they
12 did suggest that they were guilty.

13 Q All right.

14 Then, it would be, Mr. Barker, at the very
15 least, a fair statement that based upon what you have seen
16 on television, heard on the radio and read in the newspaper,
17 that Mr. Manson's possible involvement in these crimes has
18 at least been hinted at in the media; is that correct?

19 A Yes.

20 Q That would be at least a fair statement; is
21 that correct?

22 A Yes.

23 Q So, as you come into this trial, the totality
24 of your exposure to this case from the media has been to
25 the effect that Mr. Manson and perhaps these other
26 defendants are guilty; is that correct, sir?

1 A Yes.

2 Q And if you were to read a story today, as you
3 sit here, or when you go home tonight, considering that
4 you are a prospective jury member, that suggested that any
5 one of these defendants or more than one of them were guilty,
6 you would make a conscious attempt to ignore the suggestion
7 in that article, would you not?

8 A Yes.

10a-1

1 Q And that is because you are sitting here as
2 a prospective jury member; true?

3 A Yes.

4 Q And you appreciate, Mr. Barker, that it is
5 possible that you would sit on this case and that your
6 mind should not be affected by suggestions of things that
7 you read in the newspaper or see on television; is that
8 true?

9 A That's right. They shouldn't be but some-
10 times they are.

11 Q True.

12 Now, beginning with last December, Mr.
13 Barker, it never occurred to you, did it, that some day
14 you might be sitting in the jury box as a prospective
15 jury member in this case; did it?

16 A No, sir.

17 Q And at that time, as you read articles,
18 and since then as you read articles in the newspaper
19 and observed television news shows of this case, you
20 did not feel the need to discipline yourself to ignore
21 any suggestions that came to you from the media because
22 you did not even anticipate that you would be a juror
23 in this case; isn't that true?

24 A Yes, I would say that is true.

25 Q So, as you saw news accounts of this
26 particular case or read news accounts of this particular

10a-2

1 case, Mr. Barker, you formed opinions based upon the
2 suggestions that were before you much the same as you
3 would ordinarily form opinions based upon other news
4 items that you see or read about; isn't that true?

5 A That is true.

6 Q And it is based upon those things, that
7 exposure to the media, that you drew conclusions such as
8 they are about the guilt or innocence of these defendants?

9 A Yes, sir.

10 Q And those conclusions were to the effect
11 that the defendants or some of them were guilty; is
12 that true?

13 A Yes.

14 MR. REINER: Thank you. I have no further
15 questions.

16 THE COURT: Mr. Shinn?

17 MR. SHINN: Pass, your Honor.

18 MR. KANAREK: No questions, your Honor, but I
19 wonder if we might approach the bench.

20 MR. STOVITZ: May I inquire, your Honor, of the
21 juror, that is?

22 THE COURT: Is it agreeable to you, Mr. Kanarek,
23 until after the People have finished their examination?

24 MR. KANAREK: Very well.
25
26

10a-3

VOIR DIRE EXAMINATION OF MR. BARKER

BY MR. STOVITZ:

Q Mr. Barker, I didn't understand. At first you told us that what you had read in the newspapers did not show to you that the defendants were innocent or guilty, then this afternoon you told us that what you read in the newspapers, heard on TV, did suggest that they possibly could be guilty.

11 fls.

11-1

1 MR. KANAREK: That is misstating the evidence,
2 the witness did not use the word "possibly," your
3 Honor; that is a misstatement of the evidence.

4 MR. STOVITZ: I will reframe the question.

5 BY MR. STOVITZ:

6 Q Mr. Barker, as you sit here now can you
7 distinguish in your mind from what you believe and from
8 what the news media believe?

9 A I don't quite understand your question.

10 Q All right, all right.

11 Can you distinguish in your mind, sir, as
12 you sit here now, what you as a person believe as
13 distinguished from what somebody else believes?

14 A Yes.

15 Q All right now, as a result of listening to
16 the television, listening to your radio and reading your
17 newspapers and reading your magazines, have you formed
18 any conclusions as to the guilt or innocence of the
19 defendants or any of these defendants?

20 A I would say a tentative one, yes.

21 Q And is that tentative one one that they are
22 more likely to be guilty than not guilty?

23 A Yes, sir.

24 Q And would evidence be required to remove
25 that evidence of their possible guilt from your mind?

26 A Yes.

11-2

1 MR. STOVITZ: I have no further questions. Thank
2 you very much for your sincerity.

3 MR. KANAREK: May we, your Honor?

4 THE COURT: Yes.

5 MR. KANAREK: Thank you.

6 (The following proceedings were had at the
7 bench out of the hearing of the prospective jurors:)

8 MR. FITZGERALD: On behalf of the defendants we
9 will interpose a challenge for cause, your Honor, actual
10 bias, 1073 of the Penal Code, for the existence of a
11 state of mind on the part of the juror in reference to
12 the case that would prevent him from acting with entire
13 impartiality.

14 THE COURT: Is this on behalf of all of the
15 defendants?

16 MR. FITZGERALD: Yes, on behalf of all of the
17 defendants.

18 MR. STOVITZ: Submit the matter, your Honor.

19 MR. KANAREK: Isn't it true, your Honor, that Mr.
20 Fitzgerald speaks for all of us; that was one of our
21 pretrial understandings, unless stated differently?

22 MR. REINER: That is not true, as a general proposi-
23 tion, it is not true. In this case it is okay.

24 MR. KANAREK: May the record reflect that any time
25 on behalf of Mr. Manson, any time Mr. Fitzgerald has
26 spoken -- he certainly speaks on behalf of Mr. Manson

1 when he says "we," and may the record be so deemed?

2 THE COURT: It is too confusing to have a
3 continuing basis on that.

4 If counsel is in fact speaking for all of
5 you and all counsel hear what he says, I assume you are
6 stipulating unless you tell me otherwise.

7 I think each counsel should assert his own
8 challenges.

9 MR. REINER: I agree.

10 MR. KANAREK: Where he used the word "jointly"
11 for us or plural, may the record be deemed to be on
12 behalf of Mr. Manson?

13 THE COURT: I am not going back if it has not
14 already been done.

15 MR. STOVITZ: On behalf of the People we submit
16 the challenge, your Honor.

17 THE COURT: All right, the challenge will be
18 allowed.

19 Mr. Barker will be excused for cause.

20 MR. KANAREK: May I make this one motion again,
21 your Honor, and that is I would make the motion again
22 that the jurors be examined individually outside of the
23 presence of the other jurors.

24 The Court has that power by merely ordering
25 all the other jurors, those in the box and otherwise, to
26 be in the corridor.

1 I believe it would be to the best interest
2 of everyone, that the examination like the one just
3 finished should take place outside the presence of the
4 other jurors.

5 THE COURT: The motion is denied.

6 I have explained to you before that if all
7 counsel and all parties are willing to stipulate to that
8 procedure, I will follow it.

9 MR. KANAREK: As your Honor knows, I believe all
10 counsel have.

11 The parties have not.

12 THE COURT: All counsel have not.

13 MR. REINER: Who has not?

14 THE COURT: The District Attorney was opposed to
15 any matter in chambers.

16 MR. STOVITZ: In regard to that --

17 THE COURT: So were some of defense counsel from
18 time to time.

19 MR. STOVITZ: In regard to that, your Honor, if your
20 Honor obtains the consent of the defendants personally to
21 proceed in chambers pertaining to the publicity matters,
22 we will abide by your Honor's orders.

23 THE COURT: That is an equivocal statement if I ever
24 heard one, Mr. Stovitz, what do you mean by that?

25 You mean you stipulate to it?

26 MR. STOVITZ: If your Honor asks us into chambers

1 we will proceed in chambers and conduct the voir dire.

2 THE COURT: But that does not tell me anything.

3 MR. STOVITZ: I think your Honor, as Mr. Fitzgerald
4 pointed out, has the discretion to hold these matters
5 in chambers.

6 THE COURT: I already indicated on the record I
7 would do so even over the District Attorney's objection
8 if all parties and their counsel stipulated.

9 I have yet to receive any stipulation from
10 the parties.

11 MR. REINER: I believe there is a stipulation among
12 all defense counsel that it be held in chambers. I don't
13 think there should be any question on that.

14 I assume there is no question in the Court's
15 mind on that.

16 11a file

17 THE COURT: All right, well, let's proceed.

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1 (The following proceedings were had in open
2 court in the presence and hearing of the prospective
3 jurors:)

4 THE COURT: Mr. Barker, you will be excused. Thank
5 you, sir.

6 THE CLERK: James E. Lee; J-a-m-e-s, L-e-e.

7 MR. STOVITZ: The middle initial is E, sir?

8 THE CLERK: E as in Everett.

9 (Whereupon, James E. Lee was seated in seat
10 No. 6 in the jury box.)

11
12 VOIR DIRE EXAMINATION OF JAMES E. LEE

13 BY THE COURT:

14 Q Mr. Lee, have you heard and understood every-
15 thing that has been said in court since you came into the
16 case, sir?

17 A I think so.

18 Q If you were selected as a juror in this case
19 would you be able to serve?

20 A It would be difficult for me to.

21 Q In what respect?

22 A Due to illness in my family.

23 Q Could you elaborate somewhat on that, sir?

24 A My mother is alone; my dad is in a rest home,
25 and she is under the doctor's care, and I stay there at
26 night with her.

1 She has to go to the clinic three times a week
2 now, which I have to make arrangements for her transportation.

3 I do her shopping and what-have-you.

4 THE COURT: She is dependent on you?

5 MR. LEE: Yes, sir.

6 THE COURT: And is this something that is likely to
7 continue for some time?

8 A It looks like it. I don't know; I don't know.

9 Q All right, sir, for the time being I will go to
10 some other questions.

11 Have you had a chance to consider the
12 questions I have asked the other prospective jurors regarding
13 the death penalty?

14 A Yes, sir, I have.

15 Q And your answers thereto?

16 A Yes, sir.

17 Q Do you entertain such conscientious opinions
18 regarding the death penalty that you would be unable to
19 make an impartial decision as to any defendant's guilt
20 regardless of the evidence developed during the trial?

21 A No, sir.

22 Q Do you entertain such conscientious opinions
23 regarding the death penalty that you would automatically
24 refuse to impose it without regard to the evidence
25 developed during the trial?

26 A No, sir.

1 THE COURT: Do you wish to inquire, Mr. Fitzgerald?

2 MR. FITZGERALD: Yes, your Honor, thank you.

3 VOIR DIRE EXAMINATION OF MR. JAMES E. LEE

4 BY MR. FITZGERALD:

5 Q What is your business or occupation, Mr. Lee?

6 A I work for the City of Gardena as a bus driver.

7 Q Are you married, sir?

8 A Yes, sir.

9 Q Do you have any children?

10 A I have one daughter.

11 Q How old is she?

12 A 26. She is married and has two children.

13 Q Is your wife employed outside of the home?

14 A Yes, sir.

15 Q By whom is she employed?

16 A Harbor General Hospital.

17 Q And what does she do at Harbor General?

18 A RVN.

19 Q Registered nurse?

20 A Registered vocational nurse.

21 Q RVN.

22 A RVN.

23 Q I see. Have you ever served as a juror before?

24 A No, sir, I have never been in a courtroom.

25 Q You have never been in a courtroom?

26

11a4

- 1 A Not when it is in session, no, sir.
- 2 Q Can you think of any reason why you cannot be
- 3 fair and impartial to both sides of this case?
- 4 A I don't think of any.
- 5 Q Do you have any feelings or attitudes about
- 6 the defendant in this case?
- 7 A No, sir.
- 8 Q Have you read any publicity in connection with
- 9 this case?
- 10 A Yes, I have.
- 11 Q You read newspaper publicity?
- 12 A Yes, sir.
- 13 Q Have you read about this case in magazines?
- 14 A I don't think so.
- 15 Q Have you seen this, or aspects, or material
- 16 in connection with this case on television?
- 17 A Yes, sir.
- 18 Q Have you heard it on the radio?
- 19 A Yes, sir.
- 20 Q Have you heard anything about the defendants'
- 21 good character in the media anywhere?
- 22 A Not to my knowledge.
- 23 Q Have you read or heard anything good about the
- 24 defendants?
- 25 A No, I have not.
- 26 Q Have you read or heard anything bad about the

11a5

1 defendants?

2 A I suppose.

3 Q Pardon me?

4 A I suppose, yes.

5 Q You have, haven't you?

6 A Yes.

7 Q As a matter of fact, you have read a consider-
8 able amount of material that reflects adversely on the
9 defendants, right?

10 A Yes.

11 Q And I take it that -- did most of this material
12 that you read about the defendants, did you read it in the
13 newspaper?

14 A Yes.

15 Q When you were reading it, I take it you under-
16 stood what you were reading?

17 A I hope so.

18 Q Okay, and I take it you thought what you were
19 reading was true?

20 A Well, I don't have to -- I don't know how to
21 answer that.

22 Everything isn't true that you read, I'm sure.

23 Q Of course not, certainly not, everything that
24 one reads is not true.

25 A No.

26 Q But did you think that what you were reading

1 was true?

2 A Probably. I had no reason to doubt it, if I
3 knew nothing about it.

4 Q You have no reason to doubt it if you knew
5 nothing about it.

6 A That's right.

7 Q Would it be fair to say, then, that inasmuch as
8 you did not have any other information about the case, you
9 accepted what the newspapers had to say about it?

10 A Right.

11 Q Aren't you going to have a difficult time
12 being fair and impartial, and right down the middle in
13 this case?

14 A I don't know, to be truthful.

15 Q Pardon me?

16 A I don't know.

17 Q Is it going to be a little difficult for you?

18 A I don't think so, but I don't know.

19 Q You have just heard one side of the case,
20 right?

21 A That's right.

22 Q In the newspaper you heard the bad, right?

23 A Right.

24 Q You have not heard any good?

25 A No.

26 Q Doesn't that kind of weigh your mind in favor

1 of the prosecution or in favor of these defendants being
2 guilty?

3 A It could be.

4 Q If it were up to you, if you had your preference,
5 wouldn't you prefer to sit as a juror on a case where you
6 did not know anything about it, and you made up your mind
7 simply on the evidence in the case?

8 A Probably.

9 MR. FITZGERALD: Thank you.

10
11 VOIR DIRE EXAMINATION OF MR. LEE

12 BY MR. REINER:

13 Q Mr. Lee, you do read the newspaper on a fairly
14 regular basis, do you not?

15 A Yes, sir.

16 Q Which newspaper is that?

17 A I don't subscribe to one, but I see one every
18 day.

19 Q Which newspaper is that?

20 A All of them.

21 Q You read the Los Angeles Herald Examiner, the
22 Times?

23 A I have to clean them off the bus, the seats and
24 things, so I might grab any one of them.

25 Q It would be a reasonably fair statement that on
26 a regular basis you read both the Los Angeles Herald Examiner

1 and the Los Angeles Times?

2 A Yes, sir.

3 Q And do you make any attempt to reasonably well
4 inform yourself by reading the stories with some care?

5 A No, I don't, I don't.

6 Q Do you watch television?

7 A Yes, I do.

8 Q The evening news?

9 A Yes.

10 Q Any particular program on the evening news
11 that you favor?

12 A No, I switch.

13 Q Which ones do you generally watch?

14 A Probably 7 and 11, probably.

15 Q That would be Bill Bonds' Evening News and the
16 George Putnam Evening News?

17 A Yes.

18 Q Since last December when these arrests
19 occurred, you have seen this case discussed on television;
20 you read about it in both newspapers on a fairly regular
21 basis, have you not?

22 A Fairly regular.

23 Q When I speak of "this case," I am referring to
24 any participant in the case, the defendants, the lawyers, or
25 anyone else.

26 I am referring^{to} anything to do with this case.

1 A I have watched occasionally.

2 Q If you were to watch television this evening or
3 see something in the newspapers this evening that suggested
4 that perhaps one or more of these defendants were guilty,
5 you would discipline yourself to ignore the suggestion in
6 the story, would you not?

7 A Well, the Judge informed us not to.

8 Q That is true.

9 Before his Honor informed you not to read the
10 newspaper, not to watch television, before he informed you
11 of that this afternoon, you had previously been reading the
12 newspaper and watching television?

13 A Yes.

14 Q That was after you were called as a prospective
15 juror?

16 A Yes.

17 Q However, since you anticipated that you might
18 be a juror in this case did you discipline yourself
19 not to accept any suggestions that might be contained in
20 any of these stories relating to the guilt of any of these
21 defendants?

22 A Yes.

23 Q Was the reason that you did that because you
24 recognize that as a prospective juror it would be necessary
25 for you to base your judgment solely on the evidence in
26 this trial?

 A Yes.

11c-1

1 Q Since last December when you read about this
2 case in the newspaper, saw it on television and heard
3 about it on the radio, you did not anticipate that you
4 might some day become a jury member in this case, did
5 you?

6 A No, I did not.

7 Q So from that time and up until the very
8 recent past you had no reason whatsoever to discipline
9 yourself to ignore any suggestions that were presented
10 to you in the stories that you read and the news that you
11 saw on television, is that true?

12 A I had no reason.

13 Q I'm sorry, I did not hear you.

14 A I had no reason.

15 Q And so because you had no reason to resist
16 any of these suggestions, in fact you accepted these
17 suggestions much in the same manner you would accept
18 the suggestions that appear in the news relative to
19 other matters.

20 Is that true?

21 A True.

22 Q Would it be a fair statement to say that
23 the totality of the suggestions that appeared in the
24 media, newspapers, television, was to the effect that the
25 defendants or some of them were guilty of these crimes?

26 A True.

11c-2

1 Q And you accepted that, if I may use the
2 language, which you used in response to one of Mr.
3 Fitzgerald's questions, as probably true. Is that
4 correct?

5 A Yes.

6 Q So prior to being called as a prospective
7 juror in this case it was your judgment that it was
8 probably true that the defendants were guilty?

9 A That's right.

10 Q And this judgment of yours was based solely
11 upon the suggestions that were contained in the 'informa-
12 tion that you received from the media?

13 A Yes, sir.

14 MR. REINER: Thank you, I have no further questions.

15 THE COURT: Mr. Shinn?

16 MR. SHINN: Yes, your Honor, I have one or two
17 questions.

18
19 VOIR DIRE EXAMINATION OF MR. LEE

20 BY MR. SHINN:

21 Q Mr. Lee, did you read or hear about Mr.
22 Kanarek, Mr. Manson's attorney the other day?

23 A Something about it, yes, sir.
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Q Did you read it in the newspapers?

A Yes.

Q And did you watch the TV that night?

A I saw something about it, yes.

Q And do you recall who you saw?

A I saw the District Attorney with a news conference or something.

Q Do you recall what he said?

A Well, he was trying to get a hearing, the way I understood it, to have the attorney -- I don't know -- out of the case.

Q Do you recall him saying something about Mr. Kanarek's competence?

A Yes, something to that effect.

Q That he was not competent?

A Yes.

Q And did you also read the newspapers about Mr. Kanarek?

A Yes.

Q And what was it, the Times or the Herald-Examiner, sir?

A The Times.

Q Now, sir, do you recall what you read?

A It was to that same effect.

Q What do you mean "to that same effect"?

A The same idea, that he was trying to get

12-2

1 a hearing that he wasn't capable of handling the case.

2 Q Now, sir, would that in any manner affect
3 -- strike that -- would that in any manner prejudice
4 Mr. Manson?

5 A No, sir.

6 Q The fact that you read that his attorney
7 may be incompetent?

8 A No.

9 MR. SHINN: Thank you.

10 I am through, your Honor.

11 THE COURT: Mr. Kanarek?

12 MR. KANAREK: No questions, your Honor.

13 THE COURT: Mr. Stovitz?

14 MR. STOVITZ: Yes, sir.

15
16 VOIR DIRE EXAMINATION OF MR. LEE

17 BY MR. STOVITZ:

18 Q Mr. Lee, as you sit here now, are you telling
19 the Court that from what you have read in the newspapers
20 and seen on television that the defendants would have to
21 produce evidence to cause you to vote for their
22 innocence; is that right?

23 A That's right.

24 Q So, then, in other words, you have your
25 mind made up now; is that right?

26 A Well, I wouldn't say it is made up, but it

1 indicates, from what I have heard, that they are guilty.

2 Q I see.

3 So that they would have to produce evidence
4 to remove that impression that you have; is that
5 correct?

6 A Yes.

7 MR. STOVITZ: I have no further questions.
8 Thank you.

9 MR. FITZGERALD: We would like to enter an
10 objection -- or a challenge -- for cause, your Honor.

11 MR. REINER: Join the challenge for cause under
12 1073 of the Penal Code.

13 MR. SHINN: Join, your Honor.

14 MR. FITZGERALD: Actual bias.

15 MR. KANAREK: Join.

16 MR. STOVITZ: Submit the matter, your Honor.

17 THE COURT: You are excused, Mr. Lee. Thank you
18 very much.

19 THE CLERK: Miss Jean DiSalvo; J-e-a-n,
20 D-i-S-a-l-v-o.

21 (Whereupon Miss Jean DiSalvo came forward
22 and was seated in the jury box.)

23
24 VOIR DIRE EXAMINATION OF MISS DI SALVO
25 BY THE COURT:

26 Q That is Miss DiSalvo?

1 A Miss.

2 Q Have you heard and understood everything that
3 has been said in court since you came into the case, Miss
4 DiSalvo?

5 A Yes.

6 Q If you were selected as a juror in this case,
7 Miss DiSalvo, would you be able to serve?

8 A No, sir.

9 Q What is your situation?

10 A A critical hardship and financial problem.
11 I have been unemployed for quite sometime,

12 Q Are you presently employed?

13 A Yes, and I am a self-supporter. I do need
14 the employment to support myself and to meet my expenses.

15 Q I'm going to ask you some other questions,
16 Miss DiSalvo.

17 Have you had an opportunity to consider the
18 death penalty questions that I have put to the other
19 prospective jurors?

20 A Yes, sir.

21 Q I am going to ask you the same questions,
22 Miss DiSalvo.

23 First, do you entertain such conscientious
24 opinions regarding the death penalty that you would be
25 unable to make an impartial decision as to any defendant's
26 guilt regardless of the evidence developed during the trial?

1 A No, sir.

2 Q Do you entertain such conscientious opinions
3 regarding the death penalty that you would automatically
4 refuse to impose it without regard to the evidence
5 developed during the trial?

6 A No, sir.

7 THE COURT: Mr. Fitzgerald, do you care to examine?

8 MR. FITZGERALD: Yes, your Honor.

12a fls.

12-A-1

VOIR DIRE EXAMINATION

BY MR. FITZGERALD:

Q Have you made an application to anybody to be excused from jury duty itself, Miss Di Salvo?

A No, sir.

Q Sitting in the courtroom imposes a hardship or an imposition on you; is that right?

A Yes, it does.

Q As well as sitting as a juror in this particular case; isn't that true?

A Right.

MR. FITZGERALD: I have nothing further.

THE COURT: Mr. Reiner?

MR. REINER: Thank you, your Honor.

VOIR DIRE EXAMINATION

BY MR. REINER:

Q Miss Di Salvo, you have read of this case in the newspapers from time to time, have you not?

A Yes.

Q Since last December, have you not?

A Yes.

Q And you have watched the evening news on television, have you not?

A Occasionally.

Q In watching the evening news, you observed, did you not -- did you watch certain newscasts relating to

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1 this trial and the persons involved in it?

2 A Yes.

3 Q Have you as yet heard anything or read any-
4 thing or seen anything in connection with this case that
5 was favorable toward Mr. Manson or any of the defendants
6 in the case?

7 A No, sir.

8 Q You haven't heard a good word yet?

9 A No.

10 Q You have heard many bad words?

11 A Right.

12 Q Now, Miss Di Salvo, you were listening to the
13 questions put to other prospective jurors while you were
14 seated in the audience; is that true?

15 A Yes.

16 Q And you heard the question put to the other
17 prospective jurors with respect to whether -- strike that.

18 As you listened to these questions, Miss Di
19 Salvo, you did consider your possible answer, did you not?

20 A Yes, sir.

21 Q And you heard the questions put to the other
22 prospective jurors with respect to whether or not they had
23 ever heard a single good word that appeared in the news
24 media with respect to any of these defendants?

25 A Yes, sir.

26 Q And you considered your answer ever since you

first heard that question put to the other prospective jurors, have you not?

A Yes, sir.

Q And in all that time, thinking about it, Miss Di Salvo, you haven't been able to recall a single instance of a single word that has appeared in any newspapers, any radio show, or any television news program that was in any way, shape or form favorable toward any of these defendants; is that right?

A Right.

Q In fact, the exact contrary was true, was it not; every word that you ever heard or seen was unfavorable to the defendants?

A Right.

Q And in fact suggested their actual guilt in this case?

A Yes.

Q And while you read these stories and saw these television newscasts, Miss Di Salvo, you had no reason, at that time, not to accept -- that is, to resist -- the suggestions that appeared in the media with respect to the guilt of the defendants? Isn't that true, Miss Di Salvo?

A Yes, sir.

Q And you, in fact, did accept the suggestions in the media with regard to the guilt of the defendants to the same degree and extent that you might accept the

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1 suggestions that appeared in the media with regard to
2 other news stories?

3 A Would you please rephrase that? I want to get
4 that straight.

5 Q Surely.

6 Generally, Miss Di Salvo, when you read the
7 newspaper or watch the television news, you receive
8 certain suggestions in the content of the news, and unless
9 there is some reason that you have to doubt the content or
10 the suggestions that are contained in the news, you tend
11 to accept it, do you not?

12 A No.

13 Q Well, with respect to this case, in these last
14 few days that you sat in the audience as a prospective
15 juror, Miss Di Salvo, you did read of the case in the
16 newspaper, did you not?

17 A Yes, I did.

18 Q And you saw some television newscasts that were
19 related to this case; is that right?

20 A Yes, sir.

21 Q Now, at that time, since you were a prospective
22 juror in this case, you did, I assume, discipline yourself
23 not to accept any suggestions that would appear in any of
24 these stories; is that right?

25 A Right.

26 Q That would suggest the possible guilt of the

defendants?

A Right.

MR. KANAREK: Your Honor, if I may interrupt, is the witness answering audibly to that last question?

MR. STOVITZ: Her answer was yes.

THE COURT: Please keep your voice up, Miss Di Salvo, and speak directly into the microphone.

MISS DI SALVO: Yes, sir.

THE COURT: I don't believe it is on. Would you try the switch.

MISS DI SALVO: Yes, sir.

12b-1

1 BY MR. REINER:

2 Q Miss DiSalvo, going back to last December
3 when the stories of the arrests of these defendants
4 first began to appear in the newspaper, at that time
5 it did not occur to you that you might some day be a
6 juror in this case, did it?

7 A Right.

8 Q So at that time there was no particular
9 reason that you knew of that you had to discipline
10 yourself not to accept any suggestions that would appear
11 in the media with regard to the guilt of the defendants;
12 isn't that true?

13 A Right.

14 Q So, as you read those stories and saw the
15 newscasts on television, you, in fact, to one degree or
16 another, did believe and accept the suggestions that
17 appeared in the media with regard to the guilt of these
18 defendants; isn't that true?

19 A Some, yes.

20 MR. KANAREK: What was that last?

21 (The answer was read by the reporter.)

22 BY MR. REINER:

23 Q All of these suggestions, as you have
24 indicated before, Miss DiSalvo, were to the effect that
25 the defendants were guilty; none of these suggestions
26 were to the effect that the defendants were not guilty;

12b-2

1 is that true?

2 A Right.

3 THE COURT: Miss DiSalvo, we can't hear you.

4 MISS DI SALVO: I am sorry. I thought I was speaking
5 loud.

6 THE COURT: Keep your voice up, please.

7 MISS DI SALVO: Yes, sir.

8 BY MR. REINER:

9 Q All right.

10 Would it be a fair statement to say that
11 based on all you read and heard and all that you have seen
12 prior to the time that you found out that you might be a
13 prospective juror in this case, Miss DiSalvo, you had
14 formed certain opinions as to the guilt of the defendants?

15 A I wouldn't say that.

16 Q I'm sorry, I couldn't hear you.

17 A I wouldn't say that, no.

18 Q You do not feel that you had any opinions
19 whatsoever prior to the time that it occurred to you that
20 you might be a juror in this case?

21 A I don't think I would have been a juror.

22 Q I'm sorry?

23 A I don't think I would have been a juror.

24 Q What?

25 A I didn't think I was going to be a juror.

26 Q I appreciate that. Perhaps my question was

1 not clear, Miss DiSalvo.

2 During this time that you were exposed to the
3 in the information/media, all of which you have previously
4 indicated suggested that the defendants were guilty, or
5 some of them were guilty, you did form some opinions,
6 did you not, Miss DiSalvo, with respect to the actual
7 guilt of the defendants?

8 A We form some opinion but we wait for evidence.

9 Q We do if we know that we are going to be a
10 prospective juror.

11 A Right.

12 Q But at that time, Miss DiSalvo, you did not
13 know that you were going to be a prospective juror, did
14 you?

15 A No.

16 Q So, you had no compelling need at that time,
17 did you, Miss DiSalvo, in your own mind, to wait until
18 you heard evidence?

19 A Right.

20 Q You never expected to be in a position where
21 you could hear evidence in a courtroom; isn't that right?

22 A Right.

23 Q All right.

24 So, at that time, irrespective of what you
25 may do from this point on, at least at that time you did
26 form opinions, tentative as they might have been, opinions

1 with respect to the guilt of the defendants?

2 A Yes.

3 Q And these opinions were based solely upon
4 information that had come to you through the media and
5 suggestions that had come to you through the media; is
6 that right?

7 A Right.

8 Q All of which pointed toward the guilt of
9 the defendants?

10 A Right.

11 MR. REINER: Thank you.

12 I have no further questions.

13
14 VOIR DIRE EXAMINATION OF MISS DI SALVO

15 BY THE COURT:

16 Q Miss DiSalvo, what we are trying to do is to
17 ascertain your state of mind at the present time.

18 Now, in the questions asked of you by any
19 counsel, I hope that you will not, or I hope that any
20 prospective juror will not, simply give an answer which
21 he or she thinks the attorney is trying to elicit.

22 You don't have to agree with a leading question.
23 But what we want you to do is to consider it very carefully
24 and give your answer to the question, not necessarily the
25 answer that is suggested if it does not comply with or
26 conform to your opinion.

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Do you understand that?

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Yes, sir.

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1 Q Now, when you say that you have formed some
2 opinions regarding the guilt of any of the defendants in
3 this case, Miss Di Salvo, was this because they were
4 arrested and charged with these offenses?

5 A Yes.

6 Q Would you say that your opinion in that regard
7 is any different than it would be in any other case where
8 a defendant is arrested and charged with an offense?

9 A Not necessarily.

10 Q Any time a person is arrested and charged with
11 an offense, I suppose it might be natural to wonder
12 whether he is guilty; isn't that right?

13 A Yes, sir.

14 Q Is that what you mean, Miss Di Salvo?

15 A Yes, sir.

16 Q Do you think that there was anything about the
17 publicity in this case that has caused you to form any
18 opinion that will stay with you if you are selected as a
19 juror in this case?

20 A I believe so.

21 Q You believe so?

22 A Yes.

23 Q What sort of an opinion is that?

24 A An opinion of guilt.

25 Q I beg your pardon?

26 A An opinion of guilt.

2C2

1 Q And what is that based on?

2 A The fact of what they have done.

3 Q I understand. But is this because of the fact
4 that they have been arrested and charged with these crimes
5 and brought before the court to stand trial? Is that why
6 you have that opinion? or is it for some other reason?

7 A No. That reason.

8 Q Is that it?

9 A Yes.

10 Q I am not trying to put words in your mouth,
11 Miss Di Salvo. I want you to tell me.

12 Is that it?

13 A Yes.

14 Q Would you feel the same way in any case if
15 you were called in to sit as a juror in a criminal case with
16 respect to a defendant who had been arrested and charged
17 with a crime and brought before the Court to stand trial?

18 A Probably so.

19 THE COURT: Mr. Shinn, do you care to examine?

20 MR. SHINN: Oh, yes, your Honor. Thank you.

21

22

VOIR DIRE EXAMINATION

23 BY MR. SHINN:

24 Q Miss Di Salvo, have you read or heard about
25 Mr. Manson's attorney, Mr. Kanarek, in the last few days?

26 A Well, I have heard here.

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1 Q You mean you heard while you were sitting in
2 the court here?

3 A Yes. I did not read the paper and I had no
4 television on.

5 Q Do you take the paper?

6 A Occasionally.

7 Q What paper is that, Miss Di Salvo?

8 A The Times on Sunday..

9 Q Just on Sunday?

10 A That is all.

11 Q You don't take the daily?

12 A No.

13 Q Was Mr. Kanarek discussed by other persons in
14 the court with you?

15 A I don't recall very well.

16 Q Oh, you don't?

17 A I don't follow it that closely.

18 Q You don't recall whether or not you had a
19 discussion with any of the people in the courtroom
20 regarding Mr. Kanarek?

21 A No. I have had no discussion.

22 Q Then how did you learn about Mr. Kanarek?

23 A From what was said in here yesterday.

24 Q Oh, you mean by the other attorneys questioning
25 the jurors?

26 A Yes.

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Q Do you know what was said about Mr. Kanarek?

A Incompetent.

Q Do you think the fact that you heard that people were saying that Mr. Kanarek was incompetent, would that prejudice Mr. Manson?

A No.

Q In any manner?

A No.

MR. SHINN: I have nothing further, your Honor.

THE COURT: Mr. Kanarek?

MR. KANAREK: No questions, your Honor. Thank you.

MR. STOVITZ: No questions by the People, your Honor.

THE COURT: Very well.

MR. FITZGERALD: On behalf of all of the defendants, your Honor, we will interpose an objection -- excuse me, a challenge for cause -- pursuant to Penal Code Section 1073, Subdivision 2 thereof, actual bias.

MR. STOVITZ: Submit it, your Honor.

THE COURT: You will be excused, Miss Di Salvo. Thank you.

MISS DI SALVO: Thank you.

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1 THE CLERK: Alvin B. Bommer; A-l-v-i-n, B-o-n-n-e-r.

2 (Whereupon Mr. Alvin B. Bonner came forward
3 and was seated in jury seat No. 6.)
4

5 VOIR DIRE EXAMINATION OF MR. ALVIN B. BONNER
6 BY THE COURT:

7 Q Mr. Bonner, have you heard and understood
8 everything that has been said in court since you came
9 into the case, sir?

10 A I have.

11 Q If you were selected as a juror in this case,
12 would you be able to serve, sir?

13 A I would be.

14 Q Have you had an opportunity to think over
15 the questions that I have asked the other prospective
16 jurors regarding the death penalty and your answers to
17 those questions?

18 A I have.

19 Q Do you entertain such conscientious opinions
20 regarding the death penalty that you would be unable to
21 make an impartial decision as to any defendant's guilt
22 regardless of the evidence developed during the trial?

23 A No, sir.

24 Q Do you entertain such conscientious opinions
25 regarding the death penalty that you would automatically
26 refuse to impose it without regard to the evidence developed

1 during the trial?

2 A No, sir.

3 THE COURT: Mr. Fitzgerald, do you care to inquire?

4 MR. FITZGERALD: If I may.

5
6 VOIR DIRE EXAMINATION OF MR. BONNER

7 BY MR. FITZGERALD:

8 Q What is your business or occupation, Mr.
9 Bonner?

10 A Postal supervisor.

11 Q Do you work out of a particular post office
12 facility, Mr. Bonner?

13 A The Terminal Annex.

14 Q Are you married, sir?

15 A Married. No children.

16 Q No children?

17 A None.

18 Q Is your wife employed outside the home?

19 A No, she is not.

20 Q In what area of the City or County do you
21 reside, Mr. Bonner?

22 A Altadena.

23 MR. STOVITZ: What was that, sir?

24 MR. BONNER: Altadena.

25 MR. FITZGERALD: Q Altadena?

26 A Yes.

1 Q Have you ever served as a juror before, Mr.
2 Bonner?

3 A Never served.

4 Q From your seat in the audience, Mr. Bonner,
5 were you able to hear the questions that I asked the other
6 prospective jurors?

7 A I was able to hear.

8 Q Is there any particular question that you
9 would like to address yourself to, or is there any
10 particular question that you would answer any differently
11 than any of the other prospective jurors, sir?

12 A Nothing except for the fact that I don't
13 subscribe to newspapers except for one periodical,
14 Better Homes and Gardens, that is because I don't particu-
15 larly appreciate many of the things that I read in
16 newspapers, but Better Homes and Gardens is much more
17 relaxing; if that makes any sense.

18 Q You don't subscribe to a newspaper?

19 A None.

20 Q Do you own a television set, Mr. Bonner?

21 A Yes.

22 Q And do you watch television occasionally?

23 A Occasionally.

24 Q Do you watch news programs on television?

25 A Occasionally.

26 Q Occasionally?

1 A Yes.

2 Q What about radio? Do you own a radio and
3 listen to it occasionally, Mr. Bommer?

4 A We own radios but we don't listen to them.

5 Q Do you have a radio in your car?

6 A Yes, I have, but I don't listen to it.

7 Q Have you read anything about this case any
8 place, sir?

9 A Well, even though I don't subscribe to
10 newspapers, whenever I have a few minutes or something,
11 like maybe sitting in the jury room or in a barbership,
12 I may pick up a paper and read it.

13 Now, the headlines pertaining to this case I
14 read whenever it occurred, and then I just let it go at
15 that, it was just so much headlines.

16 Since that time I had never followed the case
17 because these kind of cases don't appeal, you know, to
18 me. So I didn't pay any attention any more to it, until
19 I was called for this particular jury thing.

20 Q But during your coffee break or something at
21 work, I take it there are newspapers and magazines on the
22 table that you have access to, and things like that;
23 right?

24 A Right.

25 Q But you can't ever recall ever actually
26 reading anything about this case?

1 A That is what I said. I did read.

2 Q Just headlines?

3 A The headlines, right.

4 Q Or notes at the top of a column in larger
5 type, or something like that?

6 A The headlines only, yes; the headlines and
7 the bold print underneath, you know. Then as soon as
12e fls. I find out what it is, I am gone on something else.

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1 Q Have you ever served as a juror before on
2 any kind of a case?

3 A No, sir.

4 Q Are you familiar with any of the witnesses
5 or any of the locations or anything like that?

6 A No, I am not familiar with them.

7 Q Do you have any bias or prejudice against
8 psychiatric or psychological testimony?

9 A Not at all.

10 Q Do you have any professional experience with
11 or have any knowledge or degree of expertise in the field
12 of LSD or related hallucinogenic drugs?

13 A No, sir.

14 Q Do you have any quarrel with the presumption
15 of innocence or reasonable doubt?

16 A Not at all.

17 Q Would you carefully and critically analyze
18 any circumstantial evidence that might be introduced
19 against any of the defendants in this case?

20 A I would.

21 Q Would you require that the defendants prove
22 their innocence to you?

23 A Would I require that they prove their
24 innocence?

25 Q Yes.

26 A No, because, getting back to the newspapers,

1 there was a question that you asked the previous people
2 that were sitting here pertaining to the news item relating
3 to their innocence or guilt, and as I said, even though I
4 don't subscribe to any newspaper, when I am in the barber-
5 shop, or something like that, I pick up the newspapers and
6 read them.

7 Q I understand that.

8 A All right.

9 In conjunction with that, there was one
10 newspaper particularly that adhered to their innocence.
11 So there you are.

12 Q What newspaper was that, Mr. Bonner, do you
13 recall?

14 A The Free Press.

15 Q Mr. Bonner, you don't belong to any organiza-
16 tions that has as one of its tenets the increase of the
17 number of offenses punishable by death in California or
18 anything like that?

19 A No, I don't.

20 Q You have been asked whether you would auto-
21 matically impose a sentence of life imprisonment in a case
22 without regard to the evidence. Let me ask you if you
23 would automatically impose the death sentence without
24 regard to the evidence?

25 A No. I would have to listen to the evidence.

26 Q Now, Mr. Bonner, let's go back for a moment to

1 this proposition of reasonable doubt.

2 You have stated that you wouldn't require
3 the defendants to prove their innocence to you.

4 A Right.

5 Q If you had, after listening to all the
6 evidence, Mr. Bonner, a reasonable doubt as to the
7 defendant's guilt, would you vote to acquit them?

8 A If I had a reasonable doubt, I would acquit
9 them; I would vote to acquit them.

10 Q Would you require that the defendants prove
11 to you who committed these offenses if they didn't?

12 A No. I don't think that has anything to do
13 with the case as such. They are on trial and not somebody
14 else. So I wouldn't be concerned with their proving that
15 somebody else did or did not do whatever it might have been.

16 Q All right.

17 Now, let's take some recent exposure that
18 you have had to the media.

19 Have you read or heard anything in the
20 newspaper, on television or on the radio in connection
21 with Mr. Kanarek?

22 A Yes, I have.

23 Q What was the source of that information?

24 A This was television, recently, perhaps some
25 time this week, since I have been on this case as a
26 prospective juror.

1 It was District Attorney Younger's attempt
2 to have Mr. Kanarek removed from representing Mr. Manson.

3 MR. FITZGERALD: Fine. Thank you very much, sir.

4 THE COURT: Mr. Reiner?

5 MR. REINER: Yes.

6 Does your Honor wish to take the afternoon
7 recess at this time or shall I start now?

8 THE COURT: Yes, we will take the recess.

9 Do not converse among yourselves, ladies and
10 gentlemen, or with anyone else on any subject relating to
11 the case nor form or express any opinion regarding the
12 case until it is finally submitted to those of you who
13 are selected.

14 15 minutes.

15 (Recess.)

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1 THE COURT: All parties and counsel are present;
2 all the prospective jurors are in the jury box.

3 You may proceed, Mr. Reiner.

4 MR. REINER: Thank you, your Honor.

5
6 VOIR DIRE EXAMINATION OF MR. BONNER

7 BY MR. REINER:

8 Q Mr. Bonner, you indicated that the only magazine
9 that you read on a regular basis is Better Homes and Gardens.

10 A That is correct.

11 Q They do not have seemed to have covered this
12 case with any degree of thoroughness.

13 A None at all.

14 Q You find that more relaxing than other
15 magazines?

16 A Yes, definitely, yes, sir.

17 Q Perhaps it may come to pass if you become a
18 juror in this case you may welcome going back to reading
19 Homes and Gardens.

20 You did hear the questions put to the other
21 jurors by myself and the other lawyers?

22 A Yes, sir.

23 Q And you were considering your answers at that
24 time, considering the answer that you might give if you
25 were called to the jury box to also answer questions.

26 A Yes, sir.

2-3

1 Q With regard to the publicity given this case,
2 you have read about the case from time to time, at least
3 the headlines thereof, in these last few months since the
4 arrests occurred?

5 A Yes.

6 Q And of course the headlines, of course, are
7 the worst of all.

8 Do you recall any of the headlines that you did
9 read?

10 A Frankly, no.

11 Q But it would be a reasonable -- well, would it
12 be reasonable to say that the headlines generally suggested
13 that the defendants or some of them were guilty of the
14 crimes with which they had been charged?

15 A The headlines being what they are, this is the
16 suggestion.

17 Q Yes. You say "Headlines being what they are."
18 You meant to state, I assume, that the headlines
19 are perhaps the most sensational of the material that would
20 appear in the newspaper?

21 A Yes, to my knowledge, yes.

22 Q Pardon?

23 A I agree, yes.

24 Q And if the body of the story suggested that
25 perhaps the defendants would be guilty, surely, then, the
26 headlines generally speaking would do more than merely

13-4

1 suggest or hint at the possibility, but /: would exclaim it.

2 Would that be true?

3 A That's true.

4 Q If you were to be exposed to such headlines,
5 such stories presently, you would, of course, discipline
6 yourself not to be influenced by such suggestions because
7 it may occur that you would be a juror in this case.

8 Is that true?

9 A That is also true.

10 Q But when these headlines first began and they
11 were at their very worst, the early part of the year, at
12 that time it did not occur to you there was a likelihood
13 or any possibility to you, that you might some day be a juror
14 in this case?

15 A Not the remotest possibility.

16 Q Not the remotest possibility.

17 So at that time you did not make a conscious
18 attempt to discipline yourself so as to avoid receiving
19 any suggestions, did you?

20 A No.

21 Q Actually, if we are to be completely candid,
22 it would be impossible for you to say whether your judgment
23 prior to the time that you were called as a prospective
24 juror was influenced in any way subconsciously or otherwise
25 by these constant suggestions from the media with respect to the
26 guilt of the defendants.

Is that true?

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1 A In relationship to the guilt of the defendants,
2 that is true.

3 However, in reading the headlines, it occurred
4 to me that somewhere down the line that somebody had
5 seriously failed in their responsibilities to these people,
6 and this is the thing that occurred to me. That is what I
7 would think of.

8 Q Yes, I agree --

9 THE COURT: Just a moment.

10 MR. BUGLIOSI: Your Honor --

11 THE COURT: I don't understand that answer. Would you
12 state what you mean?

13 THE JUROR: What I mean is that somewhere, somehow,
14 in the background or in the upbringing or in the particular
15 society that people belong to, they were failed.

16 THE COURT: You are speaking now of the defendants.

17 THE PROSPECTIVE JUROR: Of the defendants.

18 THE COURT: All right, go ahead, Mr. Reiner.

19 MR. REINER: Thank you, your Honor.

20 Q BY MR. REINER: Notwithstanding anything that
21 you have seen or heard or read, were any impressions or
22 opinions that you presently may have prior to coming into
23 this case -- you will be instructed if you are a juror in
24 this case to presume that the defendants are innocent.

25 Will you so presume?

26 A I would.

13-6

1 Q Do you in fact presume that Leslie Van Houten is
2 innocent until and unless evidence to the contrary is
3 offered?

4 A I presume she is innocent.

5 Q I speak of evidence being presented to the
6 contrary, I mean evidence beyond all reasonable doubt and
7 evidence that relates to Leslie Van Houten, not evidence
8 that would relate to some other defendant or defendants
9 in this case.

10 Do you appreciate that?

11 A I appreciate that.

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1 Q So even if there was evidence in this case that
2 proved to your mind beyond all reasonable doubt that one
3 or more defendants were guilty, nonetheless you would
4 acquit Leslie Van Houten if the evidence as it related to
5 her was insufficient?

6 A I would vote for an acquittal.

7 Q You have no reservations about that?

8 A None at all.

9 Q If it appeared to you in observing Miss Leslie
10 Van Houten's conduct the past few days that it was her
11 desire to be convicted if any one of these defendants were
12 convicted, would you nonetheless base the case on the
13 evidence, not on her wishes and desires in the matter?

14 A Based on the evidence only.

15 Q So even if she wishes to be convicted, if
16 any member of this Family is convicted, you would nonethe-
17 less acquit her if the evidence as related to her was
18 insufficient?

19 A I would vote for an acquittal.

20 Q It would not be her wishes in the matter that
21 would be controlling; it would be the evidence.

22 A The weight of the evidence.

23 MR. REINER: Thank you very much. I have no further
24 questions.

25 I will pass for cause, your Honor.

26 MR. SHINN: Pass for cause, your Honor.

1 THE COURT: Mr. Kanarek?

2 MR. KANAREK: No questions, your Honor.

3 MR. STOVITZ: No questions, your Honor.

4
5 VOIR DIRE EXAMINATION OF MR. BONNER

6 BY THE COURT:

7 Q Mr. Bonner, do you think you will be able to
8 put aside, assuming you are selected as a juror in this
9 case, that you will be able to put aside everything that
10 you read or heard about this case, and decide the case
11 solely on the evidence developed during the trial?

12 A Yes, sir.

13 Q Do you have any question about that at all?

14 A None whatsoever.

15 Q As of this moment have you formed any opinion
16 one way or the other as to the guilt or innocence of any
17 defendant in the case?

18 A No, sir, I have not.

19 Q Do you think that you will be able to dis-
20 passionately consider and weigh the evidence and apply the
21 law as given to you by the Court in its instructions, and
22 base your decision solely on that evidence and in
23 accordance with the law?

24 A Yes, sir, I think so.

25 THE COURT: All right, sir.

26 MR. KANAREK: May we approach the bench?

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1 THE COURT: Very well.

2 (The following proceedings were had at the
3 bench out of the hearing of the prospective jurors:)

4 MR. KANAREK: Your Honor, I do interpose a challenge
5 for actual bias.

6 THE COURT: I cannot hear you.

7 MR. KANAREK: I interpose a challenge for actual
8 bias.

9 THE COURT: Actual bias?

10 MR. KANAREK: Yes, your Honor.

11 THE COURT: On what basis?

12 MR. KANAREK: On the basis of the man's exposure to
13 the publicity, and because of all the publicity involved.

14 MR. REINER: I wish to withdraw my previous
15 indication that I pass for cause in regard to this
16 prospective juror.

17 I enter a challenge for cause under Section
18 1073 of the Penal Code.

19 THE COURT: I did not hear the last part.

20 MR. REINER: Pursuant to 1073 of the Penal Code.

21 THE COURT: All right, very well.

22 MR. STOVITZ: Mr. Shinn, do you have any remarks?

23 MR. SHINN: No remarks.

24 MR. STOVITZ: The people have no remarks.

25 THE COURT: The challenges will be disallowed.

26 MR. KANAREK: I have another request.

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1 I have a request that -- I'm sure -- in any
2 event, Mr. Reiner --

3 THE COURT: Keep your voice up.

4 MR. KANAREK: Mr. Reiner uses the word "Family."

5 I object to the use of that word, "Family."
6 There is no showing of any family in that usual sense of
7 the word.

8 I would object and ask your Honor to admonish
9 the jury that the word "family" is not to be used for any
10 purpose whatsoever.

11 There is no evidence before them of anything
12 about a family, and that they should strike from their
13 minds -- a pure admonishment not sufficing, I would ask for
14 a mistrial because this conspiracy count that has been
15 made against Mr. Manson is one wherein this constant use of
16 the word "Family" has a prejudicial effect which denies
17 him a fair trial.

18 We ask for the admonishment, and as I say,
19 the relief that we asked for.

20 I think that this is very damaging to
21 Mr. Manson. There is no evidence -- I don't want to be
22 repetitive, but that is my request of the Court, that I
23 have enunciated.

24 THE COURT: Well, did I understand you correctly that
25 you made a motion for a mistrial?

26 MR. KANAREK: Yes, my motion is that, your Honor,

1 first, my motion is that your Honor admonish the jury that
2 there is nothing before them that there is any Family or
3 any kind of such relationship, and there is no evidence
4 before them of anything, including any Family relationship.

5 A mere admonishment not sufficing, I ask for a
6 mistrial.

7 THE COURT: Well, let me see if I understand you.

8 You want me to admonish the jury first and then
9 declare a mistrial?

10 MR. KANAREK: The reason I say that is this, your
11 Honor, I am asking for a mistrial --

13b-1

1 THE COURT: This is based upon Mr. Reiner's statements--

2 MR. KANAREK: Not just Mr. Reiner's, the constant
3 reiteration, and the use of the word, "Family," what has
4 been in the press, for instance, the inculcation in their
5 mind of this is conducive to the prosecution's theory of
6 conspiracy, and therefore I think that the admonishment --

7 THE COURT: Well, I don't think there have been any
8 prejudicial references to any Family, a term that has been
9 used only in the context of questions trying to elicit
10 any actual or implied bias on the part of these prospec-
11 tive jurors.

12 These have been perfectly legitimate inquiries.

13 Counsel have simply been trying to find out
14 what the jurors' state of mind is with respect to what
15 they have read and seen.

16 MR. KANAREK: I know, your Honor, but what I am
17 saying is I think the cases hold in order to raise this
18 matter on appeal you must first ask for the admonishment,
19 and then if you feel the admonishment is not enough and
20 it would not cure the defect, the bell having been rung,
21 actually what I am asking for is a mistrial.

22 THE COURT: All right.

23 MR. KANAREK: And I am asking for what I asked for
24 -- that is, that the Court admonish them that there is no
25 evidence before them, including anything -- including the
26 relationship.

13b-2

1 THE COURT: The prospective juror having been fully
2 admonished as to all aspects of the voir dire examination,
3 the motion will be denied.

4 MR. KANAREK: Including the admonishment, your Honor?

5 Your Honor will not admonish them?

6 THE COURT: I will certainly admonish them whenever
7 I feel it is necessary.

8 I don't feel it is necessary at this time
9 with regard to the matters you mentioned.

10 MR. KANAREK: Very well.

11 (The following proceedings were had in open
12 court in the presence and hearing of the prospective
13 jurors:)

14 THE COURT: It is the People's next peremptory
15 challenge.

16 MR. STOVITZ: People thank and excuse Juror No. 6,
17 Mr. Bonner, your Honor.

18 THE COURT: Thank you, Mr. Bonner, you are excused.

19 MR. KANAREK: Your Honor, in order to conserve time,
20 your Honor, I will mention that on another occasion --

21 THE CLERK: Ned E. Daughdrill, N-e-d; D-a-u-g-h-d-r-i-l-l-1

22 THE COURT: Spell that last name once more.

23 THE CLERK: D-a-u-g-h-d-r-i-l-l-1.

24 THE COURT: How do you pronounce the last name,
25 sir?

26 THE JUROR: Daughdrill.

1 THE COURT: Daughdrill?

2 THE JUROR: Yes.

3 (Whereupon, Mr. Ned E. Daughdrill came forward
4 and was seated in seat No. 6 in the jury box.)

5
6 VOIR DIRE EXAMINATION OF MR. NED E. DAUGHDRILL
7 BY THE COURT:

8 Q Mr. Daughdrill, have you heard and understood
9 everything that has been said in the court since you came
10 into the case?

11 A Yes.

12 Q If you were selected as a juror in this case
13 would you be able to serve?

14 A Yes.

15 Q Have you had an opportunity to consider the
16 death penalty question that I have asked the other
17 prospective jurors, and your answers thereto?

18 A Yes.

19 Q Do you entertain such conscientious opinions
20 regarding the death penalty that you would be unable to
21 make an impartial decision as to any defendant's guilt
22 regardless of the evidence developed during the trial?

23 A No.

24 Q Do you entertain such conscientious opinions
25 regarding the death penalty that you would automatically
26 refuse to impose it without regard to the evidence developed

1 during the trial?

2 A No.

3 THE COURT: Mr. Fitzgerald.

4
5 VOIR DIRE EXAMINATION OF MR. DAUGHDRILL

6 BY MR. FITZGERALD:

7 Q Good afternoon.

8 A Good afternoon.

9 Q What is your business or occupation, Mr.
10 Daughdrill?

11 A I am an engineer.

12 Q By whom are you employed?

13 A Hughes Aircraft.

14 Q Are you married, sir?

15 A No.

16 Q Where in the County of Los Angeles do you
17 reside?

18 A Palms.

19 Q In the City of Los Angeles?

20 A Yes.

21 Q Have you ever served as a juror before?

22 A No.

23 Q Have you read or heard anything about this
24 case?

25 A Yes.

26 Q Anything that would influence you in arriving

1 at a verdict in this case?

2 A No.

3 Q Have you thought that over before you took
4 your seat in this trial?

5 A Yes.

6 Q Do you subscribe to the Los Angeles Times or
7 any other newspaper?

8 A Yes, I subscribe to newspapers, more than one.

9 Q Do you subscribe to the Los Angeles Times?

10 A The Sunday Times only.

11 Q Do you read the Los Angeles Times on a regular
12 basis even though you don't subscribe?

13 A Fairly often.

14 Q Have you read anything in the Times about
15 this case?

16 A Yes.

17 Q Have you also read other newspapers in connec-
18 tion with this case?

19 A Yes.

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1 Q Have you also read about this case in
2 periodicals?

3 A I believe so.

4 Q Have you seen material concerning this case on
5 television?

6 A I do not own a TV.

7 Q Pardon me?

8 A I do not own a TV. I have ^{not} seen it.

9 Q Nor have you seen it on anyone else's TV, I
10 take it?

11 A That's correct.

12 Q Do you own a radio?

13 A Yes, through part of the time I owned a radio.

14 Q Have you resided continuously in Los Angeles
15 County since August of 1969?

16 A Address -- during the period of the killings I
17 was not in the country.

18 Q When did you come into the country or back into
19 the country?

20 A In late September of '69.

21 Q Have you read anything good about the defendants
22 in any of the materials you have been exposed to?

23 A Yes.

24 Q And what was the source of that information?

25 A The L.A. Free Press.

26 Q Other than that publication did you read

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1 anything good about the defendants or anything concerning
2 their good character?

3 A No. I -- well, I read -- I am an avid reader
4 and read the papers, I am also fairly selective, and I
5 don't read that type of material in the paper, so while I
6 have read periodically, it has not been a continuous deluge
7 of articles.

8 THE COURT: Keep your voice up, please.

9 MR. DAUGHDRILL: Excuse me.

10 THE COURT: I heard the answer, but it was a little
11 difficult to hear, and I think some of the people in the
12 back of the court may have trouble.

13 Q BY MR. FITZGERALD: Were you exposed to any of
14 the publicity in connection with Mr. Kanarek and Mr.
15 Younger?

16 A Not until it was brought up in the courtroom.

17 Q Your exposure to it has been based on the
18 materials that have been presented here in court?

19 A After that episode here in the courtroom I
20 did read about it.

21 Q And was that in the Los Angeles Times and the
22 Los Angeles Herald Examiner?

23 A It was in the Los Angeles Times.

24 Q If I were to ask you all the questions I have
25 asked all of the other preceding prospective jurors, would
26 your answers be approximately the same?

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A Yes, as far as I can recall any questions.

Q Is there any question you think you would answer any differently?

A Well, I have a little bit of trouble associating your questions with everybody else's questions.

Q Well, all right, just assume the amalgam of all the questions, all those weird, hundreds of questions were asked of you, is there any particular area of questioning to which you would respond any differently?

A No.

Q You obviously understand what my role is in this proceeding?

A I guess I would have to say that I just barely began a law study, but it's not a planned thing, it is a personal thing.

Q On your own you are studying law?

A Yes.

Q And is that through some organized program of studying, a correspondence school?

A Yes.

Q LaSalle University?

A Yes.

Q Are you in your first year, first materials?

A That's correct.

Q Are there any materials concerning criminal law?

1 A None at all.

2 Q Contracts, torts, that sort of thing?

3 A Contracts.

4 Q Is there any other area or any other particular
5 question that you feel should be asked of you?

6 A No.

7 Q If you were in my shoes would you ask you any-
8 thing?

9 A No.

10 Q If you were on trial here would you be satis-
11 fied to have a juror in your state of mind to sit in judg-
12 ment?

13 A Yes.

14 Q Can you think of any reason why you cannot be
15 fair and impartial to the defendants in this case?

16 A No.

17 MR. FITZGERALD: Thank you very much.

18 THE COURT: Mr. Reiner?

19 VOIR DIRE EXAMINATION OF MR. DAUGHDRILL

20 BY MR. REINER:

21 Q Mr. Daughdrill, you indicated that you are an
22 avid, although a selective, reader of the newspaper, is
23 that true?

24 A That is true.

25 Q All right, now, does that mean that at least
26 recently you have been selective to the point of not

1 reading the stories about this case with any degree of
2 care or regularity?

3 A On the contrary, the opposite is true.

4 Q Oh, so lately you have been reading the
5 stories on this case with some degree of care?

6 A Well, not quite to that extent, but let's
7 say lately I have read on the case whereas before I
8 specifically avoided reading about it.

9 Q When did it begin that you started to read
10 more carefully about this case?

11 A Since I have been on jury duty.

12 Q Was that since you were called to this court-
13 room or since you were called to meet in the assembly room
14 across the street?

15 A I think since I was called to this courtroom.

16 Q To this particular courtroom. Prior to that
17 it was not your practice to read very much about this case,
18 is that the truth?

19 A That is true.

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1 Q However, when the case first broke, that is,
2 when the arrests first occurred, at that time, presumably
3 you did read about the case; would that be true?

4 A No.

5 Q Even at the time that the case -- strike that --
6 even at the time that the arrests occurred, your interests
7 or your attention was not attracted to this particular
8 case?

9 A Offhand I could not even recall when the arrests
10 occurred.

11 Q But the name Manson was familiar to you?

12 A Very familiar.

13 Q How was it that you became familiar with the
14 name Manson? Was it through the newspapers, radio, television,
15 conversations that you overheard?

16 A A conglomerate of all of these.

17 Q You do recall reading of Mr. Manson in, say,
18 the Los Angeles Times from time to time?

19 A Yes.

20 Q And you saw his name mentioned in, oh, just
21 a number of headlines?

22 A Innumerable.

23 Q Innumerable headlines?

24 Would it be a fair statement to say that
25 in these headlines the guilt of Mr. Manson was hinted at?

26 A Definitely.

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1 Q Perhaps it was even more^{than} hinted at; the
2 headlines seemed to suggest that his guilt was a foregone
3 conclusion; would that be a reasonable statement?

4 A That is my opinion.

5 Q It is not your opinion that his guilt is --

6 A That is my opinion of the papers.

7 Q Yes.

8 Now, of course, would you agree that it is,
9 as a practical matter, impossible to know for sure whether
10 our subconscious is perhaps influenced by suggestions that
11 we receive over many months from the media?

12 A Yes. I believe that you tell someone some-
13 thing long enough and he will believe it.

14 Q So, at this time, you would accept as a
15 reasonable proposition that it is possible that you have
16 a belief in the guilt of these defendants, or some of them,
17 because of the constant exposure to headlines in the
18 newspapers which assumed his guilt?

19 Would that be a reasonably fair statement?

20 A Definitely not.

21 Q It would not?

22 A No.

23 Q So at this point you feel that you have not
24 been influenced by these headlines that you have seen?

25 A That is correct.

26 Q You feel that if you were instructed that you

1 must presume the defendants are guilty, you will presume
2 they are guilty? I am sorry. That these defendants are
3 innocent, you will presume that they are innocent?

4 A I am presuming that at the present time.

5 Q You, in fact, do presume that they are
6 innocent?

7 A Yes.

8 Q Unless and until there is evidence to the
9 contrary?

10 A That is correct.

11 Q You are presently an engineer at Hughes
12 Aircraft?

13 A Correct.

14 Q And you are studying law/evenings or in
15 your spare time?

16 A In my spare time is a little more apt.

17 Q Why in the world would you want to leave
18 the field of engineering to become a lawyer?

19 A Well, as I indicated, it really wasn't my
20 expressed purpose to become a lawyer; more for personal
21 interests.

22 MR. REINER: I have no further questions. Thank you.

23 THE COURT: Mr. Shinn?

24 MR. SHINN: Pass for cause.

25 THE COURT: Mr. Kanarek?

26 MR. KANAREK: No questions, your Honor.

1 MR. STOVITZ: The People have no questions, your
2 Honor.

3
4 VOIR DIRE EXAMINATION OF MR. DAUGHDRILL
5 BY THE COURT:

6 Q Mr. Daughdrill, do you believe that if you
7 are selected as a juror you will be able to put out of
8 your mind anything you may have read, seen or heard about
9 the case or any of the defendants and decide the case
10 solely on the evidence presented during this trial?

11 A I find the two statements very hard to
12 connect or to -- well, I find that I am in disagreement
13 with the part about putting it completely out of my mind.
14 I don't think that it is possible.

15 Q If I said that, I will reword it.

16 Do you think you would be able to put aside
17 what you may have read, seen or heard? I know it is
18 difficult to ask yourself not to think of something
19 because you find yourself thinking about it, but can
20 you put aside, recognizing what you may have read, heard
21 or seen, and separate that from what you would hear and
22 see and what you would learn through the evidence and
23 the Court's instructions at the trial and decide the
24 case solely on the evidence at the time?

25 A Yes.

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1 Q Do you have any questions or mental
2 reservation about that, Mr. Daughdrill?

3 A None.

4 Q As you sit here today, have you formed any
5 opinion as to the guilt or innocence of any defendant in
6 this case?

7 A I formed an opinion that they are innocent
8 because they are supposed to be innocent, but aside from
9 that, your Honor --

10 Q By that you mean you are willing to accept the
11 Court's instruction that every defendant is presumed to be
12 innocent until the contrary is proved? Is that what you
13 mean, sir?

14 A I hope I go further than just accepting it, your
15 Honor.

16 Q I beg your pardon?

17 A I hope I go further than just accepting it.
18 I believe it.

19 Q Yes. But I mean, you have not formed any
20 opinion that any defendant is guilty; is that right?

21 A That is correct.

22 THE COURT: Any further questions, gentlemen?

23 MR. STOVITZ: No questions.

24 MR. REINER: No, your Honor.

25 MR. KANAREK: May we approach the bench, your Honor?

26 THE COURT: Yes.

(Whereupon, all counsel approached the bench

14a2 1 and the following proceedings occurred at the bench out-
2 side of the hearing of the prospective jurors:)

3 MR. KANAREK: Yes, your Honor. Because of the
4 exposure, your Honor, I must challenge this man for
5 actual bias.

6 MR. STOVITZ: Submit it, your Honor.

7 MR. KANAREK: That is my motion, your Honor.

8 MR. REINER: We would also interpose a challenge for
9 cause based on 1073 of the Penal Code.

10 MR. FITZGERALD: Join.

11 MR. STOVITZ: Mr. Shinn, do you want to join in the
12 motion for actual bias?

13 MR. SHINN: Join.

14 MR. STOVITZ: We will stipulate to actual bias as to
15 this juror, your Honor.

16 MR. KANAREK: I am not going to stipulate.

17 THE COURT: I beg your pardon?

18 MR. STOVITZ: They all made a motion to excuse this
19 juror for actual bias, and I will stipulate with them that
20 this juror is biased.

21 MR. REINER: Okay, we will accept the stipulation.

22 MR. KANAREK: No.

23 MR. REINER: Yes.

24 THE COURT: Just a moment.

25 MR. STOVITZ: I was going to say that if ever a juror
26 expressed disinterest in a case and shown that he can be

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1 completely objective, this juror has.

2 THE COURT: I take it that your remarks were made to
3 be facetious?

4 MR. STOVITZ: Yes, your Honor.

5 THE COURT: I find no evidence of actual bias on the
6 part of this juror and the challenge will be disallowed.

7 MR. KANAREK: May the record reveal that both
8 Mr. Stokes and Mr. Bonner were of the black and Negro race?
9 May the record so state?

10 THE COURT: Yes.

11 MR. KANAREK: Thank you, your Honor.

12 (Whereupon, all counsel returned to their
13 respective places at the counsel table and the following
14 proceedings occurred in open court within the hearing and
15 presence of the prospective jurors:)

16 THE COURT: The defendants may exercise a joint
17 peremptory challenge.

18 MR. FITZGERALD: There will not be the exercise of a
19 joint peremptory at this time, your Honor.

20 Defendant Patricia Krenwinkel will accept the
21 jury as now constituted.

22 THE COURT: Mr. Reiner?

23 MR. REINER: Your Honor, we would thank and excuse
24 juror No. 2, Mr. Rollins.

25 THE COURT: Thank you, Mr. Rollins. You are excused.

26 THE CLERK: Harold F. Fogt; H-a-r-o-l-d, F-o-g-t.

1 Would you pronounce your name, please?

2 MR. FOGT: Fogt.

3 THE CLERK: F-o-g-t, is that the correct spelling?

4 MR. FOGT: Yes.

5 THE CLERK: Thank you.

6 (Whereupon, Mr. Harold F. Fogt was seated in
7 seat No. 2 in the jury box.)

8
9 VOIR DIRE EXAMINATION OF HAROLD F. FOGT

10 BY THE COURT:

11 Q Mr. Fogt, have you heard and understood every-
12 thing that has been said in the court since you came into
13 the case, sir?

14 A Yes.

15 Q If you are selected as a juror will you be able
16 to serve?

17 A No.

18 Q What is your situation, sir?

19 A My wife is a semi-invalid and she can't be
20 alone at night.

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14b-1

1 Q And you are required to be present to care
2 for her?

3 A Yes. She has no sense of balance and she
4 also has a heart condition, and in the dark she is
5 helpless.

6 Q And does she rely wholly on you for her care?

7 A Yes.

8 Q Is this something that is likely to continue
9 indefinitely?

10 A She has had it for about 17 years.

11 Q And there is no one else that can care for her?

12 A No.

13 Q Are you asking to be excused, sir?

14 A Yes.

15 THE COURT: Very well, you are excused, then, for
16 hardship reasons.

17 THE CLERK: Oscar A. Graf; O-s-c-a-r, G-r-a-f.

18 (Whereupon Mr. Oscar A. Graf came forward
19 and was seated in the jury box.)

20
21 VOIR DIRE EXAMINATION OF MR. OSCAR A. GRAF
22 BY THE COURT:

23 Q Mr. Graf, have you heard and understood
24 everything that has been said in court since you came
25 into the case?

26 A Yes, I did.

1 Q I think you may not have the switch on the
2 mike.

3 A Yes, I did.

4 Q If you are selected as a juror, Mr. Graf,
5 would you be able to serve?

6 A No. I would like to be excused.

7 I am going to make a trip to Germany for a
8 reunion with the family. It has already been paid for.
9 trip

10 Q When is that/scheduled?

11 A The middle of August.

12 Q That is something that has been planned for
13 sometime, has it?

14 A Yes. It was planned before this trial
15 started.

16 Q How long do you anticipate being gone?

17 A Oh, about six weeks. And when I come back,
18 I could serve again.

19 THE COURT: I am afraid we couldn't wait.

20 Very well, you will be excused, sir, for
21 hardship.

22 MR. GRAF: Thank you.

23 MR. FITZGERALD: May we approach the bench?

24 THE COURT: Just one moment, Mr. Graf. Would you
25 be seated for just one moment.

26 MR. GRAF: Yes, sir.

THE COURT: All right.

1 (Whereupon all counsel approach the bench
2 and the following proceedings occurred at the bench
3 outside of the hearing of the prospective jurors:)

4 MR. FITZGERALD: On behalf of Defendant Patricia
5 Krenwinkel, I will object to the Court excusing this
6 juror for hardship.

7 I don't think his situation amounts to an
8 actual hardship.

9 MR. SHINN: Join.

10 MR. KANAREK: Join, your Honor.

11 MR. STOVITZ: Unless we are going to resume the
12 case aboard ship or aboard a plane, I think it is going
13 to be difficult for him to think about this trial with
14 his family going to Germany for a reunion.

15 I submit, your Honor, that you have the
16 inherent power to excuse this juror for actual hardship.

17 MR. FITZGERALD: I am not questioning your Honor's
18 power. I am suggesting that there is insufficient showing.

19 MR. KANAREK: Your Honor, I must join with Mr.
20 Fitzgerald. I do join with Mr. Fitzgerald.

21 THE COURT: On what basis, Mr. Kanarek?

22 MR. KANAREK: What is that, your Honor?

23 THE COURT: On what grounds, Mr. Kanarek?

24 The same grounds he raised?

25 MR. KANAREK: I feel that I must. It is my obliga-
26 tion to the defendant.

1 THE COURT: I am not questioning your right to
2 object. I'm trying to find out on what basis.

3 MR. KANAREK: Your Honor, I think that the present
4 state of the record is such that there is an insufficient
5 basis for the somewhat summary action of discharging him.

6 THE COURT: Well, I will exercise my discretion
7 and excuse this juror for hardship.

8 (Whereupon all counsel return to their
9 respective places at the counsel table and the following
10 proceedings occurred in open court within the presence
11 and hearing of the prospective jury:)

12 THE COURT: All right. You are excused, Mr. Graf.
13 Thank you.

14 MR. GRAF: Thank you.

15 THE CLERK: Virgil L. Mead; V-i-r-g-i-l, M-e-a-d.

16 (Whereupon Mr. Virgil L. Mead came forward
17 and was seated in the jury box:)

18
19 VOIR DIRE EXAMINATION OF MR. VIRGIL L. MEAD
20 BY THE COURT:

21 Q Mr. Mead, have you heard and understood
22 everything that has been said in court since you came
23 into the case, sir?

24 A Yes, sir.

25 Q And if you were selected as a juror, would
26 you be able to serve?

1 A Well, I'd like to make a statement, if I
2 may.

3 I believe I would be prejudiced in this case.
4 I have already formed too strong opinions.

5 Q Well, I will ask you some other questions,
6 but right now I am asking you if there is any reason
7 why you would be unable to serve; that is, a personal
8 hardship reason?

9 A No, there is no hardship reason, I don't
10 suppose.

14c fls¹⁰

14C-1

1 Q Have you formed some opinion about the guilt
2 or innocence of any of the defendants in this case? Is
3 that what you meant to say, Mr. Mead?

4 A I am afraid I have, sir.

5 Q Do you believe that you could put aside your
6 opinion as to the guilt of any defendant and listen to the
7 evidence in the case and fairly and impartially decide the
8 case on the evidence?

9 A I don't believe I could, sir, because I followed
10 this case and I have discussed it at work too many times,
11 and I have pretty strong opinions to begin with.

12 Q You feel that you would be unable to be
13 impartial, sir?

14 A I feel like I wouldn't be a fair juror, your
15 Honor.

16 Q And this is based upon your presently-held
17 opinions as to the guilt of one or more of the defendants?

18 A Well, it has been since, as I say, since when-
19 ever they apprehended them, in December sometime, I believe.

20 Q Yes. But what I am trying to do is to ascertain
21 your state of mind as you sit here now, Mr. Mead.

22 A Well, as I say, I don't believe I could put
23 that out of my mind.

24 Q Are you saying that you now hold opinions
25 concerning the guilt of one or more of the defendants?

26 A I am afraid so.

Q And you believe that you would be unable to put

1 those out of your mind and decide the case solely on the
2 evidence?

3 A Right.

4 Q I beg your pardon?

5 A I said that is right. I wouldn't.

6 Q Is there any question in your mind about that?

7 A Not now, no.

8 THE COURT: Do counsel wish to inquire?

9 MR. FITZGERALD: No.

10 THE COURT: Pass for cause, Mr. Fitzgerald?

11 MR. FITZGERALD: Hardly.

12 The defendants would interpose an objection for
13 cause pursuant to Penal Code Section 1073, Subdivision 2.

14 MR. REINER: Yes, your Honor. On behalf of Leslie
15 Van Houten, we would also challenge the juror for cause
16 pursuant to Penal Code Section 1073.

17 MR. SHINN: Join, your Honor.

18 MR. KANAREK: Join, your Honor.

19 MR. STOVITZ: Submit it, your Honor.

20 THE COURT: All right. You will be excused, sir,
21 thank you.

22 THE CLERK: Donald W. Jackson; D-o-n-a-l-d,
23 J-a-c-k-s-o-n.

24 (Whereupon, Mr. Donald W. Jackson was seated in
25 seat No. 2 in the jury box.)
26

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1 VOIR DIRE EXAMINATION OF MR. DONALD W. JACKSON
2 BY THE COURT:

3 Q Mr. Jackson, have you heard and understood every-
4 thing that has been said in court since you came into the
5 case?

6 A I have.

7 Q If you were selected as a juror, Mr. Jackson,
8 would you be able to serve?

9 A I don't believe so, sir.

10 Q What is your situation?

11 A I work for the Boy Scouts, and for 30 days or
12 so we can serve, but I don't believe they would continue our
13 salary beyond that period, sir.

14 Q Is this something that you know to be a fact?

15 A This was mentioned when I first came on jury
16 duty. I can't say definitely on it, but this was the
17 impression I got, your Honor.

18 Q Is it something that you might be able to
19 ascertain between now and tomorrow morning?

20 A I am sure it is.

21 Q Is it a matter of official policy of the Boy
22 Scouts?

23 A We have four more people on jury duty right now,
24 your Honor. This is part of it.

25 Q I will ask you, then, if you will, Mr. Jackson,
26 ascertain tonight whether or not your compensation would be

1 continued if you were selected as a juror in this case
2 and let us know in the morning.

3 Would you do that, sir?

4 A Yes, sir.

D 5 Q In the meantime, I will ask you some other
6 questions.

7 Have you had an opportunity to consider the
8 death penalty questions that I have asked the other
9 prospective jurors and their answers to those questions?

10 A I have.

11 Q Do you entertain such conscientious opinions
12 regarding the death penalty that you would be unable to
13 make an impartial decision as to any defendant's guilt
14 regardless of the evidence developed during the trial?

15 A No, I do not.

16 Q Do you entertain such conscientious opinions
17 regarding the death penalty that you would automatically
18 refuse to impose it without regard to the evidence
19 developed during the trial?

20 A No, I do not, your Honor.

21 THE COURT: Mr. Fitzgerald, do you wish to inquire?

22 MR. FITZGERALD: Thank you, your Honor.

23
24 VOIR DIRE EXAMINATION

25 BY MR. FITZGERALD:

26 Q Mr. Jackson, what is the nature of your

1 duties with the Boy Scouts of America?

2 A I am what they call a District Executive and I
3 have charge of a geographical area.

4 Q Do you supervise the supervisors of boys?

5 A Yes.

6 Q Are you married, Mr. Jackson?

7 A Yes.

8 Q Do you have any children of your own, sir?

9 A I have three.

10 Q Three?

11 A Yes.

12 Q Could you give me their ages and sex, please?

13 A They are all boys; ages 17, 20 and 22.

14 Q Is your wife employed outside the home?

15 A No, she is not.

16 Q Do you reside in the County of Los Angeles?

17 A In La Canada.

18 Q La Canada?

19 A Yes.

20 Q Have you ever served as a juror before,
21 Mr. Jackson?

22 A If I may elaborate on this? I am not quite sure,
23 your Honor.

24 In civilian court, no. In military court, I
25 have had extensive service on all levels of military trials.

26 Q Did you have some experience in the military?

1 A Yes. I am retired from the military.

2 Q What branch of the service were you in,

3 Mr. Jackson?

4 A I was in the infantry.

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Q In the Army, the United States Army?

2

A Army, that's right.

3

Q How long were you in the Army?

4

A 20 years.

5

Q You were recently discharged from the Army?

6

A About six and a half years ago.

7

Q And what rank were you?

8

A I was a Major.

9

Q And what was the nature of your duties

10

toward the end of your tour of duty?

11

A My general assignment at that time?

12

Q Yes.

13

A I had several.

14

I was a headquarters commandant in a training center.

16

I was echelon personnel officer for a training regiment, and I was an escort supply officer for a training regiment.

18

19

Q Did you sit on summary court martials.

20

A I was a summary court martial; I was a member at times of a special court martial; and I was a member of a general court martial.

22

23

Q Did you sit on any courts martial -- is it courts martial?

24

25

A I believe the term is martials, yes.

26

Q Involving charges of criminal homicide?

1 A Yes, I have. I have also been a witness in
2 a case such as that, and I have performed the Article 32
3 investigations that are required prior to referral to
4 general court martial of such cases.

5 Q Do you consider that you were identified
6 with law enforcement, by and large, what I mean by law
7 enforcement, we are all interested in the enforcement of
8 the law, we refer to police officers, investigators,
9 investigative agencies, that sort of thing?

10 A Not in that sense, actually, no, although
11 I do have some relatives on police forces.

12 I have a nephew on the Deputy Sheriff of
13 Los Angeles County and a brother-in-law in the Glendale
14 Police Force.

15 Q Do you see these relatives occasionally?

16 A Yes, I do.

17 Q From time to time when you see them do they
18 discuss with you their views of crime and law enforcement,
19 et cetera?

20 A Yes, they do.

21 Q Are their opinions by and large your opinions
22 or is there a community of opinion on most of these
23 subjects?

24 A For the most part, we have some differences.

25 Q But by and large you are in agreement?

26 A That is correct.

1 Q In your seat in the audience were you able
2 to hear the questions I addressed to the other prospective
3 jurors, or that defense counsel generally or all counsel
4 addressed to the prospective jurors?

5 A Yes, sir, I did.

6 Q If each of those questions were asked of
7 you, to the best of your recollection would your answers
8 be approximately the same?

9 A Yes, other than the things I have indicated
10 here already.

11 MR. FITZGERALD: Fine, thank you.

12 MR. REINER: If the Court will bear with me for
13 just a moment, your Honor.

14 Your Honor, I have no questions.

15 THE COURT: Mr. Shinn, do you have any questions.

16 MR. SHINN: Yes, your Honor.

17
18 VOIR DIRE EXAMINATION OF MR. JACKSON

19 BY MR. SHINN:

20 Q Mr. Jackson, did you hear or read about
21 Mr. Kanarek?

22 A Yes, I did.

23 Q Mr. Manson's attorney?

24 A Yes, I have read and seen it on television.

25 Q Which paper do you read?

26 A I subscribe to the Los Angeles Times, the

1 Examiner and the Glendale News-Press.

2 Q You read it in all three papers?

3 A Yes, I did.

4 Q Do you recall what you read about Mr.
5 Kanarek?

6 A Generally, yes.

7 Q Do you remember what you read about him?

8 A Yes, I could not quote it verbatim, but I
9 know the general substance.

10 Q What was the general subject of Mr. Kanarek --

11 MR. STOVITZ: That is objected to as immaterial,
12 your Honor.

13 MR. SHINN: It is the same question I asked the
14 other jurors before, your Honor.

15 THE COURT: Objection overruled, you may answer.

16 MR. JACKSON: Generally that he was being charged
17 by the District Attorney, Younger, for incompetency,
18 based on previous actions, I guess.

19 BY MR. SHINN:

20 Q And I believe you stated you saw it on
21 television too?

22 A Yes, I saw Mr. Younger's press conference,
23 I believe it was the portion that was televised.

24 Q And do you recall what was said on the
25 television show?

26 A Part of it, yes.

1 Q Was it regarding Mr. Kanarek's incompetency?

2 A Yes, that's correct.

3 Q Now, would the fact that you heard about
4 Mr. Kanarek's incompetency, would that in any way
5 prejudice Mr. Manson?

6 A Not in my opinion, no.

7 MR. SHINN: No further questions.

8 THE COURT: Any questions, Mr. Kanarek?

9 MR. KANAREK: No questions, thank you.

15a fls.

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1 MR. REINER: With leave of the Court, may I ask a
2 few questions of this prospective juror, your Honor?

3 THE COURT: Yes.

4 MR. REINER: Thank you.

5
6 VOIR DIRE EXAMINATION OF MR. JACKSON

7 BY MR. REINER:

8 Q Mr. Jackson, before being called to court as a
9 prospective juror in this case you were familiar with
10 Mr. Manson, at least his name and likeness, is that true?

11 A Yes, that's correct.

12 Q Were you as well familiar with the name and
13 likeness of any other defendants in this case?

14 A Some of them, although -- if I heard them I
15 would recognize them; if I heard the name spoken, I would
16 not necessarily remember them on the spur of the moment.

17 Q Before coming to court had you heard the name
18 Susan Atkins?

19 A Yes, I had.

20 Q Patricia Krenwinkel?

21 A Yes.

22 Q Leslie Van Houten?

23 A Yes.

24 Q Did you recognize Susan Atkins when you saw
25 her, from her pictures as they appeared in the newspapers?

26 A No, I did not.

- 1 Q Miss Krenwinkel?
- 2 A None of the girls.
- 3 Q But you did recognize Mr. Manson?
- 4 A That's right.
- 5 Q Did you hear the questions that were put to the
- 6 other prospective jurors by Mr. Fitzgerald and myself
- 7 earlier?
- 8 A That's correct.
- 9 Q And at the time you heard those questions you
- 10 anticipated that perhaps you would be asked the same
- 11 questions if you were called to the jury box?
- 12 A That's right.
- 13 Q So at the time you made some attempt to answer
- 14 the questions in your own mind as they were being asked?
- 15 A That's right.
- 16 Q Since that time you have spent the time here in
- 17 court considering what your answers might be, is that true?
- 18 A That is true.
- 19 Q Now, up until his Honor admonished you during
- 20 the noon recess not to read newspapers or watch television
- 21 with regards to matters pertaining to this trial, prior to
- 22 that time you did, of course, read about this case in the
- 23 newspaper and you did watch newscasts made in this case,
- 24 didn't you?
- 25 A Sometimes, not continually.
- 26 Q Well, from the time you were called

15a3
1 to court as a prospective juror and the time that his Honor
2 admonished you that you were no longer to read the papers,
3 you did see some stories in the newspaper, you did see some
4 stories on the news programs relating to this particular
5 trial, did you not?

6 A Not to the trial itself, other than Mr. Kanarek
7 and the District Attorney, that was the only thing I saw
8 on television.

9 Q You did watch that on television?

10 A Yes, I did.

11 Q You read about it in the newspapers?

12 A That's right.

13 Q Now, if there appeared any suggestion in any
14 of these articles or anything that was on television
15 relative to the guilt or innocence of any of the defendants
16 in this case, you would have disciplined yourself not to
17 accept such suggestion because you recognized you were a
18 prospective juror in the case.

19 Would that be fair to say?

20 A Yes, it would.

21 Q However, last September at the time these
22 arrests occurred it did not occur to you that you might be
23 a juror in this case, did it?

24 A No, definitely not.

25 Q That was perhaps the furthest thing from your
26 mind at that time, was it not?

1 A That's right.

2 Q So at that time there was no reason that you
3 knew of that you had to discipline yourself to ignore any
4 suggestions that might come to you from the media with
5 respect to these respective defendants, is that true?

6 A That's right.

7 Q In fact, you did not discipline yourself at that
8 time?

9 A That's right.

10 Q Would it be a fair statement to say that the
11 totality of all of the information that you received from
12 the media, newspapers, radio and television, that the sum
13 and substance pointed toward the guilt of the defendants
14 or some of them?

15 A Yes, it would.

16 Q And at that time you accepted the suggestions
17 and assumed tentatively perhaps, but at least assumed at
18 that time that these stories were substantially accurate,
19 and that the defendants or some of them were in fact guilty?

20 A Yes, you could say that.

21 Q All right, and nothing has occurred to date
22 to change the impression that you have, is that true?

23 A That's right.

24 MR. REINER: Thank you. I have no further questions.

25 MR. STOVITZ: Mr. Shinn?

26 MR. SHINN: I pass.

Ja5

1 MR. KANAREK: No questions.

2 MR. STOVITZ: May we continue tomorrow?

3 THE COURT: It is 4:15.

4 MR. STOVITZ: Would your Honor be able to indicate
5 one way or the other whether or not we will have, say, a
6 3:00 o'clock recess tomorrow or are we going to go to
7 4:15 again?

8 It is just the Friday afternoon traffic.

9 THE COURT: Well, I am sorry, Mr. Stovitz, no one
10 would like a holiday more than I.

11 Unfortunately tomorrow is not a legal holiday,
12 and I plan to go the full session.

13 MR. STOVITZ: Just so we can plan.

14 THE COURT: We need all of the time we can get for
15 the trial matters.

16 Ladies and gentlemen, do not converse among
17 yourselves or with anyone else on any subject relating to
18 the case, nor form or express any opinion regarding the case
19 until it is finally submitted to those of you who are
20 selected as jurors.

21 Please do not forget my further admonition not
22 to read, watch or listen to anything about the case on any
23 of the media, or allow yourselves to be influenced inad-
24 versently, or otherwise, by anything read, seen or heard by
25 you concerning the case or any of the parties, witnesses,
26 attorneys, or anything else relating to the case.

1 9:45 tomorrow morning.

2 (Whereupon, an adjournment was taken to
3 reconvene Friday, July 3, 1970 at 9:45 a.m.)
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1 LOS ANGELES, CALIFORNIA, FRIDAY, JULY 3, 1970 9:47 A.M.

2 - - -

3
4 THE COURT: All parties and counsel are present.
5 All of the prospective jurors are in the jury box.

6 You may proceed, Mr. Bugliosi.

7
8 VOIR DIRE EXAMINATION OF MR. JACKSON
9 BY MR. BUGLIOSI:

10 Q Mr. Jackson, in connection with the last
11 page of the transcript -- the third from the last page
12 of the transcript of yesterday's proceedings, I notice
13 Mr. Reiner asked you these questions, and you gave these
14 answers.

15 I want to go over it again, as the foundation
16 for a question I have to ask you.

17 I believe he asked you this:

18 "Would it be a fair statement to
19 say that the totality of all of the information
20 that you received from the media, newspapers,
21 radio and television, that the sum and substance
22 pointed toward the guilt of the defendants or
23 some of them?"

24 You answered, "Yes, it would."

25 "Q And at that time you accepted the
26 suggestions and assumed tentatively perhaps, but

1 "at least assumed at that time that these stories
2 were substantially accurate, and that the
3 defendants or some of them were in fact guilty?"

4 And I believe you answered, "Yes, you
5 could say that."

6 And the question by Mr. Reiner was:

7 "All right, and nothing has occurred
8 to date to change the impression that you have, is
9 that true?"

10 And I believe you answered "That's right."

11 Is that the way it went yesterday, sir?

12 A I believe that is substantially correct, yes.

13 Q Now, you believe that these defendants, like
14 all defendants, are afforded the presumption of innocence
15 at the start of a criminal trial.

16 Do you understand that?

17 A I appreciate that.

18 Q Are you willing to afford these defendants
19 that presumption of innocence?

20 2 fls. A Yes, if I was on the jury I would.

2-1
1 Q Let me ask you just this one question, sir.

2 If you are selected as a juror on this case,
3 can you promise the Court, can you promise the defendants
4 and their attorneys and the prosecution, that you will base
5 your verdict solely and only and exclusively on the
6 evidence that comes from that witness stand under oath,
7 and not be influenced in any fashion whatsoever by anything
8 you may have read or heard about this case outside of
9 court?

10 A Yes, I believe I could.

11 Q Are you confident you can do that, Mr. Jackson?

12 A Yes, I am.

13 Q You stated that you served, sir, on several
14 military court martials in different capacities during
15 your career as an officer; is that correct, sir?

16 A That is correct.

17 Q And were the court proceedings, Mr. Jackson,
18 governed by the Uniform Code of Military Justice?

19 A Yes, they were.

20 Q I believe there is a Manual on Courts Martial
21 also that is applicable?

22 A Yes, that is correct.

23 Q You realize, sir, that military law may, in
24 several respects, differ from the law applicable to this
25 case, correct? You do understand that?

26 A I am fully aware of that.

1 Q You understand that the law applicable to this
2 case will be given to you by the Judge? You understand
3 that?

4 A That's right.

5 Q Do you think you could sit as a juror in this
6 case and follow the law given to you by the Judge and not be
7 influenced by your previous exposure to military law?

8 A Yes, I could.

9 Q Mr. Jackson, the prosecution as well as the
10 defense may offer psychiatric testimony in this case. Do
11 you feel that the study of psychiatry is an exact science,
12 sir, or do you feel it is more in the nature of an art?

13 A I believe it is a science.

14 Q An exact science?

15 A That's right.

16 Q Do you believe, then, sir, that the testimony of
17 a psychiatrist is the gospel truth, whatever he says is
18 infallible?

19 A No, I don't believe it is necessarily infallible
20 any more than any person's testimony can be subject to some
21 errors.

22 Q In other words, Mr. Jackson, you do believe
23 that psychiatrists can make errors?

24 A Yes, I do.

25 Q You understand that frequently psychiatrists
26 disagree in their evaluations, do you not?

1 A Yes, I am familiar with that.

2 Q You realize, sir, that the purpose of psychi-
3 atric testimony is --

4 MR. KANAREK: I object, your Honor, to this
5 question as preinstruction of the jury.

6 What the purpose is would be up to the Court to
7 state in the jury instructions.

8 MR. STOVITZ: Your Honor, may counsel permit other
9 counsel the opportunity to finish the question?

10 MR. KANAREK: But why inject error if it is obviously
11 wrong.

12 THE COURT: I am going to overrule the objection.

13 I don't think it has reached the stage of
14 instruction yet, but it is illustrative of the point that
15 Mr. Bugliosi is trying to make.

16 MR. BUGLIOSI: Q Do you realize, sir, that the
17 purpose of psychiatric testimony is merely to assist the
18 jury during their deliberations?

19 A Yes.

20 MR. KANAREK: I object to that, your Honor, on the
21 ground that it is an attempt to preinstruct as to what the
22 purpose is.

23 THE COURT: Overruled.

24 MR. BUGLIOSI: Q You understand that?

25 A Yes, I do.

26 Q And you understand, Mr. Jackson, that the jury

1 will be the trier of the fact, not any psychiatrist who
2 may testify for the prosecution or the defense?

3 You understand that, sir?

4 A Yes, I do.

5 Q If the prosecution or the defense offers the
6 testimony of a psychiatrist, will you promise to consider
7 the psychiatric testimony in the light of all the evidence,
8 and only give the psychiatrist's testimony that weight to
9 which you think it is entitled?

10 A Yes.

11 Q You realize that as a juror you have the right
12 to accept or reject the testimony of any psychiatrist, do
13 you not?

14 A Yes.

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1 Q And that is so because a psychiatrist is
2 a witness, and you can accept or reject the testimony of
3 any witness.

4 Do you understand that, sir?

5 A Yes, I do.

6 Q I understand, Mr. Jackson, that you are not
7 opposed to the death penalty; is that correct, sir?

8 A That is correct.

9 Q After hearing all of the evidence in this
10 case and considering all of the circumstances, you felt
11 that this was a proper case for the imposition of the
12 death penalty, Mr. Jackson, would you have the courage
13 to come back into this courtroom and, in effect, by your
14 verdict, tell these defendants that they must die?

15 MR. KANAREK: I object again as improper voir dire
16 examination.

17 THE COURT: Overruled.

18 MR. JACKSON: Based on the evidence submitted, yes.
19 BY MR. BUGLIOSI:

20 Q Could you vote the death penalty for a
21 female defendant, sir?

22 A Yes, I would.

23 Q You understand the rule of conspiracy which
24 makes a conspirator equally guilty of the crime committed
25 by his co-conspirators even though he may not have even
26 been at the scene of the crime, do you not?

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A Yes.

Q Do you disagree with that rule of law, sir?

A No, I do not.

Q Do you promise me that you will unhesitatingly and without reservation whatsoever follow the Court's instructions on that rule of law if you find it applicable to the facts in this case?

A Yes, I will.

Q You realize, sir, that the prosecution does not have the burden of proving any defendant's guilt beyond all doubt; do you understand that?

A Yes, I do.

Q That our burden is only to prove a defendant guilty beyond a reasonable doubt; you understand that?

A Yes.

Q Do you think, Mr. Jackson, you can give the prosecution a fair trial, sir?

A I believe so.

Q You recall that Mr. Stovitz and I asked several other questions of the jurors that we are not asking you now, do you not?

A Yes, I do.

Q Did you mentally ask yourself the same questions?

A Yes.

Q Was there any question we asked to which you

2a-3

1 said to yourself that your answer would have been different
2 to those given by the majority of the jurors seated in the
3 box, sir?

4 A The only other thing that I can think of --
5 and I don't remember whether it was the defense or the
6 prosecution that asked it -- I do have some familiarity
7 with some of the areas that were mentioned. The Los
8 Feliz area, for example, and the Benedict Canyon area.

9 I have had a little exposure to those. More
10 in the Los Feliz area than anything else.

11 Q Have you lived in or worked there, or what,
12 Mr. Jackson?

13 A This is part of my area that I am responsible
14 for.

15 Q In your capacity as an administrator for the
16 Boy Scouts?

17 A That's right.

18 Q Can you think of any reason whatsoever, Mr.
19 Jackson, why you would rather not sit as a juror on this
20 case other than the inevitable hardship?

21 A No. Other than that, none.

22 MR. BUGLIOSI: Thank you, sir.

23 THE COURT: Do the People pass for cause?

24 MR. STOVITZ: Yes, your Honor.
25
26

1 VOIR DIRE EXAMINATION OF MR. JACKSON
2 BY THE COURT:

3 Q Mr. Jackson, I wanted to ask you a few
4 questions.

5 Did you indicate to me yesterday that you
6 had some question about the payment of your compensation
7 if you were selected as a juror?

8 A Yes, I did.

9 Q Were you able to learn anything additionally
10 on that subject?

11 A Yes.

12 I contacted the head of my organization last
13 night and he said that he feels that it is an honor and
14 a necessary thing for jury duty to be performed by all
15 people. However, since we are a non-profit organization,
16 that all compensation would stop at the end of 30 days,
17 and in all probability, on a prolonged period of time,
18 they would have to get a replacement for my job.

19 Q Is this your superior who said this?

20 A This is the top man in our organization, yes,
21 sir.

22 Q Did you understand him to mean that that was
23 the final decision of the organization on that point?

24 A There is no higher authority to appeal to
25 in this case, sir.

26 Q Is it your understanding, then, that your

1 compensation will stop at the end of 30 days?

2 A That is correct. And also, if we go into a
3 prolonged session, as this would in all probability do,
4 I probably would not have a job at the end of that time,
3 fls. 5 or at least the same job if nothing else.

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VOIR DIRE EXAMINATION OF MR. JACKSON

BY THE COURT:

Q Do you have a family, Mr. Jackson?

A Yes, I do.

Q What does the family consist of?

A I have a wife and three sons, and a mother-in-law living with me.

Two of the sons are currently in college. The third one is in high school; he will be starting his senior year this fall.

Q Are you the sole support of these members?

A I am.

Q What is the name of your company?

A Los Angeles Area Council, Boy Scouts of America.

THE COURT: All right, I am going to excuse you then on hardship grounds.

Thank you very much, sir.

MR. JACKSON: Thank you.

THE COURT: Mr. Jackson, one thing, I take it you are asking to be excused, is that correct?

MR. JACKSON: This was my initial request, yes, sir.

THE COURT: Is it still your request?

MR. JACKSON: It is.

THE COURT: All right, thank you, sir.

THE CLERK: Michael E. Parrish; M-i-c-h-a-e-l,

3-2

1 P-a-r-r-i-s-h.

2 (Whereupon, Michael E. Parrish was seated in
3 seat No. 2 in the jury box.)

4 THE COURT: Before I ask Mr. Parrish any questions,
5 Mrs. Johanssen, have you been able to find out anything
6 regarding your status?

7 MRS. JOHANSEN: Yes, I was.

8 THE COURT: What is that?

9 MRS. JOHANSEN: They don't intend to pay me for a
10 prolonged period of time, over 30 days.

11 THE COURT: They will not pay you over 30 days?

12 MRS. JOHANSEN: Right.

13 THE COURT: Would that result in an undue hardship
14 as far as you are concerned?

15 MRS. JOHANSEN: Well, I think so, yes.

16 THE COURT: Are you asking to be excused on that
17 ground?

18 MRS. JOHANSEN: Yes.

19 THE COURT: All right, I will excuse then on hardship
20 grounds.

21 MRS. JOHANSEN: Thank you.

22 THE COURT: Thank you, Mrs. Johanssen.

23 THE CLERK: Wallace P. Paxton; W-a-l-l-a-c-e,
24 P-a-x-t-o-n.

25 (Whereupon, Wallace P. Paxton was seated in
26 seat No. 5 in the jury box.)

1 MR. KANAREK: Your Honor, may we approach the
2 bench briefly?

3 THE COURT: Very well.

4 (The following proceedings were had at the
5 bench out of the hearing of the prospective jurors:)

6 MR. FITZGERALD: We are going to object to the Court
7 excusing the last two jurors.

8 THE COURT: Why didn't you object before they left
9 the court?

10 MR. FITZGERALD: I did not want to object in the
11 presence of the jury.

12 THE COURT: You waited until they left the courtroom?

13 MR. FITZGERALD: All right, well, forget about it,
14 Judge, we will forget about it.

15 MR. KANAREK: I will enunciate on behalf of
16 Mr. Manson the fact --

17 THE COURT: I cannot hear you, Mr. Kanarek.

18 MR. KANAREK: It is our position, your Honor, that
19 out of public funds there should be paid proper compensation
20 to prospective jurors; that the payment of this \$5 per day
21 is inadequate.

22 It is a violation of due process and equal
23 protection in that the criminal defendant in this case,
24 Mr. Manson, whom I represent, is denied capable jurors;
25 he is denied a proper cross-section of the community
26 representation on the jury panel, by virtue of this excusal

1 on the grounds of economic hardship.

2 I wonder if my objection would stand prior --

3 THE COURT: What is the objection?

4 MR. KANAREK: The objection is in excusing the jurors
5 on economic hardship.

6 The point is they should be paid out of public
7 funds to keep a good juror.

8 If you balance the benefit to the administration
9 of justice of having capable people on the jury against the
10 expenditure of funds, there just is no balance.

11 When you are trying to take a man's life away,
12 especially, it is our position that there should be payment
13 made out of public funds for jurors.

14 This is not a criterion, otherwise you get 12
15 dinosaurs, so to speak, on the jury, if I may use that
16 expression.

17 You get the kind --

18 THE COURT: You may use it. I don't know what it
19 means. You may use it.

20 MR. KANAREK: Well, it is used to some extent among
21 lawyers, your Honor.

22 What it means is you get the kind of people on
23 the jury who have some personal axe to grind who have some --

24 THE COURT: Well, I think you are just making a
25 general argument now, Mr. Kanarek.

26 MR. KANAREK: Yes.

1 THE COURT: Your objection is, of course, noted for
2 the record.

3 Anything further?

4 MR. KANAREK: I would ask your Honor to do what your
5 Honor can to see to it that, by way of using the power
6 your Honor has -- your Honor is the judicial officer in
7 charge of this case -- to see to it that people get paid.

8 THE COURT: How do you propose I do that? I have no
9 power to change the statute.

10 MR. KANAREK: No, but your Honor does have the power
11 to discharge the jury panel on the basis of a violation of
12 equal protection and due process, and your Honor can say,
13 and that is part of our request, that your Honor discharged
14 the jury panel and say to the Legislature, "Unless you make
15 provision for proper compensation for capable jurors, that
16 the people in my court," meaning yourself, "are not getting
17 a fair shake.
??

18 THE COURT: I think that is something that any
19 citizen should properly address to the Legislature.

20 But I don't think this Court can do anything
21 about it.

22 MR. KANAREK: I think the constitutional basis, in
23 other words, your Honor's administering the Federal and
24 California Constitution --

25 THE COURT: All right, let's not go any further.
26 I have your objection in mind.

The objection is overruled.

MR. SHINN: I join in the objection, your Honor.

THE COURT: All right.

MR. FITZGERALD: I join in Mr. Kanarek's objection on behalf of Patricia Krenwinkel.

MR. KANAREK: Thank you, your Honor.

MR. REINER: Join.

3a-1

(The following proceedings were had in open court in the presence and hearing of the prospective jurors:)

VOIR DIRE EXAMINATION OF MR. PARRISH

BY THE COURT:

Q Mr. Parrish, have you heard and understood everything that has been said in court?

A The name is Paxton, sir.

THE COURT: I'm sorry, I am addressing my remarks to Mr. Parrish.

I will be speaking with you in a minute, Mr. Paxton.

MR. PARRISH: Yes, sir, I have.

BY THE COURT:

Q If you were selected as a juror in this case, Mr. Parrish, would you be able to serve?

A It would be difficult, but I think I could.

Q Have you had an opportunity to think about the death penalty questions I put to the other prospective jurors?

A Yes, I have.

Q And your answers to those questions?

A Yes, I have.

Q All right. I am going to put those questions to you now,

3a-2

1 First, do you entertain such conscientious
2 opinions regarding the death penalty that you would be
3 unable to make an impartial decision as to any defendant's
4 guilt regardless of the evidence developed during the
5 trial?

6 A No.

7 Q Do you entertain such conscientious opinions
8 regarding the death penalty that you would automatically
9 refuse to impose it without regard to the evidence
10 developed during the trial?

11 A Yes, I would, for the simple reason that I
12 don't think it is harsh enough.

13 THE COURT: I'm sorry, I did not hear you.

14 A For the simple reason I don't think it is
15 harsh enough.

16 There ought to be something worse than death,
17 you know, for certain crimes.

18 If it is punishable by death or life imprison-
19 ment, it is not bad enough, you know.

20 They ought to be given a worse
21 punishment than that.

22 Q Of course the Legislature presents to the
23 jury just two alternatives, life imprisonment or death,
24 in the case of murder in the first degree.

25 Do you understand that?

26 A Yes.

3a-3

1 Q And it presents those alternatives to be
2 selected by the jurors in their absolute discretion
3 without any guidelines or standards of any kind by which
4 to make that selection.

5 You understand that?

6 A Yes.

7 Q Now, what I'm asking you is simply have you
8 now made up your mind that you would under no circum-
9 stances impose the death penalty by reason of your
10 conscientious opinions regarding it, or would you consider
11 the evidence in the case and then decide which of the
12 two alternatives?

13 A I would consider the evidence in the case.

14 Q I beg your pardon?

15 A I will consider the evidence, yes.

16 Q And you have not automatically made up
17 your mind one way or the other?

18 A No, I have not.

19 Q You would be willing to consider the testi-
20 mony in the case, and then make your decision as to
21 penalty and I am assuming in asking that question that
22 the case has got to that point, you understand my
23 question assumes, which of course may not be the fact
24 at all, but it assumes for the purpose of the question
25 that there has been a conviction of murder in the first
26 degree.

3a-4

1 Do you understand that?

2 A Yes.

3 Q Now we are talking about the penalty phase
4 and I am asking you if you would be willing to listen to
5 the evidence before you make up your mind as to selecting
6 which of the two penalties is appropriate for the case in
7 your opinion?

8 A Yes, I would.

9 Q All right, would you pass the microphone down
10 to Mr. Paxton, please.

11
12 VOIR DIRE EXAMINATION OF MR. PAXTON

13 BY THE COURT:

14 Q Mr. Paxton, have you heard and understood
15 everything that has been said in the case since you came
16 into court.

17 A Yes, sir.

18 Q If you were selected as a juror in this case
19 would you be able to serve?

20 A No, I would not.

21 Q What is your situation, sir?

22 A My employer will compensate me for 20 days
23 only; ten of those days will have expired by the end of
24 this session, and I wish to be excused.

25 Q Who is your employer?

26 A McDonnell-Douglas Corporation.

1 Q Have you discussed this with some of the
2 management personnel there?

3 A Yes, sir.

4 Q And what is the company policy again?

5 A 20 working days, 20 working days only.

6 Q And they have told you if you are selected as
7 a juror in this case or any other case that after 20 days
8 you would not receive any compensation?

9 A That's correct.

10 THE COURT: All right, I'm going to go to some other
11 questions at this time, without developing any further on
12 the hardship aspect, Mr. Paxton, at this time.

13 MR. PAXTON: All right.

14 BY THE COURT:

15 Q I'm going to put some questions to you regard-
16 ing the death penalty.

17 Do you entertain such conscientious opinions
18 regarding the death penalty that you would be unable to
19 make an impartial decision as to any defendant's guilt
20 regardless of the evidence developed during the trial?

21 A No, sir, I do not.

22 Q Do you entertain such conscientious opinions
23 regarding the death penalty that you would automatically
24 refuse to impose it without regard to the evidence?

25 A No.

3B-1
1 THE COURT: Mr. Fitzgerald, you may inquire.

2 MR. FITZGERALD: Let's start with Mr. Parrish.

3
4 VOIR DIRE EXAMINATION OF MR. PARRISH

5 BY MR. FITZGERALD:

6 Q Mr. Parrish, let me ask you this question:

7 Are your opinions concerning the death penalty
8 such that if the issue were presented to you you would
9 automatically impose the death penalty without regard
10 to any evidence in the case?

11 A No, I would not.

12 Q You indicated to the Court that your feelings
13 in connection with the death penalty were that in some
14 respects the death penalty was not harsh enough.

15 Is that correct?

16 A That's right.

17 Q What did you have in mind, the rack and screw?

18 A Well, I am not a sadist, but something like that.

19 I mean, you know, well, let's say for example,
20 you know, in a case where somebody was brutally, you know --
21 let's say they were kidnaped and then tortured, or something
22 like that, where they take the guy in and he goes through
23 his trial, they might give him life imprisonment and he gets
24 out at the end of seven years, and that is nothing.

25 Q How do you know he gets out at the end of seven
26 years?

42
1 A Sometimes they do and sometimes they don't.
2 That was just my opinion, you know.

3 MR. KANAREK: May we approach the bench, your Honor?

4 I don't wish to argue in the presence of the
5 jury.

6 THE COURT: Do you wish to make an objection of some
7 kind?

8 MR. KANAREK: I also wish to make a point to the
9 Court, if I may.

10 THE COURT: Very well.

11 (The following proceedings were had at the
12 bench out of the hearing of the prospective jurors.)

13 MR. KANAREK: Your Honor --

14 MR. SHINN: Speak up, I can't hear you.

15 MR. KANAREK: I'm sorry.

16 Your Honor, I ask that your Honor admonish the
17 jury not to consider that last statement for any purpose,
18 and mere admonishment not sufficing, I ask for a mistrial,
19 because I believe in view of the Morse decision, I believe
20 in the Morse case, that was one of the very points why the
21 Supreme Court ruled, that this idea that somebody can get
22 out --

23 In other words, the jury being told, I think it
24 was the prosecutor in that case --

25 THE COURT: I am familiar with the Morse case.

26 What is your objection?

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1 MR. KANAREK: I believe, your Honor, this is highly
2 prejudicial to this entire panel, this entire jury panel.

3 I make a motion that the Court admonish the
4 jury not to consider that last statement for any purpose,
5 our position being, the bell having been rung, it cannot
6 be unrung.

7 I make a motion for a mistrial, and that all
8 of the jurors in the box and in the room be discharged from
9 further service in this court.

10 THE COURT: Well, I will admonish the jury.

11 But I point out to you, Mr. Kanarek, that if
12 there is a conviction in this case of murder of the first
13 degree, on the penalty phase, that one of the mandatory
14 instructions will be the so-called Morse instruction, and
15 the jury will be fully instructed at that time as to what
16 they can consider and what they cannot consider with
17 regard to the possibility of parole, and so forth.

18 MR. KANAREK: Very well, that is my motion.

19 THE COURT: It will be specifically brought to their
20 attention under the Morse instruction.

21 I will admonish them to disregard the gratuitous
22 statement of this prospective juror which, although the
23 statement itself was not specifically elicited, he was asked
24 what he meant by what he said.

25 I think it could have been anticipated that
26 after the initial statement that he wanted something worse