

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. 1008

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 than death, that whatever came out was not going to be very
2 either enlightening or pleasant or certainly not the law.

3 However, I will admonish the jury to disregard
4 his statement.

5 MR. REINER: An admonishment to disregard would be
6 ineffectual. The Court should add to the admonishment his
7 statement of the understanding of the law is incorrect.

8 THE COURT: Yes, I intend to do that.

9 MR. BUGLIOSI: If the Court does give the law,
10 will the Court give the Morse instruction then?

11 THE COURT: Now?

12 MR. BUGLIOSI: Yes.

13 THE COURT: I don't think it should be spotlighted
14 at this time.

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1 MR. BUGLIOSI: Will the Court capsuleize the Morse
2 instruction?

3 THE COURT: No, I will simply tell them to disregard
4 his statement regarding his thought on what the penalty
5 should be and what the effect of it would be as simply
6 not being an accurate statement of what the law is.

7 They will be fully instructed if necessary on
8 this point.

9 MR. BUGLIOSI: I don't want to sound like I am in
10 violation of Morse because I am not.

11 But actually his statement, I think, was a
12 correct statement.

13 He said they may get out in seven years, which
14 is true.

15 Now, I don't want the Court to tell the jury
16 that; that would be highly improper.

17 On the other hand I don't think it is actually
18 correct to tell the jury his statement was incorrect.

19 THE COURT: What I intend to tell them is that his
20 statement should not be considered as constituting the law
21 on this subject.

22 MR. BUGLIOSI: Very good.

23 MR. SHINN: I join with Kanarek?

24 MR. FITZGERALD: Join on behalf of Patricia
25 Krenwinkel in Mr. Kanarek's objection.

26 MR. REINER: I join.

4 fls.

1 (Whereupon all counsel return to their
2 respective places at counsel table and the following
3 proceedings occurred in open court within the presence
4 and hearing of the prospective jurors:)

5 THE COURT: Ladies and gentlemen, I admonish all of
6 you that you are not to consider Mr. Parrish's statement--
7 and I have no criticism of Mr. Parrish, who is stating
8 honestly and sincerely his answer to a question that was
9 asked him -- but you should not consider that answer as
10 having any bearing whatsoever on any issue in this case
11 or as accurately stating the law which would be applicable
12 in this case; in other words, as to penalty or punishment.

13 Let's proceed, Mr. Fitzgerald.

14 MR. FITZGERALD: Q Would it be fair to say,
15 then, Mr. Parrish, that you subscribe to some idea of
16 an eye for an eye and a tooth for a tooth? If there was
17 a torture murder, that the murderer himself ought to be
18 tortured to death?

19 A Well, yes and no.

20 I don't look at it and say that if it was a
21 torture, that they have to torture him, you know, that
22 person, but give him something that would make him think
23 twice before he did whatever he did again, you know,
24 for penalty.

25 Q You could be fair and impartial though,
26 right, Mr. Parrish?

1 A Oh, yes.

2 MR. FITZGERALD: Nothing further.

3 Pass both of these jurors for cause, your
4 Honor.

5 THE COURT: Mr. Reiner?

6 MR. REINER: Thank you, your Honor.

7
8 VOIR DIRE EXAMINATION OF MR. PARRISH

9 BY MR. REINER:

10 Q Mr. Parrish, do you feel that perhaps, as a
11 juror, you should be permitted to participate in carrying
12 out the sentence if it should be a death penalty?

13 A No.

14 Q But would you propose, Mr. Parrish -- or what
15 would you propose as an alternative sentence to the death
16 penalty to the Legislature to make the penalty more
17 adequate?

18 A Well, give him life without possibility of
19 parole at hard labor. Something like that.

20 I wouldn't let them torture them, you know.

21 Q No, I do not know.

22 A Make them sweat for what they did, and then
23 other people would find out that this guy has got to go
24 through all this, and "maybe I will think twice before
25 I do it."

26 That is my idea of it.

1 Q Go ahead.

2 A It is, you know, an eye for an eye type of
3 thing.

4 Q Then it is your view that sweat and hard labor
5 is a more harsh sentence than the death penalty?

6 A Yes.

7 MR. REINER: Thank you.

8 I have no further questions.

9 Will you pass the microphone down to Mr.
10 Paxton, please?

11
12 VOIR DIRE EXAMINATION OF WALLACE P. PAXTON
13 BY MR. REINER:

14 Q Mr. Paxton, you were called to court as a
15 prospective juror some days ago; is that correct?

16 A Two weeks ago, yes.

17 Q And prior to that time, or rather, prior to
18 yesterday, when the Court admonished you not to read the
19 newspapers nor to watch the television news, you did, from
20 time to time these last couple of weeks, read the newspaper
21 accounts of this case and view the television news accounts
22 of this case; is that correct, sir?

23 A Yes, sir.

24 Q Because you anticipated that you would be a
25 prospective juror, you disciplined yourself, did you not,
26 Mr. Paxton, not to accept any possible suggestions that

1 might come to you through the media about the guilt of
2 the defendants or any of them; is that correct?

3 A I read the papers, the Los Angeles Times,
4 and I read about these people the same as I would read
5 about any other item in the paper.

6 Q Sir, would you hold the microphone a little
7 bit closer to your mouth when you speak?

4a ffs. A Yes.

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Q All right.

Prior to the time that the Court instructed you not to read the newspapers nor to watch television newscasts, Mr. Paxton, you did read the papers and you did watch the television newscasts?

A certainly.

Q And you did read accounts of this case and you viewed newscasts of this case; is that correct?

A Yes, sir.

Q Now, because you were a prospective juror in this case, Mr. Paxton, you did, did you not, discipline yourself not to be receptive or accept any suggestions that might be contained in these stories and accounts that would point toward the guilt of the defendants; is that true?

A I have the last two days. Up to that time I read the papers continuously and watched the television.

The last two days I have not read any accounts or seen any television regarding this.

Q Mr. Paxton, perhaps you didn't understand my question.

During the time that you were a prospective juror and that you were reading the newspaper and viewing television, at that time, sir, you disciplined yourself, did you not, not to accept any suggestions that might have come to you through these news accounts indicating the possible

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1 guilt of the defendants; and the reason that you disciplined
2 yourself not to accept these suggestions is because you
3 recognize that you were a prospective juror in the case.

4 Would that be a true and fair statement, sir?

5 A Yes.

6 THE COURT: I think the question is compound,
7 Mr. Reiner.

8 MR. REINER: The prospective juror did answer
9 affirmatively, your Honor.

10 THE COURT: But it is compound. I don't know what
11 his answer means.

12 I think it can be broken down and put in simple
13 form so that the answer can be responsive to the question.

14 MR. REINER: Thank you, your Honor.

15 Q Mr. Paxton, I will start all over again from the
16 beginning.

17 A All right.

18 Q Except for the last day, when you were
19 admonished not to read the newspapers nor to watch television
20 newscasts relative to accounts of this case, you did watch
21 television newscasts and you did read newspaper accounts of
22 this case, did you not, sir?

23 A Yes, sir.

24 Q Now, these last two weeks you have been a
25 prospective juror in this case, true?

26 A Yes, sir.

Q During that time, and excluding just the last day when you have been admonished not to engage in such activities, you did read these accounts and watch the newscasts the last two weeks?

A If they were on when I watched TV, yes.

Q Now, Mr. Paxton, because you were a prospective juror in this case, you did appreciate that you should not be influenced by outside source material, true, sir?

A Oh, yes.

Q And because of that, if, in the event any of these news accounts, whether they appeared in the newspaper or on television, suggested the possible guilt of the defendants, you did discipline yourself, did you not, not to be influenced by or to accept any of these suggestions in the media?

A Yes, I think so.

Q And the reason that you did that was because you recognize that you were a prospective juror in this case; is that true, sir?

A That is true, yes, sir.

Q Now, last December when these arrests occurred, Mr. Paxton, it did not occur to you that you might some day be a juror in this case, did it, sir?

A Definitely not.

Q So, at that time, there was no reason in your mind that you had to try to consciously discipline yourself

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1 to reject any suggestions that might appear in the media
2 relative to the guilt or innocence of the defendants or
3 some of them; is that true, sir?

4 A Yes, of course.

5 Q In fact, you did not, because there was no
6 reason to, you did not discipline yourself to reject any
7 suggestions that might come to you from the media relative
8 to the guilt or innocence of the defendants or some of them;
9 is that true?

10 A Yes.

11 Q And it would be a reasonably fair statement,
12 would it not, Mr. Paxton, to say that the totality of the
13 information and suggestions that came to you from the media,
14 that is, from newspapers, radio and television, pointed
15 toward the guilt of the defendants or some of them?

16 A It would indicate that they were, yes.

17 Q And at that time, sir, you had no reason to
18 dispute the correctness or the accuracy of the suggestions
19 in the media; is that true?

20 A I didn't analyze it that closely, no.
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1 Q And perhaps tentatively, but at least
2 tentatively, Mr. Paxton, you did assume that the sum and
3 substance of the information and the suggestions that came
4 to you from the media were, in all probability, at least
5 substantially accurate?

6 A Possibly, yes.

7 Q And nothing has occurred since that time upon
8 which you could base a change of opinion; is that true, sir?

9 A No, I think not.

10 Q So, the view that you have held these last few
11 months, such as it is, is the view that you presently hold?

12 A I think it is, yes.

13 MR. REINER: Thank you very much.

14 THE COURT: Mr. Shinn?

15 MR. SHINN: Yes, your Honor.

16
17 VOIR DIRE EXAMINATION OF MICHAEL E. PARRISH

18 BY MR. SHINN:

19 Q Mr. Parrish, what is your business or
20 occupation?

21 A I am a postal clerk with the Post Office.

22 Q Are you married?

23 A Yes, sir.

24 Q Have you read anything about this case before
25 coming to court today?

26 A Yes, I have.

1 Q Where? In the newspapers --

2 A Yes.

3 Q -- radio, TV?

4 A The news. More over the radio than in the
5 newspapers.

6 Q How about television?

7 A Very little. I haven't seen that much on
8 television. I work evenings and I am not home to watch the
9 news so I don't see much television.

10 Q You have been following this case since when?
11 Since it happened?

12 A I followed it when it happened, yes.
13 Then I sort of lost track of it for a couple of months.
14 Then every once in a while I might have noticed or heard
15 something about it.

16 I haven't dived into it, backgrounded it, or
17 anything like that.

18 Q Did you read anything about it in the magazines
19 or books?

20 A No.

21 Q Did you hear anything about this case in books
22 or magazines?

23 A No, I haven't.

24 Q Do you recall reading any particular article
25 concerning this case?

26 A No, I haven't.

1 Q That you remember?

2 A Just in the newspaper or something like that,
3 you know, every once in a while.

4 Q Did you know the names of the defendants before
5 coming to court?

6 A I had heard them but I couldn't tell you that
7 I had heard all of them.

8 Q Do you know the names of the victims?

9 A Just Tate, Sharon Tate.

10 Q That is the only one you recall?

11 A And Abigail Folger. Those are the only names
12 that I remember.

13 Q Do you know what type of a homicide it was?

14 A No, I don't. They just killed seven people.

15 Q You don't know how they were killed?

16 A No.

17 Q Did you read or hear about Mr. Kanarek,
18 Mr. Manson's attorney?

19 A Yes, I did.

20 Q When was this?

21 A Well, it started out the first day that
22 Mr. Kanarek came into court and he had some newspapers,
23 and he stood up and talked to his Honor and said that
24 Younger was trying to get him off the case, and then
25 everybody left the room, you know.

26 That one day. I heard about it there. Then I

1 didn't hear anything more about it for maybe four or five
2 days.

3 Q Did you, yourself, read it in the newspapers
4 or hear it on TV?

5 A I read it in the newspapers.

6 Q What newspaper was this?

7 A The Los Angeles Times.

8 Q Did you hear or see Mr. Younger on TV?

9 A I don't even know who Mr. Younger is. I wouldn't
10 recognize him.

11 Q You didn't hear it on TV?

12 A No.

13 Q Not even a newscast?

14 A No.

15 Q Do you recall what was said in the newspapers
16 about Mr. Kanarek?

17 A They were saying how he is incompetent and
18 everything; but I couldn't say he is incompetent because
19 I haven't heard him say that much or do that much in court.
20 So, I don't know.

21 I am not a lawyer and I don't know how a lawyer
22 is supposed to act, so I don't know.

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1 Q In other words, you didn't form any opinion
2 one way or the other?

3 A No, I haven't formed any opinion against him
4 or for him, you know.

5 I don't know that much to form an opinion of
6 him one way or the other.

7 Q If you were charged with murder, would you
8 hire Mr. Kanarek?

9 MR. STOVITZ: That is objected to as immaterial, your
10 Honor.

11 THE COURT: Sustained.

12 MR. SHINN: It goes to his state of mind, your Honor.

13 MR. STOVITZ: Same objection.

14 THE COURT: Sustained.

15 Let's proceed.

16 MR. SHINN: I have nothing further.

17 THE COURT: Mr. Kanarek, do you have any questions?

18 MR. KANAREK: No questions, your Honor. Thank you.

19 THE COURT: Mr. Stovitz?

20 MR. STOVITZ: Yes, sir.

21
22 VOIR DIRE EXAMINATION OF WALLACE P. PAXTON
23 BY MR. STOVITZ:

24 Q You understand, Mr. Paxton, that we do not
25 know whether or not you will be excused now, so that is
26 why we have to ask these questions. If you are excused,

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1 then I apologize to the rest of the jurors for taking the
2 time, but we have to go into these matters.

3 Mr. Paxton, do you know who the defendants
4 are that are on trial here?

5 A Yes. I have been in the courtroom here now
6 for the last two weeks. I know who they are.

7 Q You know, then, that Mr. Kanarek is not on
8 trial? Do you understand that, sir?

9 A Certainly.

10 Q And you know that no matter what evidence is
11 produced here in court, your verdict cannot reflect the
12 guilt or innocence of Mr. Kanarek? You understand that?

13 A Yes, sir.

14 Q Now, also, you know that the Los Angeles
15 Times is not on trial here, do you not?

16 A Correct.

17 Q Nor any other newspaper publication or
18 television station; do you understand that?

19 A I understand.

20 Q The only thing that we are interested in
21 here is the guilt or innocence of the four defendants
22 that are before the Court; is that correct, sir?

23 A Yes, sir.

24 Q All right.

25 Now, keeping in mind everything that you have
26 read and everything that you have seen and heard about the

4c-3

1 case, Mr. Paxton, do you think that you can put all of
2 those things aside and decide only the guilt or
3 innocence of these defendants based upon the evidence
4 that you hear in court?

5 A Yes, I think so. Based on the evidence
6 only.

7 Q Now, sir, in your capacity at your work,
8 I take it, you have many, many duties to perform; is
9 that right?

10 A Numerous, yes.

11 Q At work, sir, is there someone that could
12 replace you while you are on this case?

13 A Well, I hope not, sir.

14 Q Everyone at the time of their retirement,
15 they say, "Oh, how irreplaceable this man is," and 15
16 minutes after the man is given his gold watch, they find
17 someone else. I suppose you have heard that story.

18 A Yes.

19 Q Let's hope that your services are in demand
20 and if you are kept away from your job, say, three or
21 four months, they wouldn't take your job away from you?

22 A Hopefully not.

23 Q And I take it you are a homeowner; is that
24 right?

25 A That is correct.

26 Q And around the house, as far as gardening and

4c-4

1 things like that, there would be somebody else to do that
2 for three months if this case lasted that long?

3 A I work my wife too hard already.

4 Q No one would be able to take care of those
5 garbage cans in and out?

6 A There would be someone around there but I
7 am the head man in the domicile and I would like to do
8 that myself.

9 Q Do you have any young children at home, Mr.
10 Paxton?

11 A I have two sons.

12 Q Two sons?

13 A Yes.

14 Q How old are they, sir?

15 A Son No. 1 is 23. He joined the Navy and
16 served his active duty. He has since returned back and
17 he is a college student attending the summer session,
18 preparatory to going to school this fall. He is
19 unemployed at the present time.

20 Q And No. 2?

21 A No. 2 was active in the Service and was
22 wounded in Vietnam on the 29th of September, was returned
23 to the United States, hospitalized and recuperated to
24 the point where he can perform light duty, and then
25 transferred to Fort Ord, and he is due to be separated
26 from the Service on the 9th of July, and I certainly want
to be home when he is there.

4d fls.

1 Q At our pace of jury selection, Mr. Paxton,
2 I don't think that we will have a jury by July 9th.
3 So, you understand that the Court's sequestering order,
4 if it is carried into effect, would only be during the
5 actual receiving of testimony, not while the jury is
6 being selected.

7 You understand that, sir?

8 A I understand.

9 Q If Mr. Bugliosi's questions that he asked
10 of the other jurors were asked of you individually, the
11 death penalty questions, the circumstantial evidence
12 questions, the questions on whether or not you could vote
13 for the death penalty for a female defendant, questions
14 as to whether or not you could vote for the death penalty
15 as to someone who is not the actual perpetrator of the
16 actual death, if all those questions were asked of you,
17 would your answers be substantially the same?

18 A Yes, they would.

19 Q So then, aside from the financial hardship
20 and the personal hardship of being away from your family,
21 Mr. Paxton, there is no other reason why you couldn't
22 be fair to both sides; is that right?

23 A One more reason, sir.

24 Q What is that?

25 A Mr. Fitzgerald, I believe, went into some
26 length with questioning people in the jury box about

1 association with family, friends, et cetera.

2 My father-in-law is retired from the Los
3 Angeles County Sheriff's Department. My own father was
4 a law enforcement officer for eight years and later worked
5 for the United States Government in security.

6 I mentioned that my son, prior to his induction
7 in the Service, was taking courses in police science.

8 With those facts, sir, I believe that tips
9 my balance towards the prosecution.

10 Q It would tip your balance towards the prosecu-
11 tion?

12 A If it came to -- I could not promise I could
13 not be swayed by those facts.

14 Q Now, Mr. Paxton, I certainly do appreciate
15 this, and this is the type of information that we want from
16 all of the jurors, so that we don't have to keep asking
17 all of these minute questions. I certainly am thankful
18 to you for revealing that, and I am sure that the defendants
19 are as well.

20
21 VOIR DIRE EXAMINATION OF MR. MICHAEL E. PARRISH
22 BY MR. STOVITZ:

23 Q Mr. Parrish, sir, you understand that we have
24 to go by the law of California?

25 A Yes.

26 Q You understand that?

1 A Yes.

2 Q And the law of California provides that in a
3 case of murder in the first degree only two penalties are
4 provided.

5 Do you understand that?

6 A Yes.

7 Q The Court will instruct you at the end of the
8 case what does constitute life imprisonment.

9 Do you understand that?

10 A Yes.

11 Q The Court will instruct you at the end of the
12 case what constitutes the death penalty, although he won't
13 tell you how it is carried out --

14 A Yes.

15 Q -- or all the mechanisms of it.

16 You understand that those are the only two
17 penalties provided?

18 A Yes.

19 Q Let's assume that your verdict and the others'
20 verdict, the other jurors' verdict, is that the first degree
21 murder verdict is justified under the facts, and let's
22 assume just hypothetically that all of the defendants have
23 been convicted of first degree murder.

24 Now you hear evidence on the various aspects
25 of their background and various circumstances surrounding
26 their upbringing, et cetera, whatever the defendants want

1 to bring out that is pertinent, whatever the People want
2 to bring out that is pertinent.

3 Now you go back and are faced with those
4 two decisions, life imprisonment, whatever that may be,
5 or the death penalty.

6 Do you think that your frame of mind is such
7 that you are unalterably opposed to imposing the death
8 penalty because you feel that that is not a sufficient
9 punishment under the facts of this case?

4e fls.

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1 MR. FITZGERALD: Objection, your Honor. That is
2 improper.

3 May we approach the bench?

4 MR. STOVITZ: I will rephrase the question.

5 MR. FITZGERALD: That is misconduct and I will cite
6 Mr. Stovitz for misconduct.

7 MR. REINER: I would assign Mr. Stovitz's remarks as
8 misconduct.

9 MR. SHINN: Join.

10 THE COURT: You may approach the bench.

11 (Whereupon, all counsel approached the bench
12 and the following proceedings occurred at the bench outside
13 of the hearing of the prospective jurors:)

14 MR. FITZGERALD: We ask that the matter be stricken,
15 your Honor -- the question.

16 THE COURT: Let's go back and read the question and
17 the answer so I have it in mind.

18 MR. FITZGERALD: Can we read the last two questions
19 and answers?

20 THE COURT: Yes.

21 (The record was read by the reporter.)

22 MR. FITZGERALD: We object on the grounds that that
23 is improper voir dire of the most prejudicial and
24 inflammatory sort.

25 We just discussed this matter at the bench,
26 and then Mr. Stovitz implies in a question that life

1 imprisonment does not mean life imprisonment. He said,
2 "Life imprisonment, whatever that means."

3 Secondly, Mr. Stovitz has asked a particular
4 juror about imposing the death penalty in this particular
5 case, and that is totally improper. All that you can
6 discuss with the juror is his frame of mind in regard to
7 the death penalty in any case. He cannot ask a juror
8 whether the juror would impose the death penalty in this
9 particular case after a conviction of one or more of the
10 defendants of first-degree murder.

11 I would ask that these remarks be stricken and
12 the jury be admonished to disregard them, the last two
13 questions and answers.

14 MR. BUGLIOSI: May I be heard, your Honor?

15 THE COURT: Yes.

16 MR. BUGLIOSI: With respect to this question, I cite
17 the Court to People vs. Floyd, where I asked that question,
18 and I have been asking it in this case, and the California
19 Supreme Court approves the question, "If you felt that
20 under the circumstances you would be willing to vote for a
21 verdict of death for these defendants".

22 We are talking about this case, and the Supreme
23 Court of California has approved it.

24 THE COURT: I don't see anything prejudicial about
25 what was asked. It is simply another form of what has been
26 asked by both sides all through the voir dire.

1 I just don't see anything prejudicial about it.

2 MR. REINER: Excuse me. Does the Court mean to say
3 that the comment "life sentence, whatever that is," is
4 not prejudicial, that it does not, perhaps, imply to many
5 persons, particularly in view of what has been said a few
6 minutes ago, that life imprisonment is not --

7 THE COURT: They have already been admonished. I
8 agree, it is unfortunate. It might apply to hard labor --

9 MR. REINER: I don't think anybody took that
10 inference.

11 THE COURT: You don't know what they thought any more
12 than I do.

13 MR. REINER: We have to be reasonable.

14 Is the Court refusing an admonishment?

15 THE COURT: You haven't asked for one.

16 MR. STOVITZ: They asked for a citation and admonish-
17 ment.

18 THE COURT: Was there an answer?

19 MR. STOVITZ: I think there was.

20 MR. FITZGERALD: I fully intend to tell the jury that
21 life imprisonment means life imprisonment.

22 THE COURT: I would admonish all counsel to refrain
23 from discussing anything about what either of the alternatives
24 means. They will be instructed fully on that, if it
25 ever gets to that point.

26 We are here now to determine state of mind,

1 not whether they know what life imprisonment means or what
2 the death penalty means.

3 MR. FITZGERALD: If that is true, then Mr. Stovitz's
4 remarks are improper.

5 THE COURT: All right. They are unfortunate, but not
6 prejudicial.

7 I admonish all counsel to refrain from any
8 additional remarks along those lines.

9 MR. KANAREK: Your Honor, may the record reflect that
10 I join in Mr. Fitzgerald's comment, and I would ask the
11 Court to admonish, but the mere admonishment not sufficing,
12 I ask for a mistrial on what we are here at the bench for.

13 MR. STOVITZ: Are you asking for a mistrial,
14 Mr. Kanarek?

15 MR. KANAREK: Yes.

16 MR. STOVITZ: We will oppose the motion.

17 MR. SHINN: Join.

18 MR. FITZGERALD: Join.

19 MR. REINER: Join.

20 THE COURT: The motion for mistrial will be denied.

21 MR. REINER: Excuse me. The Court has not ruled on
22 our request for an assignment of misconduct and admonishment
23 to the jury. I think the court has indicated its feeling
24 but there has been no ruling on those requests.

25 THE COURT: I find no misconduct.

26 Anything further?

1 MR. REINER: Thank you.

2 I assume, then, the Court will not admonish the
3 jury?

4 THE COURT: Where do you get that assumption? I
5 have already told you that they have been admonished in
6 the first place on precisely that subject, and I have not
7 said I would not admonish them.

8 MR. REINER: I meant with respect to Mr. Stovitz.

9 THE COURT: Don't assume. If you want to ask me,
10 ask me, but don't make assumptions on the record.

11 MR. REINER: I did ask it directly.

12 THE COURT: The answer is I will.

13 MR. REINER: Advise the jury with respect to
14 Mr. Stovitz?

15 THE COURT: No. No.

16 MR. REINER: That is what the request is, your Honor.

17 THE COURT: I will admonish the jury to disregard the
18 statements regarding the nature of any particular penalty.

5-1

1 (The following proceedings were had in open
2 court in the presence and hearing of the jury:)

3 MR. STOVITZ: Mr. Parrish, I take it that --

4 THE COURT: Just a moment, Mr. Stovitz.

5 Ladies and gentlemen, I admonish you to dis-
6 regard anything that has been said regarding the nature of
7 either ^{of} the penalty alternatives that would be available to
8 the jury in the event there is a conviction of murder in
9 the first degree, you will be fully instructed by the Court
10 with regard to penalty if, as, and when that should become
11 necessary in this case.

12 Until then you are not to be concerned with
13 that.

14 The purpose of the examination is solely to
15 ascertain your state of mind, to determine whether or not you
16 can be fair and impartial, and the questions are designed
17 for that purpose only.

18 Go ahead.

19
20 VOIR DIRE EXAMINATION OF MR. PARRISH

21 BY MR. STOVITZ:

22 Q Mr. Parrish, have you thought about the
23 imposition of the death penalty before you arrived here as
24 a juror at the early part of this week?

25 A Yes, I have.

26 Q I take it, then, that if the issue was

5-2
1 presented to you, and if the facts of the case were such
2 that you felt that the death penalty should be voted, you
3 would vote for it, is that right?

4 A It would take a lot of thinking, if you push me
5 that far, yes.

6 Q Of course we don't make this decision the same
7 way we choose which bus to take to work, but you would be
8 able to think about it; you would be able to join with
9 your other jurors in voting for the death penalty if you
10 felt that was the right verdict, is that right?

11 A I would not like it, but I probably would.

12 Q When you say you would not like it, are you
13 telling us that you do have an obstacle in your mind now
14 that the prosecution would have to overcome, in voting for
15 the death penalty, if you felt that under the facts of the
16 case that that was the right verdict?

17 MR. KANAREK: Objection, improper voir dire
18 examination, your Honor.

19 THE COURT: Sustained.

20 Mr. Parrish, I already asked you this morning
21 and I will ask you again, would you be willing to consider,
22 assuming there is a conviction of murder in the first degree
23 as to any defendant, would you be willing to consider the
24 evidence before you make up your mind as to which of the
25 two alternatives you would vote for with regard to penalty,
26 or have you automatically made up your mind now?

1 MR. PARRISH: Well, I don't like the death penalty,
2 let's answer it that way.

3 But I would think about it, you know.

4 But I don't really like the death penalty, no.

5 THE COURT: Of course, that is not the question, sir.

6 The question is whether or not you have now
7 made up your mind on the subject, or whether you would
8 consider the evidence in the case.

9 I am talking now honestly and sincerely that
10 you would consider it before you made up your mind. Only
11 you know the answer to that.

12 THE COURT: Would you consider it and then make up
13 your mind or have you now made up your mind?

14 MR. PARRISH: I guess I would consider it and then
15 make up my mind.

16 I have not formed an opinion one way or another
17 yet, no.

18 THE COURT: All right.

19
20 VOIR DIRE EXAMINATION (RESUMED)

21 BY MR. STOVITZ:

22 Q Mr. Parrish, do you belong to any organization
23 that has as one of its objectives the suppression of the
24 death penalty?

25 A No, I do not.

26 Q Is your philosophical or religious belief such

5-4

1 that it would prevent you from voting for the death penalty
2 in all cases?

3 A No.

4 Q Now, so that I can fully understand your frame
5 of mind, your frame of mind is such that right now you
6 would favor life imprisonment over the death penalty, is
7 that right?

8 A Yes, I would prefer it, yes.

9 Q That is a fair statement.

10 And therefore you would want the burden put on
11 the prosecution to prove to you that you must vote for the
12 death penalty, is that right?

13 A Yes.

14 Q But if that evidence were forthcoming, you
15 would then change your viewpoint and then vote accordingly,
16 according to the evidence, is that correct?

17 A Yes.

18 Q All right, now, Mr. Parish, you heard all of
19 the other questions we asked all of the other jurors, is
20 that right?

21 A Yes.

22 Q Just as Mr. Paxton asked himself all those
23 questions, and the gentleman that was sitting in your seat
24 before you asked himself all those questions, and told us
25 about the familiarity he had with the area, Mr. Paxton
26 told us about his environment, law enforcement background,

5-5
1 can you think of any questions that you should answer for
2 us if those questions were asked of you?

3 A Yes.

4 Number one, I took police science myself for
5 two years, so I have a basic knowledge, you know, of law
6 enforcement.

7 Q Did you try to become a policeman?

8 A Yes.

9 Q What force did you try, Los Angeles?

10 A Los Angeles.

11 Q The Los Angeles Police Department?

12 A Yes; I did not get as far as putting in the
13 application because I was deferred from the Army because I
14 have a bad heart, so that shut me down from the Police
15 Department so I quit.

16 That is as far as it went.

17 And my brother-in-law is a police officer in
18 Hermosa Beach.

19 Now, I see him quite often. He lives about a
20 half mile from me.

21 Q You live in Hermosa Beach?

22 A No, no, in Mar Vista.

23 Q I see. You are familiar with the area of
24 Hermosa Beach?

25 A I have been through it. I cannot say I am
26 familiar, no.

5-6
1 Q Anything else you wanted to tell us about?

2 A Well, the question as far as that conspiracy
3 question, whereas one guy conspired but he did not carry
4 on through, I don't believe that the guy, like if A, B, and
5 C conspired, B and C went through with the crime, in my
6 mind I don't see that A is just as guilty as B and C.

7 Q And if the court were to tell you that is the law?

8 A Yes, I understand that is the law, but in my
9 mind I have an argument against it.

10 Q Would you be prejudiced against following that
11 rule then?

12 MR. KANAREK: I object, your Honor, on the grounds of
13 improper foundation.

14 THE COURT: Overruled.

15 Q BY MR. STOVITZ: Are you prejudiced against
16 following that rule if the Court so instructs you?

17 A Well, it is the law. I have to follow the
18 law so I probably would follow it.

19 Q Within yourself you would much rather not follow
20 it?

21 A Right, I would much rather not follow it, that's
22 right.

5a-1

1 Q Anything else you want to tell us about?

2 A That is all I can think of.

3 MR. STOVITZ: Thank you very kindly, Mr. Parrish.

4 People pass for cause.

5 MR. BUGLIOSI: Wait a while --

6
7 VOIR DIRE EXAMINATION OF MR. PARRISH

8 BY THE COURT:

9 Q Notwithstanding your belief about the law of
10 conspiracy, you understand, Mr. Parrish, you have not
11 heard the law of conspiracy yet in this court?

12 A No, I have not.

13 Q That will come to you if at all by the
14 Court's instructions. You understand that, sir?

15 A Yes.

16 Q The questions regarding conspiracy were put
17 to you just generally as illustrations and as preliminary
18 questions to determine your state of mind?

19 A Yes.

20 Q With regard to whether or not you can follow
21 the Court's instruction, do you understand that?

22 A Yes, I do.

23 Q But if the Court does instruct you on the
24 law of conspiracy, would you be willing to follow those
25 instructions, whatever they are, notwithstanding the fact
26 that you may personally believe the law should be something

5a-2

1 else?

2 A I could follow them, yes.

3 Q Well, would you?

4 A Yes, I would -- well, I mean if it broke down
5 to A, B and C, I would sort of be swayed the other way.

6 Q Well, I don't understand your answer.

7 A On that conspiracy type of thing, you know,
8 I would follow the Court's instructions on it, yes, but
9 I think I would be sort of swayed against subject A, you
10 know, to give him a lesser -- you know, I don't think of
11 him as being as guilty as B and C would be.

12 Q Suppose the instruction said he was?

13 A If the instruction said that he was, then I
14 would say that he was, if that was your instruction, yes.

15 Q Even though you personally disagreed with it?

16 A Yes, that's right.

17 Q That is what we are trying to find out.

18 Now, it is possible that if there is a conviction
19 of murder in the first degree that either side may
20 put on any additional evidence on the question of penalty.

21 In that case could you arrive at a decision
22 as to penalty based on the evidence that you did hear in
23 the case?

24 A Yes, I could.

25 Q Would your decision be based solely on the
26 evidence that you heard in the case?

5a-3

1 A Yes, it would.

2 Q Not on anything that you now believe or think,
3 is that right?

4 A I would follow the evidence. I would, you
5 know -- if it was brought in front of me, that would
6 change my mind, yes, you know, I would just follow the
7 evidence.

8 Q You have not now at this moment in time made
9 up your mind one way or the other as to which penalty you
10 would vote for?

11 A No, I have not.

12 THE COURT: Now, Mr. Paxton.

13
14 VOIR DIRE EXAMINATION OF MR. PAXTON

15 BY THE COURT:

16 Q Notwithstanding the contacts that you may have
17 had as to friends or relatives with law enforcement agencies,
18 or for any other reasons, do you believe that you could be
19 fair and impartial in this case and base your verdict
20 solely on the evidence that was introduced during the
21 course of the trial and in accordance with the Court's
22 instructions?

23 A Well, as I said, your Honor, I cannot promise
24 that I may not be subconsciously influenced.

25 Q Do you know of any conscious influence at this
26 time?

5a-4

1 A No.

2 Q Have you formed any opinion regarding any
3 of the defendants' guilt or innocence at this time?

4 A No, I have not.

5 Q Are you consciously aware at this moment of
6 any reason why you could not be fair and impartial?

7 A No.

8 Q If you were being tried for some offense would
9 you be willing to have someone in your present state of
10 mind sit on the jury?

11 A No, I think not.

12 Going back to my reasons, there, I don't think
13 I would.

14 Q Do you think you might tend to lean a little
15 bit towards the prosecution?

16 A Yes, your Honor.

17 THE COURT: All right, thank you very much, Mr.
18 Paxton.

19 It is the People's next peremptory challenge.

20 MR. STOVITZ: People will thank and excuse Juror No.
21 6, Ned Daughdrill.

22 MR. REINER: Excuse me, your Honor, the defense had
23 not passed challenge for cause yet.

24 THE COURT: I beg your pardon, you had not passed?

25 MR. REINER: We had not passed.

26 THE COURT: You did not say so, sir.

5a-5

1 MR. REINER: We had not passed.

2 THE COURT: You did not say so, sir.

3 MR. REINER: We had not passed for cause.

4 THE COURT: It was my understanding that you had.

5 MR. FITZGERALD: I passed, but your Honor subsequently
6 brought out material that would bring out a bias on the
7 part of the juror.

8 THE COURT: Do you wish to then exercise a challenge?

9 MR. FITZGERALD: Yes, your Honor, we would challenge
10 Mr. Paxton pursuant to Section 1073 Subdivision 2 of the
11 Penal Code for the existence of a state of mind on the
12 part of the juror with reference to the case.

13 MR. REINER: Join.

14 MR. SHINN: Join.

15 MR. KANAREK: Join.

16 THE COURT: You will be excused, Mr. Paxton. Thank
17 you very much.

18 Gentlemen, after you finish your voir dire
19 questioning, will you indicate at that time whether or
20 not you pass for cause. That is the normal procedure.
21 That is what I assumed you had done in that case, if you
22 did not expressly say so.

23 MR. FITZGERALD: Certainly.

24 THE COURT: We will take our morning recess at this
25 time.

26 Do not converse among yourselves or with

5a-6 q

1 anyone else on any subject relating to the case, nor
2 form or express any opinion regarding the case until
3 it is finally submitted to those of you who are selected
4 as jurors.

5 15 minutes, please.

6 MR. KANAREK: May I address the Court, your Honor,
7 I have a short obligation for a short appearance in
8 Department 100. It is due now.

9 THE COURT: We are in recess at this moment, Mr.
10 Kanarek.

5b Fla.

11 (Whereupon a recess was taken until 11:14 a.m.)
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5B-1

VOIR DIRE EXAMINATION OF MRS. PASCHALL

BY THE COURT:

Q Is that pronounced Paschall?

A It is pronounced Paschall.

Q Paschall?

A Yes.

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

A Yes, sir.

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

A I could not, sir.

Q What is your situation?

A I think -- I don't know whether you know or not, I understand that last night certain jurors' names were quoted on a certain television station, and I would not like to be quoted.

Q I have no idea what you are talking about. What was that?

A Well, I heard that some jurors were named by name and quoted.

Q This is something that you heard yourself or did you hear it from someone else?

A No, I heard it from someone else, because I did not listen to television last night or read the newspapers

as you asked us not to.

Q Do you know what station or channel it was?

A No.

Q Are you talking about this case?

A Yes, and therefore, if I could I would like to be interviewed in chambers.

MR. REINER: We join with the request.

Q BY THE COURT: Are you referring to quotations of things that were said here in open court by the prospective jurors, is that what you mean?

A Yes.

Q Oh, I see. You are not talking about interviews outside of the courtroom?

A No.

Q Well, of course, this is a public trial. There are members of the media present, and it is conceivable that something may be said or written concerning the jury selection.

But there are also other members of the public here who hear everything that is being said by you, and of course the reporter is taking it all down as a permanent record.

This is true in every case.

A I just would not like it to be on television.

Q Well, I don't know how we can assure you that something won't be said. But that is not a ground for

1 being excused as a prospective juror.

2 Is there anything else?

3 A No, sir.

4 Q All right. I am going to ask you the questions
5 regarding the death penalty, Mrs. Paschall, that^{were} asked
6 of the other jurors.

7 Have you had an opportunity to think about
8 those questions and your answers to them?

9 A Yes, sir.

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 guilt
13 regardless of the evidence developed during the trial?

14 A No, sir.

15 Q Do you entertain such conscientious opinions
16 regarding the death penalty that you would automatically
17 refuse to impose it without regard to the evidence developed
18 during the trial?

19 A No, sir.

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

21 MR. FITZGERALD: Yes.

22
23 VOIR DIRE EXAMINATION OF MRS. PASCHALL

24 BY MR. FITZGERALD:

25 Q Mrs. Paschall?

26 A Yes, sir.

1 Q What television channel was this?

2 A I do not know, sir, I do not remember.

3 Q Did someone tell you?

4 A Yes.

5 Q Was it another prospective juror?

6 A Yes.

7 Q Do you know who that person is?

8 A No.

9 Q Is that person in the courtroom now?

10 A Yes. There were several others that heard about
11 it.

12 Q And did she have a little discussion about it
13 with several people standing around?

14 A Several were standing around. We heard about
15 it.

16 Q And your reaction was what?

17 A That I did not want to be interviewed and then
18 named and quoted on television, because I am very
19 prejudiced in this case.

20 Q I see. And you feel, and correct me if I am
21 wrong, and you feel that to conduct these matters in open
22 court and to later have the media broadcast what you have
23 said would be to invade your privacy, is that a fair
24 statement?

25 A Right, sir.

26 Q And if you are forced to answer questions that I

1 ask of you or that any of the lawyers ask of you in open
2 court, the fact that it is in open court is going to
3 influence your answers, is it not?

4 A No, I have taken an oath to answer the
5 questions.

6 Q Assuming that we take your statement at face
7 value that you are prejudiced in this case, are you going
8 to be just as prejudiced in open court as you would be in
9 chambers?

10 A Yes.

11 Q Rather than have me ask you questions about the
12 nature of your prejudice, in order to best protect you
13 I will allow you to tell us what you think is relevant about
14 your state of mind with regard to this case, all right?

15 MR. KANAREK: Your Honor, may we approach the bench,
16 your Honor?

17 THE COURT: Well, I am not going to permit this,
18 Mr. Fitzgerald. I think you can do it by question and
19 answer.

20 Q BY MR. FITZGERALD: Are you prejudiced against
21 the defendants in this case?

22 A Yes, sir.

23 Q Do you think that that would influence you in
24 arriving at a decision concerning their innocence or their
25 guilt?

26 A Yes, sir.

5c-1

1 Q And it wouldn't influence you adversely,
2 that is to say, you would be more likely to convict than
3 not?

4 A Yes, sir.

5 MR. FITZGERALD: I have nothing further. I will
6 not pass for cause. May that be reserved?

7 THE COURT: All right.

8 MR. REINER: No questions, your Honor.

9 MR. SHINN: No questions, your Honor.

10 MR. KANAREK: No questions, your Honor.

11 THE COURT: I assume if you don't pass for cause
12 you have some challenge for cause.

13 MR. FITZGERALD: Well, frequently the prosecution
14 likes to inquire.

15 MR. STOVITZ: In this case we will not, your Honor.

16 MR. FITZGERALD: In which case the defendants
17 jointly will interpose an objection for cause, actual
18 bias pursuant to Section 1073 of the Penal Code,
19 Subdivision 2.

20 THE COURT: Do you wish to be heard?

21 MR. STOVITZ: Submit it, your Honor.

22 THE COURT: You will be excused, Mrs. Paschall.

23 THE CLERK: Mr. Mildred E. Allen, M-i-l-d-r-e-d;
24 A-l-l-e-n.

25 (Whereupon Mrs. Mildred E. Allen came forward
26 and was seated in seat No. 5 in the jury box.)

5c-2

VOIR DIRE EXAMINATION OF MRS. ALLEN

BY THE COURT:

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

A Yes, I have.

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

A I'm afraid not.

Q What is your situation?

A I'm in school.

Q I beg your pardon?

A I am in school, and then I also work with the educational aid program.

Q When you say you are in school, what do you mean by that?

A I attend classes.

Q What is the nature of the school?

A It is toward my degree as a teacher.

Q You are presently engaged in some course?

A Yes, I am.

Q And how long is that to continue?

A I don't know, I just began, in other words.

Q You just started in?

A Yes, toward an AA degree is what I am trying to get.

5c-3

1 Q What is the length of the present course?

2 A Well, that depends on the units that we
3 are allowed to take, and with the program that I am
4 with.

5 I am in a classroom all day.

6 Q Would you hold the microphone up just a
7 little bit, please.

8 A With the program I am with I am in the
9 classroom all day with the students until 3:00.

10 At 3:30 my classes begin, and that runs
11 until 5:30 and 6:00, and sometimes 9:30.

12 Q How long has this course been going on
13 now?

14 A Well, I have been with it for two years.

15 Q I understood you to say --

16 A Various subjects.

17 Q You just stated a new course subject.

18 A Right.

19 Q And how long will this new course go on?

20 A Each semester, I should be in summer school
21 now, but because of my being called for jury I had to
22 turn my cards in.

23 So I am not in summer school right now, but
24 I will be back in school in September.

25 Q All right, I'm going to go ahead and ask
26 you some other questions, Mrs. Allen.

5c-4

1 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 of the
4 defendant's guilt regardless of the evidence developed
5 during the trial?

6 A No, sir.

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 No, sir.

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

13 MR. FITZGERALD: Thank you.

14
15 VOIR DIRE EXAMINATION OF MRS. ALLEN

16 BY MR. FITZGERALD:

17 Q Mrs. Allen, what is your business or
18 occupation?

19 A I work with the educational aid program.

20 Q I'm not quite sure what it is.

21 Would you very briefly explain it?

22 A Yes, this is a program whereby we work with
23 the teachers, certificated teachers and we are their
24 assistants.

25 We work with the children who are slow in
26 various areas.

1 Q Are you married?

2 A Yes, I am.

3 Q Do you have any children?

4 A I have four.

5 Q The oldest?

6 A My oldest is 29, who is married. She is
7 a teacher and has a daughter.

8 My second one is a nurse who is working
9 for the County.

10 And then I have a son in college; possibly
11 he could be threatened to go to war most any time.

12 Q Pardon me?

13 A I have a son who has his number for war
14 to go into the Service.

15 Then I have another son who is a high
16 school student, 17, a son that is in college is 18.

17 Q Where in the County do you reside?

18 A South Los Angeles.

19 Q Have you ever served as a juror before?

20 A Just the week before last.

21 Q Have you read, seen or heard anything about
22 this case?

23 A No more than what I heard here in the court
24 discussion with other people.

25 Q Do you own a television set?

26 A Yes, I do.

1 Q Have you seen anything on the television in
2 connection with this case?

3 A No more than when -- I don't even recall
4 when it first occurred, that these people were
5 apprehended.

6 Q That was on television?

7 A Yes.

8 Q Did you read anything in the newspaper in
9 connection with this case?

10 A No, I do not have time.

11 Q Did you hear anything on the radio in
12 connection with this case?

13 A Yes, yes.

14 Q And you had heard that these defendants
15 were apprehended, is that correct?

16 A Right, that's right.

17 Q And charged with this offense, I take it?

18 A On television.

19 Q And it was your understanding -- was it your
20 understanding, from what you saw on television or heard
21 on the radio, that these defendants were guilty?

22 A That did not really occur in my mind one
23 way or the other.

24 Q Did you hear anything about the individual
25 defendants?

26 A I don't really recall, no more than just
names which did not mean anything to me.

5D-1

1 Q Do you recall hearing anything on television or
2 on the radio? Did you hear anything good about the
3 defendants?

4 A No, I did not.

5 Q Did you hear anything bad?

6 A No more than that it was the Tate murder case,
7 that is all I heard.

8 Q Did you hear anything in respect to Mr. Kanarek
9 on radio or on television?

10 A No.

11 Q Did you read anything about Mr. Kanarek in the
12 newspaper?

13 A No, I am a very busy lady.

14 Q Apparently.

15 If I were to ask you all of the questions I
16 asked all of the other preceding jurors would your answers
17 be about the same?

18 A Approximately.

19 Q Is there anything I should ask you that I
20 have not?

21 A Not that I can recall.

22 Q Can you think of any reason why you cannot be a
23 fair and impartial juror?

24 A No.

25 MR. FITZGERALD: Thank you.

26 Pass for cause.

1 THE COURT: Mr. Reiner?

2 MR. REINER: I have no questions, your Honor.
3 I will pass for cause.

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

5 MR. KANAREK: Your Honor, I would like to approach the
6 bench.

7 THE COURT: All right, you may.

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

10 MR. KANAREK: Your Honor, I would like to challenge
11 for actual bias this lady, also Mr. Parrish for actual
12 bias, because of the pervasive publicity in connection with
13 this case.

14 MR. STOVITZ: Submit it, your Honor.

15 MR. REINER: Excuse me, your Honor, we will join,
16 we will withdraw the previous pass for cause and join.

17 MR. FITZGERALD: Join.

18 THE COURT: The challenge will be disallowed.

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

21
22 VOIR DIRE EXAMINATION OF MRS. ALLEN

23 BY MR. STOVITZ:

24 Q Mrs. Allen, are you presently employed?

25 A Yes, I am.

26 Q I take it that serving on this jury would not

5E3
1 cause you any financial loss, is that correct?

2 A No, it wouldn't, truthfully.

3 Q Are you employed by the Board of Education?

4 A Yes, I am.

5 Q And they do compensate you to subsidize your
6 work?

7 A Yes.

8 Q All right, then, this schooling that you are
9 attending, this special class that you are attending, it
10 has been going on for two years, you say?

11 A Well, various subjects, yes.

12 Q How many more years do you have to go?

13 A That I don't know, it's according to the units
14 we have to have, so many units before we can be --

15 THE COURT: Will you hold the microphone up, please.

16 MRS. ALLEN: We have to have so many units before we
17 can be considered.

18 Q BY MR. STOVITZ: ^{don't} I think that microphone is on.

19 THE COURT: It does not appear to be on. Is the
20 switch on, Mrs. Allen?

21 Q BY MR. STOVITZ: Mrs. Allen, is this something
22 that, let's say, if you had a six-month recess, like a
23 sabbatical, would you be able to go back and continue on
24 with your education, or would something happen that would
25 cause you to stop what you are doing?

26 A May I make a statement?

1 Q If it's just about your own personal matter,
2 yes.

3 A This is in regards to something that I have
4 always wanted to do, but because of my children -- I put
5 my children first -- so I put myself last in order to
6 maintain this certain thing that I have looked forward to
7 for so many years.

8 Now, at my age, if you realize I have a 29, 28,
9 18 and 17-year-old children, that means that I am not a
10 young woman any more.

11 So everything that I lose now, all the time
12 that I am losing from class, this is pushing me that much
13 farther back, and my credits.

14 Q And, Mrs. Allen, no matter what flattery I
15 offer, it would not help the situation any, is that right?

16 A No.

17 Q If you are selected as a juror would you be able
18 to give this case your undivided attention and just put
19 aside the fact that you are taking out about six months of
20 your life with the case?

21 A Would you state that again, please?

22 Q Yes. You understand if you are a juror in
23 this case you are just going to have to about forget
24 about these other things, although you could probably read
25 your subjects at the hotel as long as it doesn't have any-
26 thing to do with this case, and you would be able to

1 continue some reading.

2 But you would not be able to attend classes.

3 You understand that?

4 A Yes.

5e-1

1 Q And come September time you won't be able
2 to go back to your educational courses, you understand
3 that?

4 A Yes.

5 Q Now, would you be able to devote your
6 undivided attention to this case and not think about
7 these other things?

8 A I think that would be a little hard.

9 Q What about your family, would that also be
10 difficult?

11 A Also, which I have not stated, my husband
12 was very ill last year. He had two operations, very
13 serious operations which we almost lost him.

14 Now, he has gone back to work; he just
15 went back to work in March.

16 Q What does he do, ma'am?

17 A Cafeteria manager.

18 Q For whom?

19 A For Ralphs, cafeteria attendant, I'm sorry.

20 And he is a person that the doctor says
21 that whatever happens I am the one to get the blow
22 first, and then I break the news to him gently.

23 Q Now, you have heard all of the other
24 questions that Mr. Bugliosi asked you?

25 A Yes.

26 Q All right, now, suppose each and every one

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1 of those questions were asked of you, ask yourself the
2 ones on the death penalty, now, would your answers be
3 the same as Mrs. McKenzie's.

4 MR. KANAREK: That is improper voir dire examination,
5 your Honor.

6 THE COURT: Improper voir dire?

7 MR. KANAREK: Improper voir dire.

8 THE COURT: You understand the question, Mrs. Allen?

9 MRS. ALLEN: Yes.

10 THE COURT: Overruled.

11 BY MR. STOVITZ:

12 Q Would your answers be the same as Mrs. McKenzie's?

13 A Approximately.

14 Q Are you emotionally upset at this time or is
15 it the smog of California?

16 A No.

17 Q It is not the smog of California and you are
18 not emotionally upset.

19 Do you think if you voted for first degree
20 murder as to each one of these defendants, do you think
21 that you could return a death penalty for each one of
22 these defendants?

23 A Yes.

24 Q And you do not --

25 MR. KANAREK: That is improper, your Honor. May I
26 ask the answer be stricken so I can voice an objection

1 to that.

2 That is improper voir dire.

3 THE COURT: The answer will be stricken for the
4 purpose of your objection.

5 What is the objection?

6 MR. KANAREK: The objection is it is improper voir
7 dire.

8 THE COURT: Well, you understand, Mrs. Allen, do
9 you, that you are not being asked to prejudge the case
10 or the penalty?

11 Do you understand that?

12 MRS. ALLEN: Yes.

13 THE COURT: The thrust of the question is whether
14 you have now made up your mind on any of the issues
15 which will be submitted to the jury, or whether you are
16 able to reserve judgment and listen to all of the evidence
17 and decide the issues solely on the evidence that comes in
18 during the course of the trial.

19 Do you understand that?

20 MRS. ALLEN: Yes.

21 THE COURT: Are you able to do that?

22 MRS. ALLEN: Yes, sir.

23 THE COURT: All right. The objection is overruled.
24 BY MR. STOVITZ:

25 Q So that you would not hesitate if you felt
26 that the verdict was proper to return a death penalty

1 for a female defendant?

2 A Yes.

3 Q All right, now, with respect to the circum-
4 stantial evidence questions that were asked the other
5 jurors, you heard Mr. Parrish explain some opposition
6 to following them.

7 Do you have any opposition to following them?

8 A No.

9 Q Do you understand what the rule is?

10 A Yes.

11 Q And if the Court instructed you on that, you
12 would follow the Court's instructions implicitly, is that
13 right?

14 A Yes, sir.

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1 Q All right.

2 Now, can you think of anything, just as the
3 gentleman that was sitting in your seat before, Mr. Paxton
4 thought of certain things that might influence his judgment
5 one way or the other and brought them to our attention,
6 can you think of anything that you would want to tell us
7 about?

8 A No.

9 Q If each and every one of those questions were
10 asked of you, as they were asked of the other jurors in
11 your presence on Monday, could you tell us if your answers
12 would differ in any way from any other jurors?

13 A No.

14 Q What area of the city do you live in?

15 A South Los Angeles.

16 Q With respect to what you have read or have
17 heard about this case, Mrs. Allen, you understand that that
18 is not evidence in the case?

19 A Yes, sir.

20 Q You understand that these defendants are the
21 only ones on trial in this case?

22 A Right.

23 Q If evidence were introduced naming somebody
24 else, Mrs. Allen, would your suspicions or would your
25 curiosity so overwhelm you that it would prevent you from
26 voting for a verdict in these defendants' cases?

6-2

1 A No.

2 Q You understand that there may be many names
3 mentioned or many places and things like that; that the
4 people are only required to prove their case beyond a
5 reasonable doubt as to the elements of the case.

6 Do you understand that?

7 A Yes.

8 Q And the defendants' connection with the case?

9 A Yes.

10 Q All right.

11 Now, bearing in mind your own background,
12 bearing in mind everything you know about yourself and what
13 little you know about the case, can you tell us if there is
14 anything else we should know about it?

15 A No.

16 MR. STOVITZ: Thank you very much, Mrs. Allen.

17 MRS. ALLEN: You are welcome.

18 THE COURT: Pass for cause?

19 MR. STOVITZ: Yes, your Honor.

20 THE COURT: It is the People's next peremptory
21 challenge.

22 MR. STOVITZ: We will thank and excuse Juror No. 6,
23 Ned Daughdrill.

24 THE COURT: Thank you, Mr. Daughdrill. You are
25 excused.

26 THE CLERK: Robert Baillie; R-o-b-e-r-t, B-a-i-l-l-i-e.

1 MR. KANAREK: Your Honor, may we approach the bench?
2 THE COURT: Before we hear the voir dire examination?
3 MR. KANAREK: Yes.

4 THE COURT: All right, very well.

5 (Whereupon, all counsel approach the bench and
6 the following proceedings occur at the bench outside of
7 the hearing of the prospective jurors:)

8 MR. KANAREK: Your Honor, I want to impose a
9 challenge for actual cause as to the lady, Mrs. Allen,
10 because of the all-pervasive publicity.

11 MR. STOVITZ: Submit it, your Honor.

12 THE COURT: Mr. Kanarek, why do you wait?

13 MR. KANAREK: Mr. Stovitz hadn't finished, your
14 Honor.

15 I think that the challenge for cause for
16 actual bias can be made at any time.

17 Mr. Stovitz interrogated after we interrogated,
18 your Honor.

19 THE COURT: I suggest that you take a look at 1076
20 of the Penal Code. But, in any event, the record will note
21 your challenge.

22 The challenge will be disallowed.

23 MR. KANAREK: Yes, your Honor.

24 MR. STOVITZ: I wonder, your Honor, whether we could
25 just assign this challenge as challenge number one?

26 THE COURT: I am afraid, with this number of counsel

1 and parties, it becomes confusing, and possibly the record
2 will not clearly reflect what is being done.

3 I would prefer to have each counsel exercise
4 clearly and unambiguously any challenge he wishes to inter-
5 pose, and I will rule on it.

6 MR. STOVITZ: This is our fifth trip to the bench this
7 morning, your Honor.

8 THE COURT: That is all right.

9 MR. STOVITZ: Okay. I appreciate getting up.

10 THE COURT: I don't want these things in front of the
11 jury and they have to be done at the bench.

12 MR. STOVITZ: All right.

13 MR. KAMAREK: I would ask that all challenges for
14 cause be done at the bench.

15 I may be mistaken but --

16 MR. STOVITZ: Where it is obvious that the juror is
17 going to be removed, I don't see any necessity of that,
18 but I will submit the matter, your Honor.

19 THE COURT: This challenge is disallowed.

6a-1

(Whereupon all counsel returned to their respective places at the counsel table and the following proceedings occurred in open court within the presence and hearing of the prospective jury:)

VOIR DIRE EXAMINATION OF ROBERT BAILLIE
BY THE COURT:

Q Mr. Baillie, have you heard and understood everything that has been said in this court since you came into the case?

A Yes, sir.

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

A It would create a hardship, sir, and in a way would jeopardize my family life.

Q Would you enlighten us on that?

A May I approach the bench on this, sir? It is important.

THE COURT: All right.

Do counsel have any objections?

MR. REINER: No objection.

MR. FITZGERALD: No.

MR. KANAREK: No, sir.

MR. SHINN: No objection.

MR. STOVITZ: We will waive objection.

THE COURT: You may come up, Mr. Baillie.

6a-2

1 (Whereupon prospective juror Robert Baillie
2 approaches the bench, no counsel being present, and the
3 following proceedings were had out of the hearing of all
4 prospective jurors, counsel and defendants:)

5 MR. BAILLIE: Your Honor, I am an alcoholic and I
6 belong to Alcoholics Anonymous. I have been on 28 months.
7 I am still nervous.

8 I do a lot of AA work. I go up to the
9 prisons, up to Chino once a month on an alcoholic panel.

10 I feel that I don't want to go back to it.

11 THE COURT: What is the nature of the problem?

12 MR. BAILLIE: Alcoholism. And I don't feel I want
13 to go back to my drinking, and I might if I am on this
14 jury.

15 This is my program, your Honor.

16 I go to a lot of meetings. Even now I go
17 to meetings.

18 THE COURT: You don't mind if I mention this to
19 other counsel, do you?

20 MR. BAILLIE: No. Absolutely not. I don't mind.

21 THE COURT: I won't make any mention of it to the
22 people in the courtroom.

23 MR. BAILLIE: Fine. Thank you.

24 THE COURT: It is a matter of record as to what
25 you and I are saying.

26 MR. BAILLIE: I understand. I don't mind that.

6a-3

1 THE COURT: I will simply refer to it and keep
2 it confidential.

3 MR. BAILLIE: Thank you.

4 THE COURT: Thank you, Mr. Baillie.

5 (Mr. Baillie returns to his seat in the jury
6 box.)

7 THE COURT: Will counsel approach the bench,
8 please?

9 (Whereupon all counsel approach the bench
10 and the following proceedings occur at the bench outside
11 of the hearing of the prospective jurors:)

12 THE COURT: Mr. Baillie states that he is an
13 alcoholic and he has been --

14 MR. KANAREK: I can't hear, your Honor.

15 THE COURT: I say that Mr. Baillie states that he
16 is an alcoholic and has been under the AA program for 28
17 months. He attends meetings daily. He also goes up to
18 the various penal institutions, including Chino, where
19 he counsels with other alcoholics as members of a
20 board, a panel, and he is afraid that if he were confined
21 in this case for any length of time he is very apprehensive
22 about falling off the wagon.

23 MR. REINER: Stipulate.

24 MR. STOVITZ: Mr. Kanarek?

25 MR. FITZGERALD: One moment.

26 (Defense counsel confer.)

1 MR. FITZGERALD: We can't agree on a stipulation.

2 MR. STOVITZ: Can or cannot?

3 MR. FITZGERALD: Cannot.

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1 MR. STOVITZ: I trust that this conversation at the
2 bench will not find its way into the Free Press, as other
3 conversation has.

4 MR. FITZGERALD: Aw, come on, Mr. Stovitz, get off of
5 it.

6 THE COURT: Stop that kind of talk, Mr. Fitzgerald.
7 Now, behave yourself.

8 MR. STOVITZ: I read today's issue of the Free Press
9 and --

10 MR. FITZGERALD: I object to this. We are here to
11 talk about this juror.

12 THE COURT: He is entitled to make a statement.

13 MR. STOVITZ: There were remarks there made only in
14 chambers, and these remarks in chambers were made after
15 Your Honor's ruling.

16 THE COURT: I have augmented the publicity order to
17 cover proceedings at the bench as well as in chambers.
18 You are all aware of it.

19 I hope you will have the good sense not to
20 violate it, and I would hope you would have the good sense
21 not to mention it even if there were no order.

22 MR. STOVITZ: Yes.

23 THE COURT: It can only serve to injure an innocent
24 prospective juror without doing any benefit to anybody.

25 MR. STOVITZ: That is the reason that I cannot see
26 why counsel doesn't want to stipulate to a man who truly has

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1 a problem, a problem like any medical problem.

2 THE COURT: They don't have to stipulate.

3 MR. STOVITZ: Yes, I know. You have the discretion
4 to remove this man for hardship.

5 THE COURT: I am going to.

6 Do you object to that?

7 MR. FITZGERALD: No.

8 Your Honor accuses me of being inconsistent.
9 Your Honor has been inconsistent.

10 THE COURT: About what?

11 MR. FITZGERALD: About excusing jurors for cause.

12 THE COURT: Inconsistent how?

13 MR. FITZGERALD: I am not attacking you for
14 exercising your discretion to excuse this man for cause.

15 THE COURT: The reason I asked you, Mr. Fitzgerald,
16 the last time I did, much after the jurors had been excused
17 and left the courtroom, you made an objection. I want to
18 give you an opportunity to make it now.

19 MR. FITZGERALD: Well, I will object to this juror
20 being excused for cause.

21 THE COURT: He is not being excused for cause. I
22 am going to exercise my discretion and excuse him for
23 hardship.

24 MR. FITZGERALD: I know of no such provision in the
25 Code.

26 THE COURT: You are objecting?

1 MR. FITZGERALD: I am objecting.

2 THE COURT: All right. He will be excused.

3 MR. KANAREK: Join with Mr. Fitzgerald in the
4 objection.

5 MR. SHINN: Join.

6 (Whereupon, all counsel returned to their
7 respective places at counsel table and the following
8 proceedings occurred in open court within the presence and
9 hearing of the prospective jurors:)

10 THE COURT: You will be excused, Mr. Baillie. Thank
11 you very much.

12 THE CLERK: Mitchel Gameril; M-i-t-c-h-e-l,
13 G-a-m-e-r-i-l.

14 (Whereupon, Mitchel Gameril was seated in seat
15 No. 6 in the jury box.)

16
17 VOIR DIRE EXAMINATION OF MITCHEL GAMERIL
18 BY THE COURT:

19 Q Mr. Gameril, have you heard and understood
20 everything that has been said in court since you came into
21 the case, sir?

22 A Yes, sir.

23 Q If you are selected as a juror in this case,
24 will you able to serve?

25 A No, sir.

26 Q Why is that?

1 A In my coming questions, your Honor, my
2 replies will probably be the reason why I reply in the
3 negative form.

4 Q That would not prevent you from serving?
5 I am talking about any unusual or undue hardship.

6 A No, sir.

7 Q All right.

8 And I am going to ask you the same question
9 regarding the death penalty that I have asked to the
10 other jurors.

11 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 Yes, sir.

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1 Q You understand that that question is directed
2 now to your ability to decide the issue of guilt, not
3 penalty?

4 Do you understand that, sir?

5 A Yes, I do.

6 Q And do you believe that because of your
7 opinions regarding the death penalty that you could not be
8 impartial on the question of whether or not a particular
9 defendant is guilty or not guilty?

10 A No, sir.

11 Q Perhaps you didn't understand the question.
12 I think it is inconsistent with your previous answer.

13 Because of your conscientious opinion regard-
14 ing the death penalty, do you believe that you can be
15 impartial on the decision as to guilt with respect to
16 any defendant?

17 A No, sir.

18 Q You cannot be impartial?

19 A No, sir.

20 Q Do you have any question or mental reservation
21 about that at all in your mind?

22 A I have.

23 Q I'm sorry, I didn't hear you?

24 A I have.

25 MR. STOVITZ: Have, your Honor; h-a-v-e.

26 THE COURT: Q You do have a question about that?

6c-2

1 A Yes, sir.

2 Q I am afraid that perhaps you don't understand
3 my question again. I am sorry. I will put it to you again.
4 Your answer is now inconsistent with your previous answer.
5 Perhaps I confused you.

6 Is it true that because of your beliefs regard-
7 ing the death penalty that you could not be impartial on
8 the question of guilt?

9 A Correct, sir.

10 Q You would not be willing to listen to the
11 evidence and then make up your mind?

12 A No, sir.

13 THE COURT: All right.

14 Do you wish to inquire, Mr. Fitzgerald?

15 MR. FITZGERALD: No, your Honor.

16 MR. REINER: No, your honor.

17 MR. SHINN: No.

18 MR. KANAREK: No questions, your Honor.

19 MR. STOVITZ: I ask that the juror be excused, your
20 Honor.

21 THE COURT: Are you make a challenge?

22 MR. STOVITZ: Yes, your Honor, for cause, actual bias,
23 implied bias.

24 MR. FITZGERALD: Object to the removal of the juror
25 for cause under the due process and equal protection laws.

26 MR. SHINN: Join.

6c-3

1 MR. REINER: Join in the objection.

2 MR. KANAREK: Join, your Honor.

3 THE COURT: You wish this prospective juror to be
4 retained, do you?

5 MR. FITZGERALD: That is correct.

6 THE COURT: You will be excused, Mr. Gameril. Thank
7 you, sir.

8 MR. GAMERIL: Thank you, sir.

9 MR. BUGLIOSI: Your Honor, may we approach the bench?

10 THE COURT: Yes.

11 (Whereupon all counsel approach the bench and
12 the following proceedings occur at the bench outside of
13 the hearing of the prospective jurors:)

14 MR. BUGLIOSI: I apologize for this, your Honor.
15 I was talking to Mr. Stovitz --

16 MR. KANAREK: I cannot hear.

17 MR. BUGLIOSI: I was talking to Mr. Stovitz while the
18 Court was securing answers to its questions, and I didn't
19 get all the answers, and after he was excused I turned over
20 to Mr. Reiner and Mr. Fitzgerald and asked them if he had
21 unequivocally said he would automatically vote against the
22 death penalty, and they indicated that he did not, and
23 I just wanted to verify that.

24 THE COURT: He wasn't excused for that reason. He
25 was excused because he said he cannot be impartial.

26 The death penalty is not the only grounds for

1 excusing the juror for cause.

2 MR. BUGLIOSI: I am very much aware of that, your
3 Honor.

4 THE COURT: I'd be interested to hear from the
5 defendants, if they care to indicate to the Court, why
6 they opposed the challenge for cause.

7 MR. REINER: Your Honor --

8 MR. FITZGERALD: Because, just like Mr. Bugliosi,
9 we felt he was being excused because of his feelings
10 about the death penalty.

11 When your Honor excluded him, your Honor was
12 not clear, and certainly his statements cannot be categorized
13 as unambiguous under Witherspoon vs. Illinois.

14 THE COURT: The challenge was for cause for actual
15 bias. He indicated an actual bias. There wasn't the
16 slightest question in the Court's mind about it, and the
17 record is perfectly clear.

6d fls. MR. FITZGERALD: Yes, the record speaks for itself.

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1 THE COURT: I find it incredible that the defendants
2 would want to retain a man who states unequivocally that
3 he cannot be impartial on the subject of guilt.

4 MR. FITZGERALD: When he is excused for blanket cause
5 and the record isn't clear why he is being excused, we are
6 certainly going to object.

7 THE COURT: The record will be perfectly clear that
8 I excused him for actual bias and so indicated.

9 MR. REINER: Excuse me --

10 THE COURT: It is on the record.

11 MR. BUGLIOSI: Because the courts are so unbelievably
12 sensitive about Witherspoon -- and I apologize to the Court
13 for this -- could I ask the juror some further questions?
14 Could he be brought back?

15 I would like to establish, your Honor, a clear
16 record on both the death penalty and impartiality.

17 THE COURT: Where is he?

18 MR. REINER: Your Honor --

19 MR. BUGLIOSI: I don't know if he has left the
20 courtroom or not.

21 MR. SHINN: He has left the courtroom.

22 MR. BUGLIOSI: Let's bring him back.

23 MR. SHINN: Why?

24 MR. BUGLIOSI: Because I want to run my case the way
25 I want to run it.

26 MR. REINER: The Court was conducting what has been

1 previously referred to as a Witherspoon examination on the
2 death penalty issue --

3 THE COURT: Let's stop right there.

4 Don't tell me what I was conducting, Mr.
5 Reiner. I know what I was conducting. I don't care to have
6 it characterized by you.

7 MR. REINER: The Court has previously characterized
8 its examination.

9 THE COURT: Never mind what I have previously char-
10 acterized.

11 Do you have something to say?

12 MR. REINER: Yes. That is part of the observation,
13 that your Honor has previously characterized those questions
14 as its Witherspoon examination.

15 Now, I believe, your Honor -- and all counsel
16 have indicated, on the prosecution and the defense side --
17 that they understood your Honor to be examining this
18 prospective juror solely on the Witherspoon issue.

19 THE CLERK: Your Honor, I can't get him until he
20 gets back to the Jury Assembly Room.

21 MR. REINER: May I continue?

22 MR. BUGLIOSI: May I say first that the man is on
23 his way out of the courtroom. Can we bring him back?

24 MR. REINER: I have no objection to that.

25 MR. KAMAREK: If I may say this, your Honor --

26 THE COURT: Tell the Clerk to bring him back.

1 MR. BUGLIOSI: Yes.

2 His Honor said he wants you to bring him back.

3 THE CLERK: I probably can't get him back before
4 2:00 o'clock.

5 MR. KANAREK: Whatever he is going to be asked, your
6 Honor, I would ask that it be done in camera, because this
7 is a most unusual and sort of a dramatic thing that can
8 infect the rest of the jurors.

9 THE COURT: In camera?

10 MR. KANAREK: In chambers, your Honor.

11 THE COURT: I know what the term is. I am trying to
12 find out why you are making such a request?

13 MR. KANAREK: So whatever happens as to him, whatever
14 he may say, your Honor, the man was very emotional, there
15 is no reason why all the other jurors should hear.

16 THE COURT: I didn't think he was emotional. He was
17 quite straightforward. He had no trouble answering the
18 questions.

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MR. KANAREK: He appeared to be emotional to me.

THE COURT: What difference does it make whether he was emotional or not? He answered the questions.

Any further examination will be in open court.

Do you have something further to add, Mr. Reiner?

MR. REINER: I am trying to recall exactly where I was when I was interrupted, but I believe that what I wish to say in conclusion is that it was my impression, and it was the impression of the attorneys on both sides --

THE COURT: What is the purpose of your remarks? Are you making a motion?

MR. REINER: Your Honor, if I may finish one declarative sentence, perhaps the Court will understand what I am saying, but if I am to be constantly interrupted --

THE COURT: I want to know what you are directing your remarks to.

MR. REINER: You don't understand because you interrupted me before I finished one declaratory sentence.

THE COURT: Are you seeking some kind of relief? Are you making a motion?

MR. REINER: I have made it clear, but I will say it again, your Honor.

I am objecting to the juror being excused on the Witherspoon basis, and the reason that I am objecting is as follows, and I am indicating in very brief argument why.

1 To conclude my remarks, I wish to state that it
2 was my impression, and it was obviously the impression of
3 all attorneys on both sides of this matter --

4 MR. STOVITZ: Not on my side.

5 MR. REINER: Very well.

6 It was the impression of Mr. Bugliosi.

7 MR. STOVITZ: He said that he didn't hear the
8 questions.

9 MR. REINER: If I may be permitted to finish,
10 Mr. Stovitz.

11 That the examination was on the Witherspoon
12 issue, irrespective of what the very last question may or
13 may not have been. That this was, in fact, a Witherspoon
14 examination.

15 It appeared to me that the prospective juror
16 also, in effect, believed that he was being examined, as
17 perhaps a hundred or so jurors before him have been
18 examined, on the death penalty issue, and when he said that
19 he had a preconceived state of mind, he was referring to a
20 preconceived state of mind because of the death penalty
21 issue, and he didn't indicate whether it was pro or against
22 the prosecution or defense.

23 Now, that being the case, his answers would be
24 equivocal on the Witherspoon issue. They might not be
25 equivocal on a challenge for ordinary bias, but if the
26 examination was on the Witherspoon basis, and

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1 if the prospective juror understood that to be the case,
2 we do not have the lack of equivocation that Witherspoon
3 requires.

4 MR. BUGLIOSI: The Court will permit us to reinquire,
5 and then we will know.

6 MR. REINER: I have no objection to the prospective
7 juror being brought back.

8 MR. BUGLIOSI: I apologize to the Court for my
9 negligence in not questioning him, and I appreciate the
10 Court permitting us to go into it.

11 MR. REINER: As to our good faith, may I indicate that
12 I did reveal to Mr. Bugliosi, to the prosecution, that in
13 my judgment it was equivocal, so that he could make
14 objection if he chose to. I just didn't sit on it, your
15 Honor.

16 THE COURT: We are going to adjourn at this time.

17 MR. STOVITZ: With the permission of the Court, may
18 we ask the court reporter to write up the last two pages
19 that I think would be of the questions and answers of that
20 particular juror, so that your Honor and all counsel will
21 see that the juror's answers were quite clear?

22 THE COURT: It will be in the transcript.

23 MR. STOVITZ: We don't get the transcript until late
24 today.

25 THE COURT: Then just ask your questions all over
26 again.

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1 MR. KANAREK: Your Honor, Mrs. Allen appears to be
2 showing some discomfiture. I gather because of her
3 personal problem.

4 THE COURT: She looks all right to me.

5 MR. KANAREK: Very well.

6 (Whereupon, all counsel returned to their
7 respective places at the counsel table and the following
8 proceedings occurred in open court within the presence and
9 hearing of all prospective jurors:)

10 THE COURT: Ladies and gentlemen, do not converse
11 among yourselves or with anyone else on any subject
12 relating to the case nor form or express any opinion
13 regarding the case until it is finally submitted to those
14 of you who are selected as trial jurors.

15 The Court will recess at this time until 2:00
16 p.m.

17 (Whereupon, at 12:00 noon the Court stood in
18 recess.)
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LOS ANGELES, CALIFORNIA, FRIDAY, JULY 3, 1970

2:02 P.M.

---Q---

THE COURT: All parties and counsel are before the Court.

The prospective jurors are in the jury box.

Mr. Gametil, we asked you to come back this afternoon because some of the counsel felt that they would like to ask you some questions, sir.

Mr. Fitzgerald, would you like to inquire?

MR. FITZGERALD: No, your Honor.

THE COURT: Mr. Reiner?

MR. REINER: No, your Honor, no questions.

THE COURT: Mr. Shinn?

MR. SHINN: No questions, your Honor.

THE COURT: Mr. Kanarek?

MR. KANAREK: No questions, your Honor.

THE COURT: Mr. Bugliosi?

VOIR DIRE EXAMINATION OF MR. GAMETIL

BY MR. BUGLIOSI:

Q Mr. Gametil, I will apologize for bringing you back and putting you in the box again like this. I just have a couple of questions, sir.

A Yes, sir.

Q Are you opposed to the death penalty?

1 A Yes, sir.

2 Q Is your opposition to the death penalty of such
3 a nature that it would cause you to automatically vote
4 against the death penalty for these defendants regardless
5 of what the evidence is in this case?

6 A Yes, sir.

7 Q You cannot conceive then of any circumstances
8 wherein you would be willing to vote for the death penalty
9 regardless of the evidence?

10 A No, sir.

11 MR. BUGLIOSI: Thank you, sir.

12 Your Honor, the People would move to excuse
13 Mr. Gameril --

14 MR. KANAREK: Your Honor, may we approach the bench?

15 THE COURT: Just a moment, sir, one thing at a time.
16 I want to ask Mr. Gameril another question before counsel
17 make any objections or other statements.

18
19 VOIR DIRE EXAMINATION OF MR. GAMERIL

20 BY THE COURT:

21 Q Mr. Gameril, I asked you this question this
22 morning, but I am going to ask you the same question again
23 just so the record will be perfectly clear:

24 Do you entertain such conscientious opinions
25 regarding the death penalty that you would be unable to
26 make an impartial decision as to any defendant's guilt

1 regardless of the evidence developed during the trial?

2 A Yes, sir.

8-1

1 Q And you have no question in your mind about
2 that, sir?

3 A No, sir.

4 MR. BUGLIOSI: The People move to excuse --

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

6 THE COURT: Mr. Kanarek, if you will kindly refrain
7 from interrupting Mr. Bugliosi. You may approach the
8 bench but let's take one thing at a time.

9 MR. KANAREK: Very well. I am sorry, your Honor.

10 MR. BUGLIOSI: The People move to excuse Mr. . Gameril,
11 your Honor, on two grounds; one, under Section 1073,
12 Subdivision 2 of the Penal Code, actual bias; and also
13 1074, Subdivision 8 of the Penal Code, implied bias; and
14 also on the grounds of Witherspoon vs. Illinois.

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

16 MR. KANAREK: No, not now, your Honor. Mr. Bugliosi
17 has obviated the necessity of approaching the bench.

18 MR. FITZGERALD: We will oppose the challenge on the
19 grounds that it denies defendants due process and equal
20 protection of the law.

21 MR. REINER: Join.

22 MR. KANAREK: Join, your Honor.

23 MR. SHINN: Join.

24 THE COURT: You are excused, Mr. Gameril.

25 THE CLERK: William C. Herbrig, W-i-l-l-i-a-m,
26 H-e-r-b-r-i-g.

8-2

1 (Whereupon Mr. William C. Herbrig came
2 forward and was seated in the jury box.)
3

4 VOIR DIRE EXAMINATION OF MR. WILLIAM C. HERBRIG
5 BY THE COURT:

6 Q Mr. Herbrig, have you heard and understood
7 everything that has been said in court since you came
8 into the case, sir?

9 A Yes, sir.

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

12 A I am afraid not. It is a hardship on me.

13 Q Would you expand on that, sir?

14 A Well, I work for McDonnell-Douglas Corporation
15 and they will only pay me for 20 days -- 20 working days
16 or 30 calendar days.

17 That would more or less defeat my staying here
18 for \$5 a day.

19 Q Do you have a family, Mr. Herbrig?

20 A Yes, sir, I have. I have a wife and a boy
21 12 years old.

22 Q Do you rely upon your compensation or
23 earnings from McDonnell-Douglas to support your family?

24 A Yes, I do.

25 Q Do you know this to be a company policy of
26 McDonnell-Douglas? That is, is it something that you have

1 received by way of a policy statement from some superior
2 in the company?

3 A Yes, sir.

4 I noticed you were questioning other members
5 about this, so I checked into it, and my supervisor
6 checked with higher supervisors, and they said the policy
7 is that they will pay for 20 days -- 20 working days --
8 or 30 calendar days. That is their policy.

9 Q And after that, Mr. Herbrig, no compensation;
10 is that right?

11 A No compensation.

12 Q How long have you been on jury service now?

13 A Well, let's see. I have been here almost
14 15 days. Well, let's see. It must be about 13 days,
15 I guess.

16 Q All right, sir. I am going to ask you some
17 other questions and we will pass that subject. Do you
18 entertain such conscientious opinions regarding the death
19 penalty that you would be unable to make an impartial
20 decision as to any defendant's guilt regardless of the
21 evidence developed during the trial?

22 A No, sir.

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

1 A No, sir.

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

3 MR. FITZGERALD: Thank you.

4
5 VOIR DIRE EXAMINATION OF MR. HERBRIG
6 BY MR. FITZGERALD:

7 Q What do you do for McDonnell-Douglas?

8 A I am an associate industrial engineer.

9 Q Are you married, sir?

10 A Yes, sir, I am.

11 Q Where in the County of Los Angeles do you
12 reside, Mr. Herbrig?

13 A In the Long Beach area.

14 Q The Long Beach area?

15 A Yes.

16 Q Have you ever served as a juror before, sir?

17 A This is my first term.

18 Q Your first term?

19 A Yes.

20 Q Have you ever read anything about this case
21 prior to coming to court today?

22 A Yes, sir, I have. I read one of the first
23 articles in 1969.

24 Q Have you also seen material in connection
25 with this case on television, sir?

26 A No. The only thing I have seen is that I saw

1 Mr. Manson on TV the other night, but I was just walking
2 by the TV.

3 Q Have you read anything about this case in
4 periodicals other than the newspapers, Mr. Herbrig?

5 A No, sir, I haven't.

6 Q Have you heard anything about this case on
7 the radio?

8 A I might have heard something while driving
9 down the street. I really haven't paid much attention to
10 it.

11 As a rule, I don't read anything to do with
12 murders, and I am so occupied, I work as a player's agent
13 for the Patrick Henry Boys League which takes care of
14 16 teams, 230 some boys, and it keeps me pretty well
15 occupied.
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9 fls.

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1 Q Why was this case an exception?

2 A Well, I don't usually -- well, this -- it was
3 so notorious that it was called to my attention, so I did
4 read it at that time.

5 Q And when you say early in the case you read
6 about it, what are you referring to, what period of time,
7 do you recall?

8 A Not exactly when, when it first -- right after
9 the murders took place, it was publicized and --

10 Q The deaths themselves, you read about the deaths
11 themselves?

12 A Yes, I did, right.

13 Q Did you read about the arrest of any of these
14 defendants?

15 A Well, if I did I did not pay much attention to
16 it.

17 Q So, in other words, you did not know who
18 Charles Manson was --

19 A Oh, yes, yes, I do.

20 Q Where did you learn that?

21 A Well, I mean that was in the -- it was in the
22 article I read.

23 In fact, the article I read was a confession
24 of one of the young ladies, and that was the article I
25 read; that was the only article I read.

26 Q Have you read or heard anything about Mr. Kanarak

1 in connection with this case?

2 A Only what I have heard in court.

3 Q Only what you heard in court. You did not
4 see anything about Kanarek in the newspaper or hear it on
5 the radio or see it on television?

6 A No, no, I did not.

7 MR. FITZGERALD: Nothing further.

8 We are going to exercise a challenge for cause.

9 THE COURT: I did not hear you, Mr. Fitzgerald.

10 MR. FITZGERALD: We will exercise a challenge for
11 cause on the grounds of actual bias in that the juror has
12 been exposed to pretrial publicity in an inflammatory,
13 prejudicial form.

14 MR. STOVITZ: Before your Honor rules, may the People
15 inquire?

16 MR. REINER: Well, we may take this in orderly
17 fashion. I am next in line.

18 THE COURT: Let the defendants finish their
19 examination first, Mr. Stovitz.

20 MR. STOVITZ: I thought it was a joint request.

21
22 VOIR DIRE EXAMINATION

23 BY MR. REINER:

24 Q Sir, do you recall to whom this particular
25 article referred, this confession you mentioned a moment
26 ago?

A Well, I don't really remember too much about

9-3

1 this story.

2 It was quite a few months ago and I hurriedly
3 read it over.

4 In fact, I cannot even remember the names called
5 out except that Mr. Manson was mentioned in the story, and
6 it seems like my thoughts went to -- not to the girls --
7 but to -- I'm not even sure exactly who it -- well, who the
8 party was that I felt actually did the murders.

9 MR. REINER: Thank you, I have no further questions.

10 THE PROSPECTIVE JUROR: Okay.

11 THE COURT: Any questions, Mr. Shinn?

12 MR. SHINN: No questions.

13 MR. REINER: There will be a challenge for cause.

14 THE COURT: Mr. Kanarek?

15 MR. KANAREK: No questions, but I would like to
16 approach the bench.

17 THE COURT: Do you want to join in the challenge?

18 MR. KANAREK: That is what I wanted to discuss with
19 the Court at the bench, your Honor.

20 THE COURT: All right. Well, let's let Mr. Stovitz
21 question; then you may approach the bench.

22 MR. KANAREK: Thank you, your Honor.

23 THE COURT: Is that agreeable?

24 MR. KANAREK: Thank you.

25

26

VOIR DIRE EXAMINATION

1
2 BY MR. STOVITZ:

3 Q Having been an acting player's agent I
4 sympathize with you, sir.

5 They say it is more difficult than actually
6 sitting on this jury.

7 A I don't feel it is that bad. In fact I enjoy
8 working with young boys. It is a pleasure to me.

9 Q Now, sir, the publicity that you have been
10 exposed to in this case, has this caused your mind to come
11 to the conclusion that the defendants are more likely to
12 be guilty than innocent?

13 A No, sir, it doesn't.

14 Q Now, do you think that if you were selected as
15 a juror in this case you could put aside completely,
16 wholly, everything you read in that article, and if it
17 became refreshed as to who was the person who was responsible
18 for that article, put that aside, and decide this case
19 solely on the evidence you hear in this court.

20 Do you think you can do that?

21 A Yes, sir, I am positive I can do that.

22 Q I take it you were educated here in
23 Los Angeles?

24 A Yes, sir, I was.

25 Q High school and college?

26 A High school and -- well, not clear through

3-5
1 college. Junior college.

2 Q And I take it you were able to associate when
3 you read fiction and when you read fact, to be able to
4 distinguish between the two of those?

5 A Yes, sir, but I don't regard the newspapers
6 as facts. I have had too many bad experiences with them.

7 Q And in respect to the trial of these defendants,
8 if you were asked by the Court to put aside all rumors,
9 all reports of any type of publication, and decide the case
10 on the evidence and solely on the evidence, will you be able
11 to keep that promise?

12 A Yes, sir, it would be no problem.

13 MR. STOVITZ: With respect to this portion, your
14 Honor, we have concluded our questions.

15 Does your Honor want us to continue on with
16 the other questions?

17 THE COURT: I am not sure I understand what you mean,
18 Mr. Stovitz.

19 I would say you should complete your voir dire
20 and then we will take up other matters at the bench.
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VOIR DIRE EXAMINATION OF MR. HERBRIG

BY MR. STOVITZ:

Q Mr. Herbrig, did you hear all of the questions that my associate Mr. Bugliosi asked the first juror the first day you came into this court?

A I believe I did.

Q And as he was asking those questions of that first juror were you going over those questions in your mind?

A Yes, sir, I was.

Q And can you think of any answer that would be different from any of the other jurors, except perhaps the part of financial hardship?

A Well, no, I would answer them the same.

Q So I take it then that you individually are not opposed to the death penalty in a proper case, is that right?

A No, sir, I am not.

Q You understand that there is no such thing as a particular case that calls for a death penalty. That is up to the jury to determine as to what case they would vote for the death penalty.

You understand that?

A Yes, sir, I do understand.

Q If you were selected as a juror in this particular case, assume for the moment that your pay

9a-2

1 did not stop and you did have to work on just the \$5
2 a day that the County provides for you; this financial
3 burden being placed on you, do you think you would still
4 be able to concentrate on the case and not worry about
5 who is going to pay the mortgage or the light bill?

6 A No, sir, I cannot.

7 Q How old are your children?

8 A I have one boy, 12.

9 Q Just the one child?

10 A Yes.

11 Q I guess he depends on you during the summer
12 as well --

13 A We have so many obligations it would be quite
14 a problem really.

15 Q These are financial obligations?

16 A Yes, sir.

17 Q However, if you were selected as a juror do
18 you think you could put these matters aside, perhaps take
19 a loan at the Friendly Financial Company and take care
20 of it that way?

21 A I don't think so.

22 MR. STOVITZ: All right, thank you very much.

23 Pass for cause, your Honor.

24
25 VOIR DIRE EXAMINATION OF MR. HERBRIG

26 BY THE COURT:

Q Mr. Herbrig, have you formed any opinion as

1 to the guilt or innocence of any defendant in this case?

2 A No, sir, I have not.

3 Q Do you ^{think that you} could put to one side of your mind
4 all of the publicity which you may have been exposed to
5 before this case, before you came into this case, and
6 decide the case solely on the evidence introduced in
7 the trial, and the instructions given to you by the
8 Court?

9 A Yes, sir, I can.

10 THE COURT: Do counsel wish to approach the bench?

11 MR. KANAREK: Yes, your Honor.

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

14 MR. KANAREK: Yes, your Honor, on behalf of Mr.
15 Manson, I join on the basis of actual bias, because of
16 the pervasive publicity.

17 I think regardless of the statements of the
18 witness, our appellate courts have held specifically,
19 referring to the language in Bruton vs. -- in the Bruton
20 case, and Aranda, those cases indicate clearly that
21 our courts, despite the fact that there may be an
22 honest attempt on the part of a juror to put aside what
23 he or she has heard, the tenor of those decisions is
24 clear that the appellate courts say that this is not
25 possible.

26 So we believe a challenge for actual bias

lies.

1
2 MR. STOVITZ: On the authority of People vs. Duncan,
3 which is a famous Santa Barbara-Ventura County case, I
4 believe that the challenge should be disallowed, your
5 Honor.

6 MR. KANAREK: If I may respond to that, the Duncan
7 case antedated, your Honor, Bruton.

8 At the time of the Duncan case, at the time
9 the Duncan case law was enunciated by the California
10 Supreme Court, I believe Depaoli was actually -- I'm not
11 sure about that, without checking the actual dates,
12 I think that was the law as/ ^{far as} the United States Supreme Court.

13 That was overruled by Bruton.

14 Therefore implicitly the Duncan case, whatever
15 counsel has in mind as to the Duncan case, certainly had
9b fls. 16 implicitly been overruled by Bruton vs. the United States.

9B-1

1 MR. STOVITZ: Submit it.

2 THE COURT: Well, does any counsel object to the
3 Court excusing this juror on hardship grounds?

4 MR. STOVITZ: People do not, your Honor.

5 MR. FITZGERALD: I would object to him being excused
6 on hardship grounds if the basis for the hardship is that he
7 cannot afford to sit on the jury.

8 The defendants in this case are not responsible
9 for the fact that jurors in Los Angeles County are only paid
10 \$5 a day. That is a disgraceful and a deplorable system
11 which has been fostered in this County for many years, and
12 it deprives these defendants of a fair trial by deliberately
13 excluding from the jury those persons who cannot afford
14 economically to sit on the jury, and we are not going to be
15 a part of that sort of thing.

16 If it turns out that the only jurors who can
17 possibly sit on these cases are jurors who are employed by
18 concerns who have a policy of paying for unlimited jury
19 system, that is a very capricious way to select a jury and
20 we are not going to be a part of it.

21 THE COURT: Of course what you said is not true.
22 The record so indicates.

23 MR. FITZGERALD: In what respect, the \$5 a day?

24 THE COURT: Available jurors are not limited simply
25 to firms, as you stated.

26 Their availability is much broader than that.

9b2
1 In any event, that is a subject for the
2 Legislature to take up. Courts on many occasions felt a
3 defendant is not entitled to any particular juror. He is
4 only entitled to a lawful jury.

5 So I don't see the relevancy of what you are
6 saying. I mean, it may be a policy matter for the
7 Legislature.

8 MR. FITZGERALD: When the policy of the Legislature
9 actively discriminates against the defendants as it is in
10 this case --

11 THE COURT: That is precisely the point. It is not
12 discriminating. All it means is we have to search farther
13 for jurors who are available and fair and impartial.

14 MR. FITZGERALD: Judges in San Diego County, in the
15 judiciary in Alameda County in the State do not agree with
16 your Honor, and they held it is economically discriminatory.

17 We are making that same objection.

18 THE COURT: All right.

19 MR. KANAREK: May I join on behalf of Mr. Manson in
20 the comments of Mr. Fitzgerald. Of course, specifically it
21 is a denial of -- it is a denial of equal protection.

22 MR. REINER: Join.

23 THE COURT: All I want to know is whether you want to
24 stipulate or you have any objection to excusing him on
25 hardship grounds.

26 MR. FITZGERALD: No.

THE COURT: Very well. I will allow the challenge.

The juror will be excused for cause.

MR. KANAREK: Thank you, your Honor.

10 1 (Whereupon, all counsel return to their
2 respective places at counsel table and the following
3 proceedings occurred in open court within the presence and
4 hearing of the prospective jury:)

5 THE COURT: Mr. Herbrig, you are excused. Thank you,
6 sir.

7 THE CLERK: Andrew R. McCoy; A-n-d-r-e-w, capital
8 M-c capital C-o-y.

9
10 VOIR DIRE EXAMINATION OF ANDREW R. MC COY
11 BY THE COURT:

12 Q Mr. McCoy, have you heard and understood
13 everything that has been said in court since you came into
14 the case, sir?

15 A Most of it, yes.

16 Q If you were selected as a juror, would you be
17 able to serve?

18 A No, sir.

19 Q You would not?

20 A No, sir.

21 Q Why is that?

22 A I have a heart condition, angina pectoris, and
23 the medics have advised me to avoid stresses and emotional
24 situations, in addition to physical.

25 Q Did you raise this with the people in the
26 Jury Commissioner's office?

1 A No. I didn't realize. This is my first
2 experience with a thing like this. I am sorry I did not.

3 Q Have you experienced anything in the courtroom
4 so far which you think might in any way create stress or
5 strain as far as you are concerned?

6 A Up to this point, no, sir, but fingers seem to
7 be pointing in that direction.

8 Q Have you had occasion to discuss this with your
9 doctor during the last week or so?

10 A No, sir.

11 Q Are you presently under medical care?

12 A I carry nitroglycerin for this, yes, sir.

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

14 THE COURT: Very well.

15 (Whereupon, all counsel approach the bench and
16 the following proceedings occurred at the bench, outside
17 of the hearing of the jury:)

18 MR. FITZGERALD: I will --

19 MR. STOVITZ: Just a moment. Mr. Kanarek asked to
20 approach the bench.

21 MR. KANAREK: I would be willing to stipulate to this
22 case because I don't believe any appellate court will hold
23 it against Mr. Manson for stipulating.

24 Even though I am philosophically agreeable with
25 Mr. Fitzgerald, I don't think that an appellate court will
26 hold it against Mr. Manson, so I will agree to stipulate

because of the physical condition of the jury.

MR. STOVITZ: We will stipulate that your Honor has the inherent power to dismiss a juror for --

THE COURT: You don't have to stipulate to that, Mr. Stovitz.

MR. STOVITZ: I will stipulate if it is necessary to excusing this juror.

THE COURT: If I didn't have it, your stipulation would provide it.

MR. FITZGERALD: I would respectfully not stipulate.

THE COURT: I beg your pardon?

MR. FITZGERALD: I would respectfully urge the Court that I will not stipulate.

THE COURT: You don't have to urge me. All you have to do is inform me.

MR. FITZGERALD: All right.

MR. REIMER: I will stipulate on medical grounds.

THE COURT: We do not have a stipulation. However, I will exercise my discretion and excuse Mr. McCoy for hardship reasons based upon his physical condition.

MR. STOVITZ: I notice that there are four prospective jurors in the courtroom that have not been called. I take it your Honor is going to call three of them and not the fourth one, and that it is your Honor's intention to call for a new panel?

THE COURT: Yes.

1 I have been hesitating to call for a new panel
2 because it is hard to predict how long we will go with
3 these particular prospective jurors, and I hate to bring
4 over a new panel, 48 or 50 jurors.

5 MR. FITZGERALD: Could we go over to Monday morning?

6 MR. STOVITZ: I would think that on Monday we would
7 get a fresher panel of jurors that have first come in to
8 serve rather than calling for jurors now.

9 THE COURT: Let's see how far we get with the four we
10 have -- the three or four -- then, depending on what time
11 it is --

12 MR. STOVITZ: All right.

13 THE COURT: -- we will either call for a new panel
14 or adjourn until Monday.

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1 MR. STOVITZ: If we do adjourn today, your Honor,
2 we would like to take up a matter outside of the presence
3 of the jury as to the exercise of joint challenges by
4 the defendants and what happens if Mr. Reiner uses up his
5 five peremptory challenges and the parties refuse to
6 exercise their joint challenges. Just so the record is
7 clear.

8 THE COURT: All right. We can bring that up later.
9 (Whereupon all counsel return to their
10 respective places at counsel table and the following
11 proceedings occur within the hearing and presence of the
12 prospective jurors.

13 THE COURT: Mr. McCoy, you will be excused. Thank
14 you, sir.

15 MR. MC COY: Thank you.

16 THE CLERK: Anlee L. Sisto; A-n-l-e-e, S-i-s-t-o.
17

18 VOIR DIRE EXAMINATION OF ANLEE L. SISTO

19 BY THE COURT:

20 Q Mr. Sisto, is that correct?

21 A Yes, sir.

22 Q Have you heard everything that has been said
23 in court since you have come into the case, Mr. Sisto?

24 A Yes, I have.

25 Q And have you understood it?

26 A I believe so, yes, sir.

10a-2

1 Q If you were selected as a juror in this case,
2 would you be able to serve?

3 A Yes, sir.

4 Q Have you had an opportunity to think over the
5 death penalty questions that I have asked the other
6 prospective jurors and your answers to them?

7 A Yes, I have.

8 Q All right. I am going to put those questions
9 to you now.

10 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 guilt
13 regardless of the evidence developed during the trial?

14 A No, sir.

15 Q Do you entertain such conscientious opinions
16 regarding the death penalty that you would automatically
17 refuse to impose it without regard to the evidence developed
18 during the trial?

19 A No, sir.

20 THE COURT: Mr. Fitzgerald, do you care to inquire?

21 MR. FITZGERALD: Thank you, your Honor.

22
23 VOIR DIRE EXAMINATION OF MR. SISTO

24 BY MR. FITZGERALD:

25 Q Mr. Sisto, what is your business or occupation,
26 sir?

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A I am an electronic technician lead man for
Downey Unified School District.

Q I take it that you work in Downey then?

A Yes.

Q Are you married, sir?

A Yes.

Q Have you any children?

A Two. Both boys and on their own.

Q Do you live in the Downey area of the County?

A No. I live in La Mirada.

Q How old are your children?

A 22 and 23.

Q Have you ever served as a juror before, Mr.
Sisto?

A On this tour once on a civil case.

Q From your seat in the audience, Mr. Sisto,
were you able to hear the questions that I addressed to
the other jurors?

A Yes, I was.

Q If I were to ask you the same questions, sir,
would your answers be about the same?

A Yes, I think generally.

Q Is there any particular question or area of
questioning that I should direct to you, sir?

A I don't believe so.

Q Have you read or heard or seen anything in

10a-4

1 connection with this case before you came here into court?

2 A Yes, I have.

3 Q Was that on radio, television and in the
4 newspapers?

5 A Mostly television. I read very little in
6 that line.

7 Q Have you seen material in the newspaper in
8 connection with this case, however?

9 A Yes, I have, but very minute. I am a little
10 lazy along those lines.

11 Q Okay.

12 Have you seen anything in any magazines in
13 connection with this case?

14 A No, sir.

15 Q What about radio?

16 A Yes, radio I have heard.

17 Q Have you heard anything good about the
18 defendants from any of those sources?

19 A Well, I couldn't tell you whether I heard from
20 television or radio or where, but it was my understanding
21 that the man was very intelligent, Mr. Manson I am
22 speaking of, and I think this is to be commended.

23 Q This is to be commended?

24 A Yes, I would like to say, something nice.

25 Q Have you heard anything bad?

26 A Yes, sir, mostly bad.

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1 Q I take it when you heard those bad things,
2 you formed some sort of an opinion?

3 A Yes, vaguely I have.

4 Q Was that an opinion that he was an intelligent
5 bad man?

6 A Maybe an intelligent bad man that had gone
7 wrong.

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1 Q It is going to be a little difficult for you,
2 then, Mr. Sisto, to be fair and impartial in examining the
3 evidence, isn't it?

4 A No, I don't believe so.

5 Q You don't believe so?

6 A No.

7 Q If you had your choice, sir, wouldn't you
8 prefer to sit on a jury where you didn't know anything about
9 any of the defendants and you could decide the case just on
10 the evidence you heard in court?

11 A Yes, I think that would make it more simple.

12 Q Do you think you are going to find any difficulty
13 in trying to segregate out of your mind what you have heard
14 and read outside of the court from what you hear and see
15 inside of court, Mr. Sisto?

16 A No, I don't believe so.

17 Q Do you have any friends or relatives that are
18 police officers or engaged in law enforcement or anything
19 like that?

20 A Yes, I have a friend in Santa Monica on the
21 police force.

22 Q Do you talk to that friend occasionally, sir?

23 A Oh, I haven't seen him for a couple years but
24 he is a good friend.

25 Q When you see him, does he discuss his work with
26 you?

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1 A Very little. Very little.

2 Q Does he discuss with you his views of crime:
3 and law enforcement, things like that?

4 A Well, to some degree. He tries to shy away
5 from that because of the opinionated factor. He doesn't
6 like to carry it. He is quite conscientious.

7 Q And I take it, Mr. Sisto, you are familiar with
8 the term "law and order"?

9 A Yes.

10 Q You are not going to use law and order as an
11 excuse to convict anybody in this case, are you?

12 A Law and order to convict anybody?

13 Q Yes. The term, or any increased crime rate,
14 or anything like that, in convicting these defendants?

15 A No.

16 Relative to this case only, that is? I mean --

17 Q If they increased the crime rate, would you
18 hold it against them?

19 A No. I guess I misunderstood. No. This
20 wouldn't be a factor at all.

21 Q Do you think you have the courage to acquit
22 these defendants if you had a doubt, a reasonable doubt,
23 as to their guilt?

24 A To acquit them? I could, yes.

25 Q Would you have any problem with that?

26 A No, sir.

1 Q You could face your friends and neighbors having
2 voted to acquit them if the evidence indicated it, right?

3 A Yes, sir. I have faith in my friends.

4 Q Do you feel you would be enforcing the law any
5 less vigorously by acquitting them than if you convicted
6 them?

7 A Could I have that again?

8 Q Yes.

9 Do you feel that you would be enforcing the law
10 any less vigorously by acquitting these defendants than you
11 would be if you convicted them?

12 A No, sir. I believe I would be enforcing the
13 law.

14 Q Were you exposed to any publicity in regard to
15 Mr. Kanarek?

16 A The only thing that I had along that line,
17 I turned on the television, I called the attention of my
18 wife to it, that that was one of the attorneys on the case,
19 and shut it off.

20 Q Telling your wife that you knew Mr. Kanarek?

21 A Yes.

22 Q So, she walked in the room and you hit the
23 button?

24 A Yes.

25 MR. FITZGERALD: Thank you very much. Nothing
26 further.

1 THE COURT: Mr. Reiner?

2 MR. REINER: Thank you, your Honor.

3
4 VOIR DIRE EXAMINATION

5 BY MR. REINER:

6 Q Mr. Sisto, since you have been called as a
7 prospective member of this jury, you have made some attempt
8 not to read the newspapers and not to view television
9 newscasts apparently; is that true?

10 A Definitely, yes.

11 Q And if, perchance, you were exposed inadvertently
12 or accidentally to newscasts or radiocasts or newspaper
13 articles that would in some ways suggest the guilt of the
14 defendants or any of them, you had disciplined yourself not
15 to allow such suggestions to influence you; is that true?

16 A That is correct.

17 Q And you did this because you are a prospective
18 jury member in this case in particular?

19 A Yes, sir.
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1 Q And you did not wish to have your judgment in
2 any way affected or influenced by matters that came to you
3 from outside the courtroom; is that right?

4 A That's right.

5 Q Last December, when the arrests occurred, Mr.
6 Sisto, at that time you did not anticipate that perhaps
7 you would be a prospective jury member, did you?

8 A No, I didn't.

9 Q At that time you did not have a reason for
10 disciplining yourself so that you would not allow any
11 suggestions to come to you through the media or, for that
12 matter, even from conversations with friends and
13 acquaintances, from influencing your judgment; is that
14 true?

15 A That is true.

16 Q So, in fact, you did allow -- strike that.
17 You did read articles in the newspaper,
18 listened to newscasts on the radio, and viewed newscasts
19 on television relative to this case; is that right?

20 A Yes.

21 Q The sum and substance of the various information
22 that came to you from the media was to the effect that these
23 defendants or some of them were guilty of the crimes with
24 which they have been charged?

25 MR. STOVITZ: I object to the question as being
26 compound and ambiguous, your Honor.

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2 THE COURT: I think it can be clarified, Mr. Reiner.
3 I will sustain the objection.

4 MR. REINER: Q With respect to the information,
5 such as it was, that came to you from the media -- when
6 I say "the media," I am referring to newspaper articles,
7 radio broadcasts and television newscasts -- with respect
8 to information that came to you from those sources, Mr.
9 Sisto, would it be a fair statement to say that the sum
10 and substance of such media information was to the effect
11 that the defendants or some of them may have been guilty
12 of the crimes for which they have been charged?

13 A Yes, I would have to say yes.

14 Q And would it also be a fair statement to say
15 that you did not receive any information or any sugges-
16 tions from the media to the effect that the defendants may
17 not be guilty; is that true?

18 A I recall of none.

19 Q So, it would then be a fair statement to say
20 that the totality of all information that you received
21 prior to the time that you were called as a prospective
22 jury member was to the effect that the defendants were
23 guilty?

24 A Yes.

25 Q And since you have had no reason to discipline
26 yourself prior to the time that you were called as a
prospective juror, Mr. Sisto, you didn't receive this

1 information -- strike that -- you had no reason to
2 question the suggestions that existed in the media
3 information; is that true?

4 A Only from my own personal standpoint of view,
5 humanitarianwise.

6 Q I see.

7 By that you mean to say that you did not
8 form firm judgments but perhaps tentative judgments,
9 sir?

10 A Yes.

11 Q So would it be a fair statement to say that
12 prior to the time that you were called as a prospective
13 juror in this case, it was your tentative, if not firm,
14 judgment that the defendants probably were guilty of these
15 crimes?

16 A Yes.

17 Q And nothing has occurred since that time
18 upon which you could base a change of opinion?

19 A No, I don't believe so.

20 Q So your opinion today is the same as it
21 has been during the last few months?

22 A Yes, I would say so.

23 MR. REINER: Thank you very much.

24 MR. SHINN: I have no questions.

25 THE COURT: I am not sure what the last answer
26 meant, Mr. Sisto.

1 Would you read the last question?

2 (Whereupon the record was read by the
3 reporter.)

4 THE COURT: I am not sure what opinion Mr. Reiner
5 was referring to.

6 Would you clarify that, Mr. Reiner? Opinion
7 as to what?

8 MR. REINER: Yes, sir.

9 Q Mr. Sisto, you did indicate a moment ago in
10 response to some of my questions that prior to the time
11 that you were called as a prospective jury member you
12 had formed tentative opinions; not firm opinions, but
13 tentative opinions?

14 A Yes.

15 Q To the effect that the defendants were
16 probably guilty of the crimes for which they were charged
17 or at least some of the defendants were?

18 A Yes.

19 Q And it is that opinion that you have not yet
20 changed?

21 A The tentative opinion, yes.

22 MR. REINER: Thank you very much. I have no further
23 questions.
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VOIR DIRE EXAMINATION

1
2 BY THE COURT:

3 Q Mr. Sisto, was that tentative opinion based
4 upon the fact that the defendants had been indicted for
5 these offenses, arrested and brought before the Court to
6 stand trial?

7 A Yes, sir. That is the only reason.

8 Q I beg your pardon?

9 A That is the only reason.

10 THE COURT: Mr. Shinn, do you care to inquire?

11 MR. SHINN: No questions, your Honor.

12 THE COURT: Mr. Kanarek?

13 MR. KANAREK: No questions.

14 THE COURT: Mr. Bugliosi?

15 MR. BUGLIOSI: Thank you.

16 THE COURT: Well, one other question before you start,
17 Mr. Bugliosi.

18 Q Would you have the same tentative opinion, or
19 do you have the same tentative opinion with respect to any
20 criminal defendant who is indicted or against whom an
21 information is filed and he is accused of a criminal offense
22 and brought before the Court to stand trial?

23 A Yes, I believe so. Basically, I would assume
24 that he was brought up for some specific reason. Conse-
25 quently, the subject they told me of I would have to believe.

26 Q Notwithstanding that opinion, do you believe
that you could set that aside, set it to one side in your

1 mind, and listen only to the evidence that comes out during
2 the trial and base your decision or verdict solely on the
3 evidence in accordance with the Court's instructions?

4 A Yes, sir, I do.

5 THE COURT: You may proceed, Mr. Bugliosi.

6
7 VOIR DIRE EXAMINATION

8 BY MR. BUGLIOSI:

9 Q Mr. Sisto, you have two boys, sir?

10 A Yes.

11 Q Age 22 and 23?

12 A Yes.

13 Q Can you tell me whether they are married or
14 single?

15 A They are both married. One is in the Navy and
16 the other works for a local concern, Smith-Corona Marchand.
17 A repairman.

18 Q He is a repairman for that firm?

19 A Yes, a serviceman.

20 Q Typewriters and things like that?

21 A Yes, duplicating machines.

22 Q You realize that all defendants in a criminal
23 trial are presumed to be innocent. Do you understand that?

24 A Yes.

25 Q Do you presume these defendants to be innocent?

26 A Yes.

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1 Q Do you realize the fact that they were charged
2 with these crimes is not evidence against them?

3 A No, sir.

4 Q Are you confident, sir, is there any doubt
5 in your mind that you can give them a fair trial?

6 A I am confident that I could give them a fair
7 trial.

8 Q Are you positive that you will base your
9 verdict solely on the evidence coming from the witness
10 stand under oath and not be influenced by anything that you
11 read or heard outside the court?

12 A Yes.

13 Q Do you promise the Court and the defendants?

14 A Yes.

15 Q Do you know what I am talking about?

16 A Yes, I do.

17 Q You know about a charge not being evidence, sir?
18 Linda Kasabian is also charged with these seven murders.
19 Have you heard her name being mentioned?

20 A Yes.

21 Q You realize because she is charged with these
22 seven murders does not make her an accomplice --

23 A Yes.

24 Q Because a charge is not evidence; you understand
25 that?

26 A Yes.

1 Q The Court, at the end of this case, will tell
2 you what is and what is not an accomplice.

3 Do you understand that?

4 A Yes.

5 Q Do you recall Mr. Rainer saying that the Court
6 will instruct you to the effect that you cannot convict
7 any defendants on the uncorroborated testimony of an
8 accomplice? Do you recall Mr. Rainer saying that?

9 A Yes, I do.

10 Q If the Court instructs you, sir, that to
11 constitute corroboration it is not necessary that each
12 fact that the accomplice testifies to be corroborated, will
13 you follow the Court's instruction on that?

14 A Yes, I would.

11-1

1 Q IF the Court instructs you further that the
2 corroborating evidence may be circumstantial, will you
3 follow the Court's instruction on that?

4 A Yes, I would.

5 Q You would follow the instructions about
6 circumstantial evidence?

7 A Yes, sir.

8 Q Mr. Stovitz and I gave a couple of examples--

9 A The footprints and the cookie jar.

10 Q You understand the difference between
11 circumstantial and direct evidence?

12 A Yes, sir.

13 Q Do you have any opposition whatsoever to
14 sitting on a case where the People rely in part on
15 circumstantial evidence?

16 A No, sir.

17 Q You realize we only have the burden of proving
18 the guilt of these defendants simply beyond a reasonable
19 doubt, you understand that?

20 A Yes, sir.

21 Q We don't have to prove their guilt beyond
22 all doubt, you understand that?

23 A Yes.

24 Q Do you understand the rule of conspiracy, sir,
25 which makes a full conspirator responsible for the crimes
26 of the other conspirators, even though he himself did

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1 not commit the crime and perhaps wasn't even present at
2 the scene.

3 Do you understand that?

4 A Yes.

5 Q Have you done any thinking about that rule
6 of law since you heard it in the court?

7 A Yes.

8 Q Do you have any quarrel with it?

9 A No, sir.

10 Q You don't have any prejudice against it?

11 A No, sir.

12 Q Do you promise me that you would unhesitatingly
13 without any reservation whatsoever follow the Court's
14 instruction on that rule of law if you find it applicable
15 to the facts of this case?

16 A Yes, I do.

17 Q Could you vote for the death penalty for a
18 female defendant?

19 A Yes, I could and would.

20 Q After hearing all the evidence, sir, and
21 considering all of the circumstances in this case, would
22 you yourself if you thought it was a proper case for the
23 imposition of the death penalty, would you have the
24 courage to come back in this courtroom with the verdict
25 of death?

26 A Yes, I would.

1 Q Can you think of any circumstance under
2 which you would be willing to vote for the death penalty
3 for a particular defendant, even though the evidence
4 showed that this defendant did not kill a fellow human
5 being?

6 A Yes.

7 Q You understand the question?

8 A Yes, I do.

9 Q You recall that Mr. Stovitz and I asked
10 several of the other jurors several questions which we
11 did not ask of you?

12 A Yes.

13 Q You were out in the spectators' section?

14 A Yes.

15 Q Were you asking yourself those same questions
16 mentally?

17 A I was.

18 Q Were there any questions Mr. Stovitz or
19 I asked during the past week or however long you have
20 been here, do you recall saying to yourself that your
21 answer would be different from the answer given by
22 a majority of the jurors?

23 A No, not as I remember.

24 Q Are you sure you can give the People of the
25 State of California a fair trial?

26 A Yes, sir.

1 Q And the defendants?

2 A Yes, sir.

3 Q No doubt in your mind about it?

4 A No doubt, sir.

5 MR. BUGLIOSI: Pass for cause.

6 THE COURT: The defendants may exercise a joint
7 peremptory challenge.

8 MR. REINER: Excuse me, your Honor, we have not
9 passed for cause.

10 I would at this time enter a challenge for
11 cause with respect to Mr. Sisto under 1073 of the Penal
12 Code.

13 MR. SHINN: Join.

14 MR. FITZGERALD: Join.

15 MR. KANAREK: May we approach the bench?

16 THE COURT: Do you wish to join or not, Mr. Kanarek?

17 MR. KANAREK: Join, your Honor.

18 THE COURT: Very well.

19 MR. STOVITZ: We will oppose the challenge, your
20 Honor.

21 THE COURT: The challenge will be disallowed.

22 The defendants may exercise joint peremptory.

23 MR. FITZGERALD: There will be no exercise of a joint
24 peremptory challenge.

25 THE COURT: Mr. Fitzgerald, do you care to exercise
26 an individual peremptory?

1 MR. FITZGERALD: Patricia Krenwinkel will accept the
2 jury as it is now constituted.

3 THE COURT: Very well.

4 Mr. Shinn?

5 MR. SHINN: May I have a moment, your Honor?

6 THE COURT: Yes.

7 MR. SHINN: Accept the jury as constituted, your Honor.

8 THE COURT: Very well.

9 Mr. Kanarek?

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

11 THE COURT: The question now is whether or not you wish
12 to exercise an individual peremptory challenge.

13 MR. KANAREK: Very well. I will accept the jury,
14 your Honor.

15 THE COURT: Very well.

16 Mr. Stovitz?

17 MR. STOVITZ: People will thank and excuse Mrs.
18 Mildred Allen, Juror No. 5, your Honor.

19 MRS. ALLEN: Thank you.

20 THE COURT: Thank you, Mrs. Allen, you are excused.

21 MRS. ALLEN: Thank you.

22 THE CLERK: Clarence Pascoe, C-l-a-r-e-n-c-e,
23 P-a-s-c-o-e.

24 (Whereupon Mr. Clarence Pascoe came forward
25 and was seated in seat No. 5 in the jury box.)
26

1 VOIR DIRE EXAMINATION OF MR. CLARENCE PASCOE
2 BY THE COURT:

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

6 A Everything, I have asked myself the same
7 questions and I answered them satisfactorily.

8 Q Good. If you were selected as a juror would
9 you be able to serve?

10 A Well, I'm afraid not, your Honor.

11 Q What is the problem?

12 A Well, my wife has heart trouble, and about
13 six months ago she had a severe attack, and I am retired
14 and I was home with her, and if it wasn't for me getting
15 her to the hospital, she would have died, because she had
16 a coronary blood clot in her left ventricle, and we got
17 her just in time.

18 I was fortunate enough that -- our doctor is
19 a heart specialist on the Good Samaritan staff, and he got
20 her into the coronary unit right away, where some people
21 have to wait a week just to get in.

22 She was under a cardiograph television for
23 24 hours a day for seven days, and then she was put into
24 the regular heart ward where she was there for three weeks.

25 She is actually not able to do hard work. She
26 is all right; she is getting well, and she is really fine,

1 I mean.

2 But she cannot do anything heavy, and I help
3 around with the housework and everything, do all of the yard
4 work of course.

lla fls.

5 And then again we have --
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1 Q Is she presently under medical treatment?

2 A Yes, she goes to the doctor every month; before
3 it was about every week, and we have no -- she does not
4 drive, and if I was on this for maybe six months, my
5 heart would be pretty bad -- I mean to know that maybe she
6 had a heart attack and no one was there to help her.

7 Q You feel that your presence is required at home?

8 A Yes, I do. Personally I have no objection to
9 serving on this case.

10 Q Is there anyone else who can look after her?

11 A No, we have no children.

12 I have only one relative here, and that is a
13 sister, and she has her hands full. Her husband is, well,
14 bedridden most of the time with a very bad back condition.

15 THE COURT: All right, sir. Will counsel approach
16 the bench, please.

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

19 THE COURT: Do counsel wish to stipulate to excuse
20 this gentlemen?

21 MR. FITZGERALD: They do. I will not stipulate.

22 MR. STOVITZ: People will, your Honor.

23 MR. REINER: Your Honor, in order to save time, since
24 it is obvious we never will have a stipulation, perhaps
25 irrespective of any of the hardships that were advanced, the
26 Court may decide whether he wishes to rule on it himself

1 rather than the procedure of coming up to the bench each
2 time.

3 Apparently it is the firm opinion of some
4 counsel not to stipulate for very legitimate reasons.

5 THE COURT: I have not been advised that under no
6 circumstances would anybody stipulate.

7 There have been stipulations in the past, and
8 I personally believe that it is to the advantage of both
9 sides to eliminate those people who have severe hardship
10 problems.

11 But nobody is under any compulsion to stipulate,
12 and while I have excused from time to time some jurors on
13 my own, I may or may not excuse any more.

14 MR. REINER: My position is --

15 THE COURT: It simply will result in someone exercising
16 some peremptories.

17 MR. REINER: My position is any juror who has a
18 financial hardship, I would not wish to enter a stipulation
19 because I feel it goes to the heart of the points we
20 raised in the matter on jury selection.

21 However, on medical hardship I have no objection.

22 THE COURT: Apparently we don't have a stipulation
23 from all counsel, so I believe in a situation such as this,
24 however, where it is a medical reason, that is, this man is
25 required -- his presence is required at home because of
26 his wife's physical condition, heart condition, there is no

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one to take care of her.

This is a case where the Court should exercise its discretion. I will excuse Mr. Paschall.

Now, I see we have just two left. I will just have one more of those called before we call over for a panel.

It's about time for our recess. However, I think we have time to call this next person into the box after Mr. Paschall is excused.

Since counsel have indicated they wanted to take some matters up out of the presence of the jury I will not call over another panel this afternoon. It probably would take a half hour to get them here in that number.

So, depending on what happens with the next prospective juror, we will either adjourn at that time or, if there's time left, I will hear counsel out of the presence of the jury.

MR. REINER: Very well.

(The following proceedings were had in open court in the presence and hearing of the jury:)

THE COURT: Mr. Paschall, you will be excused, sir.

Thank you very much.

THE CLERK: Ronald W. Peterson, R-o-n-a-l-d,
P-e-t-e-r-s-o-n.

1 (Whereupon, Ronald W. Peterson was seated
2 in seat No. 5 in the jury box.)
3

4 VOIR DIRE EXAMINATION OF RONALD W. PETERSON
5 BY THE COURT:
6

7 Q Mr. Peterson, have you heard and understood
8 everything that has been said in court since you came into
9 this case, sir?

10 A Yes, I have.
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1 Q If you are selected as a juror, would you be
2 able to serve?

3 A No, because of hardship, because of my
4 employment.

5 Q Who is your employer?

6 A I am a sales representative for Moore Business
7 Forms.

8 Due to the nature of my position it would be a
9 hardship, in that the company would not be willing to
10 compensate me, you know, for the extensive period that I
11 would be tied up.

12 Q Is this something that you have ascertained to
13 be a firm policy of your company?

14 A Well, the policy has been in the past to write
15 a letter excusing anyone because of the commission policy,
16 you know, of compensation.

17 Q Are you paid on a commission basis?

18 A I am paid on a salary right now because I am
19 on a one-year training program, which is a salaried
20 position.

21 After that time I go into a commission.

22 Q Have you spoken to anyone specifically about
23 this particular case and your service in this case?

24 A Not officially, but I know that if I were to
25 serve on this case they would have to replace me with
26 someone else, you know, hire a new person in a training

1 position since, you see, I have a territory, you know,
2 which is mine, and to be away for that period of time, they
3 would have to, you, now, replace me with someone else.

4 Q I can understand that, sir. Would you between
5 now and Monday contact your employer and find out whether
6 or not your compensation would continue while you are on
7 jury service if you were selected in this case?

8 A Okay.

9 Q And let me know then Monday morning.

10 A Yes, sir.

11 Q In the meantime I will ask you some other
12 questions:

13 Have you had an opportunity to think over the
14 death penalty questions I put to the other prospective
15 jurors, and your answers to those questions?

16 A Yes, I have.

17 Q I am going to put those questions to you now.

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

22 A No, I don't.

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

1 A No, sir.

2 THE COURT: Mr. Fitzgerald, do you care to inquire?

3 MR. FITZGERALD: No, your Honor.

4 THE COURT: Mr. Reiner?

5 MR. REINER: No, your Honor.

6 THE COURT: Mr. Shinn?

7 MR. SHINN: No, your Honor.

8 THE COURT: Mr. Kanarek?

9 MR. KANAREK: No questions, your Honor.

10 MR. BUGLIOSI: May I have just a moment, your Honor?

11 THE COURT: All right, Mr. Bugliosi. It is time to
12 take the afternoon recess, so we will take it at this time.

13 MR. BUGLIOSI: Thank you.

14 THE COURT: Do not converse among yourselves, ladies
15 and gentlemen, or with anyone else on any subject relating
16 to the case, nor form or express an opinion regarding the
17 case until it is finally submitted to those of you who are
18 selected as jurors.

19 15 minutes, please.

20 (Whereupon, a recess was taken until 3:17
21 p.m. at which time the following proceedings were had:)

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1 THE COURT: All parties and counsel are present.

2 The prospective jurors are in the jury box.

3 You may proceed, Mr. Bugliosi or Mr. Stovitz.

4 MR. STOVITZ: Thank you, your Honor.

5
6 VOIR DIRE EXAMINATION OF MR. PETERSON

7 BY MR. STOVITZ:

8 Q Mr. Peterson, aside from the financial hard-
9 ship, would you be able to serve on this jury and give this
10 case your full attention?

11 A I think so.

12 Q All right, then on Monday you will be able
13 to tell us about your financial hardship, is that right, sir?

14 A Right.

15 Q You are married, sir?

16 A No.

17 Q Single?

18 A Single, yes.

19 Q You won't have to be thinking about any wife
20 or kids at home that you know of?

21 A No, I hope not.

22 One thing I would like to mention.

23 Q Yes.

24 A Dealing with the presumption of innocence.

25 Q Yes.

26 A Somehow I have a doubt in my mind in that

11c-2

1 respect, you know, some type of a reservation as far as
2 in my own mind, possibly because of all of the publicity
3 and things of this nature.

4 Q All right, let's go back to the time that the
5 crimes were first announced in the press.

6 Did you read about the crimes when they were
7 first announced?

8 A Yes.

9 Q All right, now, without telling us what you
10 read do you have such lasting impressions as to what you
11 read that if you heard evidence in this case, you could not
12 put aside what you read, and just consider the evidence?

13 A No, I have an open mind in that. I would, you
14 know, look at the facts.

15 Q All right. In other words, I am just going to
16 assume for the moment that you read that one of the victims
17 in this case was poisoned.

18 The evidence in this case, you find out, shows
19 that there was no poisoning of any of the victims whatsoever;
20 that they met their untimely deaths through some other means.

21 You would be able to forget what you read in
22 the paper and just go by what the evidence is here in this
23 case, is that right?

24 A Yes, I definitely would go by the evidence.

25 Q You would not concern yourself at all as to
26 why that statement crept into the paper or anything like

1 that, is that right?

2 A Right, because it very easily could.

3 Q And of course you know that there are all
4 kinds of publications.

5 Do you remember reading any magazine articles
6 on it, movie magazine articles on it?

12 fls. 7 A No, I don't.

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1 Q Do you remember having any detailed discussions
2 with anyone that is supposed to have the straight poop as
3 to how these people met their death?

4 A No.

5 Q Now, then, can you tell us the approximate
6 month it was that you first learned of these defendants'
7 arrest?

8 A I imagine December. That is all I know. I
9 don't even recall that particular time.

10 Q Do you remember reading any particular account
11 of how the defendants were arrested or where they were
12 arrested, Mr. Peterson? Don't tell us what you heard, but
13 do you remember reading anything about that, sir?

14 A Let me say that I know that I read about it.

15 Q I see.

16 A But I read so many different things, you know,
17 that, like the other jurors have said, they don't know
18 exactly what they have read but they know they have read it.

19 Q All right.

20 Now, let's assume, for instance, Mr. Peterson --
21 we will go to this young lady over here with the dress,
22 Leslie Van Houten -- do you remember reading anything about
23 her particularly in the newspaper?

24 Don't tell us what it was, Mr. Peterson. Just
25 do you remember reading anything about her?

26 A No.

1 Q Do you know how or why or any of the
2 particulars that associate her guilt or innocence in this
3 case?

4 A No.

5 Q What about the next young lady, the one with
6 the brown, I guess you would call it, jumper, or whatever
7 you would call it?

8 A The same answer.

9 Q What about the next young lady with the cape?

10 A I remember reading something about her.

11 Q About Susan Atkins?

12 A Yes.

13 Q Do you remember the details of what you read?

14 A No, I don't.

15 Q Assume for the moment that you heard in this
16 courtroom evidence and that evidence was completely
17 different than whatever you might have read. Would your
18 curiosity be such that you would try to remember back what
19 you have read, sir?

20 A No. I would go by what was said in the
21 courtroom.

22 Q And if what was said in the courtroom,
23 Mr. Peterson, conflicted in any way whatsoever with your
24 lingering memory, sir, do you think you would say to your-
25 self, "Gee, why did they say one thing there and I hear
26 another thing here?" Would you have that sort of curiosity?

1 A I think I would, but I would put all these
2 things aside, if I were to hear it.

3 Q Could you discipline your mind so that if you
4 promise this Court to abide by the evidence, Mr. Peterson,
5 you would be able to obey that promise?

6 A Yes, I think I could.

7 Q All right.

8 Now, let's get to the gentleman in the blue
9 denim there; I mean, Mr. Manson.

10 Do you remember reading anything that he might
11 have said, he, himself, might have said, in any of the
12 newspapers?

13 A No, I don't.

14 Q Do you remember anything that he, himself,
15 told any news media?

16 A No.

17 Q All right.

18 Now, did you read any reports of what somebody
19 else said that Mr. Manson said?

20 A I don't recall.

21 Q You don't recall?

22 A No.

23 Q All right.

24 Now, as you sit here now, Mr. Peterson, do you
25 have any feelings from what you have read, from what you
26 have seen, and from what you have heard, that Mr. Manson is

1 more likely to be guilty than innocent?

2 A Yes.

3 Let me clarify this.

4 Q All right. Go ahead..

5 A The way I have this in my mind --

6 Q Go ahead.

7 A -- I find it difficult to, you know --

8 I do presume him innocent.

9 Q What?

10 A I presume them innocent until proven guilty.

11 However, I have certain reservations in my mind that I
12 kind of consider it more that rather than determining
13 guilt or innocence we are determining, you know, the degree
14 of guilt.

15 I can't help but think that there must be some
16 guilt involved or they wouldn't be, you know, indicted, and
17 all these other things, and all this publicity.

12a-1

1 Q Can you accept the proposition by the Court
2 that every person is presumed to be innocent, Mr. Peterson?

3 A Yes, I do.

4 Q Do you merely give this proposition of law
5 lip service or do you actually believe that, sir?

6 A I believe it.

7 MR. KANAREK: I object. That is argumentative, that
8 question.

9 THE COURT: Overruled.

10 MR. STOVITZ: Now, Mr. Peterson, if the Court were to
11 instruct you -- and I think it is one of the very first
12 instructions -- the mere fact that a person has been
13 charged or arrested for this crime is no evidence of his
14 guilt, could you actually accept that instruction whole-
15 heartedly?

16 A Yes, I could.

17 Q You in no way quarrel with that instruction;
18 is that right?

19 A No, I don't.

20 What I am saying is that I feel a personal
21 prejudice, you know, that I can feel in my own mind.

22 Q That is what we want to know.

23 A And yet I am not, by any means, saying that
24 I would not agree with that rule of law.

25 Q All right.

26 Now, this personal prejudice that you feel,

12a-2

1 Mr. Peterson, was this from something specific that you
2 read or is this from the totality of what you read or
3 heard about this case?

4 A Definitely from the totality.

5 Q All right.

6 Now, this totality of what you heard or read
7 about the case, is this something that would require
8 evidence by the defense to remove?

9 A I don't think so.

10 Q Do you think that if the Court were to
11 instruct you to put aside everything that you have read
12 or seen about this case, Mr. Peterson, that you could
13 follow that instruction explicitly, sir?

14 A Yes.

15 Q Do you have any doubts about that?

16 A No.

17 Like I say, I just feel this prejudice at
18 the outset because of the publicity.

19 Q Assume for the moment that jury selection
20 goes on for about another week and you do not hear or
21 read anything about the guilt or innocence of these
22 defendants, merely the fact that the jury selection is
23 in progress in the courtroom of Judge Older in
24 Department 104 of the Hall of Justice, and that later on
25 you get involved in listening to the evidence.

26 Do you think that your verdict would be based

1 solely on the evidence and not on what you had read or
2 heard about the case?

3 A Yes, sir.

4 Q Now, sir, Mr. Bugliosi asked the jurors a
5 great many questions last Monday, I believe, when you
6 first came into this courtroom; is that right, sir?

7 A Yes.

8 Q Did you follow those questions, Mr. Peterson?

9 A Yes.

10 Q And if those questions were asked of you
11 individually, sir, would your answers be exactly the
12 same, substantially the same, or do you have some
13 differences, sir?

14 A They would be substantially the same.

15 Q Substantially the same?

16 A Yes.

17 Q Can you recall any differences that you might
18 have?

19 A The only difference I already brought up.

20 Q About your work?

21 A No. About the presumption of innocence.

22 Q I see.

23 A That was the only thing that came to my mind.

24 Q All right.

25 Now, your feelings, your personal feelings
26 on the penalty in this case.

1 Assuming that the verdict was first degree
2 murder. Being a young man, Mr. Peterson, do you think
3 that you could impose the death penalty upon a woman?

4 A Yes.

5 Q Do you think you could impose the death
6 penalty upon a person who is not the actual killer?

7 MR. KANAREK: Object, your Honor. Improper voir
8 dire, your Honor.

9 THE COURT: Do you understand the question, sir?

10 MR. PETERSON: Yes.

11 THE COURT: The objection is overruled.

12 You may answer.

13 MR. PETERSON: The answer is yes.

14 MR. STOVITZ: Q And do you think that in deciding
15 the guilt or innocence of these defendants, Mr. Peterson,
16 that you would not bend over backwards, so to speak,
17 and require absolute proof because the People are seeking
18 the death penalty?

19 A No.

20 Q Do you accept the doctrine that a person can
21 be guilty of a crime because he is a co-conspirator as
22 to the crime?

23 A Yes.

24 Q You have no quarrel with that?

25 A No quarrel.

26 Q And putting yourself in the place of Mr.

1 Bugliosi and myself, Mr. Peterson, knowing everything you
2 know about your own background, knowing all the things
3 that you have lived through in your young age, do you
4 think you could be fair and impartial to both sides?

5 A I think so.

6 MR. STOVITZ: Thank you very much.

12b fls.

7 The People pass for cause.
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12B-1

VOIR DIRE EXAMINATION

1
2 BY THE COURT:

3 Q Mr. Peterson, have you served in any other
4 criminal case as a juror?

5 A No, I haven't.

6 Q Do you believe that the feelings that you have
7 expressed about the defendants in this case stem from the
8 fact that they have been indicted for these offenses and
9 brought before the court to stand trial?

10 A Well, to be honest with you, I can't pinpoint it.
11 Like I say, it is the totality of the situation.

12 Q Have you ever had that feeling about any other
13 criminal case, that is, any other case where you read about
14 it in the newspaper or heard about it in some way?

15 MR. KANAREK: May I respectfully, your Honor, object
16 to the Court's question on the basis of improper foundation
17 in that he has never been a juror and had to go through the
18 processes of thinking as he has in this case.

19 THE COURT: The objection is overruled.

20 Do you understand the question?

21 MR. PETERSON: Would you repeat it, please?

22 THE COURT: Would you go back and read it, please?

23 (The question was read by the reporter.)

24 MR. PETERSON: No, I haven't.

25 THE COURT: Q Would you say that in this case,
26 Mr. Peterson, you have formed an opinion as to the guilt or

1 innocence of any defendant as you sit here now?

2 A No.

3 Q Do you feel that you are entirely neutral and
4 impartial?

5 A Yes, I would be.

6 Q You don't feel that you perhaps might be
7 leaning one way or the other because of what you might have
8 read or heard about the case?

9 A I think I could set this aside and judge
10 impartially.

11 Q Do you feel at the moment, though, that you are
12 leaning one way or the other, Mr. Peterson?

13 A Yes.

14 Q And would that be leaning toward the prosecution?

15 A No.

16 Q I beg your pardon?

17 A No. Excuse me, yes.

18 Q Well, do you find it inconsistent to say that
19 you could give the defendants the benefit of the
20 presumption of innocence but at the same time you lean in
21 some degree toward the prosecution?

22 A Well, what I mean is that at this point, in my
23 own mind, I would, you know, have the reservation; but if I
24 was serving on the jury, I would be totally impartial to
25 the best of my ability. I wouldn't carry with me any
26 prejudices that I might have now.

2B3 1 Q Well, now is what we are interested in.

2 A Yes, I understand.

3 Q This is the point in time when we have to
4 ascertain what your state of mind is.

5 A At this point I do.

6 Q Not what you felt yesterday or what you may
7 feel next week, but right now.

8 How do you feel right now, Mr. Peterson?

9 A I feel a certain amount of prejudice.

10 Q If you were on trial charged with some offense,
11 Mr. Peterson, would you want someone on the jury having
12 the same frame of mind that you have right now?

13 A I would think not.

14 THE COURT: Any further questions, Counsel?

15 MR. STOVITZ: None, your Honor.

16 MR. FITZGERALD: On the basis of what your Honor
17 elicited, the defendants will interpose an objection for
18 cause, actual bias, under 1073 P.C.

19 MR. REINER: Join.

20 MR. SHINN: Join.

21 MR. KANAREK: Join, your Honor.

22 MR. STOVITZ: Submit it.

23 THE COURT: You will be excused, Mr. Peterson.

24 Thank you very much for being so forthright
25 with us.

26 MR. PETERSON: Thank you, sir.

1 THE COURT: Since we have only one member of the
2 original panel left to be called into the box, I am going
3 to call over another panel, but in view of the hour we
4 will be unable to have the panel here by the time we
5 normally adjourn in any event.

6 So, so far as the prospective jurors are
7 concerned, we will now adjourn.

8 I will take up some other matters with counsel
9 after the prospective jury has retired.

10 Please remember the admonition. Do not
11 converse among yourselves nor with anyone else on any
12 subject relating to this case, nor form or express any
13 opinion regarding the case.

14 And my further admonition, not to read, watch,
15 or listen to anything concerning this case while you are
16 prospective jurors, or jurors, and not allow yourself to
17 be influenced by anything that you may inadvertently
18 read, see or hear about it.

19 You are now excused until 9:45 on Monday
20 morning.

21 (Whereupon, the prospective jurors leave the
22 courtroom.)
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1 THE COURT: The record will show all of the prospec-
2 tive jurors have departed from the courtroom and that all
3 parties and counsel are present.

4 MR. STOVITZ: Yes, your Honor. On the matter of
5 peremptory challenges, the Clerk informs me that the People
6 have used five

7 THE CLERK: Seven.

8 MR. STOVITZ: I'm sorry, seven. I will count it
9 actually in the transcript, as they go along. I don't
10 dispute that. That is not what we are talking about.

11 Mr. Reiner used five. The Code Section,
12 1070.5 would seem to indicate that unless the other
13 defendants are willing to yield some of their joint
14 challenges to Mr. Reiner, that that is all that he is
15 entitled to have, is five challenges.

16 Unless the defendants are willing to allow
17 Mr. Reiner to use their joint challenges, he would only
18 have the five challenges.

19 THE COURT: I don't agree with that, sir.

20 The Code is perfectly clear. If the defendants
21 do not exercise their joint challenges, then they are left
22 with their individual peremptories.

23 MR. STOVITZ: Would your Honor say then that Mr.
24 Reiner would have another 15 or another 20, or what?

25 THE COURT: Mr. Reiner has used his individual
26 peremptories.

13-1

1 MR. STOVITZ: So assume for the moment that Mr.
2 Fitzgerald and Mr. Shinn and Mr. Kanarek do not yield
3 any of the joint challenges.

4 THE COURT: I don't think they have the right to.
5 I don't think the Code provides for that.

6 MR. STOVITZ: So that Mr. Reiner is precluded from
7 exercising any more challenges.

8 THE COURT: That is my understanding.

9 MR. STOVITZ: Well, of course that is inconsistent
10 with the philosophy that the defendant in a murder trial
11 is entitled to 20 peremptories.

12 THE COURT: We are not dealing with philosophy.
13 We are dealing with a statute that provides precisely
14 what peremptories are allowed.

15 MR. STOVITZ: I realize that, your Honor, and I am
16 not trying to be obstreperous.

17 In the case of People vs. King, 240 Cal. App.
18 2d, the page number which escapes me now, it was a murder
19 case involving two defendants.

20 I believe they each exercised ten, and there
21 is an excellent expose on the doctrine of peremptory
22 challenge, and the philosophy there is expressed that a
23 peremptory challenge is a creature of statute, and if
24 the statute does not provide for more, then that is just
25 too bad; he just gets what the statute provides for.

26 And a cold, hard look at the 1070.5 would

1 indicate that Mr. Reiner used up all of his five
2 peremptories.

3 However, when you go back for the reason or
4 the logic of the thing, if his client was on trial all
5 by herself, he would be entitled to 20.

6 Being on trial with other defendants, does
7 that stop him and only give him five?

8 I just put this outto your Honor. I think
9 that statute is a little ambiguous.

10 If your Honor interprets it one way, if
11 counsel has any objection he can perhaps give some
12 authority to the Court that is contrary.

13a file.

13-a-1

1 THE COURT: Why are you raising the questions?

2 MR. STOVITZ: Why am I raising the questions?

3 THE COURT: Yes.

4 MR. STOVITZ: So that we do not argue this point next
5 week if and when it is brought up.

6 I believe that the Court should exercise its
7 discretion and give the defendant at least the 20
8 peremptories that she would have if she was being tried
9 all by herself.

10 THE COURT: The question has not even been raised.
11 I am curious as to why you are raising it.

12 The defendant has not even requested it.

13 MR. STOVITZ: I know that.

14 THE COURT: Aside from the question whether the Court
15 is either required or has the power to grant that.

16 MR. STOVITZ: Well, your Honor --

17 THE COURT: Why are you anticipating something that
18 has not happened?

19 MR. STOVITZ: Because if it does occur next week, if
20 all counsel are prepared on the applicable authority, we
21 can move along.

22 THE COURT: I read the statute a number of times, and
23 the cases.

24 I think it is perfectly clear what it says and
25 what it means. I don't have any problem with it.

26 MR. STOVITZ: All right.

1 THE COURT: Up to now no one else has raised the
2 question.

3 MR. REINER: If I may be heard, Mr. Stovitz was
4 anticipating what I would obviously be doing.

5 I did intend to and do intend to raise this
6 very issue.

7 I have not raised it at this point because I
8 think as to myself it is premature. I surely will move for
9 additional peremptory challenges. I intend to argue the
10 matter at some length.

11 However, it is my understanding I must wait
12 until all peremptory challenges have been used by all of the
13 counsel in this case on both sides of the table.

14 At that time then I know exactly what I am
15 faced with.

16 Prior to that time the problem may not arise
17 because if there are perhaps, for example, three prospective
18 jurors I wish to excuse, and there are three or more
19 peremptory challenges on the table with other counsel, if
20 they decide to use those challenges, or if we are unable to
21 reach some agreement with other defense counsel as to the
22 use of the joint challenges, at that time I can raise the
23 issue.

24 I don't think I can raise it at this time.

25 I think it is a little premature.

26 I would indicate to the Court that what I intend

1 to do -- it is probably obvious what I intend to do -- and
2 I think Mr. Stovitz picked up on that.

3 The fact is that I certainly am going to
4 request additional peremptory challenges.

5 THE COURT: All right, then, 9:45 on Monday.

6 MR. STOVITZ: Your Honor anticipates the matter
7 before the Court will be concluded by then?

8 THE COURT: I cannot hear you.

9 MR. STOVITZ: There is a matter before the Court on
10 Monday morning. Will that be concluded by 9:45?

11 THE COURT: I don't know, Mr. Stovitz. I hope so.

12 MR. STOVITZ: All right.

13 (Whereupon, an adjournment was taken to
14 reconvene at 9:45 a.m., Monday, July 6, 1970.)
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1 LOS ANGELES, CALIFORNIA, MONDAY, JULY 6, 1970 10:10 A.M.

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4 (The following proceedings were had in the
5 chambers of the Court all of defendants and their counsel
6 being present, Mr. Bugliosi and Mr. Stovitz being present:)

7 THE COURT: The record will show all parties and
8 counsel are present.

9 I understand, Mr. Reiner, you want to see
10 me about something.

11 MR. REINER: Yes, your Honor, the Court recalls
12 last week I brought to the Court's attention the fact
13 that an order had been affixed to the wall in the hallway
14 outside of this court where the members of the media
15 gathered, and that one of the orders contained therein
16 was that the Sheriff's Department was ordered to provide
17 the Court with 24 hours security.

18 The Court ordered that the item be taken
19 from the wall.

20 At the time we indicated there was a
21 substantial possibility that it would appear in the
22 media for the reason that various reporters received
23 copies of it.

24 I would present to the Court for the Court's
25 consideration the Sunset Edition of the Herald-Examiner for
26 Wednesday, July 1st, which was the day it appeared on the

1 wall.

2 In red headlines there appear the words,
3 "Body Guard for Tate Judge."

4 This appeared in the newstand outside the
5 jury assembly room. All the prospective jurors could
6 walk out of the assembly room and buy this paper with
7 this red headline.

8 Perhaps it should be marked Defendant
9 Houten's Special A. May it be marked A for Defendant
10 Houten?

11 THE COURT: It will be so marked.

12 MR. REINER: I would ask at this time -- I would
13 in effect renew our request that examination of the
14 prospective jurors relative to matters pertaining to
15 their exposure to publicity be held separately and
16 privately in chambers.

17 That would relate to this matter and to
2 fls. 18 any other matter bearing on the issue of publicity.

1 MR. STOVITZ: On behalf of the People, your Honor,
2 we would have no objection to conducting the questioning
3 of the jurors in chambers provided that the record that is
4 made of this proceeding is open to the public.

5 Anything that is stated in chambers that you
6 wanted to be kept confidential, your Honor could indicate
7 it to us at that time.

8 The reason for this position is that we
9 feel that your Honor's order about keeping matters quiet
10 in chambers has been frustrated anyway.

11 I have a copy of the newspaper article that
12 was in the Free Press which shows completely that matters
13 reported in chambers is finding its way into the press.
14 I have this July 3rd, 1970 edition. The headline is
15 Crisis of the Brassiere.

16 That matter was discussed in chambers. The
17 very last paragraph here talks about listening to the tape
18 recordings on my matter, the matter concerning myself
19 personally. This was only dealt with in chambers. It
20 wasn't dealt with outside so far as providing a tape
21 recorder for your Honor.

22 So, some how or other, your Honor, what is
23 happening here in chambers is being reported to somebody.

24 Ed Sanders is the man who has the by-line.

25 THE COURT: I don't know, without reading all of this
26 at this time, whether or not that is true, but do you have

1 some suggestion as to how that got into the press?

2 MR. STOVITZ: I have no idea, your Honor. All I
3 know is that I read the article and there are two or three
4 items in that July 3rd edition of the Free Press entitled
5 the Crisis of the Brassiere that was handled solely here
6 in chambers, and somehow or other Mr. Ed Sanders learned
7 about it.

8 THE COURT: I don't recall now whether that was before
9 or after the order augmenting the original publicity order.
10 Do you?

11 MR. STOVITZ: I believe it was after, your Honor,
12 the publicity order was augmented on Monday, and we
13 discussed the providing of the tape recorder for your Honor
14 after that.

15 However, I feel that the people who read this
16 is so limited that it wouldn't have any significance.

17 Of course, the other news media could buy a
18 copy of the Free Press if they wanted to, if they wanted to
19 find out, and they could say "As quoted in the Free Press
20 and so happened in chambers."

21 In any event, I feel that we could move along
22 a lot faster if we did conduct the voir dire in chambers.

23 THE COURT: Are you making such a motion now?

24 MR. STOVITZ: No, your Honor. I am merely telling
25 your Honor the feelings of Mr. Younger.

26 Mr. Younger is not opposed to the voir dire in

1 chambers provided that the transcript in these proceedings
2 is a matter of public record and can be disclosed if
3 necessary.

4 I haven't made any statements as to anything
5 that has occurred in chambers at any time.

6 THE COURT: I didn't understand you.

7 MR. STOVITZ: I say that the People, Mr. Bugliosi
8 and I, have not commented to any source as to what happened
9 here in chambers, and we feel that it is of no concern
10 except to the people here in chambers.

11 THE COURT: That is precisely why I made the order
12 keeping the transcripts confidential, because it is
13 something that I want to keep away from the prospective
14 jurors.

15 I still am at a loss to understand your
16 reasoning or Mr. Younger's reasoning.

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1 MR. STOVITZ: I cannot explain Mr. Younger's
2 reason, your Honor. All I am telling you is that Mr.
3 Younger did not, by his order, direct that we do not
4 proceed in chambers. It is merely that he would like the
5 transcript to be available to the public, that is all,
6 and the news media is part of the public.

7 THE COURT: What is the position of the defendant
8 on in-chambers voir dire? Did counsel discuss this
9 matter?

10 MR. REINER: With respect to Miss Van Houten,
11 my position is the same. I would insist that the
12 proceedings be held in chambers; and Miss Houten's
13 position, apparently, is the same as previously indicated
14 to this Court and to me that she neither favors nor
15 objects to proceedings being held in chambers. She
16 simply is, apparently, in opposition to all proceedings,
17 whether they be held in open court or chambers,
18 but she has no specific objection to in-chambers proceed-
19 ings as opposed to an open-court proceedings.

20 THE COURT: Is that correct, Miss Van Houten,
21 what your attorney just said?

22 DEFENDANT VAN HOUTEN: It seems so silly to me,
23 the whole thing. Like you want to have it in here but
24 have the transcripts open for everybody anyway.

25 Why not do it out in front where it all is.

26 THE COURT: If it is held here, the transcript

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1 won't be open.

2 DEFENDANT VAN HOUTEN: As far as what everybody
3 has seen and heard, everybody has read everything about
4 it, no matter what they say.

5 THE COURT: I want to know if you consent.

6 DEFENDANT VAN HOUTEN: I don't consent to anything.

7 THE COURT: Do you object to anything?

8 DEFENDANT VAN HOUTEN: I don't consent to anything
9 or object to anything. It is all so beyond me.

10 THE COURT: What about you, Miss Krenwinkel?

11 DEFENDANT KRENWINKEL: It doesn't matter to me. I
12 don't object to it and I don't wish it. So, either way.

13 THE COURT: What about you, Miss Atkins?

14 DEFENDANT ATKINS: I have nothing to hide and I
15 don't object to it and I don't consent to it.

16 I'd rather have it out in front where every-
17 body is and can see what is happening instead of playing
18 hide and seek with the public, because I don't care,
19 it is not my choice anyway, you are the one that makes
20 the decision.

21 THE COURT: I am asking you what your choice is.

22 DEFENDANT ATKINS: I don't object to it and I
23 don't consent to it.

24 MR. SHINN: Your Honor, may I state this, your
25 Honor?

26 I discussed this matter with Miss Atkins and

2a-3

1 she relates that she wants to have all these hearings in
2 open court, your Honor.

3 THE COURT: She just stated what she wants.
4 You are paraphrasing what she just said.

5 MR. SHINN: I thought, since she was on the fringe,
6 you know.

7 THE COURT: She said she didn't object and she
8 didn't consent.

9 MR. SHINN: I wanted to make it more clear that I
10 think she does object to in-chambers, your Honor, from the
11 conversation that I had with her in the past.

3 fls.

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1 THE COURT: Well, I don't think your statement needs
2 any clarifying.

3 What is your position, Mr. Manson?

4 MR. MANSON: The same as its always been. I would
5 like to be my own attorney.

6 THE COURT: I understand that.

7 But now all we are concerned with at the
8 moment is whether or not you consent to having any of the
9 examination of the jurors conducted in chambers or whether
10 you object to that.

11 MR. MANSON: Your Honor, you took my voice away. I
12 have no voice. No man can speak for me.

13 THE COURT: What is your position, Mr. Kanarek?

14 MR. KANAREK: My position is, your Honor, that I
15 believe that in view of everything that has occurred, on
16 balance -- on balance -- because of the horrendous publicity
17 that already has occurred, that we have it out in the open,
18 I believe that is Mr. Manson's wishes, your Honor.

19 THE COURT: What is your wish?

20 MR. KANAREK: Well, because of the state of the
21 record, that is because it only -- it is horrible to have
22 to fight, to have to fight a case where publicity is the
23 criterion.

24 THE COURT: Would you please tell me whether you
25 object to it or consent to it or what do you want?

26 MR. KANAREK: Our position is, your Honor, that it

1 must be in open court because of what has occurred, that
2 is --

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

4 MR. SHINN: Open court, Your Honor.

5 THE COURT: You want it in open court?

6 MR. SHINN: Yes, your Honor.

7 THE COURT: What about you, Mr. Fitzgerald?

8 MR. FITZGERALD: I would like the publicity matters
9 in chambers.

10 THE COURT: That is what we are talking about now.

11 Did you understand that, Mr. Shinn?

12 MR. SHINN: No, your Honor.

13 THE COURT: We are talking only about publicity.

14 MR. SHINN: The recent publicity?

15 THE COURT: No, the voir dire examination regarding
16 publicity, what any particular prospective juror has been
17 exposed to and what opinions he may have formed or what ef-
18 fect, if any, his opinions may have, and so forth.

19 Only in regard to publicity. We are not going
20 to voir dire the jurors on other subjects.

21 What is your thinking on that?

22 MR. SHINN: With regard to publicity I would have no
23 objection to having it in chambers.

24 THE COURT: What about you, Mr. Kanarek?

25 MR. KANAREK: Pardon?

26 THE COURT: What about you, sir?

1 MR. KANAREK: Well, as I am saying, your Honor,
2 trying to analyze it again, trying to give the Court a
3 reason as to why my position has changed since the last
4 time we were in court, I mean in chambers on it, may I
5 preface it with some other matter?

6 THE COURT: You don't have to do that. All I want
7 to know is do you consent or do you not?

8 MR. KANAREK: Well, your Honor, I cannot consent to
9 this at this time.

10 THE COURT: You cannot?

11 MR. KANAREK: Because Mr. Manson has been so horribly
12 hurt by the publicity, your Honor, that takes place here.

13 THE COURT: I don't need to hear a lot of argument,
14 Mr. Kanarek. All I want to know is, are you requesting
15 along with other counsel that that portion of the voir dire
16 be held in chambers or are you not?

17 MR. KANAREK: Well, may I speak to Mr. Fitzgerald for
18 just a moment, your Honor?

19 THE COURT: Surely.

20 (off-the-record consultation between Mr.
21 Fitzgerald and Mr. Kanarek.)

22 MR. KANAREK: We will ask for it in chambers, your
23 Honor.

24 Mr. Fitzgerald and Mr. Shinn and Mr. Reiner
25 all want it in chambers.

26 THE COURT: The publicity voir dire examination is

1 what we are talking about.

2 MR. KANAREK: That's right, I will agree with co-
3 counsel.

4 THE COURT: All right, then, we will hold that portion
5 of the voir dire in chambers, regarding publicity only.

6 MR. KANAREK: May I say this, your Honor, Mr. Manson
7 wishes it in open court.

8 THE COURT: Well, he has not told me that.

9 DEFENDANT MANSON: I have not taken any position.
10 There is no client-lawyer relationship.

11 I have asked him to be quiet all the time. Any-
12 thing he says he is saying on his own.

13 THE COURT: All right, then, we will conduct that
14 portion of the voir dire in chambers.

15 Now, is there anything else before we go on?

16 MR. KANAREK: Yes, your Honor, there is a point --

17 THE COURT: What is that?

18 MR. KANAREK: Mr. Younger, your Honor, and I would
19 make an offer of proof, if I could be sworn, I would like to
20 make this offer of proof:

21 This morning, coming to -- driving in
22 San Fernando Valley, I heard an announce on KABC whose
23 name I believe is John Babcock.

24 Mr. Babcock has made -- he made the point that
25 Mr. Younger, Mr. Younger feared a mistrial if the jurors
26 were sequestered; that it was that illegal, sequestering

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of the jurors.

This is the gist. I make a motion for an evidentiary hearing, have Mr. Babcock called to court and testify in connection with this matter of sequestration.

I also, in connection with the matter of the District Attorney's position on sequestration and its complete lack of respect for the court order concerning publicity, I have here the Sunday July 5, 1970 Los Angeles Times, wherein on the second page it states as follows:

"Locking up the Sharon Tate murder case jury for three to six months (as may become necessary) amounts to jailing the jurors," said District Attorney Evelle J. Younger.

"The process deprives you of an awful lot of good jurors who because of family or personal or business obligations, . . . cannot go to jail," Younger said following the decision of Superior Judge Charles H. Older not to forego locking up the jury. Both prosecution and defense have stated they expect to agree on a jury of 12 by the middle of this week."

Your Honor, I offer into evidence on behalf of our position the -- may I --

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1 THE COURT: For what purpose?

2 MR. KANAREK: In connection with, your Honor, a
3 request that your Honor cite the District Attorney of Los
4 Angeles County in an order to show cause in re contempt
5 for violating the Court's order.

6 This matter has not been decided by the
7 Court.

8 The Court stated that he is still -- that
9 the Court has still not made up its mind. It is a
10 prospective matter which the District Attorney has
11 commented upon.

12 THE COURT: The Code, if my recollection serves me
13 right, Mr. Kanarek, I'm talking now about the Code of
14 Civil Procedure, in the 1200 series on civil contempts,
15 provides for a procedure for initiating a contempt
16 proceeding where the contempt does not occur in the
17 presence of the Court, that is, a non-direct contempt.

18 So, if that is what you intend to do, you
19 will have to follow the procedure set up in that Section.

20 MR. KANAREK: I have prepared the papers in connec-
21 tion with Mr. Stovitz. I agree this is a way of doing it.

22 However, as your Honor knows in this
23 community -- in this community -- the Court, as far as
24 lawyers are concerned, will oftentimes from the bench
25 have the Clerk inform a lawyer that something has been
26 brought to the Court's attention and the Court more or

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1 less informally by this telephonic means asks the lawyer
2 to appear in court and explain.

3 Now, we would ask the Court --

4 THE COURT: Well, that is usual in connection with
5 something with which the Court is directly involved, the
6 non-appearance of an attorney or something like that.

7 May I see the article?

8 MR. KANAREK: Certainly, your Honor.

9 THE COURT: Has everybody seen it?

10 MR. KANAREK: He is saying that the jurors are going
11 to jail.

12 Now, those jurors -- they can infer perhaps
13 that the defendants, since the District Attorney is
14 against it in public, they could infer that the defendants
15 are for it, and therefore their jailing is because of
16 the defendants' activity, and this is most prejudicial
17 to the position of Mr. Manson.

18 Emphasizing the word "jail," there, your
19 Honor --

20 THE COURT: Well, I can read, Mr. Kanarek.

21 MR. KANAREK: Yes, your Honor.

22 THE COURT: Well, I want to get started now. We
23 have some other business to take care of.

24 Do you want to mark this article?

25 MR. KANAREK: Yes. May I in behalf of Mr. Manson?

26 THE COURT: All right. It will be marked Manson's

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1 Special Exhibit, whatever the next number is.

2 MR. KANAREK: I am informed and believe, and there-
3 fore allege, and I did not see this, I was not in the
4 City, but I understand on Saturday night last, on an NBC
5 television program, I would gather, in connection with
6 which there was a panel of people on TV, Mr. Younger was
7 present and once again discussed my alleged incompetence
8 and/or other matters concerning this trial on TV, and I
9 have been informed and believe --

10 THE COURT: What you are telling me now seems to
11 be third or fourth-hand hearsay. I cannot act on that.

12 MR. KANAREK: Mr. Shinn actually observed it.

13 MR. SHINN: No, I was informed.

14 THE COURT: Let's not get into that. Any time that
15 any counsel believes that some matter requires the Court's
16 attention in contempt or otherwise, of course I welcome
17 being advised.

18 In connection with these so-called alleged
19 contempt matters, though, I think that these matters
20 should be put in the form of a declaration under penalty
21 of perjury.

22 I cannot act on every rumor. That, briefly,
23 is what I am thinking about.

24 I have no means of chasing down every
25 rumor to find out whether it is true or not.

26 If facts -- I'm not talking about information

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and belief -- come to my attention in the appropriate way, I will certainly take the matter under submission and give it all due consideration.

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But I cannot act on every rumor that comes my way.

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MR. REINER: Your Honor, I appreciate the Court cannot and should not act on a rumor, but when counsel has had matters come to his attention which in his view would constitute a contempt of the Court's order, couldn't we handle it in a more informal manner such as counsel giving the Court the basis therefor, rather than having counsel trying at 8:00 or 9:00 o'clock in the evening, on a court day, to find a secretary who is not otherwise occupied, to prepare a declaration.

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I notice that the Court has on a few occasions read its own newspaper related to matters involving a possible violation of the Court's order by either Mr. Fitzgerald or myself.

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I think perhaps we might handle it just as informally as to possible violations on the part of the prosecution.

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I did see the particular program alluded to by Mr. Kanarek, a 30-minute press conference involving Robert Abernathy, Warren Wilson and Jeff Marlowe, at which time Mr. Younger with reference to various questions directed toward him over a 30-minute period, discussing this

1 case and only this case, and the two primary topics of
2 the case related to, (a) Mr. Kanarek's alleged incompe-
3 tency, alleged by Mr. Younger and (b), the Susan Atkins
4 book, or the Larry Shiller book, and his advance knowledge
5 of the manuscript and the contents of the manuscript.

6 Those were the two primary subjects.

7 I might indicate this press conference was
8 taped after your Honor indicated in open court that he
9 felt that the District Attorney's conduct with regard
10 to calling the initial press conference was irresponsible.

11 It was subsequent thereto that Mr. Younger
12 in fact appeared for the taping of this second news
13 conference, covering substantially the same grounds.

14 MR. KANAREK: Your Honor, I would ask your Honor
15 to reconsider the motions to dismiss.

16 This trial is going to be a charade, your
17 Honor.

18 THE COURT: No, it is not, Mr. Kanarek.

19 MR. KANAREK: If the District Attorney can do these
20 things, your Honor, and get on prime TV time.

21 Mr. Manson is in jail. Mr. Manson is in a
22 small cubicle.

23 We do not have the capacity to fight back
24 in connection with the publicity aspect of this, your
25 Honor, and this is State action.

26 I refer your Honor to Shepard vs. Maxwell,

1 Billie Sol Estes case, Rideau vs. Louisiana.

2 I mean, it is just not possible to get a fair
3 jury. We can go through it, your Honor, we may end up with
4 12 bodies in the jury box, and alternates, but, your Honor,
5 I don't believe that we will ever get a fair jury.

6 State action has deprived Mr. Manson of a
4 fls. 7 fair trial, your Honor, because of what has occurred.

1 THE COURT: Well, there is no evidence at all of
2 that.

3 Let's get back into court, gentlemen, and get
4 on with the business of selecting the jury.

5 MR. REINER: We are not going to hold the matter
6 involving publicity in chambers?

7 THE COURT: I beg your pardon?

8 MR. REINER: We are not going to handle the matter
9 involving publicity in chambers?

10 THE COURT: Yes; but I have a new panel out there
11 and we have to give them some instruction first, then we
12 will call the 12th person into the box, and then bring them
13 back here.

14 MR. REINER: Very well.

15 (Whereupon, the following proceedings were had
16 in open court, all counsel and the parties and prospective
17 jurors being present.)

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

20 All defendants and counsel are present, the
21 prospective jury members are seated in the box.

22 THE CLERK: Will all prospective members of the new
23 panel please stand and raise your right hands, please.

24 Do you and each of you solemnly swear that
25 you will well and truly answer such questions as may be
26 asked of you touching on your qualifications to act as trial

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1 jurors in the cause now pending before this Court, so help
2 you God?

3 Raymond W. Magee; R-a-y-m-o-n-d, M-a-g-e-e.

4 THE COURT: Mr. Magee, you have just come into this
5 case, have you not, sir?

6 MR. MAGEE: Yes, sir.

7 THE COURT: My remarks will be addressed not only to
8 Mr. Magee sitting in the jury box along with the other
9 prospective jurors, but all of you ladies and gentlemen
10 sitting out in the courtroom on the new panel that came in
11 this morning.

12 In this case, the defendants are charged with
13 the crime of murder.

14 The defendants, Charles Manson, Susan Atkins
15 and Patricia Krenwinkel have been charged with seven counts
16 of murder in an indictment and one count of
17 conspiracy to commit murder. All of these events are
18 alleged to have occurred last August, 1969.

19 Leslie Van Houten is charged with two counts of
20 murder and one count of conspiracy to commit murder, and
21 those events are also alleged to have occurred in August of
22 1969.

23 To all of these charges, all of the defendants
24 have entered pleas of not guilty.

25 The victims in the alleged offenses are as
26 follows: Abigail Folger, Wajciech Frykowski, Steven Earl

4-3
1 Parent, Sharon Marie Polanski, Thomas John Sebring,
2 Leno A. La Bianca and Rosemary La Bianca.

3 Mr. Manson, would you stand, please, and face
4 the prospective jurors?

5 (Defendant Manson stands.)

6 THE COURT: You may be seated, sir.

7 Mr. Manson is being represented by Mr. Irving
8 Kanarek. Would you stand, please, Mr. Kanarek?

9 (Mr. Kanarek stands.)

10 THE COURT: Miss Atkins, would you stand, please,
11 and face the prospective jurors?

12 (Defendant Atkins stands and faces the
13 prospective jurors.)

14 THE COURT: Miss Atkins is being represented by
15 Mr. Daye Shinn. Would you stand, please, Mr. Shinn.

16 (Mr. Shinn stands and faces the prospective
17 jurors.)

18 THE COURT: And Miss Krenwinkel, would you stand, please.

19 (Defendant Krenwinkel stands and faces the
20 prospective jurors.)

21 THE COURT: Patricia Krenwinkel is being represented
22 by Mr. Paul Fitzgerald.

23 Mr. Fitzgerald, would you stand, please?

24 (Mr. Fitzgerald stands and faces the prospective
25 jurors.)

26 THE COURT: And Leslie Van Houten, would you stand,

1 please.

2 (Defendant Van Houten stands and faces the
3 prospective jurors.)

4 THE COURT: Miss Van Houten is being represented by
5 Ira Reiner.

6 (Mr. Reiner stands and faces the prospective
7 jurors.)

8 THE COURT: The People of the State of California
9 are being represented by Deputy District Attorneys Mr.
10 Aaron Stovitz and Mr. Vincent Bugliosi.

11 (Mr. Stovitz and Mr. Bugliosi stand and face
12 the prospective jurors.)

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2 Are any of you acquainted with any of these
3 persons? If the answer to any of my questions is yes,
4 would you kindly raise your hand?

5 (No hands are raised.)

6 THE COURT: You have heard the charges which have
7 been filed against these defendants. Is there anyone of
8 you who feels that because of the nature of the charges
9 you would be unable to sit as a fair and impartial juror
10 in this case?

11 In a criminal case, a defendant is presumed
12 to be innocent until the contrary is proved, and in the
13 case of a reasonable doubt concerning his guilt, he is
14 entitled to an acquittal.

15 This presumption places upon the State the
16 burden of proving him guilty beyond a reasonable doubt.

17 Reasonable doubt is defined as/ follows: It is not
18 a mere possible doubt because everything relating to
19 human affairs and depending on moral evidence is open to
20 some possible or imaginary doubt. It is that state of the
21 case which after the entire consideration and comparison
22 of all of the evidence leaves the minds of the jurors in
23 that condition that they cannot say they feel an abiding
24 conviction to a moral certainty of the truth of the
25 charge.

26 Is there anyone of you who would be unable
to give each of these defendants the benefit of that

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1 presumption of innocence?

2 (Many prospective jurors on the new panel
3 raise their hands.)

4 THE COURT: I see some hands. Would you call out
5 your names one at a time, please. Would you stand, please,
6 so we can hear.

7 MR. ESPINOZA: Norman Espinoza.

8 THE COURT: Norman Espinoza?

9 MR. ESPINOZA: Yes, sir.

10 MR. FREIDEN: Joy W. Freiden.

11 THE COURT: Just a moment, please. How do you spell
12 that?

13 MR. FREIDEN: F-r-e-i-d-e-n.

14 THE COURT: Joy?

15 MR. FREIDEN: Joy, J-o-y.

16 MR. STOVITZ: Does your Honor want me to bring the
17 microphone out there?

18 THE COURT: I believe we can hear the names all
19 right.

20 The next?

21 MR. WATSON: Frank S. Watson.

22 THE COURT: Brighton?

23 MR. WATSON: Watson.

24 THE COURT: Thank you. The next?

25 MR. SABIN: Don L. Sabin. S-a-b-i-n.

26 THE COURT: You may be seated after you give your

1 name.

2 MRS. ZOTTER: Maureen Zotter, M-a-u-r-e-e-n,
3 Z-o-t-t-e-r.

4 MISS ZUVER: Beverly Zuver, Z-u-v-e-r.

5 MISS VAN PELT: Catherine Van Pelt.

6 THE COURT: Van Pelt?

7 MISS VAN PELT: Yes, Van Pelt.

8 MR. LEAF: Murray Leaf.

9 THE COURT: How do you spell Leaf?

10 MR. LEAF: L-e-a-f.

11 MRS. ZAGIELSKI: Frances Zagielski, Z-a-g-i-e-l-s-k-i.

12 MISS O'DONNELL: Billie O'Donnell.

13 THE COURT: Lily?

14 MISS O'DONNELL: Billie, B-i-l-l-i-e, O'Donnell.

15 MR. THEABALD: Evan Theabald.

16 THE COURT: Theabald?

17 MR. THEABALD: Theabald.

18 MISS RUPPERT: June Ruppert, R-u-p-p-e-r-t.

19 THE COURT: Thank you.

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4B-1

1 THE COURT: Thank you.

2 The function of the jury is to determine the
3 issues of fact but those issues must be determined from the
4 evidence received during the trial, and from that source
5 alone.

6 The function of the Court is to instruct the
7 jury as to the law applicable to the case and it is the
8 duty of the jury to follow those instructions as they are
9 given to you by the Court.

10 Is there any one of you who feels that you
11 would not be able to follow the Court's instructions?

12 The attorneys have estimated that this trial
13 may take between three and five months following the
14 selection of the jury. I personally believe that the
15 actual time will probably be on the lower side of that
16 estimate, but no one can state for sure.

17 It is the intention of the Court to sequester
18 the jury after the jury has been selected, which means
19 that instead of being permitted to go home at night you
20 will be taken to a hotel.

21 This means, of course, that you will be out of
22 direct communication with your friends and families. You
23 will be permitted, however, to see your spouses and families
24 on the weekends, and spouses may stay at the hotel on the
25 weekends, at their own expense.

26 In a case such as murder where the penalty may

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1 be life imprisonment or death, the Court is required to
2 inquire of the prospective jurors whether or not any of you
3 entertain such conscientious opinions regarding the death
4 penalty that you would be unable to make an impartial
5 decision as to any defendant's guilt, or if by reason of
6 such opinions you would automatically refuse to impose the
7 death penalty.

8 The law provides that if you do hold such
9 opinions, you may not be compelled nor permitted to serve
10 as a juror in the case.

11 At the outset of the trial, the Court has no
12 way of knowing whether or not the case will ever get to the
13 question of penalty because that will depend on what your
14 verdict is on the issues of guilt.

15 If there is a verdict of acquittal or if any
16 defendant is convicted of an offense less than murder in
17 the first degree, then your duty as jurors will be
18 terminated and there will be no further proceedings with
19 respect to the jury on the issue of penalty.

20 If, however, there is a verdict of murder in
21 the first degree, then the law provides that there shall
22 be an additional proceeding known as the penalty phase,
23 at which time the jury will determine which of the two
24 alternatives, that is, life imprisonment or death, should
25 be imposed.

26 The Legislature presents no standards by which

4B3
1 the jury is to make the determination of penalty and
2 leaves it to the absolute discretion of every juror to
3 decide whether it shall be life imprisonment or death.

4 I am going to ask you questions now, Mr. Magee,
5 regarding the death penalty, and the first one is this: --

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

8 THE COURT: Does it have anything to do with this
9 part of the proceeding?

10 MR. KANAREK: Yes, your Honor.

11 THE COURT: All right.

12 (Whereupon, all counsel approach the bench
13 and the following proceedings occurred at the bench out-
14 side of the hearing of the prospective jurors:)

15 THE COURT: Yes?

16 MR. KANAREK: Your Honor, if --

17 THE COURT: State your objection first, whatever it
18 is you want.

19 MR. KANAREK: My objection is to your Honor doing this
20 with all of the prospective jurors in the box and also in
21 the courtroom.

22 THE COURT: Doing what?

23 MR. KANAREK: Asking anything concerning the death
24 penalty.

25 THE COURT: I am asking Mr. Magee the questions -- now.

26 MR. KANAREK: I know, but all the other jurors can

1 hear.

2 THE COURT: That's right.

3 MR. KANAREK: But the point is, your Honor, there is
4 the same type of chain reaction there as there is in
5 connection with publicity, and we would ask that this
6 be done in chambers along with the publicity questions so
7 that there will not be a suggestion made to other
8 prospective jurors.

9 THE COURT: I am not going to do that, Mr. Kanarek,
10 for a number of reasons, among which is that sooner or
11 later there is always a question or a discussion between
12 the Court and counsel and the prospective jurors regarding
13 these questions about death penalty, and these matters are
14 stated in various ways which are, in a sense, a form of
15 educating the jury as to the nature of the bifurcated
16 murder trial proceedings, which many of them are unfamiliar
17 with before they come in here, so they should have the
18 benefit of hearing all these questions and answers and
19 comments made by the Court and counsel regarding these
20 things, because it helps to educate them as to why they
21 are here and what the nature of the process is, and how
22 these death penalty questions relate to the guilt phase or
23 the penalty phase.

24 The objection is overruled.

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1 MR. KANAREK: Your Honor, the point is that your
2 Honor's questions involve leading questions wherein there
3 are --

4 THE COURT: What is leading about it? They can
5 answer yes or no.

6 MR. KANAREK: I know. I understand. The word
7 "conscientious," and so forth. Those are all conclusions.

8 THE COURT: The objection is overruled. We have
9 gone over this before and the record will note your
10 objection to the form of the question, if that is what you
11 want the record to note.

12 MR. KANAREK: Yes, your Honor, but it is our position
13 that the time involved is so small that it could be handled
14 along with the publicity.

15 THE COURT: All right.

16 MR. KANAREK: So we do ask on behalf of Mr. Manson,
17 your Honor.

18 THE COURT: The motion is denied.

19 (Whereupon all counsel return to their
20 respective places at counsel table and the following
21 proceedings occurred in open court within the presence
22 and hearing of all prospective jurors.)

23 (Whereupon Mr. Raymond W. Magee came forward
24 and was seated in the jury box.)
25
26

4c-2

VOIR DIRE EXAMINATION OF RAYMOND W. MAGEE

BY THE COURT:

Q The first question I will ask, Mr. Magee, you will notice pertains to the so-called guilt phase of the murder trial, and that is this:

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

A No, sir.

Q The second question you will note pertains to the so-called penalty phase, and, of course, assumes, by reason of the question, that there has been a conviction of murder in the first degree, since if there had been no such conviction, there wouldn't be a penalty phase, and that question is this:

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

A No.

THE COURT: All right, sir.

Now, we are going to conduct a portion of this voir dire examination in chambers with respect to a particular subject or subject matter, and I am going to ask all counsel and the parties to come into chambers now

1 and then I will ask the bailiff to bring you in after we
2 are in there.

3 MR. STOVITZ: Did your Honor ask the question about
4 hardship? I didn't quite hear.

5 THE COURT: Not yet.

6 MR. STOVITZ: All right.

7 (Whereupon the following proceedings were
8 had in chambers, all defendants and counsel being
9 present:)

10 THE COURT: The record will show that all parties
11 and counsel are present.

12 Will you bring in Mr. Magee, please.

13 (Prospective juror Raymond W. Magee enters
14 chambers.)

15
16 VOIR DIRE EXAMINATION OF MR. MAGEE

17 BY THE COURT:

18 Q The reason why I have asked you to come into
19 chambers with the parties and counsel is that we can ask
20 you some questions regarding what, if any, pretrial
21 publicity you may have been exposed to, and whether you
22 may have formed any opinions regarding the case or any
23 of the defendants, and what effect, if any, the publicity
24 may have had.

25 Would you tell us, first, have you lived in
26 Los Angeles or the Los Angeles area continuously since

1 last August, 1969?

2 A Yes, sir.

3 Q When did you first learn about the fact that
4 there had been some killings which are the subject of this
5 case?

6 A On TV, I guess.

7 Q Was it shortly after it occurred?

8 A Yes.

9 Q Do you read any newspaper on a daily basis?

10 A No.

11 MR. REINER: Excuse me. May I ask the prospective
12 juror to raise his voice? I am unable to hear him.

13 THE COURT: Q Do you watch TV regularly?

14 A No.

15 Q Would you tell us, to the best of your
16 ability, what you have read and heard about this case?

17 A Gee. Just that I saw the initial TV
18 broadcast at the Tate home, and more or less the initial
19 part of it.

5 fls.

5-1
1 Q BY THE COURT: Was this right after the
2 killing?

3 A Right after the killing, and since that time,
4 just the beginning of it.

5 Since that time I have not followed it too
6 closely until just recently when the publicity started
7 again.

8 Q How recently did you start reading about it
9 again?

10 A Well, I have not read about it. I have not read
11 anything in the papers about it, just if I happened to get
12 home in time to turn on the television, just the more
13 or less --

14 Q The TV News, was it?

15 A TV news, right.

16 Q Do you watch that on a regular basis?

17 A No, sir.

18 Q Did you read anything in the newspapers about
19 the time that the defendants were arrested; do you remember
20 reading anything at that time?

21 A No, sir.

22 Q Have you read or heard anything which purported
23 to be a statement or statements made by any of the defen-
24 dants?

25 A Oh, may I retract?

26 The initial, right after the initial arrests
were made, there were some articles and editorials in the

-2
1 Long Beach paper that I did read.

2 Q Can you recall what the substance of those
3 articles was?

4 A The one in particular that I remember was
5 describing the ranch, more or less, and the girls and
6 Mr. Manson at the ranch.

7 Q Their mode of living, would you say?

8 A Yes, and also there was one that was purported
9 to be by a friend of Mr. Manson's, his ideas on that.

10 MR. KANAREK: Your Honor, could he speak up? I am
11 having great difficulty. May that be read?

12 THE COURT: Yes. Keep your voice up as much as
13 possible.

14 Read the last answer, please.

15 It is a little hard to hear in here with the
16 air conditioning on.

17 (Whereupon, the reporter reads the record as
18 follows:

19 "A Yes, and also there was one that
20 was purported to be by a friend of Mr. Manson's,
21 his ideas on that.")

22 THE COURT: His ideas on what?

23 A His observations of what took place.

24 Q What took place where?

25 A When he was connected at this ranch.

26 Q You mean their life style?

5-3

1 A Yes.

2 Q Did you read anything about the alleged crimes
3 themselves, the manner in which they were committed or
4 anything that you can recall?

5 A No. I have not read anything on that.
6 Television would be the only source I have on that.

7 Q Keep your voice up. Pretend you are speaking
8 to someone out there in the hall about 50 feet away.

9 MR. STOVITZ: Also, I am a little hard of hearing
10 because of my age. If you would just keep your voice up.

11 THE PROSPECTIVE JUROR: All right.

12 Q BY THE COURT: What do you recall seeing on TV
13 about this case or any of the defendants?

14 A Like I say, the people in transit from the
15 courtroom to the cells, and TV on them, at the outset, I
16 remember the coroner, when he went out to the home, they
17 interviewed him on television.

18 And the actual murder I heard hearsay from
19 other people on. I have not read anything in the papers
20 or saw anything on TV.

21 Q Have you formed any opinion regarding the
22 innocence or guilt of any of the defendants?

23 A I am slanted, you might say, I'm somewhat
24 prejudiced, towards the guilt of the defendants.

25 Q Is this based on what you read?

26 A Just general opinions and feelings of the people

1 I work with.

2 Q People you have talked with?

3 A Talked with. I have formed no firm opinions.

4 Q Is it something that is special to this case,
5 or do you feel that way about any publicized case where a
6 defendant or defendants are arrested or brought before the
7 Court to stand trial?

8 A It would seem that I was prejudiced in the
9 Sirhan case which was quite well publicized, as to his
10 guilt, with the same feeling I have in this case, having
11 no information one side or the other.

12 I do feel that I would initially say, ^{yes,} you know --

13 Q You are letting your voice drop. I cannot
14 hear you.

15 Well, now, you heard me state to all of you
16 and all of the prospective jurors that in a criminal trial
17 every defendant is presumed to be innocent until such time
18 as the state has carried its burden of proving guilt beyond
19 a reasonable doubt.

20 Do you understand that?

21 A Yes, sir.

22 Q Now, do you think that by reason of your,
23 whatever you have read, heard or seen in this case, that
24 you would be able to give each defendant the presumption
25 of that innocence?

26 A I feel I would, yes.

Q Do you have any doubt about it?

1 A No.

2 Q Do you believe that you could put to one side
3 in your mind whatever you heard so far or learned about the
4 case and try the case solely on the evidence that comes in
5 during the trial and base your verdict solely on the
6 evidence that comes in during the trial?

7 Do you think you can do that?

8 A Yes, sir.

9 Q Even though you heard something else that
10 never got into that trial, you would lay that on the side
11 of your mind, something you read or wondered about, do you
12 believe you can leave that to one side and base your
13 decision solely on the evidence in the case?

14 A I believe I can.

15 Q Do you have any question about that?

16 A No.

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

18 MR. FITZGERALD: Yes.

5a-1

VOIR DIRE EXAMINATION OF MR. MAGEE

1
2 BY MR. FITZGERALD:

3 Q Do you regularly subscribe to a newspaper?

4 MR. STOVITZ: I was just going to say we are not
5 going to ask any questions concerning the hardship?

6 THE COURT: Well, I have no objection to it.

7 As far as I'm concerned, if you want to
8 inquire into that you may do so, but that was not what we
9 talked about earlier.

10 We talked only about pretrial publicity.

11 MR. STOVITZ: I was just thinking if your Honor
12 would ask the questions of the jurors after they were
13 sworn to tell the truth, that they raise their hands,
14 you might be able to get an idea as to how many can serve,
15 because of the financial and personal loss.

16 THE COURT: I don't like to do it that way because
17 you get a chain reaction. A lot of people who sat here
18 for a while and thought about it, might not raise their
19 hands.

20 They may raise their hands to be safe at
21 the outset, before they see what is coming.

22 BY MR. FITZGERALD:

23 Q Do you regularly subscribe to a newspaper?

24 A No.

25 Q Do you regularly read a newspaper?

26 A Not on a regular basis.

5a-2

1 Q Do you read it at work during your coffee
2 break or something like that?

3 A One of the fellows at work brings in a
4 newspaper every once in a while. I read that.

5 Q Do you own a radio?

6 A Yes, sir.

7 Q Do you listen to the radio?

8 A Only in the car.

9 Q Have you heard anything on your car radio
10 about this case?

11 A I suppose I have. I don't remember anything
12 right now.

13 Q Do you own a television set?

14 A Yes, sir.

15 Q Do you watch news programs on TV?

16 A Sometimes.

17 Q Then you have seen things on TV in connec-
18 tion with this case, is that right?

19 A Yes, sir.

20 Q Now, you mentioned when the Judge was
21 questioning you that you had talked to some people about
22 this case and other people had expressed their opinions
23 to you, is that correct?

24 A Yes, sir.

25 Q Did those other people purport to be
26 personal acquaintances of Mr. Manson?

5a-3

1 A No, sir.

2 Q Do you know anybody who knows Mr. Manson
3 personally?

4 A No, sir.

5 Q Did it appear to you that those people
6 were expressing opinions based on what they had heard,
7 read or seen about this case?

8 A Yes, sir.

9 Q You have heard some bad things about Mr.
10 Manson, am I correct, or read bad things about him in the
11 newspaper or seen bad things about him on TV?

12 A You might say so, yes.

13 Q You have also seen certain bad things in
14 connection with the female defendants in this case, isn't
15 that correct?

16 A Yes, sir.

17 THE COURT: Well, that question bothers me, Mr.
18 Fitzgerald. I don't know what you mean by "bad." It
19 means many things to many people in different contexts.

20 MR. FITZGERALD: Okay.

21 BY MR. FITZGERALD:

22 Q Have you heard anything about Mr. Manson's
23 good character? Do you know what character is?

24 A Yes, sir.

25 Q Have you heard anything about Mr. Manson's
26 good character on the radio, TV, or read about it in the

1 newspaper?

2 A No, sir.

3 Q Have you heard anything about Mr. Manson's
4 bad character?

5 A Yes, sir.

6 Q What have you heard in that connection or
7 read or seen in that connection?

8 A Mostly the fact that his mode of living
9 and his, you might say, ideals are against what I myself
10 would believe in.

11 You might connote that as bad character;
12 that is the way I interpret your question.

13 Q Did you see anything in the newspaper that
14 would indicate to you that Mr. Manson was guilty?

15 A Not per se.

16 Q Did you form an opinion when you read this
17 material about Mr. Manson?

18 A In general, yes, sir.

19 Q What opinion did you form?

20 A That I'm against this type of thing.

21 Q You are against what type of thing?

22 A The mode of living and ideals of this
23 nature.

24 Q The newspaper publicity you read and the
25 material you saw on television and heard on the radio,
26 that was not limited to Mr. Manson's way^{of}/living, was it?

1 A No.

2 Q The publicity you read was in connection
3 with Mr. Manson being responsible for some murders, is
4 that right?

5 A Yes, sir.

6 Q Did you form an opinion then when you --
7 did you form an opinion that the newspapers were indicating
8 that Mr. Manson was guilty?

9 A Yes, sir.

10 Q Did you believe that?

11 A Yes, sir.

12 Q And you still believe it, don't you?

13 A Yes, sir.

14 Q You haven't heard anything to change your
15 mind?

16 A No, sir.

17 Q And it would take things to change your
18 mind.

19 You would have to hear the other side of
20 the story, wouldn't you?

21 A Yes, sir.

22 Q Have you heard anything about Mr. Kanarek
23 in the media?

24 A No, sir, I have heard his name the first
25 time this morning.

26 Q That is the first time you ever heard

1 anything about Mr. Kanarek?

2 A Yes, sir.

3 Q The attorney for Mr. Manson?

4 A Yes, sir.

5b fls.

5 MR. FITZGERALD: I have nothing further.

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VOIR DIRE EXAMINATION OF MR. MAGEE

BY MR. REINER:

Q Mr. Magee, in addition to anything that you have read in the newspaper, heard on the radio, or seen on television, it has been your experience, has it not, that people within your community, that is, your friends, acquaintances, relatives, fellow employees and the like have discussed this case and the defendants in it quite extensively these last few months, would that be true?

A Yes, sir.

Q And the sum and substance of the remarks that you have heard was to the effect that these people did believe that Mr. Manson and these defendants, or some of them, were guilty of the crime with which they have been charged?

A Yes, sir.

MR. REINER: I have no further questions.

THE COURT: Mr. Shinn?

MR. SHINN: I have no questions.

THE COURT: Mr. Kanarek.

MR. KANAREK: I have no questions.

THE COURT: Mr. Stovitz.

VOIR DIRE EXAMINATION OF MR. MAGEE

BY MR. STOVITZ:

Q Mr. Magee, how old are you, sir?

32

1 A 26.

2 Q Are you married?

3 A Yes, sir.

4 Q And how long have you lived in Long Beach?

5 A I live in Whittier.

6 Q How long have you lived in Whittier?

7 A Since 13 years.

8 Q And you said something about reading the

9 Long Beach papers?

10 A Yes, sir, one of the fellows that works lives

11 down by Long Beach. He brings in the Long Beach paper.

12 Q Where do you work, sir?

13 A Standard Oil in La Habra.

14 Q Did I ask you how old you were?

15 A Yes, sir.

16 Q I forgot what you said.

17 A 26.

18 Q Thank you, sir.

19 Have you ever heard of a newspaper or

20 publication known as the Rolling Stone?

21 A No, sir.

22 Q Did you ever read anything about this case in

23 any magazine, Life magazine, Look magazine, Time

24 magazine, Newsweek magazine?

25 A Newsweek.

26 Q When did you read about this case in Newsweek?

6B3

1 A I believe it was in -- at the outset of the case,
2 when they were describing the initial -- describing the
3 crime in Newsweek, I have not read anything lately in any
4 of the magazines.

5 Q Did you read anything in Newsweek about the
6 defendants' arrests?

7 A No, sir.

8 Q Do you know what any of the evidence is that
9 connects Mr. Manson to the deaths that occurred in this case?

10 MR. KANAREK: That is assuming facts, your Honor, as
11 to what the evidence is. I'm sure if --

12 MR. STOVITZ: I will reframe it.

13 Q Do you remember anything that you read in the
14 newspapers as to how Mr. Manson is connected with the deaths
15 of the people in this case?

16 A The only thing that I have heard is that
17 Mr. Manson was more or less instructing or he had ordered
18 the people to go to the home.

19 Q And do you know how Miss Atkins is concerned
20 with the deaths in this case?

21 A Other than initially when she was more or less
22 what I gathered, she was more or less the person that
23 informed and told the circumstances of these cases.

24 Q Spilled the beans, is that the word?

25 A Yes, more or less.

26 MR. STOVITZ: I have no further questions.

1 THE COURT: Anything further, gentlemen, before we
2 go back?

3 MR. REINER: Just one very brief question.

4 MR. FITZGERALD: There will be a challenge for
5 cause.

6 Q BY MR. REINER: When you heard of Miss Atkins,
7 to use Mr. Stovitz's language, spilling the beans, did
8 you mean to indicate by your answer it was your impression
9 that Miss Atkins had admitted her participation to these
10 alleged crimes?

11 A Yes, sir.

12 MR. REINER: I have no further questions.

13 THE COURT: Does anybody join in the challenge?

14 MR. SHINN: Join.

15 MR. REINER: Join.

16 MR. KANAREK: Yes, your Honor, join.

17 MR. STOVITZ: Submit it, your Honor.

18 THE COURT: The challenge will be allowed.

19 You will be excused, Mr. Magee.

20 Thank you very much.

21 (Mr. Magee leaves the room.)

22 MR. KANAREK: Your Honor, may we have a ground rule
23 that the challenge not be initiated in the presence of the
24 prospective juror because the challenge -- may we have that
25 ground rule, that the juror not be in the room at the time
26 we discuss the challenge legally?

1 THE COURT: Very well. We will send him out next
2 time before the challenge.

3 MR. SHINN: Shall we take a recess, your Honor?

4 THE COURT: I think we'd better take a recess.

5 (Recess.)
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1 (The following proceedings occurred in
2 chambers, all counsel and defendants being present:)

3 THE COURT: Send in the next prospective juror,
4 please.

5 THE CLERK: The prospective juror's name is Frank
6 S. Watson.

7 THE COURT: Good morning, sir.
8

9 VOIR DIRE EXAMINATION OF FRANK S. WATSON
10 BY THE COURT:

11 Q Mr. Watson, we have asked you to come into
12 chambers to find out what, if anything, you may have
13 learned about the case from one source or another and to
14 find out if you have any opinions regarding it, and what
15 those opinions are.

16 A All I know is just what I have read in the
17 newspapers, radio and television.

18 Q That is what we would like you to tell us,
19 if you can.

20 MR. FITZGERALD: Can I interrupt the Court?

21 Mr. Watson is one of those individuals who
22 indicated to us --

23 THE COURT: Yes, I am aware of that.

24 Yes?

25 MR. WATSON: From what I have read and learned, I
26 just don't believe that I can render an impartial decision

6-2

1 in this case.

2 BY THE COURT:

3 Q What is it that you have learned and from
4 what source did you learn it?

5 A Just the newspapers and television, radio
6 reports.

7 I believe the indictment is pretty forceful,
8 pretty strong against them.

9 I just don't believe that I can render --

10 Q Keep your voice up, Mr. Watson, please.

11 A I just don't believe that I could render
12 an unbiased, unprejudiced opinion.

13 Q Have you been a juror in any other criminal
14 case?

15 A No, I have not. This is my first time.

16 Q This is your first time?

17 A Yes.

18 Q Now, I don't know whether you know this or
19 not, but an indictment is simply an accusation. This is
20 one of the means by which a person is brought before a
21 court to stand trial. It simply names the charges against
22 them. It is not proof of anything.

23 Do you understand that?

24 A Well, yes, I realize that there has to be
25 a trial to convict or release a person, but I would think,
26 though, that the evidence that they had, certainly they

1 know more about it than I would.

2 Q The evidence that who had?

3 A The Grand Jury, the indicting body.

4 Q Are you aware, sir, that people are indicted
5 from time to time and many are acquitted?

6 A Yes.

7 Q People are brought to trial by way of an
8 information, which is the other way of bringing them before
9 the Superior Court for criminal offenses, and many people
10 are acquitted.

11 So, you understand that the mere fact that
12 they have been brought before the court is not proof of
13 their guilt? Do you understand that?

14 A Well, I do now, yes. You have clarified it
15 in my mind. I didn't realize these things.

16 Q Would that make any difference in your
17 opinion that you couldn't be a fair and impartial juror?

18 A Well, you have removed some doubts that
19 I might have otherwise had.

20 Q Do you understand that a defendant in a
21 criminal case has no burden whatever, he doesn't have to
22 prove anything, he may simply sit mute and not put on
23 any defense, and say nothing?

24 A Yes.

25 Q That he can't be compelled to take the
26 witness stand. Do you understand that? Our Constitution

1 gives him that privilege.

2 A Uh-huh, yes.

3 Q He may sit and do nothing, and the burden is
4 all on the People to prove his guilt beyond a reasonable
5 doubt by evidence introduced at the trial. Do you
6 understand that?

7 A Uh-huh, yes. It is clearer in my mind now
8 than what it was before.

9 I have had no experience on this. This is
10 the first time that I have ever been summoned for a jury.

11 Q Do you understand that a defendant starts
12 out with a presumption of innocence?

13 A Yes, of course.

14 Q The law provides that presumption?

15 A Yes.

16 Q And that presumption remains until -- and
17 sometimes it never happens -- but until the People prove
18 his guilt beyond a reasonable doubt. Sometimes they
19 don't prove it and the presumption continues, in which
20 case he must, by law, be acquitted.

21 Do you understand that?

22 A Yes.

23 Q Does that change your opinion?

24 A Yes, it does, considerably.

25 As I say, I didn't know these things.

26 Q Do you believe everything you read in the

1 newspapers?

2 A No, not everything, no.

3 Q Do you think that you would be willing to
4 give each of the defendants that presumption of innocence?

5 A Yes.

6 Q Or would you require them to prove their
7 innocence?

8 A Well, I would require them to prove their
9 innocence.

10 THE COURT: Do you care to question, Mr. Fitz-
11 gerald?

12 MR. FITZGERALD: No, your Honor.

13 MR. REINER: Pass, your Honor.

14 MR. SHINN: No questions, your Honor.

15 THE COURT: Mr. Kanarek?

16 MR. KANAREK: No questions, your Honor.

17 THE COURT: Mr. Stovitz?

18
19 VOIR DIRE EXAMINATION OF MR. WATSON

20 BY MR. STOVITZ:

21 Q Are you related in any way to Charles
22 Watson, sir?

23 A No, not at all.

24 Q Does that name Charles Watson, sir, do you
25 associate that with this case in any way?

26 A Here again, only from what I have read in

1 the papers, that he is connected with it in some manner.
2 I am not a relation to him at all.

3 Q You don't know anybody in Texas by the
4 name of Watson?

5 A No.

6 MR. STOVITZ: I have no further questions.

7 THE COURT: All right, sir, you may step outside.
8 Thank you very much, Mr. Watson.

9 (The prospective juror leaves the chambers.)

10 MR. FITZGERALD: We will interpose a challenge
11 for cause, actual bias.

12 MR. REINER: Join.

13 MR. KANAREK: Join.

14 MR. SHINN: Join.

15 MR. STOVITZ: Submit it, your Honor.

16 THE COURT: The challenge will be allowed. Mr.
17 Watson is excused.

7 fls.

7-1

1 (Prospective juror enters chambers of the
2 court.)

3 THE COURT: Good morning, sir.

4 THE PROSPECTIVE JUROR: Good morning.

5 THE CLERK: This prospective juror's name is Cecil
6 K. Ward, C-e-c-i-l, W-a-r-d.

7
8 VOIR DIRE EXAMINATION OF CECIL K. WARD

9 BY THE COURT:

10 Q Mr. Ward, I have asked you to come into
11 chambers so that we could learn from you what you may have
12 learned about this case from reading about it, from hearing
13 about it or listening about it on the radio or from other
14 sources, to find out what, if any, opinions you may have
15 formed about it or any of the defendants.

16 Would you tell us what you have learned about
17 it?

18 A Well, of course I have read the papers.

19 MR. STOVITZ: Would you keep your voice up,
20 Mr. Ward?

21 MR. WARD: I have read the papers, more or less.
22 I have not made up my mind on anything in connection with
23 it.

24 Q BY THE COURT: Do you read any newspaper on a
25 regular basis?

26 A Yes.

7-2

1 Q What paper is that?

2 A Examiner.

3 Q Have you followed this case on a regular basis?

4 A Well, quite regular, you know. I read the
5 newspapers every day.

6 Q Do you watch television?

7 A Yes, but I have never seen this on television.

8 Q You don't watch the TV news programs?

9 A The editorial comments.

10 Q You have not seen anything about this case?

11 A I don't remember of having seen this case.

12 Q Do you believe that, or have you formed any
13 opinion as to the guilt or innocence of any of the
14 defendants?

15 A No, hardly, because I would want to have
16 evidence before I formed an opinion.

17 Q Do you believe that you could put aside what
18 you have learned about the case or any of the defendants and
19 decide the case solely on the evidence that comes in
20 during the trial?

21 A Yes, I do.

22 Q By whom are you employed, Mr. Ward?

23 A I am retired.

24 Q If you were selected as a juror would you be
25 able to serve?

26 A Well, yes, I would be able to.

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1 However, I feel because of my age and my wife's
2 age that it would be a health hardship, I am afraid.

3 Q Are you under medical care now?

4 A Well, I have been in the hospital within the
5 last couple of years and my wife goes to the doctor at least
6 once a week and she is not too well.

7 THE COURT: Do you care to inquire, Mr. Fitzgerald?

8 MR. FITZGERALD: Yes, Your Honor.

9
10 VOIR DIRE EXAMINATION OF CECIL K. WARD

11 BY MR. FITZGERALD:

12 Q Do you regularly subscribe to your newspaper?

13 A The Herald?

14 Q Any newspaper.

15 A Yes, the Examiner.

16 Q You read it regularly?

17 A Yes, sir.

18 Q Do you also read the Los Angeles Times?

19 A Not too much.

20 Q Do you have a radio in your home, sir?

21 A Yes.

22 Q Do you listen to the radio?

23 A Yes.

24 Q Have you ever heard anything in connection
25 with this case on the radio?

26 A No, I have not.

1 Q Have you ever seen anything in connection with
2 this case on the television?

3 A I don't think so.

4 Q Is the name Charles Manson familiar to you as
5 a result of hearing, reading, or seeing anything in the
6 media in connection with this case?

7 A Yes, it is.

8 Q What, in connection with Mr. Manson, have you
9 heard?

10 A Well, I wouldn't hardly know how to answer
11 that because I got my information all from the newspapers,
12 nothing else.

13 Q What information did you get from the newspapers?

14 A Simply the discussions that have been going on
15 by the editorial writers, and so forth.

16 Q Was it your understanding that the Herald
17 Examiner, among others, was intimating that Mr. Manson was
18 guilty?

19 A Well, I don't know -- I don't remember anything
20 that I read that would indicate one way or the other,
21 although I believe that the indication would be, if I had to
22 say, would be that they think that he is probably guilty.

23 That does not mean my judgment.

24 Q What is your judgment?

25 A I have no judgment until I have heard the
26 evidence.

1 Q Well, you form opinions and beliefs based on
2 what you read in the newspapers, do you not?

3 A To some extent.

4 Q Let's take something like international affairs,
5 Cambodia or Viet-Nam or something like that.

6 A Yes.

7 Q You base your opinions on what you read in the
8 newspapers, don't you?

9 A Yes.

10 Q But you reserved all sorts of opinion and
11 judgment making in this case?

12 A Well, I cannot say, but I think I would depend
13 on the evidence.

14 However, I cannot hardly read my own thoughts.
15 It is possible that I am inclined more toward guilt than
16 I am the other way because of what I read.

17 Q Because of what you have --

18 A -- because of what I have read.

19 Q -- and because what you have read has suggested
20 to you certain things?

21 A That's right.

22 Q And one of them is that Mr. Manson is guilty.

23 A Well, that seems to have been the predominant
24 judgment that I read about, yes.

25 Q What about the other defendants in this case?
26 Were there any suggestions with regard to them?

1 A I think it's a --

2 Q They are all in the same boat, is that it?

3 A I would think so, yes, yes.

4 Q Have you read any material that speculates as
5 to their innocence or contains any reference to their
6 innocence?

7 A No, I have not.

8 Q I take it you have read some material that
9 speculates on their guilt?

10 A Yes, I have.

11 Q As a matter of fact you have read a
12 considerable amount of material?

13 A Quite a little.

14 Q Are you familiar with any of the information
15 the newspaper has used to opionate that any of the
16 defendants are guilty?

17 A Well, I have read most of it.

18 Q In other words, do you know what the newspapers
19 base their opinion on?

20 A No, I don't think I do. I have wondered.

21 Q Wouldn't you prefer, if you had your choice, to
22 sit on the jury where you didn't know anything at all about
23 the defendants or anything about the evidence against them
24 or anything like that?

25 A Would I prefer that?

26 Q Yes.

1 A Yes.

2 Q Don't you feel that in your mind you are
3 compromised in sitting on a case like this, where you know
4 something about the defendants?

5 A To some extent, yes, I probably feel that way.

6 Q And you feel that you would have an inclination,
7 at least initially, to favor the prosecution's side of the
8 case?

9 A Without the information that I would get during
10 the trial, yes.

11 Q Have you heard anything about Mr. Kanarek in
12 the newspaper or on television?

13 A Who?

14 Q Mr. Kanarek.

15 A The lawyer?

16 Q The attorney for Mr. Charles Manson.

17 A Yes, I have.

18 Q What have you heard in that connection?

19 A I heard that he was incompetent.

20 Q Anything else?

21 A That is all.

22 Q And do you know in what connection you heard
23 he was incompetent?

24 A No, no.

25 Q Did somebody say that?

26 A I believe it was in the paper.

1 Q Do you know what the origin of his alleged
2 incompetence was?

3 A No, no, I don't.

4 MR. FITZGERALD: I have nothing further.

5 THE COURT: Mr. Reiner.

6
7 VOIR DIRE EXAMINATION OF MR. WARD

8 BY MR. REINER:

9 Q Mr. Ward, when were you first called for jury
10 service?

11 A When?

12 Q Yes.

13 A You mean on this case?

14 Q On this particular tour of duty as a juror.

15 A Today.

16 Q Today was your first day?

17 A Yes.

18 Q When were you first informed that you would be
19 reporting today for jury service?

20 A About a week and a half ago.
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1 Q Now, during the last week and a half did
2 it perhaps occur to you that you might be a juror in the
3 Charles Manson case after you learned that you were being
4 called for jury duty?

5 A Yes, I thought maybe.

6 Q And at that point, you did realize, did you
7 not, that if you were called as a juror in this particular
8 case that your judgment would have to be based upon the
9 evidence and not upon what you read in the newspaper?

10 A That's right.

11 I have been on several cases before this.

12 Q Now, during this last week and a half you
13 did have occasion to read the newspapers, did you not?

14 A Yes.

15 Q With regard to this particular trial?

16 A Yes.

17 Q That was the Herald-Examiner?

18 A Yes.

19 Q And during this last week and a half,
20 knowing that you were possibly going to be a juror in
21 this case or that you might be a juror in this case,
22 did you discipline yourself not to be or not to allow
23 yourself to be influenced by any suggestions in the
24 Herald-Examiner relative to the guilt of the defendants
25 or any of them?

26 A No. I read with the idea of getting the

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1 information that they were giving because I was
2 interested to some extent in the case.

3 Q Were you withholding your judgment of this
4 case until you heard the evidence, knowing that there was
5 a possibility that you were going to be a juror in this
6 case?

7 A Well --

8 Q Or did you not give any thought to that
9 one way or the other?

10 A I have discussed it with my wife, you know,
11 an ordinary discussion. I don't know that I made any
12 opinion, although if I did, why, I presume that they were
13 guilty, otherwise they wouldn't have been arrested the
14 way they were. That is the way I have felt about that,
15 reading this information.

16 Q Dating back to --

17 THE COURT: Excuse me. Would you go back and read
18 that last answer?

19 (The answer was read by the reporter.)

20 MR. REINER: Q Dating back to last December,
21 when these arrests first occurred, is it your opinion
22 that the sum and substance of the information that you
23 received from the newspapers was to the effect that the
24 defendants or some of them were guilty?

25 A Yes.

26 Q And based upon this information that you

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1 received, did you form certain opinions, tentative or
2 otherwise, with respect to their guilt?

3 A Yes, I think I have.

4 Q And would it be a fair statement to say
5 that prior to coming to court as a prospective juror,
6 it was your opinion that based upon what you had read
7 in the newspapers ^{over} these last six or seven months,
8 that the defendants or some of them were probably guilty?

9 A That's right.

10 Q And nothing has occurred since you formed
11 that opinion upon which you could base or change your
12 opinion?

13 A I haven't seen anything in the newspaper
14 that has said that they were not guilty.

15 MR. REINER: Thank you, sir. Thank you very much.
16 I have no further questions.

17 MR. SHINN: I have no further questions, your
18 Honor.

19 THE COURT: Mr. Kanarek?

20 MR. KANAREK: No questions, your Honor.

21 THE COURT: Mr. Stovitz?

22 MR. STOVITZ: Yes, sir.

23
24 VOIR DIRE EXAMINATION OF MR. WARD

25 BY MR. STOVITZ:

26 Q How old are you, sir?

1 A 78.

2 Q Serving on this particular jury, if it,
3 say, took three to five months, would this be a health
4 hazard as far as you were concerned?

5 A I think it would.

6 Q Would it also be a hardship for you because
7 of taking your wife to the doctor's?

8 A That's right.

9 Q I take it there are no little children
10 involved?

11 A No.

12 MR. STOVITZ: I have no further questions.

13 THE COURT: All right. Thank you, Mr. Ward. You
14 may step outside again.

15 (Prospective juror Ward leaves the
16 chambers.)

17 MR. FITZGERALD: We challenge the juror for cause,
18 your Honor. Actual bias in regard to his state of mind.

19 MR. REINER: We will also challenge the juror
20 for cause, actual bias.

21 MR. SHINN: We will join, your Honor.

22 MR. KANAREK: Join, your Honor.

23 MR. STOVITZ: Submit it, your Honor.

24 THE COURT: Well, he should either be excused on
25 the challenge or for hardship. He is not suitable for
26 a juror. I will sustain the challenge, allow the
challenge.

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1 MR. KANAREK: Your Honor.

2 THE COURT: Yes.

3 MR. KANAREK: I have been told that during the recess
4 that has just been finished, Mr. Bugliosi went on
5 television and reiterated Mr. Younger's position concerning
6 sequestration.

7 Now, I didn't actually hear it but I have been
8 told that he did that.

9 Now, your Honor, what more can we say, your
10 Honor, in this regard?

11 THE COURT: Perhaps we had better find out whether
12 or not it is true first.

13 MR. KANAREK: Yes, your Honor. Mr. Bugliosi is here.

14 MR. BUGLIOSI: I was asked what are the disadvan-
15 tages of sequestration, and I simply said, as I said many
16 times over television, that the chief disadvantages are that
17 you take a juror away from his livelihood and his family
18 for a long period of time.

19 I don't see how that is any conceivable
20 violation of the gag rule.

21 THE COURT: What is the purpose of this continual
22 barrage of the District Attorney's office on the subject?

23 MR. BUGLIOSI: It is not a barrage. We are asked
24 questions and we answer the questions. It is not a
25 violation of the gag order.

26 THE COURT: You just can't pass it off on the basis

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1 that you have been asked a question and therefore you have
2 a duty to answer it. That is absurd.

3 MR. BUGLIOSI: I desire to answer questions, but I
4 limit myself.

5 THE COURT: Any juror that goes on a trial for three
6 months is taken away from his livelihood --

7 MR. BUGLIOSI: Yes.

8 THE COURT: -- unless he works at night in addition.

9 MR. BUGLIOSI: I agree with the Court, but it is
10 a totally innocuous answer.

11 THE COURT: What is the point?

12 MR. BUGLIOSI: The point of my answering the question?

13 THE COURT: The point of your answering it in that
14 fashion.

15 I get the feeling that somehow the District
16 Attorney's Office is trying to sabotage this trial. I
17 really get that feeling.

18 MR. BUGLIOSI: Your Honor, I haven't even spoken to
19 Mr. Younger for about a week and a half on this.

20 THE COURT: The statement that is attributed in the
21 newspaper to him, if true, is just the ultimate in
22 irresponsibility.

23 I am not going to condemn him before I find out
24 whether, in fact, he said it, but the quote is, the article
25 starts out as follows:

26 "Plan To Lock Up Tate Jurors Hit."

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1 The usual newspaper shorthand. And it goes on
2 to say as follows:

3 "Locking up the Sharon Tate murder case
4 jury for three to six months, as may become
5 necessary, amounts to jailing the jurors," said
6 District Attorney Evelle J. Younger. "The
7 process deprives you of an awful lot of good
8 jurors who, because of family or personal or
9 business obligations, cannot go to jail,"
10 Younger said following the decision of Superior
11 Judge Charles H. Older not to forego locking
12 up the jury."

13 I am not aware of having made any such decision,
14 but assuming I had made it, which is irrelevant to the
15 matter at hand, I just am at a total loss to understand
16 those kind of statements coming from the State's
17 prosecutor.

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1 MR. BUGLIOSI: If I were to be asked by a
2 newsman what are the advantages of it in the abstract,
3 I would give him an answer. It is totally innocuous.

4 THE COURT: We are not concerned with the
5 advantages. The point that I am making is that the
6 District Attorney is going to the media on a matter
7 that is still very much in issue in this case at a time
8 when a jury is being selected, and I find it to be the
9 height of irresponsibility.

10 MR. STOVITZ: We do not know from the quote that
11 was in the Saturday newspaper whether or not Mr. Younger
12 made that statement just recently or whether it was made--

13 THE COURT: I prefaced my remarks by saying that.

14 MR. STOVITZ: Or whether he made it two weeks
15 ago.

16 THE COURT: I have asked the Clerk to call Channel
17 4 and get a copy of the script, which I will look at.

18 MR. STOVITZ: Our position has been stated on the
19 record.

20 THE COURT: I am tired of hearing the District
21 Attorney's position on what happens out of court.

22 The only thing I am interested in hearing
23 your position on is things that are concerned directly
24 with the trial in this particular case that occur in
25 court.

26 MR. STOVITZ: We made the statement during the regular

1 court session. Mr. Kanarek made it in the form of a
2 motion and we merely made it in the form of a suggestion.
3 We feel that it does limit the jury in a certain respect.

4 THE COURT: I am not now concerned with the merits.
5 I will reconsider that before my final decision, as I
6 already indicated to you.

7 What I am concerned with is continually
8 taking the matters to the press while they are under
9 consideration by the Court and while the jury is being
10 selected.

11 I find that to be utterly without any
12 rational explanation and I have yet to get one from
13 anybody, including the District Attorney's Office.

14 I find it to be irresponsible, I have said
15 that several times, and I repeat it. I can find no
16 justification whatever for it.

17 I wish you would relay to Mr. Younger that
18 I think it is high time he cut it out.

19 MR. STOVITZ: I shall.

20 THE COURT: If I have to take some more steps -- I
21 don't know what they will be at the moment -- but I will
22 guarantee you that I am not going to sit here quietly and
23 have him keep doing this day after day. If I have to take
24 it to the press myself, I might just do that.

25 All right, it is after 12:00 o'clock,
26 gentlemen. We will recess until 2:00 p.m.

1 MR. STOVITZ: Shall we reconvene in open court or
2 back here?

3 THE COURT: I see no reason why we should not come
4 back in here.

5 MR. SHINN: Your Honor, I have a matter in San
6 Petro for continuance. I may be about five or ten
7 minutes late.

8 I tried to get someone else this morning.

9 MR. STOVITZ: San Pedro is 42 minutes from here.

10 THE COURT: For what purpose?

11 MR. SHINN: For a continuance.

12 THE COURT: Why can't this be handled by someone
13 else?

14 MR. SHINN: I tried to get someone else last week.
15 They were all busy. The one I got, the last minute said
16 he couldn't go.

17 THE COURT: What court is it in?

18 MR. SHINN: Division 60, it is a preliminary,
19 but the Judge said I would have to come down there about
20 1:00 o'clock and he will try to continue it.

21 THE COURT: Have you tried to call?

22 MR. SHINN: Yes. My secretary called.

23 THE COURT: Do the best you can.

24 I will tell you, gentlemen, if we don't
25 start making more progress, I am going to expand the hours
26 of our court sessions considerably and we are just going

to spend longer each day doing it.

(Whereupon at 12:05 the court stood in
recess.)

9-1 1 LOS ANGELES, CALIFORNIA, MONDAY, JULY 6, 1970 2:40 P.M.

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4 (Whereupon the following proceedings were
5 had in the chambers of the Court out of the hearing of
6 the prospective jurors, all defendants and all counsel
7 being present.)

8 THE COURT: All parties and all counsel are
9 present.

10 Gentlemen, before we get started with the
11 voir dire again, because of the fact that we seem to
12 be proceeding slowly I am going to increase the number
13 of hours per day that we engage in our voir dire; this
14 will be during the jury selection phase only.

15 9:00 o'clock in the morning until 12:00.

16 Then from 1:45 in the afternoon to 4:15.

17 The net result will be a one-hour increase
18 in the court time.

19 I do have something at 9:00 o'clock
20 tomorrow morning, a swearing in ceremony that will just
21 take a few minutes, so we won't be able to start
22 exactly at 9:00 o'clock tomorrow.

23 Mr. Murray, will you inform the Sheriff's
24 Department of the new hours.

25 THE BAILIFF: Yes.

26 THE COURT: And hopefully this will assist us in

1 getting through with the jury selection phase.

2 MR. BUGLIOSI: I would like to say that I am very
3 pleased that the Court saw fit to extend the working time
4 as opposed to cutting down on the voir dire of the attorneys
5 in the case.

6 THE COURT: Well, I would rather do it that way. I
7 have no desire to cut down on voir dire.

8 I don't think anybody has been abusing the
9 voir dire examination on either side, notwithstanding the
10 fact that I may have sustained occasional objections, I
11 think counsel are trying hard to expedite this matter
12 consistent with their duties and hopefully we will be
13 able to continue and get the job done within a reasonable
14 period.

15 Anything further before we bring in the
16 next prospective juror?

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1 THE CLERK: We have 12 in the box now, your Honor.

2 THE COURT: Do we have 12? My chart, then, has a
3 gap in it.

4 Who is in No. 5?

5 THE CLERK: Unless you excused the last man.

6 MR. REINER: Yes, we did.

7 Perhaps the Court didn't inform the Clerk that
8 No. 5 was excused for cause.

9 THE COURT: All right. We do need one more then.

10 MR. KANAREK: Your Honor, would it be permissible,
11 your Honor, to have a tape recorder in the lockup with
12 Mr. Manson when only the attorneys are present with
13 Mr. Manson?

14 There couldn't be any security problem there,
15 your Honor.

16 THE COURT: Are you talking about in the courtroom
17 lockup?

18 MR. KANAREK: Yes.

19 THE COURT: Well, this is something I want to discuss
20 with the Sheriff's Department. They have their own
21 problems, some of which I am completely unaware of, as I
22 was the last time.

23 I would like to discuss it with them and I
24 will discuss it with them before making any decision on it.

25 MR. KANAREK: Very well, your Honor.

26 (Whereupon, the next prospective juror enters
the court's chambers.)

1 THE CLERK: The prospective juror's name is Evan J.
2 Theobald; E-v-a-n, T-h-e-o-b-a-l-d.
3

4 VOIR DIRE EXAMINATION OF EVAN J. THEOBALD
5 BY THE COURT:

6 Q Mr. Theobald, the reason that we asked you to
7 come in chambers was so that the Court and the attorneys
8 could find out what you might have learned about the case
9 over the past months from newspapers, TV, or whatever source,
10 and determine if you have, as a result of this, formed any
11 opinions about the case and, if so, what those opinions
12 might be.

13 Have you been in Los Angeles continuously since
14 last August?

15 A Yes, your Honor.

16 Q Do you remember when you first learned about
17 the case? Was it at or about the time that it first broke
18 in the news?

19 A When it broke in the news.
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1 Q Have you followed the case since then in
2 the newspapers, Mr. Theobald?

3 A I have tried to, sir, yes.

4 MR. KANAREK: Your Honor, may the witness -- or the
5 prospective juror -- speak up?

6 THE COURT: Yes. Would you keep your voice up,
7 please.

8 MR. KANAREK: I am having difficult hearing you.

9 MR. THEOBALD: I am sorry.

10 THE COURT: It is hard to hear.

11 MR. KANAREK: May the last answer be read back?

12 THE COURT: Yes.

13 (The record was read by the reporter.)

14 BY THE COURT:

15 Q Do you subscribe to any newspaper?

16 A The Times.

17 Q Do you read that on a regular basis?

18 A Yes, sir.

19 Q By regular, I mean daily, or nearly on a
20 daily basis.

21 A Yes, sir.

22 Q Whenever you do read it and you see something
23 about this case in it, do you always read the entire
24 article?

25 A Not in its entirety, no.

26 Q Do you watch television?

1 A No, sir.

2 Q Have you listened to the radio?

3 A When I am driving in the car I have always
4 got the radio on, which is about 90 percent of the time.

5 Q Have you heard anything about the case on
6 radio?

7 A Just daily reports that the trial was today
8 and that this happened, and that is all.

9 Q Have you ever read anything in the newspaper
10 which purported to be a statement made by any of the
11 defendants?

12 A No, sir.

13 Q Did you read about the defendants shortly
14 after they were arrested?

15 A Yes.

16 Q To refresh your recollection, they were
17 arrested -- when was it, December?

18 MR. FITZGERALD: Yes.

19 MR. REINER: Yes.

20 MR. BUGLIOSI: Arrested in December? No, they were
21 arrested in October, around October 10th, I believe.

22 MR. REINER: I think the Court means in reference
23 to this case.

24 MR. BUGLIOSI: Oh, in reference to this?

25 I don't know if they were further arrested.
26 I think they were transported.

1 BY THE COURT:

2 Q In any event, it was last fall sometime
3 either in the middle or late fall?

4 A Yes.

5 Q Do you remember reading anything at that time?

6 A Well, whenever it first came out, I read just
7 about everything.

8 Q The killings occurred in August.

9 A Right.

10 Q Then you perhaps recall there was a lapse
11 of some time before anyone was arrested?

12 A Right.

13 Q Now, do you remember that at some time there
14 was someone arrested, these defendants were arrested; did
15 you read about that?

10b fls.¹⁶ A Yes, sir.

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1 Q What is your present impression of what you
2 learned about the case or the defendants at that time?

3 A My feeling right now is that I can't give an
4 unbiased answer.

5 Q I'm sorry. I didn't understand that. ✓

6 A I am afraid I have already made up my mind,
7 I am prejudiced.

8 Q You have already made up your mind?

9 A Yes, sir.

10 Q You mean on the subject of guilt?

11 A Yes, sir.

12 Q I take it that you mean that you feel that you
13 are prejudiced toward the side of the Prosecution; is that
14 what you mean?

15 A Yes, uh-huh.

16 MR. KANAREK: Could the prospective juror answer
17 audibly? He nodded his head but I didn't hear an audible
18 answer, your Honor.

19 THE WITNESS: Yes, sir.

20 THE COURT: Q Are you saying that -- well, let me
21 put it another way.

22 Now, you recall this morning that when the new
23 panel came in I made some remarks to the new panel, among
24 which was the fact that in a criminal case the defendant is
25 presumed to be innocent until the contrary is proved.

26 Do you recall my saying that?

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A I realize that, sir.

Q Are you saying that you would be unable to give the benefit of that presumption to the defendant?

A That is all I am saying.

Q You don't think that you would be able to put to one side what you learned about the case and decide it solely on the evidence developed during the trial?

A No, sir.

11-1

1 THE COURT: Any questions, Counsel?

2 MR. FITZGERALD: No questions, your Honor.

3 MR. REINER: No questions, your Honor.

4 MR. SHINN: No questions.

5 MR. KANAREK: No questions.

6 THE COURT: All right, thank you, Mr. Theobald.

7 (Mr. Theobald leaves the courtroom.)

8 MR. FITZGERALD: We will challenge this juror for
9 cause.

10 MR. REINER: Join in the challenge.

11 MR. SHINN: Join in the challenge.

12 MR. KANAREK: Join in the challenge.

13 MR. BUGLIOSI: Submit the matter.

14 THE COURT: The challenge is allowed.

15 Mr. Theobald will be excused.

16 (The next juror enters the chambers of the
17 court.)

18 THE COURT: Good afternoon.

19 THE CLERK: The prospective juror's name is Mrs.
20 Jean K. Roseland.

21
22 VOIR DIRE EXAMINATION OF MRS. JEAN K. ROSELAND
23 BY THE COURT:

24 Q Mrs. Roseland, we asked you to come in here
25 so that we can find out, out of the presence of the other
26 prospective jurors, what you may have learned about the case

1 through reading about it, watching it on television,
2 listening to it on the radio, and so forth.

3 Also to determine whether you have formed any
4 opinions about the case or any of the defendants.

5 Can you tell me what you have learned about the
6 case from various sources?

7 A I haven't really followed it too closely.

8 Q Were you living in Los Angeles last August?

9 A Yes, sir.

10 Q When the killings were discovered?

11 A Yes, sir.

12 Q And do you read any newspaper on a regular basis?

13 A Just our daily paper.

14 Q What paper is that?

15 A South Bay Daily Breeze.

16 Q Would you keep your voice up, please, it's hard
17 for everyone to hear.

18 Do you read the Times?

19 A No, sir.

20 Q Do you watch television news broadcasts?

21 A Oh, sometimes we watch the 11:00 o'clock news
22 at night.

23 THE COURT: 11:00?

24 A Uh-huh.

25 Q Have you formed any opinion regarding the guilt
26 or innocence of any of the defendants?

1 A No, sir.

2 Q Do you remember reading or hearing at any time
3 any statement which was purported to be a statement of any
4 of the defendants about the case?

5 A No, sir.

6 Q Do you believe that you could set aside in your
7 mind whatever you have learned about the case and if you
8 are selected as a juror determine the question of innocence
9 or guilt of the defendant solely on the basis of the
10 evidence in the case?

11 A Yes, sir.

12 Q If you were selected, Mrs. Roseland, would you
13 be able to serve as a juror?

14 A Yes, sir.

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

16 MR. FITZGERALD: Thank you.

17
18 VOIR DIRE EXAMINATION OF MRS. ROSELAND

19 BY MR. FITZGERALD:

20 Q You have heard of the defendants, have you not?

21 A Yes, I have.

22 Q And you have heard about the defendant as a
23 result of watching television, listening to the radio or
24 reading about them in the newspaper, isn't that correct?

25 A Also from the newscasts.

26 Q Television newscasts?

1 A Yes.

2 Q And do you know the defendant Charles Manson,
3 for example?

4 A Yes.

5 Q And have you seen things on television about
6 Mr. Manson with regard to this case?

7 A Just what has been in the newscasts.

8 Q And did the newscasts that you watched connect
9 Mr. Manson in any way with the killing of these people?

10 A Just that it stated he had been -- was going to
11 be on trial for it.

12 Q That he was charged with it?

13 A Yes.

14 Q And did you think that he was guilty?

15 A I didn't form any opinion.

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1 Q In other matters though, wouldn't it be fair
2 to say that you do form opinions as a result of watching
3 things on television?

4 A Well, the trial is to decide whether he is
5 guilty or not.

6 Q We realize that, but we are asking you for
7 what you have seen on television and your impressions of
8 what you have seen.

9 A Most of what I see on television or read
10 in the newspaper is most times incorrect.

11 Q Well, let's take something not connected with
12 Mr. Manson or any of the other defendants.

13 Let's say you hear something on television
14 with regard to Mr. Nixon, Nixon the President, Mr. Nixon
15 did such and such a thing.

16 You form an opinion based on that, don't
17 you, that it was either right or wrong, whatever Nixon
18 did?

19 A Not entirely from just hearing one statement.

20 Q Well, you have heard several statements
21 with regard to Mr. Manson, have you not?

22 A Yes.

23 Q And did you think that the statements you
24 heard on television were true?

25 A I didn't really form a true or untrue
26 opinion.

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1 Q Did the statements you heard on television
2 relate to Mr. Manson's good character?

3 A I don't remember that much about what was
4 said.

5 Q Did you hear anything on television in
6 regard to Mr. Manson's bad character?

7 A It will be the same answer, it did not
8 really say one way or the other.

9 Q Have you read anything about this case in
10 the South Bay Daily Breeze?

11 A They have been carrying that the jury was
12 being selected.

13 Q You did not read about these young ladies
14 being arrested in this case?

15 A Yes, I have read about them being arrested.

16 Q And did you read something about what their
17 past lives were like?

18 A I don't recall that much.

19 Q Did you read any of the girls' stories?

20 A No, I have not.

21 Q Have you heard Mr. Manson's story?

22 A You mean his background story?

23 Q Yes, or his version of any of these
24 events?

25 A No.

26 Q From what you have heard from any source,

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1 radio, television, newspaper, there is no reason at all
2 why you could not be fair and impartial, is that correct?

3 A I don't see why I could not be.

4 Q Pardon me?

5 A I think I could be fair.

6 Q Do you think that if the evidence should
7 indicate you could acquit these defendants in spite of
8 the amount of publicity that has attended this case?

9 A It would depend on the evidence, right.

10 Q But if the evidence indicated it, could you
11 acquit these defendants?

12 A Right.

13 Q Despite all of the publicity that has been
14 connected with the case?

15 A Yes, sir.

16 Q Is there anything in particular you read
17 in regard to the jury selection in this case?

18 A I did not really pay too much attention until
19 I got my notice, and I did read that they were selecting
20 60 jurors for this morning, and I thought perhaps I might
21 be one of them.

22 Q Have you ever heard of Mr. Kanarek?

23 A Mr. who?

24 Q Kanarek?

25 A No.

26 Q Did you know the names of any of the

1 attorneys for any of the defendants in this case before
2 you came to court today?

3 A No, sir.

11b fls. 4 MR. FITZGERALD: I have nothing further.
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1 THE COURT: Mr. Reiner?

2 MR. REINER: Thank you, your Honor.

3
4 VOIR DIRE EXAMINATION OF MRS. ROSELAND

5 BY MR. REINER:

6 Q Mrs. Roseland, you recall hearing about these
7 killings when they occurred last August?

8 A Yes.

9 Q Did you read about them in the newspaper at
10 that time?

11 A I did not read to that great detail.

12 Q Miss Roseland, the question was did you read
13 about them in the newspaper at all last August?

14 A Yes, I did.

15 Q And did you watch any television newscasts last
16 August at all around the time of the killings?

17 A Yes.

18 Q So you were informed of these particular killings
19 in the newspaper and on television?

20 A Yes.

21 Q Do you understand my question to include the
22 killings of the La Biancas as well as the so-called
23 Sharon Tate killing?

24 A The La Biancas were the ones after?

25 Q That's correct.

26 A Yes.

1 Q Now, at that time to your best recollection the
2 police did not have any particular suspects.

3 Would that be a correct statement to your
4 recollection?

5 A When they first occurred?

6 Q Yes.

7 A Right.

8 Q Now, some months later in December certain
9 arrests were announced in connection with this case. Do
10 you recall that?

11 A Not particularly.

12 Q Do you recall hearing about the arrest of
13 Charles Manson and certain other persons who are defendants
14 in this case?

15 A Yes, I don't recall when.

16 Q It might have been around last December to the
17 best of your recollection?

18 A I don't remember the time.

19 Q Whenever it was you do recall reading about the
20 arrests at the time they occurred?

21 A Yes.

22 Q Did you observe the press conference called
23 by Chief of Police Edward Davis here in Los Angeles with
24 respect to solving this case?

25 A I don't recall that.

26 Q Did you read about that press conference?

1 A I don't recall reading about it.

2 Q Did you read about the arrests in the newspapers?
3 Did you see it on the television news or both?

4 A I'm sure I must have. I don't really recall.

5 Q You are sure you must have seen it on the news
6 as well as read about it in the newspaper?

7 A Right.

8 Q And beginning about that time did you begin
9 to see pictures of Mr. Manson appearing in various news-
10 papers and magazines and periodicals?

11 A Not too many in the local papers that I read.

12 Q You did recognize Mr. Manson when you came to
13 court, did you not?

14 A Yes.

15 Q Mr. Manson's face and likeness was familiar to
16 you before you saw him here in court today, isn't that true?

17 A Yes.

18 Q You never obviously met Mr. Manson, have you?

19 A No.

20 Q Prior to today?

21 A No.

22 Q So you have become familiar with his likeness
23 from observing his picture in various newspapers and
24 magazines and periodicals, is that true?

25 A Yes.

26 Q As well as seeing him on television.

1 A Mostly on television.

2 Q Now, how about the girls; did you recognize the
3 girls when you saw them?

4 A Yes.

5 Q And you have seen them on television as well?

6 A Yes.

7 Q Being brought to court from their cell and
8 being taken from court back to their cell after the various
9 court hearings?

10 A Yes, sir.

11 Q Do you recall seeing the girls walking either
12 to or from court, either before or after a court session,
13 singing on one occasion?

14 A No, I don't.

15 Q Now, during the time since last December when
16 these arrests occurred up until very recently you did not
17 anticipate that you might be a prospective juror in this
18 case?

19 A No, sir.

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1 Q It didn't enter your thoughts at all?

2 A No, sir.

3 Q And during the time that you observed the
4 television newscasts in connection with this case,
5 Mrs. Roseland, there was no reason that you knew of why
6 you had to discipline yourself not to be influenced by
7 any suggestions that were contained in the media, the
8 newspaper and television; is that true?

9 A Right.

10 Q Now, would it be a fair statement to say
11 that at the very least the media hinted at the guilt of
12 the defendant, Mr. Manson?

13 A I thought they were just more or less taking
14 them back and forth saying they were on trial. It
15 wasn't saying they were guilty or not guilty.

16 Q Mrs. Roseland, are you indicating right now
17 that based upon all the information that came to you
18 through the media -- I am referring now to newspapers,
19 radio and television -- that it is not your impression
20 that the media hinted at the possible guilt of Mr. Manson
21 in this case?

22 A Maybe I wasn't listening for their hinting
23 at his guilt. I was listening for --

24 Q So, coming to court today, Mrs. Roseland,
25 it is your impression -- strike that -- coming to court
26 today, it is not your impression there have been even

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1 hints in the media -- television, radio or newspaper --
2 relative to the guilt of Mr. Manson; is that true,
3 Mrs. Roseland?

4 A There could have been hints.

5 Q But these would be unknown to you; is
6 that right?

7 A I didn't pay any attention to them.

8 Q Then, this is not the impression that you
9 received, ma'am?

10 A That they were hinting at their guilt?

11 Q That's right.

12 A I was just listening to hear how the trial
13 was progressing.

14 Q Mrs. Roseland, the question was: Are you
15 proposing to state that when you came to court today that
16 it was your impression, as it is your impression now,
17 that during these last few months the news media have not
18 even hinted at the possible guilt of the defendants?
19 Is that your interpretation of the news media to the
20 extent that you have been exposed to it, ma'am?

21 A I really don't understand what you are
22 asking me.

23 Q You have read something of this in the
24 newspapers; true?

25 A Correct.

26 Q You have heard something on the radio; true?

1 A Correct.

2 Q You have seen something of this on tele-
3 vision; true?

4 A Correct.

5 Q Based upon all that you have seen, heard
6 and read, Mrs. Roseland, it is not your impression that
7 the media has even hinted at the possible guilt of Mr.
8 Manson; is that true? Or is it your impression that
9 the media has hinted at the guilt of Mr. Manson?

10 A I don't think they have hinted one way or
11 the other.

12 Q So, then, it is your impression that the
13 media has not even hinted at either the guilt or innocence
14 of Mr. Manson; is that true, ma'am?

15 A Correct.

16 Q Do you watch the television news on a
17 fairly regular basis?

18 A Not too regularly.

19 Q What is "not too regularly"?

20 A Well, I am generally taking my shower about
21 that time, and if I can hear it in the bathroom, fine.
22 If not, fine.

23 Q Do you watch the news, perhaps, on a
24 basis of every other day on the average?

25 A One or two nights a week.

26 Q And do you read the newspaper daily on an

1 average, generally?

2 A No.

3 Q About how often do you read the newspaper,
4 Mrs. Roseland?

5 A About once or twice. Mainly the Sunday
6 paper.

7 Q Do you subscribe to the Sunday Daily Breeze?

8 A Yes, we do.

9 Q Now, you indicated that most of what you saw
10 on television news is incorrect. Is that your view, Mrs.
11 Roseland?

12 A Well, before I judge, I would rather read
13 about something, see about something, not just take one
14 view.

15 Q You say you would prefer it?

16 A Just because it says on the 11:00 O'clock
17 News, I don't think that that is the truth.

18 Q What was said on the 11:00 O'clock News
19 about these defendants or their case that you are not
20 prepared to accept as true?

21 A You want a specific?

22 Q Yes.

23 A I couldn't give you a specific.

24 MR. REINER: I have no further questions. Thank
25 you.

26 THE COURT: Mr. Shinn?

1 MR. SHINN: Yes.

2
3 VOIR DIRE EXAMINATION OF MRS. ROSELAND

4 BY MR. SHINN:

5 Q Mrs. Roseland, do you belong to any type
6 of woman's club or church group?

7 A No, sir.

8 Q Pardon me?

9 A No, sir.

10 Q No clubs or church groups?

11 A No.

12 Q Do you go to church?

13 A Yes.

14 Q Was this matter ever discussed among your
15 friends at church or before church?

16 A No, it wasn't.

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Q Not one word was said about this case?

A No, sir.

Q You realize, of course, Mrs. Roseland, this trial may take three months to six months?

A Yes.

Q I believe the Court has informed all the prospective jurors that it may take three to six months.

A Yes.

Q Do you think that this may work a hardship on you?

THE COURT: I said three to five this morning.

MR. SHINN: I am sorry, your Honor. Three to five.

THE COURT: Mr. Shinn, don't make it any worse than it has to be.

MR. SHINN: I am sorry.

THE COURT: I also said that my personal estimate was that it would be closer to the low side of the estimate rather than the high, but no one knows for sure.

MR. SHINN: Thank you. Thank you for correcting me, your Honor.

Q Assuming this case will take approximately three to five months, will this work a hardship on you, a substantial hardship, Mrs. Roseland?

A I don't believe so, no.

Q You don't believe so?

A No.

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1 Q Would you want to sit on this jury?

2 A I really hadn't thought about it one way or the
3 other.

4 MR. SHINN: Thank you, Mrs. Roseland. I have no
5 further questions.

6 THE COURT: Mr. Kanarek?

7 MR. KANAREK: No questions, your Honor.

8 MR. BUGLIOSI: No questions.

9 MR. SHINN: Your Honor, I do have one more
10 question that I forgot to ask Mrs. Roseland.

11 THE COURT: All right.

12
13 VOIR DIRE EXAMINATION OF MRS. ROSELAND
14 BY MR. SHINN:

15 Q Do you know that you may be sequestered during
16 this trial?

17 A I beg your pardon?

18 Q I believe that the Court has indicated that the
19 jury, after it is picked, may be sequestered; in other
20 words, you will be put in a hotel room the whole trial.

21 A They told us that, yes.

22 MR. SHINN: Nothing further, your Honor.

23 THE COURT: All right. Thank you, Mrs. Roseland.
24 You may go back into the jury room.

25 MR. KANAREK: Your Honor, I just have one little
26 question.

1 THE COURT: All right.

2 MR. KANAREK: Just a very brief question of
3 Mrs. Roseland.
4

5 VOIR DIRE EXAMINATION OF MRS. ROSELAND
6 BY MR. KANAREK:

7 Q When you say they told you that you would be
8 sequestered, who is "they"?

9 A The bailiffs.

10 Q The bailiffs?

11 A Yes.

12 Q Where was that, Mrs. Roseland?

13 A I believe when we were called this morning.

14 MR. KANAREK: I see.

15 THE COURT: Do you remember me telling you that this
16 morning?

17 MRS. ROSELAND: In the court, yes.

18 THE COURT: Q Were you told by someone else?

19 A I don't remember whether I was told officially
20 or not. I didn't know whether he was asking me before I
21 got to the courtroom or not, your Honor.

22 Q I take it that he is inquiring about anybody
23 that may have told you.

24 Anything further?

25 MR. KANAREK: Yes.

26 Q Who were the bailiffs that told you this?

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1 A No one told me personally. It was just conver-
2 sation that I overheard.

3 Q Between whom?

4 A I don't remember specifically, sir. Just in
5 gathering together the jury, at the Jury Assembly Room, and
6 walking over, and the bus ride.

7 MR. KANAREK: Thank you.

8 THE COURT: All right. Thank you, Mrs. Roseland.

9 (Mrs. Roseland leaves the chambers.)

10 MR. FITZGERALD: We would interpose a challenge for
11 cause and submit it to the Court, to maintain our consis-
12 tency. The grounds of the challenge is actual bias, that
13 she has been exposed to prejudicial pretrial publicity.

14 MR. SHINN: Join.

15 MR. REINER: Join.

16 MR. KANAREK: Join, your Honor.

17 MR. BUGLIOSI: The People oppose, your Honor.

18 THE COURT: The challenge is disallowed.

19 I believe we have now 12 in the box. Accordingly,
20 we can go back into the courtroom and resume the voir dire.

21 It seems to me that there were one or two of
22 the 12 that on Friday indicated possible hardship.

23 I don't seem to find it in my notes. Do any of
24 you gentlemen have a notation?

25 Well, I am sure it will come out in any event.
26 I seem to remember that Mr. Sisto, No. 6, might have been

1 one of those, but I am not sure.

2 MR. REINER: Mr. Peterson is now in seat No. 6. He
3 replaced Mr. Sisto.

4 MR. BUGLIOSI: Oh, really, is that his name,
5 Peterson?

6 MR. REINER: Yes.

7 MR. BUGLIOSI: I still have Sisto's name down.

8 MR. FITZGERALD: So do I.

9 THE COURT: Peterson is No. 5.

10 MR. REINER: All right.

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THE COURT: Mr. Sisto replaced Mr. Daughdrill.

Anything further, gentlemen, before we go back?

MR. KANAREK: No, your Honor, except I would just like to make one point.

THE COURT: I think we had better take a recess now. The panel has been sitting out there now since 2:00 o'clock.

MR. KANAREK: It seems this lady who was just in here is obviously a lady that wants to be on the jury, for some reason best known to herself.

THE COURT: It isn't obvious. If you purport to be a mind reader, Mr. Kanarek, you may be right, but it isn't obvious to me. She seems singularly free from any exposure about publicity in the case.

MR. REINER: If she is to be believed.

THE COURT: Of course, that is the position of anybody's testimony.

We will take a recess before we resume.

(Recess.)

13 fls.

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

3 THE COURT: All parties and counsel are present.
4 All of the prospective jurors are in the jury box.

5 Do you wish to inquire further, Mr. Fitzgerald?

6 MR. FITZGERALD: Your Honor, does the Court wish to
7 inquire first?

8 THE COURT: As to what?

9 MR. STOVITZ: As to the capital issue, your Honor.

10 THE COURT: As to what?

11 MR. STOVITZ: Capital punishment.

12 THE COURT: Oh, yes. I will ask Mrs. Roseland the
13 two questions regarding the death penalty.

14 Have you had an opportunity to think about
15 those questions since I mentioned them this morning,
16 Mrs. Roseland?

17 MRS. ROSELAND: Yes.

18 THE COURT: I am going to put the same two questions
19 to you now.

20 The first one is this: Do you entertain such
21 conscientious opinions regarding the death penalty that you
22 would be unable to make an impartial decision as to any
23 defendant's guilt regardless of the evidence developed
24 during the trial?

25 MRS. ROSELAND: No.

26 THE COURT: Do you entertain such conscientious

1 opinions regarding the death penalty that you would
2 automatically refuse to impose it without regard to the
3 evidence developed during the trial?

4 MRS. ROSELAND: No, I wouldn't.

5 THE COURT: All right, Mr. Fitzgerald.

6 MR. FITZGERALD: Thank you, your Honor.

7
8 VOIR DIRE EXAMINATION

9 BY MR. FITZGERALD:

10 Q Mrs. Roseland, would you tell us your business
11 or occupation?

12 A Secretary for Trans-world Airlines.

13 Q And do you work out of a particular TWA
14 facility?

15 A The Los Angeles International Airport.

16 Q Are you married, ma'am?

17 A Yes, I am.

18 Q Do you have any children?

19 A Three.

20 Q Could you give us their ages and sex, please?

21 A Boy, 19; two girls, 17 and 15.

22 Q Is your husband employed, ma'am?

23 A Yes, he is.

24 Q By whom is he employed?

25 A El Segundo United School District.

26 Q What does he do for the El Segundo School

1 District?

2 A Math teacher, junior high school.

3 Q Have you ever served as a juror before?

4 A No, I have not.

5 Q That is, neither a criminal case or a civil
6 case, is that correct?

7 A Correct.

8 Q In what area of the County do you reside?

9 A Los Angeles.

10 Q Can you give me the area in the City of
11 Los Angeles?

12 A El Segundo.

13 Q Have you, or has any member of your family ever
14 been the unfortunate victim of a criminal assault?

15 A No, we have not.

16 Q Have you, or has any member of your family or
17 close personal acquaintance ever been a complaining
18 witness in a criminal prosecution?

19 A No, sir.

20 Q Have you, or any member of your family in any
21 way been associated with a homicide prosecution?

22 A No, sir.

23 Q Do you have any friends or relatives or
24 close personal acquaintances who are police officers or who
25 are otherwise engaged in law enforcement?

26 A I do not.

1 Q Do you have any friends or relatives who are
2 connected in any way with the office of the Los Angeles County
3 District Attorney?

4 A No, sir.

5 Q From what you know about this case and from
6 what you read about this case in the newspaper are you
7 familiar with any of the locations that may be involved in
8 this case?

9 For example, Benedict Canyon, Beverly Hills,
10 Chatsworth, Simi Valley, Spahn Ranch.

11 A I know approximately where all of those are
12 located.

14-1

1 Q Are you familiar with any particular loca-
2 tions within that area or those areas that I have
3 mentioned, Mrs. Roseland?

4 A Just knowing where they are located.

5 Q Where they are located?

6 A Yes.

7 Q Just a basic general knowledge of the
8 directions and the major thoroughfares, et cetera; is
9 that correct, ma'am?

10 A Yes, sir.

11 Q Now, you are going to be instructed that in
12 a criminal case a defendant is presumed to be innocent.
13 The Judge indicated partially to you what that meant.

14 Do you have any quarrel with that proposition
15 of law that a defendant is presumed innocent, ma'am?

16 A No, I do not.

17 Q Would you prefer, Mrs. Roseland, that a
18 defendant in a criminal case be presumed guilty?

19 A No, I would not.

20 Q You don't have any quarrel whatsoever with
21 that proposition of law?

22 A No.

23 Q Do you think you would have any difficult
24 applying it in a case like this, ma'am?

25 A No, I would not.

26 Q Now, also, the Judge indicated to you that

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1 the prosecution must prove each of the defendants guilty
2 beyond any reasonable doubt.

3 Do you have any quarrel with that proposition
4 of law, Mrs. Roseland?

5 A No, I do not.

6 Q Do you think, for example, Mrs. Roseland,
7 that the prosecution ought not to be required to prove
8 somebody's guilt beyond a reasonable doubt?

9 A I think they should be required to.

10 Q Now, the charge here is murder. There are
11 seven counts of murder here. Is there anything about the
12 nature of this offense that makes you think these
13 defendants are more likely to be guilty than innocent?

14 A I don't understand your question.

15 Q All right.

16 Is there anything about the fact that these
17 defendants are charged with murder that makes you feel that
18 they are more likely to be guilty than innocent?

19 A No, sir.

20 Q Does the fact that there is more than one
21 murder charged against most of these defendants make you
22 feel that they are more likely to be guilty than innocent,
23 ma'am?

24 A No, sir.

25 Q Would you require less proof to convict
26 somebody of murder than you would any other offense?

14-3

1 A No, sir.

2 Q Is there anything about the nature of these
3 charges, Mrs. Roseland, that would make you prefer not
4 to sit as a juror?

5 MR. STOVITZ: I object to the question, your Honor,
6 as being immaterial and irrelevant.

7 THE COURT: Overruled. You may answer.

8 BY MR. FITZGERALD:

9 Q Is there anything about the charge of murder
10 that makes you feel that you would rather not sit as a
11 juror?

12 A No, sir.

13 Q Do you think you could be fair despite what
14 the charges are, Mrs. Roseland?

15 A Yes, sir.

16 Q Do you feel, for example, that the fact
17 that these defendants have been arrested is evidence of
18 their guilt, or the fact that they have been arrested
19 means to you that they are more likely to be guilty
20 than innocent?

21 A No, sir.

22 Q Do you attach any significance at all to
23 the fact that they have been arrested?

24 A No, sir.

25 Q Now, the Court informed you that an
26 indictment was returned against these defendants.

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1 Do you understand that an indictment is
2 merely an accusatory piece of paper, a formal accusation.

3 Do you understand that?

4 A Yes.

5 Q Do you attach any significance to the fact
6 that these defendants have been indicted?

7 What I mean by that, Mrs. Roseland, is do
8 you think that because they have been indicted they are
9 more likely to be guilty than innocent?

10 A No, sir.

11 Q Now, obviously they are here standing trial.
12 Is there anything about that fact that makes you think
13 they are more likely to be guilty than innocent?

14 A No, sir.

15 Q All right.

16 Now, let's take all three of them together,
17 Mrs. Roseland.

18 Does the fact that these defendants have
19 been arrested and an indictment has been returned against
20 them and they are here standing trial make you feel that
21 they are more likely to be guilty than innocent?

22 A No, sir.

23 Q If you were selected as a juror, Mrs.
24 Roseland, and you listened carefully to all the evidence,
25 and you had a reasonable doubt as to the guilt of these
26 defendants, Mrs. Roseland, would you vote to acquit them?

1 A Yes, I would.

2 Q Do you think you have the courage to vote
3 to acquit somebody charged with murder?

4 A Yes, I do.

5 Q Do you think you would be able, if you
6 returned a verdict of not guilty in this case, do you
7 think that you would be able to face your friends and
8 neighbors in the community and not feel any pressure?

9 A Yes, sir.

10 Q Do you feel that there is any pressure on
11 you to decide this case one way or another at this time,
12 Mrs. Roseland?

13 A No.

14 Q Now, I take it that you have read things,
15 however brief, you have read things in connection with
16 this case in the newspaper, seen references to them on
17 television, and heard references to them on the radio;
18 is that correct?

19 A Correct.

20 Q Have you heard reference to these defendants'
21 life style, the way they live, presumably, the way they
22 act, that sort of thing? Have you heard anything about
23 these defendants?

24 Don't tell me what you have heard. Just
25 have you heard anything about their life style?

26 A Yes. I haven't read extensively but I have

1 read a few articles.

2 Q Is there anything about what you have heard
3 in connection with their life style, Mrs. Roseland, that
4 is going to influence you in arriving at a verdict in
5 this case?

6 A No, sir.

7 Q Can you be entirely fair to these defendants
8 regardless of what kind of life you think they lead?

9 A Yes, sir.

10 Q Now, obviously, the young ladies who are
11 defendants in this case groom themselves somewhat
12 differently than you do, Mrs. Roseland; is that true?

13 A Correct.

14 Q Do you hold that against them, ma'am?

15 A No, sir.

16 Q I take it you are not going to decide this
17 case based on the length of somebody's hair?

18 A No, sir.

19 Q Are you?

20 A No, sir.

21 Q Or whether or not they wear a brassiere or
22 whether they wear makeup, or anything like that, are
23 you?

24 A No, sir.

25 Q Do you think you could be entirely fair and
26 impartial in evaluating these defendants?

1 A Yes, sir.

2 Q Would it be easier for you to evaluate or
3 sit in judgment upon somebody who more closely resembled
4 your style of living?

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

7 THE COURT: Overruled. You may answer.

8 Do you understand the question?

9 MRS. ROSELAND: Would you repeat it, please?

10 THE COURT: Read the last question.

11 (The question was read by the reporter.)

12 MRS. ROSELAND: No, sir.

13 BY MR. FITZGERALD:

14 Q It wouldn't make any difference to you one
15 way or the other, Mrs. Roseland; is that it?

16 A No, sir.

17 Q Now, you have two daughters that are the
18 same approximate age of at least one and perhaps two of
19 the female defendants in this case; isn't that true,
20 ma'am?

21 A Correct.

15 fls.

15-1

1 Q Because of that fact have you tended to follow
2 this case more closely than otherwise?

3 A No, I have not.

4 Q Has the fact that there are three young ladies
5 on trial, and you have two daughters, stimulated some conver-
6 sation in your home?

7 A No, it really has not.

8 Q Does anybody in your family have any preconceived
9 ideas about the guilt or innocence of these defendants?

10 A No.

11 Q Do you have any experience with psychology or
12 psychiatry as a result of a course of study?

13 A No, sir.

14 Q Do you have any personal opinion about
15 psychiatrists or psychologists?

16 A No, sir.

17 Q Do you think that you would be able to evaluate
18 expert psychiatric testimony with the same degree of
19 impartiality that you could evaluate other types of testi-
20 mony?

21 A I would try.

22 Q What I'm trying to get at is do you have any
23 particular feelings or prejudices against psychiatrists,
24 psychologists?

25 A No, sir.

26 Q You don't, for example, think they are

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1 charlatans?

2 A No, sir.

3 Q or perpetrating a fraud on the public or any-
4 thing?

5 A No, sir.

6 Q Do you have any professional familiarity with
7 lysergic acid diethylamide or LSD?

8 A No, sir.

9 Q Do you have any exposure to LSD, be it on a non-
10 professional sort of basis?

11 A No, sir.

12 Q Do you belong to any organization or any
13 organizations that has as one of its tenets the raising of
14 the number of offenses punishable by death in California?

15 A No, sir.

16 Q Do you believe that it is possible for an
17 innocent person because of suspicious circumstances to be
18 arrested and placed in jail?

19 MR. STOVITZ: Objected to as improper voir dire
20 examination, your Honor.

21 THE COURT: Oh, I think it's proper, Mr. Stovitz,
22 overruled.

23 THE PROSPECTIVE JUROR: I'm sorry, would you repeat
24 it?

25 THE COURT: Read the question, please.

26 (Whereupon, the reporter reads the pending

15-3

1 question as follows:

2 "Q Do you believe that it is possible
3 for an innocent person because of suspicious
4 circumstances to be arrested and placed in
5 jail?"

6 A I think it could happen.

7 Q I notice that you hesitated before you
8 answered. Was there some reason for that?

9 A I just thought it was an important question.

10 Q Did you have a little difficulty understanding
11 the question?

12 MR. STOVITZ: That is not what the juror answered,
13 your Honor. I object to counsel paraphrasing the juror's
14 answer.

15 MR. FITZGERALD: Excuse me.

16 THE COURT: All right, let's proceed, gentlemen.

17 Q BY MR. FITZGERALD: Without telling me what
18 denomination you are, if you are, do you have religious
19 convictions of some sort?

20 MR. STOVITZ: That is objected to, your Honor, as
21 improper voir dire.

22 MR. FITZGERALD: May we approach the bench on this
23 point? I would like to make an offer of proof.

24 THE COURT: That won't be necessary. I think the
25 question is a proper one, at least it is introductory.

26 PROSPECTIVE JUROR: Yes, I go to church.

Q BY MR. FITZGERALD: Is your religious
orientation or persuasion of the Christian variety?

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

THE COURT: I think you may be getting afield now,
Mr. Fitzgerald.

MR. FITZGERALD: I wonder if we might approach the
bench.

THE COURT: All right.

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

MR. FITZGERALD: By way of an offer of proof, it is
my understanding that the prosecution will introduce
evidence in their case in chief that numerous persons
connected with or associated with Mr. Charles Manson believe
him to be Jesus Christ.

I am not trying to be facetious, and I am not
trying to be absurd.

Now, I think an inquiry of the prosecution will
bring this to light.

We anticipate that there will be several
witnesses in this case who will testify to a blind
allegiance to Mr. Manson by certain other people as a result
of his diety.

Now, all I want to do is ask the juror if it
should come to light during the course of this case that one

1 or more of the defendants are considered by some people to-
2 be Jesus Christ, would that so outrage and inflame them that
3 it would be difficult for them to be impartial.

4 What I have in mind is this:

5 Somebody who is a deeply religious person of
6 the Christian persuasion may take umbrage --

7 THE COURT: I think it is proper.

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1 MR. BUGLIOSI: As Mr. Fitzgerald said, he himself,
2 has tried to lead other people to believe he is Jesus
3 Christ. That is going to be relevant.

4 I am just worried about the last point Mr.
5 Fitzgerald made, whether it would so outrage the juror
6 that they would prejudice the evidence --

7 MR. STOVITZ: I have in mind the series of questions
8 objected to on an abortion case, whether they are a Roman
9 Catholic. The question is, properly asked, if they belong
10 to any religious faith that is opposed to abortion.

11 But asking them whether they are Roman
12 Catholic is improper voir dire.

13 THE COURT: This is a little bit different.

14 If the concept of the defendant is some sort
15 of deity, it could conceivably cause someone to be so
16 prejudiced --

17 MR. STOVITZ: We will withdraw our objection to that
18 offer of proof then, your Honor.

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

22 MR. FITZGERALD: May I inquire of the Court if
23 there is a question pending? Could I have that question
24 reread?

25 THE COURT: Yes, read the question.

26 (Whereupon the reporter reads the pending

15a-2

question as follows:)

THE REPORTER: (Reading.)

"Is your religious orientation or persuasion of the Christian variety?"

THE PROSPECTIVE JUROR: Yes, it is.

BY MR. FITZGERALD:

Q If the evidence should in this case, should indicate that one or more of the defendants are considered by others to be Jesus Christ, would that fact alone, standing by itself so bias or prejudice you against this defendant that you would be unable to fairly and impartially examine the evidence?

A No, it would not.

Q You would not for example consider that to be blasphemous, and as a result just not listen to anything else?

A No, I wouldn't.

MR. FITZGERALD: Thank you. Pass for cause.

THE COURT: Mr. Reiner.

MR. REINER: Thank you, your Honor.

VOIR DIRE EXAMINATION OF MRS. ROSELAND

BY MR. REINER:

Q Mrs. Roseland, first of all, do you appreciate the fact that there are four defendants in this case?

A Yes, I do.

1 Q Now, each of these defendants is to be
2 treated separately. Do you appreciate that?

3 A Yes, sir.

4 Q And in addition to the four defendants there
5 are four attorneys. Do you appreciate that?

6 A Yes, sir.

7 Q And each of us speaks for our client and our
8 client only?

9 A Yes, sir.

10 Q So that when I speak I speak only for Leslie
11 Van Houten, and for no other defendant?

12 A Yes, sir.

13 Q And when any other attorney in this case
14 speaks he speaks for his respective client and at no
15 time speaks for Leslie Van Houten?

16 A Yes, sir.

17 Q Do you know which of these defendants is
18 Leslie Van Houten?

19 A No, I do not.

20 Q The young lady in the blue and white stripes
21 outfit is Leslie Van Houten.

22 Now, do you know which defendant is Leslie
23 Van Houten?

24 A Yes, sir.

25 Q During the course of this trial if it should
26 happen that you would be a juror in this case, would you

1 make a careful attempt to assign only that portion of
2 the evidence that relates to Leslie Van Houten to her?

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3 A Yes, sir.
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1 Q And you would not inadvertently assign any
2 evidence that would relate to any other defendant in this
3 case to her, would you?

4 A No, I would not.

5 Q So that if evidence came into this case to
6 indicate the possible guilt of one or more other defendants
7 that did not relate directly to Leslie Van Houten, you
8 would not assign such evidence to her?

9 A No, I would not.

10 Q Now, Mrs. Roseland, you will be instructed that
11 you must presume that all defendants are innocent. I am
12 referring now only to Leslie Van Houten because I speak only
13 for Leslie Van Houten. But will you presume that Leslie
14 Van Houten is innocent, ma'am?

15 A Yes, sir.

16 Q Do you actually presume that Leslie Van Houten
17 is innocent?

18 A Until proven guilty.

19 Q Now, when you say until proven guilty, do you
20 mean to say that you will continue to presume that she is
21 innocent until and unless evidence is presented in this
22 case that convinces you beyond all reasonable doubt that
23 she is guilty?

24 A Yes, sir.

25 Q And if the evidence in this case falls short
26 of that, Mrs. Roseland, and does not persuade you beyond all

1 reasonable doubt, you will acquit Leslie Van Houten; is
2 that true?

3 A Yes, sir.

4 Q Now, will you do that even if the evidence in
5 this case should indicate that perhaps one or more of the
6 defendants are guilty beyond all reasonable doubt but with
7 respect to Leslie Van Houten the evidence falls short,
8 will you then acquit her, irrespective of what your verdict
9 is with regard to any other defendant?

10 A Yes, sir.

11 Q Do you feel that you would be subject to
12 criticism from your friends and acquaintances if you were
13 to acquit even a single defendant in this case?

14 A No, I do not.

15 Q Irrespective of whether you might receive
16 criticism from your friends and acquaintances, would you
17 make a conscious attempt not to allow your speculations
18 as to what your friends might think to influence your
19 judgment in this case, Mrs. Roseland?

20 A Yes, I would.

21 Q The very grotesqueness of this crime, obviously,
22 will affect you, as I am sure it will affect everybody,
23 but will you make a conscious attempt not to allow your
24 emotions to overwhelm your judgment as to the guilt not
25 of all defendants but with respect to Leslie Van Houten?

26 A Yes, sir.

1 Q So, even if the crime is grotesque in the
2 extreme, and even if you believe that one or more of these
3 defendants may be guilty, if the evidence with respect to
4 Leslie Van Houten is insufficient, Mrs. Roseland, will you
5 then acquit Leslie Van Houten?

6 A Yes, I would.

7 Q Now, even if there is some evidence that
8 raises a suspicion in your mind, Mrs. Roseland, will you,
9 nonetheless, acquit her if it is not more than a suspicion
10 that is raised?

11 A Yes, sir.

12 Q You appreciate that you do not convict people
13 for murder or for any other criminal charge if the evidence
14 is insufficient to convince you beyond all reasonable
15 doubt, do you not?

16 A Yes, sir.

17 Q Mrs. Roseland, I don't know how much you have
18 read or have heard of the proceedings that have gone on
19 these last three weeks in court, but if you have read any-
20 thing of Miss Van Houten's conduct in court, or for that
21 matter you should from time to time observe Miss Van Houten's
22 conduct in court that might suggest to you that it is her
23 view or her wish, her desire, that she be convicted if any
24 member of this family is convicted, will you, nonetheless,
25 ignore her wishes in the matter and decide this case based
26 solely on the evidence?

1 A Yes, sir.

2 Q So that even if it appeared to you that
3 Leslie Van Houten wanted to be convicted if any member of
4 the Family is convicted, would you acquit her if the evi-
5 dence that was presented against her simply was insufficient
6 to convince you beyond all reasonable doubt, ma'am?

7 A Yes, sir.

8 Q Then it is the evidence in this case and not
9 her wishes or desires that will be controlling insofar as
10 you are concerned; is that true, Mrs. Roseland?

11 A Yes, sir.

12 Q Now, a witness by the name of Linda Kasabian
13 will be called by the prosecution to testify, and there will
14 be a question as to whether she is or is not an accomplice
15 to these killings.

16 You will be given a definition by the Judge as
17 to what an accomplice is. Will you follow that definition?

18 A Yes, I will follow the Judge's definition.

19 Q Now, you will not interpose perhaps your own
20 ideas of what an accomplice is; is that true?

21 A No, sir.

22 Q You will strictly follow the Court's
23 definition of what constitutes an accomplice?

24 A Yes, sir.
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16a-1

1 Q Now, after the Court instructs you as to
2 what constitutes an accomplice, Mrs. Roseland, the Court
3 will then give you an instruction as to the consideration
4 that you are to give to the testimony of an accomplice.

5 Will you follow that instruction, ma'am?

6 A Yes, sir.

7 Q Now, if the Court instructs you that you may
8 not consider the testimony of an accomplice for any purpose
9 whatsoever unless that accomplice's testimony is corroborated
10 by totally independent evidence, will you then follow the
11 Court's instruction and totally disregard the testimony of
12 the accomplice?

13 A Yes, sir.

14 Q Now, Mrs. Roseland, when we speak of totally
15 independent evidence that corroborates the testimony of
16 the accomplice, again, do you appreciate that I am speaking
17 solely on behalf of Leslie Van Houten?

18 A Yes, sir.

19 Q So that if the evidence that purports to
20 corroborate the testimony of an accomplice does not
21 corroborate her testimony as it relates to Leslie Van
22 Houten, you would then acquit Leslie Van Houten?

23 A Yes, sir.

24 Q And you would not consider the testimony of
25 the accomplice for any purpose in relationship to Leslie
26 Van Houten?

16a-2

1 A Yes, sir.

2 Q If it should happen that the testimony of
3 an accomplice is corroborated with respect to one or more
4 other defendants but is not corroborated with respect to
5 Leslie Van Houten, you would then, irrespective of what
6 you might do with regard to the other defendants, you
7 would then acquit Leslie Van Houten?

8 MR. STOVITZ: Just a moment.

9 That is not a proper statement of the law
10 and I object to it.

11 That is if the only evidence was the
12 testimony of the alleged accomplice, counsel's statements
13 might be correct.

14 THE COURT: The objection is sustained.

15 I think we are getting into the area of
16 instruction now.

17 MR. REINER: All right.

18 Q In the event, Mrs. Roseland, that an
19 accomplice does testify, and in the event that that
20 accomplice's testimony is not corroborated in any way
21 with respect to Leslie Van Houten, irrespective of whether
22 it is corroborated with respect to any other defendants,
23 you will then acquit Leslie Van Houten; is that true,
24 Mrs. Roseland?

25 MR. STOVITZ: That is objected to. It is the
26 same --

16a-3

1 THE COURT: It sounds like the same question.

2 MR. REINER: May we approach the bench? It is
3 a precise statement of the law.

4 MR. STOVITZ: No, Counsel. You are overlooking
5 one thing: If that is the only evidence.

6 THE COURT: The objection is sustained.

7 MR. REINER: May I be heard briefly at the bench,
8 or here, your Honor?

9 THE COURT: I think it is not the only possibility.
10 That is the vice of the question.

11 MR. REINER: If it is without corroboration, then
12 by definition there is no other evidence, your Honor.

13 THE COURT: We are getting into the area of
14 instruction.

15 I think you can get at the same thing
16 without getting into the technical definition.

17 That question is objectionable.

18 MR. REINER: Your Honor, I think that I have
19 asked the same question, with the Court's permission,
20 for the last hundred or so prospective jurors, and I
21 think I worded it -- in fact I did word it -- identically.

22 THE COURT: Well, let's try once more.

23 BY MR. REINER:

24 Q Now, Mrs. Roseland, in the event that there
25 is testimony by an accomplice, presumably, of course,
26 there will be other evidence that relates to Leslie

1 Van Houten; however, if that other evidence does not
2 corroborate the testimony of the accomplice as it relates
3 to Leslie Van Houten, then you will follow the Court's
4 instruction and disregard the testimony of the accomplice
5 insofar as it relates to Leslie Van Houten?

6 A Yes, sir.

7 Q In the event that absent the testimony of
8 the accomplice there no longer is sufficient evidence
9 to persuade you beyond a reasonable doubt that she is
10 guilty, you will then acquit the defendant?

11 A Yes, sir.

12 Q I do not want you to indicate what you have
13 seen on television or what you have heard on the radio
14 or what you have read in the newspaper, but you have,
15 in fact, Mrs. Roseland, from time to time since the
16 arrest occurred last December, read of this case and
17 the persons in it in the newspaper; is that true?

18 A Yes, sir.

19 Q And you have heard about it on the radio
20 from time to time; is that correct?

21 A Television.

22 Q All right.

23 You have not heard of any report of this
24 case on the radio?

25 A No, sir.

26 Q But you have heard the television news

1 or seen the television news?

2 A Yes, sir.

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1 Q So, then, you have been exposed to information
2 from the newspapers and information from television by
3 watching, perhaps, the evening news; is that correct?

4 A Yes, sir.

5 Q Now, based upon all that you have read and all
6 that you have seen, Mrs. Roseland, in your view, the
7 possible guilt of the defendants has not even been hinted
8 at in the media; is that true?

9 A That is true.

10 MR. REINER: I have no further questions.

11 THE COURT: Any questions, Mr. Shinn?

12 MR. SHINN: No questions, your Honor.

13 THE COURT: Mr. Kanarek?

14 MR. KANAREK: No questions, your Honor.

15 THE COURT: Mr. Bugliosi?

16 MR. BUGLIOSI: Thank you.

17 Your Honor, may I address one general question
18 to the prospective jurors seated in the spectator's section
19 of the courtroom?

20 THE COURT: Yes.

21 MR. BUGLIOSI: Ladies and gentlemen, when I ask
22 questions of Mrs. Roseland who is now seated in the jury box,
23 I would appreciate it if you would mentally ask yourself the
24 same questions so that if and when you are later seated in
25 the jury box I will not have to go all over those questions
26 again.

Will you all promise to do that?

What will happen is this: If you are later seated in the jury box, I will ask some questions of you but not all of the questions that I am going to ask Mrs. Roseland in a few moments. I will then ask you if I were to ask you the other questions I asked Mrs. Roseland, would your answers be the same or different from Mrs. Roseland's.

You understand that? In that way we can avoid going over all the questions and answers a second time.

Thank you.

VOIR DIRE EXAMINATION OF MRS. ROSELAND

BY MR. BUGLIOSI:

Q Mrs. Roseland, since you are the first juror in this panel, I am going to ask you a rather long series of questions that I will not be asking subsequent jurors who follow you. It is not that I am picking on you, ma'am, it is just since you are the first juror I have to go into considerable depth with you.

Do you understand, Mrs. Roseland?

A Yes, sir.

Q If the jury, Mrs. Roseland, which is eventually selected on this case, comes back with a verdict of first-degree murder against these defendants, it is the

1 intention of the prosecution during the penalty-phase to
2 ask for the death penalty for all of the defendants.

3 Do you understand that, ma'am?

4 A Yes, sir.

5 Q Incidentally, there is another defendant,
6 Charles Watson. He is presently in the State of Texas.
7 When he is ultimately returned to the State of California,
8 he will be tried separately from these defendants.

9 Do you understand that?

10 A Yes, sir.

11 Q You stated that you had three children, one
12 boy 19 and two girls 17 and 15; is that correct, ma'am?

13 A Yes, sir.

14 Q Are they living at home with you?

15 A The two girls.

16 Q Are they attending school?

17 A They attend school. They are out of school now.

18 Q Summer vacation?

19 A Yes, sir.

20 Q What about the 19-year-old boy?

21 A He is a lifeguard for the Los Angeles County
22 Life Guards.

23 Q Does he plan to go on to college?

24 A He is attending USC.

25 THE COURT: Will you tilt that microphone down a
26 little bit? You are sitting right under a speaker. That is

1 the problem. Hold it close to your mouth and tilt it down,
2 please.

3 MR. BUGLIOSI: Q Incidentally, Mrs. Roseland, have
4 you discussed this case with your children at all?

5 A No, I have not.

6 Q Do you recall Mr. Reiner said that there were
7 four attorneys on the case, ma'am?

8 A Yes.

9 Q You realize, Mrs. Roseland, that he was
10 referring to the four defense attorneys?

11 A Yes.

12 Q And that Mr. Stovitz and I are also members of
13 the California State Bar; do you understand that?

14 A Yes.
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1 Q In fact, we are also members of the largest
2 attorney's office in the world of any kind, with close to
3 500 attorneys, but he was just referring to the defense
4 attorneys, you understand.

5 I would like to ask you some questions at
6 this time, Mrs. Roseland, with respect to the death
7 penalty and several other subjects for the purpose of
8 ascertaining your state of mind.

9 Incidentally, if I ask a question of you which
10 does not specifically pinpoint your problem but which suggests
11 something or touches on something that you think I ought to
12 know about, I would appreciate it if you would bring it to
13 my attention so that I can question you further about it.

14 Will you do that, ma'am?

15 A Yes, sir.

16 Q I would like to make one initial observation,
17 Mrs. Roseland, before I commence my questioning.

18 Although it might seem difficult now to speak
19 out rather freely on the questions I am going to ask you,
20 obviously it is a crowded courtroom, most, if not all the
21 people in the courtroom you do not know personally, you
22 might feel a little hesitant about speaking out freely;
23 I would think it should be much more difficult -- much more
24 difficult -- later on in the jury room to express your
25 views on a particular subject for the first time when
26 your co-jurors know that either the Court or defense counsel