

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. 1010

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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J. Hollombe, CSR
Murray Mehlman, CSR
Official Reporters
211 West Temple Street
Los Angeles, California 90012

though it was in chambers.

All right, we will start then with No. 1,
is that agreeable with counsel, that is, Mrs. McKenzie.

(All counsel indicate in the affirmative.)

5a fin.

1 THE COURT: We will recall her for purposes of
2 specifically inquiring into the pretrial publicity.

3 MR. SHINN: May I make a short comment before the
4 juror comes in?

5 THE COURT: Yes.

6 MR. SHINN: This is in no way criticism. I believe
7 this is constructive.

8 I believe most of Mr. Reiner's questions
9 regarding publicity, have suggested to the juror, your
10 Honor, I believe, some of the answers the juror gives.

11 I think Mr. Reiner's questions suggest the
12 answer, your Honor, and I think, as to the question about
13 Susan Atkins, the juror knew nothing of Susan Atkins until
14 Mr. Reiner suggested the name.

15 THE COURT: Well, I think that has been true in
16 some cases, that the prospective juror simply has been led
17 by the question.

18 That is why several times I have intervened
19 to point out to the juror that we simply don't want him
20 to answer in accordance with what he thinks the attorney
21 may want to hear, but we want his honest opinion.

22 This is a new experience for most of these
23 people, and they are obviously ill at ease, some of them.

24 It is difficult for people to articulate on
25 subjects with which they are not familiar, and they have
26 not had a chance to think about in advance, particularly if

1 they are under some emotional stimulation.

2 So I think it is important that we elicit the
3 true opinions of these prospective jurors, and not simply
4 lead them around with a view towards eliciting answers
5 that are not really theirs, when I think that's being done
6 or possibly being done I try to intervene and suggest
7 to the juror that we want his opinion even though he
8 thinks it might not be the answer that the question is
9 suggesting.

10 MR. SHINN: Questions like "Did you read or hear
11 about Susan Atkins' confession," I think that is highly
12 leading, your Honor.

13 THE COURT: It is not only highly leading but
14 suggests something he may never have heard of at all.

15 MR. SHINN: Yes, and then he will try to go out and
16 try to look it up, pinpoint the date.

17 I think it's highly damaging, your Honor.

18 THE COURT: I say, I cannot stop counsel in advance
19 from asking a question, but I don't think he should
20 create error in a case by asking questions that are
21 damaging to his own case.

22 So I will just leave it to the good sense of
23 the attorneys representing their clients not to inject
24 anything in the guise of being voir dire, that is simply
25 being damaging.

26 MR. SHINN: But it is very difficult for me to stop

1 MR. REINER from asking the prospective juror, "Did you
2 read or hear the confession of Susan Atkins?"

3 By that time it is pretty hard for me to stop
4 him. It is out already. That is the kind of thing I
5 would like to prevent.

6 THE COURT: Do you agree, MR. Reiner?

7 MR. REINER: I agree the use of the word "confession"
8 is an unfortunate choice of words. Perhaps it should be
9 couched in terms of a story related to the killings in
10 one manner or other.

11 Counsel is faced with Hobson's choice now. We
12 don't want to talk about the purported confession and on
13 the other hand if we don't talk about it and we don't
14 ask questions, then there is no way we can find out if
15 they heard about it.

16 THE COURT: I am not suggesting you don't ask
17 questions. That is why I am recalling them. I do want
18 questions asked.

19 I think it could be done indirectly.

20 For example, "Have you heard about how the
21 crimes were committed, or any details about the killings?"

22 Things like this which would elicit information
23 that perhaps could only be obtained from having read a
24 purported confession.

25 MR. REINER: I am perfectly agreeable to that. May I
26 point out to the Court that previously where jurors,

1 prospective jurors, have denied reading a purported
2 confession that have indicated familiarity with certain
3 details of the crime, I have argued that the juror should
4 be excused for cause, because this indicates they have
5 read this purported confession, or that he was aware of it
6 and the court said that was not a sufficient showing.

7 THE COURT: That depends. We know, for example, that
8 the newspapers published some details of the killings
9 immediately after the crimes were discovered. We know
10 that. That is a matter of common knowledge.

11 So that mere knowledge does not in any way
12 purport to show the prospective juror, if he knows those
13 details, had read any purported confession.

14 It is a matter of what he knows.

15 MR. BEINER: I am referring to the details that
16 appeared in the Times article of December 14.

17 THE COURT: All right, let's have Mrs. McKenzie
18 come in.

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1 (Whereupon, Thelma E. McKenzie, Juror No. 1,
2 enters the chambers of the Court.)

3 THE COURT: Good morning, Mrs. McKenzie.

4 MRS. MC KENZIE: Good morning.

5
6 VOIR DIRE EXAMINATION OF THELMA E. MC KENZIE
7 BY THE COURT:

8 Q We asked you to come back in for just a
9 few minutes, to ask some questions that may not have been
10 asked when you were in here before.

11 These questions are directed to what you may
12 have learned about the case before, well, at any time.

13 Do you recall ever having learned from any
14 source anything that was said by any of the defendants
15 concerning the charges against them?

16 A No, other than they pled not guilty, but other
17 than that, no, sir.

18 Q No, my question is directed to whether or not
19 you either read or heard something which purported to
20 be something that was said by any of the defendants about
21 any of the crimes or about the charges or about anything?

22 A No.

23 Q Have you read any newspapers today?

24 A No.

25 Q I am not suggesting there is anything in there,
26 but I am just asking you if you have read any today.

Do you wish to inquire, Mr. Fitzgerald?

1 MR. FITZGERALD: No, Your Honor.

2 THE COURT: Mr. Reimer?

3 MR. REIMER: Yes, Your Honor.

4
5 VOIR DIRE EXAMINATION OF MRS. THELMA E. MC KENZIE
6 BY MR. REIMER:

7 Q Mrs. McKenzie, I don't recall, do you read the
8 Los Angeles Times?

9 A Every Sunday, yes.

10 Q Oh, you do read it on Sunday?

11 A Yes.

12 Q Do you recall just right at about the time
13 these arrests occurred in connection with this case, the
14 arrest of Mr. Manson and the other defendants, stories
15 appearing in the Los Angeles Times regarding the arrests
16 of these defendants, without reference to the details of
17 the story, but do you recall reading about it in the
18 Times?

19 A Yes and no, if I may clarify this a little.

20 THE COURT: Surely.

21 MRS. MC KENZIE: As I said, I know very little about
22 the case. I didn't really know when it happened other than
23 a few months back, until in court you mentioned August of
24 '69.

25 I had just returned from a vacation then and
26 I read the first article, I'm sure I must have read

1 the whole first article.

2 I did not know anything else about it until, it
3 must have been, shortly after the arrests.

4 There again, I was on vacation. I remember seeing
5 the pictures of the defendants and I recall two last names.
6 I don't even recall reading this article.

7 other than that I heard one sentence on the
8 radio broadcast one morning since we have been on this
9 case, and something else -- let's see -- it was a television
10 program, a newscast, and I was not aware it was this case
11 until the last sentence or two.

12 Some young lady was being interviewed at a
13 ranch, and she was talking about the public driving by
14 and making statements, something about it was hurting
15 business instead of helping it.

16 Let's see, I think she said she wished the
17 case could be held out there because it was so pretty and
18 it would save them having to come into court.

19 THE COURT: Was this one of the defendants who was
20 talking?

21 MRS. MC KENZIE: No, it was just some young lady,
22 I did not get her name.

23 I don't know who was interviewing her because
24 then something was mentioned that I connected it with this
25 case, and that was all that was said, though.

26 Then they wanted to something else. That is

1 really all I know about the case until what I have
2 learned what has been said in court.

3 Q BY MR. REIMER: Now, Miss McManis, you
4 indicated a moment ago that two names you recalled; that
5 you recall two names from a Times article.

6 What were those two names?

7 A Atkins, the last name Atkins, a girl by that
8 name, and Mr. Manson.

9 I was not sure if his name was Manson or what
10 until in court I realized there were two people.

11 I did not recall the others. I knew there
12 were others involved. I knew there were ladies involved
13 but I did not recall the names of them.

14 Q This particular article in the Sunday Times
15 that you are referring to, do you recall the substance of
16 the article in general terms?

17 A The first one?

18 Q Yes.

19 A Some -- let's see -- I remember that they said
20 five people were killed.

21 I remember the name Sharon Tate, the movie
22 star.

23 I remember the last name, Folger.

24 And I think there was a male hairdresser, and
25 then some Russian name.

26 And I believe someone was visiting the caretaker.

1 Actually I remember more about the appearance of the care-
2 taker's cottage because I was interested in that.

3 It seems it happened in the hills. I don't
4 remember which ones. Something was said about an electric
5 gate. Something was written on the door in blood, I
6 think.

7 I believe that is about it.
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1 Q Was this article the article that appeared
2 shortly after the killing occurred?

3 A It must have because it was a few months
4 back and just as I returned from vacation.

5 Q I see, let me direct your attention to
6 any articles that you read in the Sunday Times shortly
7 after the arrests occurred, specifically the article
8 that you recall reading that mentioned the name of
9 Atkins and Hansen and/or Watson.

10 Do you recall / ^{what} that particular article
11 was about that mentioned Atkins, Hansen and Watkins?

12 A No, I don't recall anything about that
13 other than pictures. I didn't -- I don't remember
14 reading that article.

15 I remember looking at the pictures,
16 glancing at it.

17 I don't recall reading the whole article
18 then. It was the first article that I remember the
19 names from.

20 Q The names of the victims or --

21 A And the defendants.

22 Q Oh, and the defendants?

23 A Yes.

24 Q The first article you mentioned a moment
25 ago then --

26 A I'm sorry, the victims' names in the first

5c-2

1 article, right, and I must have paid attention to the
2 pictures or something because I remember the defendants'
3 names from that article.

4 Q Do you recall reading any story without
5 being specific about it, do you recall reading any story
6 in which the person who was being interviewed related the
7 details of how the killings occurred, irrespective of who
8 it was that was being interviewed?

9 A No.

10 Q Now, do you recall the Grand Jury returned
11 indictments against these defendants, and the news that
12 followed when they were arrested, and so forth?

13 A No.

14 Q Do you recall reading the newspaper or
15 following on television or radio any of the activities
16 at all around the time that the Grand Jury was hearing
17 testimony before they returned the indictments?

18 A No.

19 Q Do you recall any person connected with this
20 case testifying, the reports of any persons in this case
21 that testified before the Grand Jury?

22 A No, as I said I did not follow the case.

23 MR. REINER: Thank you, I have nothing further.

24 THE COURT: Anyone else?

25

26

5c-3

VOIR DIRE EXAMINATION

BY MR. SHINN:

Q You mentioned you went on vacation?

A Yes.

Q You mentioned something about vacation?

A Yes.

Q Do you recall the days that you went on vacation, just roughly?

A It would have to be very rough because I split my vacation.

I'm trying to think, in '69 I went two or three times.

I'm trying to think if it was June or July. I think it was sometime during both months, in June and July of '69, and in December of '69.

Q And were these what, one-week vacations or two-week vacations?

A I am really not sure. I had three weeks vacation plus quite a bit of overtime, and I just don't recall exactly how -- I took a few days each time.

Sometimes a week, sometimes two or three or four days.

I'm sorry, I cannot recall exactly at the moment.

Q Do you recall where you went?

Did you leave the State?

5c-4

1 A Part of the time -- in December I did not
2 leave the State, no, I don't think I left the State on
3 any of those, last year.

4 Q Did you leave Los Angeles County?

5 A No, I don't think so.

6 Q In other words, when you say vacation you
7 just stayed home from work?

8 A Yes, or took some trips.

9 MR. SHINN: Oh, I see, nothing further.

10 THE COURT: Mr. Kenezek?

11 MR. KANAREN: No questions.

12
13 VOIR DIRE EXAMINATION OF MRS. MC KENZIE

14 BY MR. STOVITZ:

15 Q Mrs. McKenzie, that accent you have, what
16 part of the country are you from?

17 A My accent?

18 Q Yes.

19 A Tennessee.

20 Q Did you ever read anything about any of
21 the defendants coming from another state besides
22 California?

23 A No.

24 MR. STOVITZ: No further questions.

25 THE COURT: Thank you very much, Mrs. McKenzie,
26 you may go back out to the courtroom.

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MR. FITZGERALD: Is this about time for a recess?
If not, I would like to be excused.

THE COURT: Yes, at this time we will take our
Recess.

(Recess.)

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1 (The following proceedings occurred in
2 chambers, all counsel present, the defendants absent.)

3 THE COURT: Before we resume with the trial matters,
4 I want to make an order with respect to Mr. Karaman's
5 failure to appear on time this morning.

6 MR. KARAMAN: Your Honor, I wonder if I might have an
7 attorney represent me in this matter?

8 THE COURT: On your tardiness?

9 MR. KARAMAN: Your Honor enunciated it as a
10 contempt, your Honor, and I would like to have a hearing
11 on it.

12 THE COURT: Well, I had the hearing. You didn't
13 mention anything about an attorney then.

14 I simply wanted to enunciate a formal order on
15 it now.

16 MR. KARAMAN: Your Honor, I wonder if I couldn't
17 have representation in that regard, your Honor.

18 THE COURT: Do you want to add something to what
19 you have already said?

20 MR. KARAMAN: Pardon?

21 THE COURT: Do you want to add something to what you
22 have already said?

23 MR. KARAMAN: I would like to take evidence.

24 THE COURT: Evidence on what?

25 MR. KARAMAN: As to actually the extent of my late-
26 ness.

1 Mr. Shinn's watch, your Honor, is two minutes --
2 his watch shows that the clock in here is two minutes
3 faster than his watch. Your Honor believes that I was
4 seven minutes late, and I think that it was three minutes.
5 His watch would indicate that it is about -- I mean, if we
6 take that differential, that it could be five minutes. And
7 it might even be --

8 THE COURT: You do concede you were late?

9 MR. KANAREK: Yes, I concede that, your Honor.
10 I concede that I was here after 9:00 o'clock. I certainly
11 do concede that.

12 THE COURT: It is immaterial whether it was seven
13 minutes or five minutes or six and a quarter minutes, or
14 whatever.

15 MR. KANAREK: Since this is a criminal --

16 THE COURT: However, my watch appears to be in
17 exact synchronization with this clock in here.

18 At 9:00 o'clock you were not present and the clerk
19 called me at seven minutes after 9:00 when you came in.

20 MR. KANAREK: Yes, your Honor, but I believe an
21 order of this type does require -- I mean, the contempt
22 does require a certain amount of intent and willfulness,
23 and it would seem that the surrounding circumstances --

24 THE COURT: That is why I gave you the opportunity to
25 explain, Mr. Kanarek, and you told me that you couldn't
26 find a parking place.

1 MR. KAMAREK: Your Honor, what I mean is, you know,
2 anyone who is his own lawyer has a -- well, I won't say it.

3 THE COURT: What is it that you want, Mr. Kamarek?

4 MR. KAMAREK: Well, what I would like to have is
5 counsel, your Honor, in this regard. I know that I am not
6 in contempt if by contempt we mean willfulness.

7 I don't believe, deep down in my heart, that I
8 am in contempt of the court because the surrounding circum-
9 stances, the frustration of going from parking lot to
10 parking lot trying to get a place to park and seeing the
11 "full" signs, I think that part of it would go into the
12 trier of fact determining whether or not I am in contempt,
13 and I think that having representation might convince the
14 court that, in fact, I am not in contempt because of the,
15 as I say, utter frustration.

16 You don't exactly know, your Honor, when those
17 parking lots are going to fill up.

6a-1

1 THE COURT: Are you now arguing the merits?

2 MR. KANAREK: No, your Honor. I am just giving
3 the Court a reason --

4 THE COURT: Do you have any authority that you are
5 entitled to an attorney for a civil contempt?

6 MR. KANAREK: I believe the Sixth Amendment states
7 that I am.

8 First of all, it is a criminal charge,

9 THE COURT: No, it is not a criminal charge, it
10 is a civil contempt.

11 MR. KANAREK: Isn't it deemed in any situation
12 wherein one can find himself in custody in the County
13 Jail -- it would seem like that has criminal overtones,
14 your Honor. I think I read where it is a quasi-criminal
15 proceedings, and there are penalties attendant to it,
16 and I believe that you are entitled to an attorney.

17 THE COURT: Do you have an attorney in mind,
18 Mr. Kanarek?

19 MR. KANAREK: Yes, your Honor.

20 THE COURT: Who is that?

21 MR. KANAREK: Mr. Fitzgerald.

22 THE COURT: Does he agree to represent you?

23 MR. FITZGERALD: I will represent him.

24 THE COURT: All right. Let's proceed.

25 MR. KANAREK: Very well.

26 I would like to prepare him, perhaps, for

6a-2

1 it, your Honor, if I might.

2 MR. FITZGERALD: Could we put it over until maybe
3 early this afternoon?

4 THE COURT: All right, we will put it over until
5 1:45 this afternoon.

6 MR. FITZGERALD: That is agreeable.

7 MR. KANARER: Thank you very much, your Honor.

8 THE COURT: We can bring in the defendants now,
9 and Mr. Parrish, who is No. 2.

10 (Whereupon the defendants enter chambers
11 and there is now present all counsel and defendants.)

12 (Whereupon Michael E. Parrish enters the
13 chambers.)

14
15 VOIR DIRE EXAMINATION OF MICHAEL E. PARRISH
16 BY THE COURT:

17 Q I have asked you to come back in, Mr.
18 Parrish, because we wanted to ask you some additional
19 questions with regard to what you may have learned about
20 the case over the months from having read, heard or seen
21 something.

22 A Yes, sir.

23 THE COURT: Do you wish to go ahead and examine,
24 Mr. Fitzgerald?

25 MR. FITZGERALD: No, your Honor.

26 I have no objection to your Honor examining.

1 THE COURT: Mr. Reiner?

2 MR. REINER: Yes, your Honor.

3
4 VOIE DIRE EXAMINATION OF MR. FARRISH

5 BY MR. REINER:

6 Q Mr. Parrish, I am directing your attention
7 now back to that time in December when this case broke
8 in the newspapers; that is, when certain arrests were
9 made in connection with this case.

10 Do you recall hearing, reading about it,
11 seeing reports of it on the newscasts, sir?

12 A Yes, I do.

13 Q And at that time do you recall it was Charles
14 Manson that was arrested and certain other female defendants?

15 A Yes.

16 Q And do you recall this matter went before the
17 Grand Jury and they returned indictments against Mr. Manson
18 and other defendants?

19 A I didn't hear that part, no.

20 Q Do you read the Los Angeles Times?

21 A Occasionally, yes. Not that in depth.

22 Q Do you read the Sunday Los Angeles Times?

23 A I used to get it every Sunday. What I
24 would read would be the Sunday section, maybe the comics
25 or the magazines, and maybe if on the front section something
26 caught my eye I would read about it, but I would never dig

1 into the newspaper.

2 Q Whether you read this in the Times or
3 from any other source, Mr. Parrish, do you recall hearing
4 about or reading a story which was something in the
5 nature of an interview with some person who allegedly
6 participated in these killings?

7 A No, I don't think so.

8 MR. REIKER: No further questions.

9 THE COURT: Mr. Shinn?

10 MR. SHINN: I have nothing, your Honor.

11 THE COURT: Mr. Kanarek?

12 MR. KANAREK: No questions.

13 THE COURT: Mr. Stovitz?

14 MR. STOVITZ: Yes, sir.

15
16 VOIR DIRE EXAMINATION OF MR. PARRISH
17 BY MR. STOVITZ:

18 Q Mr. Parrish, I would like you to divide
19 in your mind three separate time periods; one time period
20 being August, another time period being the winter months,
21 December, January and February; and another time period
22 being the summer of 1976, the time that the trial started.

23 A Yes.

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1 Q Just before the trial started, Mr. Farrieh,
2 did you read anything about the forthcoming trial in the
3 newspapers or hear about it on television?

4 A I didn't read anything about it, but when I
5 was in there the first time being asked the questions
6 about had I ever read anything about it, I told you no,
7 but then thinking about it later on, I have glanced through
8 a magazine, the confession, you know, the picture of
9 Mr. Manson's face on the cover.

10 I forget the name of the magazine. I didn't
11 buy the magazine. I was buying a magazine to read, you
12 knew, while I sat here in court. I glanced through the
13 pictures in it, you know, when I saw it.

14 Q That would be Life magazine?

15 A No. It is a paperback, the girl's confession,
16 you know. They made a paperback out of it.

17 Q In other words, a story about how the actual
18 killings occurred?

19 A Yes.

20 Q By one of the participants?

21 A Yes.

22 Q And how much of that book did you read?

23 A Well, I looked at the pictures, you know. I
24 glanced at the photographs, you know, and they showed an
25 aerial photograph of the house, and inside the house, the
26 picture of a couch and a big red spot or dark spot on the

floor.

Q Do you remember when you read that?

A Yes. It was just maybe my first or second day of jury duty.

Q From whom did you receive that book?

A I was in a store, Disco, on Sepulveda and Jefferson, there is a big discount store there, and I was in there with my wife shopping, and I just was glancing at the magazines, you know, to read while I was sitting in the waiting room, or whatever.

Q Had you ever seen that book before that time?

A No.

Q Did you read any of the details whatsoever in that book?

A If I did I don't remember what they were because it was just glancing, you know.

Q From what you did gain from glancing through the book, would you kindly tell the Court, in your own words, Mr. Parrish, what impressions formed in your mind?

A Well, I really couldn't say I had any kind of impressions. I just, you know, in fact, I didn't even read the subtitles under the pictures sometimes, you know.

The only two pictures that I do remember was that there was an aerial view looking down on the property where it happened, and there was one picture inside the

1 living room, just the couch sitting there, and then the
2 dark spot on the floor.

3 But I didn't read, you know, anything in depth
4 in it.

5 Q Do you believe from your glancing through the
6 book that this book was fiction or non-fiction?

7 A Non-fiction, I guess, because it was from one of
8 the persons who were, you know, allegedly in on it, who
9 confessed.

10 Q Do you remember which person?

11 A Linda Karamian, I think. Then again, I may be
12 wrong there, you see, because I didn't read the title of
13 the book. I couldn't tell you the name of the book. I
14 just remember seeing Mr. Kanson's picture, you know, from
15 his nose to his forehead.

16 Q Was this book called Five To Die or How Sharon
17 Tate Was Killed or The Killing of Sharon Tate?

18 A It might have been The Killing of Sharon Tate.
19 It had a red cover on the paperback book.

20 Q Do you remember what the price of the book was?

21 A I think it was a dollar and a quarter.

22 Q And how much was it at the discount store?

23 A I don't know. It was too expensive for me so
24 I just left it.

25 I got a science fiction book instead.

26 MR. STOVITT: No further questions.

1 VOIR DIRE EXAMINATION OF MR. FARRISH
2 BY THE COURT:

3 Q You used the term "confession" several times,
4 Mr. Farrish. Why did you use that term?

5 A Well, that is what I got out of the book.
6 That is why I figured the book was there, you know.

7 I had heard something about this book although
8 I had never seen it, you know, that they did make a book.

9 Q Was there something you read in the book that
10 said it was a confession, or what?

11 A No. No. I didn't read it in the book that it
12 said that, but I had heard about the book, that some girl
13 did do it and that they didn't want the book released
14 because it would be prejudging the case and giving every-
15 body the facts before they actually came out in court.

16 I didn't buy the book.

17 THE COURT: Thank you very much, Mr. Farrish. You
18 may go back into the courtroom.

19 (Whereupon, Mr. Farrish leaves the chambers.)

20 MR. FITZGERALD: We will challenge this juror for
21 cause, actual bias.

22 MR. REINER: Join.

23 MR. SHINN: Join.

24 MR. FAWCETT: Join.

25 MR. BULLOCK: The People will join.

26 THE COURT: The challenge will be allowed.

Mr. Farrish will be excused.

1 MR. KENNEDY: I don't know if the record revealed it,
2 your Honor, but I believe as to the previous prospective
3 juror, Mrs. McHennie, your Honor, I believe, I don't know
4 if it is annunciated in the record, but we do challenge her
5 for cause.

7-1

1 MR. STOVITZ: Does your Honor approve the way of
2 differentiating three different time spans? I think that
3 would be better than calling attention to any particular
4 magazine or article.

5 THE COURT: Well, as long as we don't suggest
6 something they don't already know.

7 MR. STOVITZ: I didn't have any way of knowing what
8 he would say, but I just thought the different time
9 spans was a good way to approach it.

10 MR. FITZGERALD: I analyzed very carefully the
11 publicity in the case in preparing my brief to the
12 California Supreme Court, and the publicity in this case
13 falls into three distinct categories and areas.

14 There is the publicity that attended the
15 killings themselves. That occurred on August the 8th.

16 That publicity continued until approximately
17 the end of August.

18 During the month of September there was
19 little publicity.

20 During the month of October there was
21 little publicity.

22 During the month of November there was some
23 publicity that was speculative in nature, speculating as
24 to the motive, speculating as to the manner and method
25 of perpetration.

26 Then on December 1, 1969, when the Chief

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1 of Police of Los Angeles conducted a news conference and
2 publicly announced that the arrests of the defendants and
3 during the month of December there was a tremendous amount
4 of publicity in connection with the defendants, their
5 backgrounds, their histories, and so on.

6 On December 14th, the Los Angeles Times
7 published a story entitled "The Killing of Sharon Tate."

8 The publicity in connection with the
9 defendants themselves, their backgrounds and history
10 abated in approximately mid-January, or so.

11 Then the publicity entered the third stage
12 which was publicity in connection with the court proceed-
13 ings themselves.

14 Mr. Stovitz's statement about areas is
15 approximately accurate as far as I am concerned anyway.

16 THE COURT: All right.

17 Well, in answer to your question, I see
18 nothing wrong with dividing it up. My only concern is
19 that we don't indoctrinate them with something they
20 don't already know.

21 I want to elicit what they do know. I
22 don't want to suggest something they don't know.

23 MR. KANAREK: Your Honor, in connection with our
24 position as to the publicity, I have here what is called
25 a news release dated June 25, 1970, its heading states
26 "News Release, Office of the District Attorney, 600 Hall

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of Justice, Los Angeles, California, 90012.

"For further information call colon:
Jerry Littman, News Secretary, 626-3888,
Extension 8-2396.

"Released Thursday, June 25, 1970."

The next note is important:

"Note to editors: This is the 28th in
a series of summaries on the Tate-La Bianca case
prepared by the Office of Los Angeles County
District Attorney, Evelle J. Younger, as a special
service to the media.

"Summary 28, Re Tate-La Bianca."

Now, I don't know if we have to resort to a
subpoena duces tecum or not, but I believe this is an
opportune time in view of Mr. Fitzgerald's comments, and also
to bring this to your Honor's attention, we would -- I don't
know if we can incorporate it by reference, really there is
no record before the Court as to the other 27, it is true,
but in the interests of expediting it, expediting this
matter, I wonder if we could through the Court ask the
District Attorney's Office to furnish your Honor with the
previous 27 releases so that we don't have to go through
the subpoena duces tecum process.

MR. STOVITZ: I would be glad to furnish you, Mr.
Kamarch, or any defense counsel, copies of the first 27,
and I will furnish to you each week the new editions and

1 supplements as they come out.

2 MR. KANAREK: I believe your Honor has made an order
3 that we are not to speak inter se.

4 That is why I am doing it through the Court.

5 THE COURT: All right.

6 Well, Mr. Stovitz has exceeded your request
7 and agreed to furnish you what you ask.

8 MR. KANAREK: Your Honor, would he then furnish the
9 Court, so there will be a permanent record in this case,
10 a copy to the Court, as well as to me.

11 May I ask that through the Court?

12 THE COURT: Why don't we leave it this way, Mr.
13 Kanarek:

14 If you deem that there is something in there
15 that the Court should see, I will be happy to inspect it.

16 But I am not anxious to go out of my way to
17 read anything more than I have to in this case. There is
18 a mountain of material that I have to read.

7a file. 19 MR. KANAREK: I understand, your Honor.

20

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24

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1 MR. STOVITZ: Will Friday morning be sufficient,
2 Mr. Kanarek? Will Friday morning be satisfactory,
3 Mr. Kanarek? I will furnish you, I think, a manila
4 folder of all of the copies.

5 MR. KANAREK: Your Honor, again I am trying to follow
6 the Court's orders. The Court has made the order we are
7 not to speak inter se.

8 THE COURT: All right, he agreed to. I suggest you
9 take this up outside of the court, and work out a time
10 schedule between yourselves.

11 MR. KANAREK: Yes, your Honor.

12 Now, may I ask this, your Honor, may I ask
13 the Court, would your Honor deem it to be a violation of
14 the gag order for us, for the defense attorneys to prepare,
15 and especially on behalf of Mr. Hanson, I would ask, may
16 we prepare a news release to be given to the media every
17 week?

18 I gather this is weekly. I suppose another
19 one came out. They have a full-time pressman, Mr. Jerry
20 Littman. I don't know that we can afford that.

21 THE COURT: I'm not going to make any advisory
22 opinions about what may or may not be a violation of the
23 publicity order.

24 Let's proceed, gentlemen.

25 MR. SHIMM: Yes, your Honor, did Mr. Stovitz say to
26 was going to furnish all defense counsel?

1 MR. STOVITZ: I will furnish one defense counsel with
2 a complete set. If there is anything in there you want
3 extra copies of, we will try to get you extra copies.

4 MR. SHINN: Thank you.

5 THE COURT: Let's bring in the next prospective
6 juror.

7 (Prospective juror enters the chambers.)

8 THE COURT: Good morning.

9 THE CLERK: The prospective juror's name is Mrs.
10 Shirley B. Evans. E-h-i-r-l-e-y, E-v-a-n-s.

11
12 VOIR DIRE EXAMINATION OF MRS. SHIRLEY B. EVANS
13 BY THE COURT:

14 Q Mrs. Evans, we asked you to come into chambers
15 so the Court and counsel could ask you various questions
16 out of the presence of the other prospective jurors with
17 regard to several different matters.

18 First, if you were selected as a juror in this
19 case would you be able to serve?

20 A I believe so.

21 Q You heard the questions I put to the other
22 jurors yesterday regarding the death penalty?

23 A Yes, sir.

24 Q Have you had a chance to think about those
25 questions and your answers to them?

26 A I believe they would be the same.

1 Q I am going to ask you specifically, but I
2 just wanted to know if you had given some thought to that.

3 A Yes.

4 Q The first question is this:

5 Do you entertain such conscientious opinions
6 regarding the death penalty that you would be unable to
7 make an impartial decision as to any defendant's guilt
8 regardless of the evidence in the case?

9 A No.

10 Q Do you entertain such conscientious opinions
11 regarding the death penalty that you would automatically
12 refuse to impose it without regard to the evidence?

13 A No.

14 Q Now, the next subject that I want to take up
15 with you is what, if anything, you may have learned about
16 this case before you came into court or since you came into
17 court, as far as that goes, from anything read, seen, or
18 heard by you outside of court.

19 A I read very little about it and I heard very
20 little about it.

21 Q Have you been in the Los Angeles area con-
22 tinuously since last August?

23 A Yes, yes.

24 Q Do you subscribe to any newspaper?

25 A The Times, but I am not an avid newspaper
26 reader.

- 1 Q Would you keep your voice up.
- 2 A I'm sorry.
- 3 Q Everyone has to hear you.
- 4 A I'm sorry. I am not an avid newspaper reader,
- 5 so I just did not follow it closely at all.
- 6 Q Do you watch television?
- 7 A Not too much.
- 8 Q Do you watch television news reports?
- 9 A Occasionally.
- 10 Q Do you listen to the radio?
- 11 A No.
- 12 Q Did you first learn about this case back about
- 13 the time of the killings, that the killings were dis-
- 14 covered?
- 15 A Yes.
- 16 Q And have you made any conscious effort to
- 17 follow it?
- 18 A No.
- 19 Q In the news reports?
- 20 A No.
- 21 Q Do you remember reading about the arrest of
- 22 the defendants?
- 23 A I honestly don't.
- 24 Q Do you remember when it was that you first
- 25 learned that the defendants had been arrested and charged
- 26 with these offenses?

1 A Well, I am sure I saw the headlines in the
2 paper but I could not tell you when it was.

3 Q Have you ever read any description of these
4 offenses, these killings?

5 A Not in any detail.

6 Q Well, do you remember what detail you might
7 have -- what things you might have read or heard about
8 it?

9 A Only that it was bad, pretty bad.

10 Q Was this a description of the actual killings?

11 A I have read so little of it that I am hazy about
12 it all.

13 Q Well, was this something that someone was
14 relating as having seen?

15 A No, I just have a feeling of reading or
16 perhaps hearing other people discuss it, that it was pretty
17 bad -- bodies, or whatever.

18 Q They were discussing the actual killings
19 themselves?

20 A Yes.

21 Q Have you read or heard anything about the
22 defendants or any of them?

23 A Not really.

24 Q Did you know the names of any of the defendants
25 before you came into this case?

26 A I knew the name of Mr. Manson and Miss -- is it

1 Atkins?

2 Q One of the defendants is Susan Atkins.

3 A Atkins, that was it. I remember those names.

4 Q Do you recall in what context you remember the
5 name of Susan Atkins?

6 A Well, if she is the one who had a baby -- as
7 I confusing the issue entirely?

8 Q You tell me what you remember.

9 A This is what I remember, that she was to have
10 a baby.

11 Q Is that all you can remember about her?

12 A Yes.

13 Q Do you remember anything about any of the
14 other defendants?

15 A No, sir.

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1 Q Have you formed any opinions about the case
2 or about any of the defendants, as far as guilt or
3 innocence is concerned?

4 A I really haven't because I did not follow
5 the newspapers, not that that would be any guidelines to
6 go by.

7 MR. REINER: I'm sorry, your Honor, I did not hear
8 all of the last answer.

9 May it be read back?

10 THE COURT: All right. Read the last answer,
11 please.

12 (Whereupon the reporter reads the last
13 answer as follows:

14 "A I really haven't because I did
15 not follow the newspapers, not ^{that} that/would be any
16 guidelines to go by.")

17 MR. REINER: Thank you.

18 BY THE COURT:

19 Q Would you say at this time that you are
20 entirely neutral on the question of guilt or innocence?

21 A I believe I am.

22 Q If you were on trial for a criminal offense,
23 would you be willing to have someone on your jury with
24 the same frame of mind that you have now?

25 A I have never thought about it. I think I
26 would want someone on my jury who thought I was innocent.

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1 Q Well, if you couldn't have that, would you be
2 willing to have someone with the frame of mind that you are
3 in?

4 A You mean with no prejudice?

5 Q That's right, someone who is entirely neutral?

6 A More or less neutral.

7 Q Not more or less neutral, but neutral.

8 A Of course we are bound to be neutral when
9 we come into this.

10 It is rather hard to do, I imagine.

11 Q Do you find it hard to do?

12 A No, because I have not really had any opinions
13 one way or the other.

14 Q Would you be willing to give each of these
15 defendants the benefit of the presumption of innocence?

16 A Yes, sir.

17 Q Would you be willing to acquit them if the
18 People were unable to prove they are guilty beyond a
19 reasonable doubt?

20 A Yes, sir.

21 Q In other words, you have no mental reservations
22 about that at all?

23 A No, sir.

24 THE COURT: Mr. Fitzgerald?

25 MR. FITZGERALD: Yes, your Honor.
26

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VOIR DIRE EXAMINATION

2 BY MR. FITZGERALD:

3 Q You said, ma'am, that "we are bound to be
4 neutral."5 Were you indicating that there is some legal
6 obligation for you to be neutral?7 A I have understood that when you come in to
8 serve as a juror you are bound by your own conscience,
9 if nothing else, to go by the evidence alone.10 Q Now, simply because a court ordered you to do
11 something, now, doesn't mean that somebody will necessarily
12 do what they are ordered to, right?

13 A Right.

14 Q And if the Court should order something out
15 of your mind, you would not necessarily -- it would not
16 necessarily leave your mind?

17 A No, sometimes it is impossible to do that.

18 Q And you also said that it would be rather
19 hard to do, and I think you were referring to being neutral,
20 is that correct?

21 A Yes.

22 THE COURT: You have to answer audibly.

23 MRS. EVANS: Yes.

24 BY MR. FITZGERALD:

25 Q Did you mean when you said it would be rather
26 hard to do, it is hard for anyone to be neutral? Is it

1 hard for you to be neutral?

2 A When you hear all of the evidence, I
3 probably did not say that or state that correctly when
4 I answered his Honor.

5 But anyone coming -- I mean this is simply
6 my feeling.

7 Q That is what we are interested in.

8 A Good. When you come in, you don't know what
9 you are getting into and you begin trembling and wondering
10 what kind of questions are they going to ask, and what
11 will your answers be, and then you start thinking overnight,
12 and for a few days, can you remain neutral, hearing
13 and seeing the different people involved in this court
14 action.

15 I would imagine it would be hard for some
16 people to be neutral.

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1 Q What about you?

2 A I'm right in the middle.

3 Q You said you had read or heard or seen --

4 THE COURT: Excuse me a minute, Mr. Fitzgerald.
5 I think your answer is a little ambiguous, Mrs. Evans.

6 What do you mean you are right in the
7 middle?

8 MRS. EVANS: I have no feeling one way or the other.

9 THE COURT: Does that mean you feel you are impartial
10 at this moment?

11 MRS. EVANS: I feel at this time I am.

12 THE COURT: That you can remain so until all of
13 the evidence is in.

14 MRS. EVANS: I will certainly try to.

15 THE COURT: Do you have any question about your
16 ability to do so?

17 MRS. EVANS: No, sir.

18 THE COURT: Go ahead, Mr. Fitzgerald.

19 MR. FITZGERALD: Thank you.

20
21 VOIR DIRE EXAMINATION OF MRS. EVANS (Resumed)

22 BY MR. FITZGERALD:

23 Q You had heard, read or seen something about
24 Charles Manson, is that right?

25 A Yes.

26 Q Would you tell us as best you can what you

1 have heard, read or seen about him?

2 A I understand that he was the leader of a
3 cult or a group of young people, that is about the extent
4 of it.

5 Q If you know, how is the so called cult
6 related to any of the deaths in this case?

7 A I don't know.

8 Q Do you know anything else as a result of
9 your exposure to the media about Charles Manson?

10 A No, sir.

11 Q Or any of the other girls in the case?

12 A No, sir.

13 Q You had heard about Linda Kasabian having
14 a baby, is that right?

15 A Well, I heard the name in the courtroom.

16 Q But you heard, read or saw something about
17 one of the females connected with this case having a
18 child?

19 A Yes.

20 MR. FITZGERALD: I have nothing further.

21 THE COURT: Mr. Reiner?

22 MR. REINER: I have no questions.

23 THE COURT: Mr. Shinn?

24 MR. SHINN: I have no questions, your Honor.

25 THE COURT: Mr. Kanaren?

26 MR. KANAREN: No questions, your Honor.

1 THE COURT: Mr. Stovitz?

2 MR. STOVITZ: Yes, your Honor.

3
4 VOIR DIRE EXAMINATION OF MRS. EVANS

5 BY MR. STOVITZ:

6 Q Are you married, ma'am?

7 A Yes, sir.

8 Q What is your occupation?

9 A I am secretary with the Los Angeles City
10 School System.

11 Q Do you have any children?

12 A One boy, 22.

13 Q And does he live at home?

14 A No, sir, he goes to the University of
15 California, Riverside.

16 Q Now, do you take any magazines like Life
17 magazine, Time magazine?

18 A No.

19 Q Have you ever heard of any publication known
20 as the Rolling Stone?

21 A I don't believe so.

22 Q So far you understand that you know of no
23 evidence in this case, do you understand that?

24 A Right.

25 Q And as far as you know there are no other
26 defendants on trial, and for the charges the Court has

1 outlined, is that right?

2 A Yes, sir.

3 Q Now, if the Court were to tell you to make
4 a promise, take an oath, that you will decide this case
5 solely on the evidence that you hear and nothing else,
6 could you keep that promise?

7 A Yes, sir, I could.

8 Q Mrs. Evans, no one knows your own mind better
9 than you do, because you lived with yourself longer than
10 anyone else, right?

11 A Yes.

12 Q Now, do you think that you could apply to
13 that promise the same degree of loyalty that you would
14 abide by any other sacred promise you had in your lifetime?

15 A Yes, sir.

16 Q Suppose the Court were not to sequester you;
17 if the Court were to ask you to promise not to read about
18 this case or watch television during this period of time,
19 not to read newspaper articles, could you keep that
20 promise as well?

21 A Yes, I could.

22 Q And suppose during the course of the trial
23 you were to hear evidence, let's say the name, Terry
24 Helcher, came up, and that struck some kind of a responsive
25 chord in your memory, and you say "Listen, I read something
26 about Terry Helcher in connection with that."

1 Do you think you could stop your mind from
2 going back to try to remember what you did read, and
3 concentrate on the evidence in this case?

4 A Yes, sir, I could.

5 Q Do you think you could discipline yourself
6 that way?

7 A Yes, sir.

8 MR. STOVITZ: I have no further questions.

9 THE COURT: All right, will you refrain, Mrs. Evans,
10 from discussing with anyone including your husband and
11 your son --

12 MRS. EVANS: He doesn't know a thing.

13 THE COURT: -- and any of the prospective jurors
14 what has been said here in chambers?

15 MRS. EVANS: Yes, sir.

16 THE COURT: All right, thank you, you may go back
17 out.

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1 THE COURT: I am going to ask Mrs. Marjorie Lee,
2 Juror No. 4, to come back in, because I don't believe that
3 she was interrogated.

4 MR. KANARAK: As far as this lady goes --

5 THE COURT: Just a moment, please, Mr. Kanarak.

6 Because I don't think she was interrogated on
7 the subject of exposure to possible confessions.

8 MR. FITZGERALD: Yes, sir.

9 THE COURT: At least I have not been able to find it
10 if she was.

11 Yes, Mr. Kanarak?

12 MR. FITZGERALD: He wish to interpose a challenge for
13 cause against Mrs. Shirley Evans because of her exposure
14 to prejudicial pretrial publicity?

15 MR. KIRK: Join.

16 MR. SHIMM: Join.

17 MR. KANARAK: Join.

18 MR. STOVITE: He will oppose the challenge, your
19 Honor.

20 THE COURT: The challenge will be disallowed.

21 I will ask Mrs. Marjorie Lee to come back in,
22 Juror No. 4.

23 (Mrs. Marjorie Lee enters the chambers of the
24 court.)

25 THE COURT: Good morning, Mrs. Lee.

26 MRS. LEE: Good morning.

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

3 Q We have asked you to come back so that we
4 could ask you some questions I don't believe you were
5 asked when you were here before.

6 Were you in chambers before?

7 A Yes, sir, yesterday, yes.

8 Q Yes. I wanted to ask you whether you had ever
9 learned from any source anything about the details of these
10 alleged crimes, that is, the details of the killings, or
11 the manner or method or anything.

12 Do you recall ever having learned anything
13 about that?

14 A No, I know of nothing of the details. I just
15 know from some source, and I cannot identify the source
16 at the moment, that there was talk of such blood and the
17 ripping open by some means, perhaps in my imagination, or
18 maybe I read it.

19 I have the idea that I read or thought of or
20 connected the story of a knife.

21 I'm not sure.

22 Q Anything else?

23 A No.

Q Do you remember having learned from any source anything about any of the defendants themselves?

A The identities? Is that what you mean?

Q Well, the identities or anything, anything they may have said, anything about their background, anything at all? Do you remember anything?

A Yes.

I can't identify the source but I am acquainted with their life style being different, that is, different from the normal as I know it; but as to their background, no.

Q What do you know about it?

A Just that it is a clannish kind of situation and that they lived together as one happy -- as one family.

Q Did you ever learn anything which would cause you to believe that there was some connection between their life style and the offenses that are charged in this case?

A No. If I understand the question, your Honor, no, I don't think so.

Q Well, let me put it another way.

Did you ever learn anything which would cause you to think that there was some connection between the defendants in this case and the alleged crimes other than the fact that they have been arrested and charged with them?

A No.

1 Q Do you believe that at this moment you are
2 entirely impartial on the question of guilt or innocence
3 of any of the defendants?

4 A I am impartial.

5 Q Would you be able to give each of the defendants
6 the benefit of the presumption of innocence?

7 A Yes.

8 Q And if the People were unable to prove the
9 guilt of any defendant beyond a reasonable doubt, would you
10 vote for an acquittal for that defendant?

11 A Yes.

12 THE COURT: Do you care to ask any questions?

13 MR. FITZGERALD: No, your Honor. Thank you.

14 THE COURT: Mr. Reiner?

15 MR. REINER: Yes, sir.

16
17 VOIR DIRE EXAMINATION OF MRS. LEE

18 BY MR. REINER:

19 Q Mrs. Lee, do you recall reading or hearing
20 about a story or interview of one of the defendants
21 involving the details of how the crimes occurred?

22 A No, I do not.

23 Q Do you recall one of the defendants testifying
24 before the Grand Jury?

25 A I am sure I heard talk of that. I am sure I
26 did, but I can't identify the defendant at the moment.

1 Q This would be back at the time that the matter
2 first came out in the papers about the arrests in this
3 particular case. Do you recall one of the defendants --
4 without for the moment who it was -- one of the defendants
5 testifying before the Grand Jury?

6 A I am sure. I do have some vague recollection
7 of that.

8 Q And in this respect, do you recall this
9 particular defendant purporting to relate the details of
10 how the crime occurred?

11 A No, I don't remember the details. As much as
12 I remember is the fact that one of the defendants testified
13 before the Grand Jury and that she was female. That is as
14 much as I recall.

15 Q Well, without reference to the details of her
16 testimony before the Grand Jury, Mrs. Lee, do you recall or
17 do you have in your own mind, in any event, the sum and
18 substance of the testimony of this particular female
19 defendant?

20 A No.

21 Q Do you have any recollection with respect to
22 whether she testified before the Grand Jury in a manner to
23 implicate other possible defendants?

24 A I don't remember.

25 MR. REIMER: Thank you. I have no further questions.
26

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

3 Q Do you have any recollection of reading or
4 hearing anything about any statement that any defendant
5 made at any time, Mrs. Lam?

6 A I truly can't recall any, your Honor.

7 Q Do you have any belief or feeling as a result
8 of anything you have learned at any time in the past that
9 one or more of the defendants may be more likely to be
10 guilty than innocent? I am talking now because of anything
11 that you may have learned about the case or the defendants
12 in the past.

13 A No. Because I have no facts, naturally.

14 Q Well, they may not necessarily be facts, they
15 may not be facts at all, they may be untruths.

16 A Well, that is the wrong word. I really
17 haven't heard enough of the circumstances to form an
18 opinion.

THE COURT: Anything further, Mr. Shinn?

MR. SHINN: No questions.

THE COURT: Mr. Karsak?

MR. KARSAK: No questions, your Honor.

THE COURT: Anyone else?

MR. STOVITZ: Yes, sir.

YOUR DIRECT EXAMINATION

BY MR. STOVITZ:

Q Did you find out about your personal condition as far as serving for this labor organization? It is going to be a real hardship?

A Chaotic.

Q What is that?

A Chaotic.

Q It is going to create an absurd condition out there if you aren't allowed to attend to your duties, is that right, Mrs. Leaf?

A Yes, that's right.

Q Have you ever heard of a magazine known as the Selling Stone?

A No, I haven't.

Q Have you ever heard of a book being written either by one of the persons involved in the case or by somebody else that pretended to quote one of the people involved in the case?

1 A No.

2 Excuse me. Did you say the name of the
3 magazine was The Rolling Stones?

4 Q Yes.

5 A A magazine? Is this not a rock group?

6 Q It may be a rock group also.

7 A I don't know, but I have heard the name Rolling
8 Stones before.

9 I have two boys, 14 and 12, and they play
10 guitars. I know the name. It seems to me that there is a
11 group called that, the Rolling Stones.

12 I have not seen the magazine.

13 Q I think you are right.

14 I wanted to know if you had seen the magazine
15 itself.

16 A No.

17 Q It is supposed to cater to the musical crowd.

18 A No.

19 Q Now, in connection with what you have read and
20 what you have seen, Mrs. Lee, do you know that this is not
21 evidence? Do you know that?

22 A Yes, I know that.

23 Q If you were selected as a juror, Mrs. Lee,
24 could you concentrate solely on the evidence and disregard
25 everything that you might have seen or heard about this
26 case from whatever source?

1 A Yes.

2 Q Do you recall a TV interview that happened
3 right about in August of 1969 in which Johnny Carson inter-
4 viewed Truman Capote?

5 A No.

6 Q Do you know who Truman Capote is?

7 A Yes. He is a writer.

8 Q Have you ever read any of his books?

9 A Yes, I am sure I have.

10 MR. STOVIER: All right. I have no further questions.
11 Thank you.

12 THE COURT: Thank you, Mrs. Lee. You may go back
13 into the courtroom.

14 Again, I will ask you to refrain from
15 discussing with anyone anything that has occurred here in
16 chambers.

17 MRS. LEE: All right.

18 MR. REINER: Your Honor, may I inquire into the name
19 of the organization which Mrs. Lee is the president of?

20 MRS. LEE: The American Federation of Government
21 Employees.

22 MR. REINER: Thank you very much.

23 MRS. LEE: You are welcome.

24 (Whereupon, Mrs. Lee leaves the chambers.)

25 MR. BULLIOSI: Is that the last one, your Honor?

26 THE COURT: No, no. There are four more.

1 MR. MUXLIOSI: There is a point that I wanted to
2 bring up about a question asked. I can bring it up now.
3 It is as to the propriety of the prosecution's case.
4 I would like to discuss it with the Court.

5 It doesn't have to be brought up at this time,
6 Your Honor.

7 THE COURT: All right.

8 Does anybody have anything with respect to
9 Mrs. Lee before we proceed with someone else?

10 Very well. Then the next one will be
11 Mr. Sisto, No. 6.

12 (Whereupon, Mr. Sisto enters the chambers.)

13 THE COURT: Good morning, Mr. Sisto. How are you?

14 MR. SISTO: Fine, thank you.

15
16 VOIR DIRE EXAMINATION OF MR. SISTO

17 BY THE COURT:

18 Q Mr. Sisto, we have asked you to come back into
19 chambers to ask you some additional questions which I
20 think may not have been asked during the first round of
21 questioning.

22 Did you come into chambers before?

23 A No. This is the first time.

24 Q That is what I thought.

25 All right. I wanted to ask you some questions,
26 and counsel will also, regarding what you may have learned

1 about this case over the months through various sources,
2 newspapers, TV, radio, or whatever.

3 A Yes.

4 Q Have you been physically present in Los Angeles
5 County continuously since last August?

6 A Yes.

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1 Q Do you read any newspaper on a regular
2 basis, Mr. Sisto?

3 A No, not regularly.

4 Q Do you subscribe to any newspapers?

5 A No papers.

6 Q Do you watch TV on a regular basis?

7 A Yes, quite a bit.

8 Q TV news reports?

9 A Not necessarily.

10 Q What about radio, Mr. Sisto? Do you listen
11 to the radio?

12 A The radio can be on, and possibly news.
13 Usually KPOL. We get music mostly.

14 Q Do you recall when you first learned about
15 this case, that is, about the killings that are the
16 subject of the case?

17 A Yes. That was last year, whenever it was.
18 I couldn't really tell you.

19 Q Was it close to the time when it happened?

20 A Yes, uh-huh.

21 Q Was that something that you read in the
22 newspaper?

23 A I think discussion, and possibly over the
24 radio.

25 Q Do you recall learning anything about
26 these defendants at or about the time they were arrested?

Cb-2

1 A Yes, I think so.

2 The way it came about, that they had
3 contacted the alleged, or something to that effect.

4 MR. REINER: May the question and answer be read
5 back?

6 THE COURT: Very well.

7 (Whereupon the reporter read the question
8 and the answer.)

9 MR. REINER: I didn't mean to get too legal.

10 THE COURT: Q I am not sure that I understand
11 what you meant by that answer.

12 Who contacted whom about what?

13 A No. I heard this either on the radio or
14 on television, or my wife had read it in the newspaper
15 and said that they had captured the people that they
16 thought were responsible for the crime.

17 Q That they had arrested the defendants?

18 A Yes.

19 Q Now, did you hear anything else about the
20 defendants at that time?

21 A No.

22 I think the only thing, as I stated out
23 front, that I had heard that Mr. Hanson was very
24 intelligent. But as to any other depth, I don't remember
25 of anything.

26 Q Have you, at any time, learned anything about

1 the defendants other than what you have already said,
2 Mr. Sisto?

3 A No, sir.

4 Q Do you know anything about the way they
5 are alleged to have lived; anything about them
6 personally?

7 A No. Just the long hair was one thing.
8 Other than that, I can't say.

9 Q Did you ever learn anything which caused
10 you to believe that there was some connection between
11 these defendants and the alleged offenses other than the
12 fact that they were arrested and charged with the
13 offenses?

14 A No.

15 In fact, it has been very filmy. Just
16 the initial shock, and then that they were captured.
17 That is, in essence, all that I heard of.

18 Q Do you believe, Mr. Sisto, at this time,
19 that you are entirely impartial on the subject of guilt
20 or innocence as to any defendant?

21 A Yes, I honestly do.

22 I have thought this out in the courtroom,
23 thinking of my answers before, that tentatively I had
24 thought them guilty, and I have gone into it where I
25 had a chance, really, and I feel that I am impartial.

26 I have friends with long hair, I have friends

1 that have different ideas, and consequently I feel that I
2 could take their place to some degree in thinking.

3 Q Do you think that you could give to each
4 defendant the benefit of the presumption of innocence?

5 A Yes, sir.

6 Q Do you think that if the People were unable
7 to prove the guilt of any defendant beyond a reasonable
8 doubt that you could vote for an acquittal?

9 A Yes, I could.

10 Q Would you do so, Mr. Sisto, if that were the
11 case?

12 A Yes, I would.

13 Q Do you know of any reason why you could not
14 be a fair and impartial juror?

15 A No, sir, I don't.

16 THE COURT: Mr. Fitzgerald?

17 MR. FITZGERALD: No questions.

18 MR. REINER: No questions.

19 MR. SHINN: No questions.

20 MR. KANAREK: No questions.

21 MR. STOVITZ: No questions, your Honor.

22 THE COURT: All right. Thank you, Mr. Sisto.

23 Will you refrain from discussing with anyone
24 anything that has been said in here in chambers?

25 MR. SISTO: Absolutely.

26 THE COURT: All right. You may return then. Thank

1 you.

2 (Whereupon Mr. Sisto leaves the Court's
3 chambers.)

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5 Be file.

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1 MR. BUGLIOSI: Your Honor, before the next juror is
2 brought in, may I make one statement?

3 I am a little concerned with the Court asking
4 every juror whether if the People are unable to prove the
5 guilt of these defendants, will you acquit the defendants,
6 and leaving it at that.

7 I am not too sure --

8 MR. STOVITZ: The last time the Court said, "prove
9 beyond a reasonable doubt."

10 MR. BUGLIOSI: All right.

11 I am a little concerned because if you leave
12 it at that and don't add "if they do prove the guilt of
13 these defendants beyond a reasonable doubt, would you be
14 willing to convict them," it seems to me that the Court,
15 in a very subtle and very indirect and very unintentional
16 fashion might be conveying to the prospective people that
17 come right off the streets and have no knowledge of the law
18 whatsoever that the Court is probably pro-defense, or
19 something like that.

20 Now, this is not a clear-cut thing, your Honor.

21 THE COURT: Of course, I have no intention to give
22 that impression.

23 MR. BUGLIOSI: I agree with the Court on that.

24 THE COURT: There is the same problem that there is
25 with any question that is asked. There is always another
26 aspect of the question.

1 There is nothing to keep you from asking your
2 own questions if you think that there is any possibility of
3 misunderstanding.

4 MR. BUGLIOSI: Limited to this particular hearing,
5 which is on the pretrial publicity, and I know the Court
6 is not intentionally trying to convey any such thought,
7 I wonder if that particular question by the Court is
8 relevant and whether it has to be asked of every juror as
9 to whether, if the People are unable to prove their case,
10 will you acquit them?

11 THE COURT: It is asked in the context of the question
12 that preceded it.

13 MR. BUGLIOSI: I grant the Court that. I am not
14 quarreling with that.

15 THE COURT: I think it is necessary, MR. Bugliosi,
16 and if you want to ask some questions to follow up on
17 that, if you think there is any ambiguity in the statement,
18 I would be happy to let you ask the question.

19 MR. BUGLIOSI: Because of the immense stature of the
20 Court in the prospective juror's mind, I would prefer if
21 the Court added a question after this question that the
22 Court is now asking, if you would add a question. However,
23 if the People prove their guilt beyond a reasonable doubt,
24 would you be willing to convict?

25 I would rather have those words coming from the
26 Court because of the immense stature of the Court in the

1 jury's mind.

2 It is a very slight psychological point, your
3 Honor, and it is totally unintentional.

4 THE COURT: All right.

5 Of course, you know, they have already been
6 instructed on that. They have been given the complete
7 reasonable doubt instruction.

8 MR. HUGHES: 2 more. But at this point each one
9 is only asked whether they will acquit. That is all they
10 are asked, your Honor.

11 THE COURT: All right.

12 I think we have time for at least one more
13 juror before the noon recess.

14 Mrs. Gussie Willis is the next one, No. 7.

15 MR. DISTER: She was questioned in chambers, your
16 Honor. Mrs. Willis was.

17 THE COURT: Well, I went back and read the transcript
18 and I believe she was questioned all right, but those
19 questions regarding possible exposure to confessions were
20 not asked.

21 MR. THURMAN: Your Honor, I believe there is a
22 challenge for cause to Mr. Dister. I don't think it has
23 been announced yet.

24 THE COURT: Now to the time, if you want to announce
25 it.

26 Why do we always wait until we are about to

1 bring the next one in? We have had five to seven minutes
2 of sitting here. We had a golden opportunity to do it.

3 Why do you wait until we have the next juror
4 talking through the door?

5 Do you want to make a challenge, Mr. Kanarek?

6 MR. KANAREK: Yes.

84-1

1 THE COURT: Then make it.

2 MR. KANAREK: Mr. Fitzgerald is speaking at this
3 time.

4 THE COURT: What does that have to do with anything?

5 MR. KANAREK: Out of courtesy to Mr. Fitzgerald,
6 your Honor. He was speaking to the three female defendants.

7 THE COURT: If you want to make it, make it, Mr.
8 Kanarek.

9 MR. KANAREK: Very well.

10 I do enunciate a challenge for cause to
11 Mr. Sisto.

12 MR. STOVITZ: Oppose the challenge.

13 THE COURT: The challenge will be disallowed.

14 Bring in the next prospective juror, please.

15 (Whereupon, Mrs. Gussie E. Willis enters
16 chambers.)

17 THE COURT: Good morning, Mrs. Willis.

18 MRS. WILLIS: Good morning, your Honor.

19
20 VOIR DIRE EXAMINATION OF MRS. WILLIS

21 BY THE COURT:

22 Q We have asked you to come back into chambers
23 for just a few minutes. You were here once before, weren't
24 you?

25 A No. No.

26 Q Weren't you questioned in chambers before,

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1 Mrs. Willist

2 A No. Not in chambers.

3 Q All right.

4 In any event, the reason for your coming in
5 here is for the limited purpose of asking you some questions
6 with
7 /regard to what you may have learned about this case over the
8 past months from reading about it, watching television
9 or listening to the radio, or from whatever source.

10 Have you been physically present in the County
11 of Los Angeles continuously since last August?

12 A Physically? My body?

13 Q Yes, that is what I mean. Because sometimes
14 when I say "are you a resident of the County," the person
15 may be a resident, a legal resident, and still not be in
16 the County. Do you understand? Like away on vacation.

17 A Los Angeles, yes.

18 Q Do you read any newspaper on a regular basis,
19 Mrs. Willist?

20 A Yes, pretty regular.

21 Q Do you subscribe to a newspaper?

22 A I discontinued it a few months ago. Sort of
23 an austerity program. I don't know, I didn't save much,
24 but I did discontinue it.

25 Q Do you watch the television news reports?

26 A Yes.

Q On a regular basis?

1 A Yes.

2 Q Are there any particular commentators or
3 channels that you watch?

4 A Yes.

5 My grandchildren kid me about it because
6 I am always on 4.

7 Q You like Channel 4?

8 A Yes.

9 Q Do you like anybody in particular on that
10 channel?

11 A No.

12 Q Just the channel?

13 A Yes.

14 Q Do you listen to the radio regularly?

15 A Not too often, no.

16 I have one but I very seldom turn it on,
17 let me put it that way.

18 Q Do you recall when you first learned about
19 the killings that are the subject of this case, Mrs. Willis?

20 A Yes.

21 Q When was that?

22 A Oh, do you want me specifically to tell you
23 the day?

24 Q To the best of your recollection, Mrs. Willis,
25 when was it?

26 A (Pause.)

1 Q At or about the time they were discovered,
2 or was it sometime later, or what?

3 A Well, as soon as it broke in the news, I
4 would say, you know, that evening, or what have you.

5 Q Very shortly after they were discovered?

6 A Oh, yes.

7 Q Now, have you ever learned anything about
8 the defendants as individuals? Do you know anything about
9 any of the defendants individually, their personal
10 lives, or anything about them?

11 A No.

12 Q Do you know anything about the manner of
13 their living or mode of living; anything like that?

14 A No.

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1 Q Could you keep your voice up, please,
2 Mrs. Willis?

3 A I'm sorry.

4 Could I say it just in layman's language?

5 Q Yes, absolutely.

6 A Well, you know how it is. First something
7 comes out and it is sensational, and you read it. Then
8 you are not as interested. Then your interest almost fades
9 out so that you pass that one up entirely.

10 Q I appreciate your telling us that.

11 Now, we are trying to find out just exactly
12 what you were exposed to and what you do remember, what
13 your present mental status is, and so forth. So, I will
14 ask you some more questions.

15 A All right, your Honor.

16 Q Have you ever learned anything, from any
17 source, which would cause you to believe that there is any
18 connection between these defendants and the crimes that
19 are alleged to have occurred other than the fact that
20 they have obviously been arrested and charged with the
21 offenses and brought before the Court for trial, but other
22 than that fact, or those facts, Mrs. Willis, have you ever
23 learned anything that would cause you to believe that
24 there was some connection between the defendant and the
25 crimes alleged?

26 A Outside of the actual murders that we are

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1 taking up out there, do I know of anything? Is that what
2 you are asking?

3 Q Anything.

4 A No.

5 Q We know that certain people have died --

6 A Right.

7 Q -- and we know that certain people have been
8 arrested and charged with the offense.

9 A Right.

10 Q Now, do you know anything else from any source
11 that causes you to believe, aside from those facts, that
12 there is any connection between the defendants and the
13 alleged crimes?

14 A No. Actually, no.

15 Q Do you feel that you are entirely impartial
16 at this moment on the question of the guilt or innocence
17 of any defendant?

18 A I really do. Yes, I really do.
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1 Q Do you believe that you can honestly give to
2 each defendant the benefit of the presumption of
3 innocence?

4 A Yes.

5 Q Now, do you remember the Court instructed you
6 yesterday or whenever it was, the last few days, that the
7 People have the burden of proving the defendant guilty
8 beyond a reasonable doubt?

9 A Yes.

10 Q And that that presumption of innocence lasts.
11 It begins from the beginning of the case and it lasts until
12 such time as that guilt has been proven beyond a reasonable
13 doubt.

14 Do you understand that?

15 A Yes.

16 Q And you are willing to give each defendant
17 the benefit of that rule?

18 A Yes.

19 Q And if the People fail to prove guilt beyond
20 a reasonable doubt will you acquit any defendant as to
21 which there has been a failure of proof?

22 A Beyond a reasonable doubt?

23 Q Yes, ^{if} the people fail to carry the burden of
24 proving a defendant, any defendant, guilty beyond a
25 reasonable doubt, would you acquit that defendant?

26 A You know, I was stuck on that before and I'm

1 still stuck -- isn't that the one I was stuck on?

2 Q I don't know.

3 A I can't get it into my head now.

4 Q All right, you tell me what is bothering you.

5 A In other words, do they have to be proven --
6 the Court has to prove them absolutely not guilty, and then
7 I acquit them?

8 Q No, we will start at the beginning.

9 In every criminal case, regardless of what it
10 is, whether it is a petty theft, a robbery, a burglary, a
11 murder, or whatever, the defendant is presumed to be
12 innocent until such time that the People are able to prove
13 his guilt beyond a reasonable doubt.

14 A Right.

15 Q Now, sometimes they are not able to do that.

16 Do you understand that?

17 A Yes.

18 Q And if they are not able to do it, then it is
19 the duty of the jury to acquit that person.

20 Do you understand that?

21 A Yes.

22 Q The defendant, on the other hand, has no
23 burden. He may sit quietly and say nothing, do nothing,
24 put on no evidence, do absolutely nothing.

25 But if the People fail to prove his guilt
26 beyond a reasonable doubt, he is still entitled to that

1 acquittal.

2 Do you understand that?

3 A Yes, I do.

4 Q Are you willing to follow those instructions?

5 A Yes, yes, I understand that now.

6 Q Now, the converse of the coin is if the People
7 are able to prove the guilt of a defendant beyond a
8 reasonable doubt, are you willing to convict?

9 A Yes.

10 Q In other words, are you willing to vote a
11 verdict of guilty?

12 A Yes.

13 Q If the People are able to prove that guilt
14 beyond a reasonable doubt,

15 A Yes -- then am I able to convict? Yes, I am.

16 Q And would you?

17 A Yes.

18 Q Would you follow all of the instructions I
19 explained to you?

20 A Yes, I have got it now.

21 Q All right now, do you have any mental reser-
22 vation about any of these things at all, any questions in
23 your mind, doubts that you would like me to talk to you
24 about at this time, any questions you would like to ask
25 of any kind?

26 A I believe not.

1 Q Everything is clear in your mind now?

2 A Yes. That was the thing I was kind of wavy
3 on, you know.

4 THE COURT: Mr. Fitzgerald.

5 MR. FITZGERALD: I have no questions.

6 THE COURT: Mr. Reiner.

7 MR. REINER: Yes, your Honor.

8
9 VOIR DIRE EXAMINATION OF MRS. WILLIS

10 BY MR. REINER:

11 Q Mrs. Willis, a moment ago in response to one
12 of his Honor's questions you asked the Judge whether it was
13 necessary that the Court has to prove the defendants not
14 guilty.

15 When we lawyers use the term "the Court,"
16 we mean his Honor. We don't mean another lawyer.

17 Were you using the term in that context when
18 you said "the Court," did you mean the Judge?

19 A Yes.

20 Q Well, you don't believe, do you, that the judge
21 is trying to prove anybody guilty or trying to prove any-
22 body not guilty?

23 You are aware the Judge is completely neutral,
24 and it is up to the lawyers to try to prove one thing or
25 another?

26 A I'm sorry, Mr. Reiner, I meant the group.

1 Q I thought it was probably what you meant.

2 A Excuse me. Maybe I should, but I don't think
3 of your Honor as the Court. I think of the group as the
4 Court.

5 Q Have you noticed from time to time that some of
6 the lawyers will refer to his Honor as the Court?

7 A Yes, but it is not instilled in my head in
8 that way.

9 THE COURT: Excuse me. You understand the people
10 are on one side of the case and the defendants are on the
11 other side, and it is the People's burden to prove the
12 defendants guilty, if they are able to do so, beyond a
13 reasonable doubt.

14 Do you understand that?

15 MRS. WILLIS: Yes, I understand.

16 THE COURT: And the Court takes no sides.

17 MRS. WILLIS: Yes, I just used that expression,
18 meaning the group.

19 I think that quite often you refer to his Honor
20 as the Court, Mr. Reiner, right.

21 MR. REINER: Okay.

22 Q BY MR. REINER: Now, you understand that the
23 prosecution is trying to prove that the defendants are
24 guilty.

25 A Yes.

26 Q All right, now, you understand that the

1 defense may not necessarily be trying to prove that they
2 are not guilty. You understand that?

3 A Oh, yes, very well.

9a-1

1 Q We may in fact prove we are not guilty but
2 that really is not required of us.

3 The only question is whether the prosecution
4 has been able to prove that they are guilty beyond all
5 reasonable doubt.

6 A Yes, I understand.

7 Q And that they prove their case up to a point
8 where it appears that it is possible that the defendants
9 are guilty, that is not far enough, and you then must
10 return a verdict of not guilty.

11 A I see.

12 Q In effect you would be saying by your
13 verdict that they have not proven that the defendants are
14 guilty?

15 A Right, uh-huh.

16 Q And around the time that the arrests occurred,
17 last December, do you recall reading a story in the Los
18 Angeles Times that purported to be an interview or a story
19 by one of the defendants about the circumstances of the
20 crime?

21 A I know what you are referring to but believe
22 me I started it, and ugh -- put it aside.

23 THE COURT: What is he referring to?

24 MRS. WILLIS: To Miss Atkins' article that she
25 wrote, or supposedly had -- well, a reporter wrote what
26 she was supposed to have said.

9a-2

1 Q BY MR. REINER: How far did you go before
2 you stopped?

3 A I could not repeat one thing.

4 Q Without going into any details of the article,
5 of course, how would you characterize the article? What
6 did it purport to be, as well as you understood what it
7 purported to be?

8 A As I say, I only read two or three paragraphs.
9 By that time I was kind of -- that was enough, enough of
10 that case, and, well, frankly, I thought it was something
11 for a financial thing.

12 I did not know. I mean, it was up in my
13 mind that maybe somebody gets paid for this somewhere.

14 Q Go ahead, I wish you would go ahead further
15 about that.

16 A No, so I meant, I was not going to believe
17 it, in other words, oh, well, enough of that, one or two
18 paragraphs and I never read it.

19 Q Did you understand from what you did read of
20 the article that this was supposedly a story by Miss Atkins
21 admitting her participation in these crimes?

22 Was that your understanding?

23 A I didn't form -- I couldn't form a complete
24 opinion because I did not go on reading it.

25 Q I appreciate that, but it was your understand-
26 ing that that was the gist and substance of the article?

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1 A That she was -- that he was writing it and
2 quoting.

3 Q Yes.

4 A Yes, is that the way you meant?

5 Q Yes.

6 A Yes.

7 Q With respect to her participating in these
8 crimes?

9 A Yes.

10 MR. REINER: No further questions.

11 THE COURT: Mr. Shinn?

12 MR. SHINN: No questions.

13 THE COURT: Mr. Kanarek?

14 MR. KANAREK: No questions, your Honor.

15 THE COURT: Mr. Stovitz?

16 MR. STOVITZ: May I, your Honor.

17 THE COURT: Yes.

18
19 VOIR DIRE EXAMINATION OF MRS. WILLIS

20 BY MR. STOVITZ:

21 Q Did you bring a purse with you today in the
22 courtroom?

23 A Did I bring a purse? Yes, I left it out
24 there.

25 Q Can you say beyond a reasonable doubt that
26 your purse is out there in the courtroom now?

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1 A Unless someone stuck their hands in my little
2 tote bag it is there.

3 Q So you brought a tote bag also, is that right?

4 A My knitting, yes.

5 Q Would you say beyond a reasonable doubt that
6 your tote bag was there?

7 A I would not swear to it. I left it there
8 when I left my chair.

9 Q Now, you understand that you are under oath
10 to answer questions truthfully. You understand that?

11 A That's right.

12 Q You understand there is a difference between
13 possible doubt and reasonable doubt. You understand that.

14 A Possible doubt and reasonable doubt?

15 Q In other words, there is a possible doubt
16 that someone went out there and took your tote bag and
17 your purse?

18 A That's right.

19 Q But it is not a reasonable doubt, is it?

20 A No, not reasonable.

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Q Because we have a bailiff out there keeping his eye on it.

A And such nice people.

Q All right, now, Mrs. Willis, what we are trying to ask you is for you to explore your mind and tell us whether or not there is a reasonable doubt or there is a possible doubt or whether you are absolutely certain that anything that you might have read in that article in any way influenced you in this case.

Can you tell us what your frame of mind is on that?

THE COURT: Before she answers that, Mr. Stovitz, we are going to adjourn for the noon recess.

You may go back into the courtroom, Mrs. Willis.

Please do not discuss what has been said in here with anyone, will you?

MRS. WILLIS: Thanks, I won't.

THE COURT: All right.

(Mrs. Willis leaves the chambers.)

THE COURT: Gentlemen, I think we are just wasting time. I am not going to let anybody sit on the jury that has been exposed to this confession, even if they have not read it.

MR. SHINN: I agree.

MR. STOVITZ: It is all a question of exposure.

1 You recall one of the astronauts were taken
2 off the moon flight because he was exposed to some
3 children's disease. He never did get the disease.

4 THE COURT: Fine, discuss that with your doctor, friends
5 but this is a court of law.

6 The mere fact that they know the existence
7 of what purports to be a confession, I think, is sufficient
8 to challenge for cause whether they read it or not.

9 MR. STOVITZ: I submit, your Honor, if your Honor
10 would read People vs. Duncan, in that case, as your Honor
11 recalls, there were two co-defendants that testified
12 before the Grand Jury, causing the indictment of Mrs.
13 Duncan.

14 There was then a trial had and the jurors
15 were questioned as to whether they knew any of the evidence
16 in the case.

17 The jurors admitted they did know of Mrs.
18 Duncan's participation, but they would be able to put all
19 of that aside.

20 I submit, your Honor, if the jurors do not
21 know the details of the story, they merely know that a
22 story existed, that it is not a proper case for challenge
23 for cause, because the jurors can put aside, our Penal
24 Code providing jurors cannot put aside rumors, then the
25 jurors are concerned, but if they can put aside rumor
26 and try the case solely on the evidence, then the jurors

1 are qualified to sit.

2 I agree that this matter rests entirely
3 within your Honor's discretion.

4 MR. BUGLIOSI: I don't think there is any case,
5 your Honor, that says that because a juror has been
6 exposed to some type of evidence prior to trial, that
7 that juror cannot serve.

8 I think the ultimate issue has to be
9 determined by the Court.

10 THE COURT: I agree.

11 I know of no case that says that.

12 Of course there are a lot of cases since
13 the Duncan case that have gone a lot farther than the
14 Duncan case, and we have such things as the American Bar
15 Association standards and the Reardon Report, and so
16 forth.

17 But in a case like this I think exposure
18 to a purported confession is something it will be very
19 difficult to overcome.

20 I am not saying it is impossible, but it is
21 difficult.

22 MR. BUGLIOSI: It depends on the person.

23 When they are talking to us now, they are
24 under oath and they are testifying, and in a fashion they
25 are witnesses. We have to determine their credibility
26 whether they are telling the truth.

1 THE COURT: I don't doubt she is telling the truth.
2 That really doesn't answer the question.

3 She may believe it, but nevertheless it
4 still may not be true.

5 MR. BUGLIOSI: In fact she even said she thought
6 it was for pecuniary reasons that -- I don't remember what
7 words she used, money or financial reasons.

8 THE COURT: I think it is just taking too big
9 a risk to put jurors on there who were exposed to it.

10 It may take us a while longer to get a jury,
11 but this is not the fault of counsel; it is not the fault
12 of the Court. It is just a fact of life we have to face,
13 and I am going to face it.

14 MR. STOVITZ: Right, your Honor.

15 THE COURT: Does anyone want to challenge?

16 MR. REINER: Challenge for cause.

17 THE COURT: Let's see, that was Mrs. Willis.

18 MR. BUGLIOSI: I had a legal matter, your Honor,
19 does the Court want to take it up later.

20 THE COURT: Just a moment. Mrs. Willis will be
21 excused for cause.

22 The challenge is allowed.

23 We will recess at this time then, gentlemen
24 till 1:45.

25 We will take up then your question.

26 MR. BUGLIOSI: Yes.
(Nona recess.)

1 LOS ANGELES, CALIFORNIA, WEDNESDAY, JULY 8, 1970 1:50 P.M.

2 * * *

3
4 (The following proceedings occurred in
5 chambers, defendants not present, all counsel present.)

6 THE COURT: Do you wish to proceed with the contempt
7 matter?

8 MR. FITZGERALD: Yes.

9 May I address the Court in that connection?

10 THE COURT: Yes.

11 MR. FITZGERALD: I apologize to the Court but I must
12 inform the Court that, unfortunately, I am not prepared to
13 proceed at this time for basically two reasons.

14 One is that I was unable to confer with my
15 client, Mr. Kanarik, over the noon hour. We set up a
16 tentative appointment but Mr. Kanarik was unable to attend
17 because of a previous commitment.

18 Also, perhaps I bit off more than I can chew.

19 I didn't realize that the area of out of
20 court contempt was as complicated and complex and involved
21 as it is, and I would request a little additional time to
22 take a look at some of the relevant cases but, basically,
23 I have been unable to confer with my client about the
24 factual basis for the contempt, and I would respectfully
25 ask the Court to entertain a motion to continue the matter
26 for a brief period of time.

1 THE COURT: Well, I have no objection to a
2 continuance.

3 How long do you want?

4 MR. FITZGERALD: Well, would your Honor consider
5 a week?

6 THE COURT: I don't see any necessity for that.
7 We are talking about a tardiness of seven minutes,
8 disputed one way or the other by a minute or two. Let's
9 not be absurd.

10 MR. FITZGERALD: What about Friday morning?

11 THE COURT: Friday? This Wednesday, isn't it?
12 All right. Friday morning.

13 In view of our critical problems we have
14 with time in this case, I don't think we should take up
15 the regular time of the Court devoted to the trial for
16 this matter.

17 I would suggest --

18 MR. FITZGERALD: 8:30?

19 THE COURT: Well, do you think a half hour is going
20 to be enough?

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1 MR. FITZGERALD: What was the Court's feeling on
2 the matter?

3 THE COURT: About time?

4 MR. FITZGERALD: No, perhaps I spoke injudiciously.

5 THE COURT: No, I was thinking of some hour before
6 our regular court hour of 9:00 o'clock, perhaps 8:15.

7 I don't know how long you intend to be.

8 MR. STOVITZ: He can get in the parking lot at 8:15.

9 MR. FITZGERALD: I think 8:15, your Honor.

10 THE COURT: 8:15, Friday, July 10th, in chambers.

11 MR. STOVITZ: Will it be necessary for all counsel to
12 be present or just Mr. Kanarek?

13 THE COURT: It is not necessary for anyone to be
14 present except Mr. Kanarek and his attorney, Mr.
15 Fitzgerald.

16 MR. STOVITZ: Thank you.

17 MR. KANAREK: I would like to explain that I did
18 make an appointment with Mr. Fitzgerald --

19 THE COURT: There is no need to explain, Mr. Kanarek,
20 you are entitled to a reasonable opportunity to prepare.

21 MR. KANAREK: I might state this, your Honor, even
22 though this was in secret or this was in chambers this
23 morning, I have been approached by the people, the press,
24 who know I was found in contempt this morning. Now they
25 found out I do not know, your Honor, but I was approached
26 in the hallway coming in to court by members of the media,

11-2

1 and they asked me about it.

2 And I said I can make no comment concerning
3 any matter.

4 THE COURT: I can assure you, it did not come from
5 me.

6 MR. ROSENBERG: I'm sure it didn't come from your
7 Honor, but they know about it.

8 MR. FITZGERALD: We were all asked about it.

9 MR. STOVITZ: I was asked and made the response I
10 could not comment about anything that happened in
11 chambers.

12 MR. SHINN: May I say something off the record?

13 THE COURT: Not off the record.

14 MR. SHINN: It's not concerning this case at all. I
15 don't want it on the record.

16 THE COURT: Not pertaining to the case at all!

17 MR. SHINN: No, Your Honor.

18 (Brief off-the-record discussion.)

19 THE COURT: Back on the record.

20 THE BAILIFF: We have a juror upstairs who is sick;
21 she had to be brought down on a wheel chair, her name is
22 Sharon Hoell.

23 THE COURT: Do you know what the nature of her malady
24 is?

25 THE BAILIFF: Fainting spells and she is having her
26 period, which she never had these fainting spells before.

1 MR. FITZGERALD: Offer to stipulate she might be
2 removed from the panel.

3 MR. STOVINE: What does she look like? What is the
4 approximate age of the juror?

5 THE BAILIFF: Oh, I would say 30.

6 THE COURT: Has there any indication that --

7 THE BAILIFF: She looks all right to me right now,
8 sitting in the wheel chair.

9 THE COURT: Did she give you any indication when she
10 might be back in court again?

11 THE BAILIFF: No, I did not speak to her at all. I
12 just spoke to the female deputy.

13 MR. WARDEN: If she hasn't asked to be excused, your
14 Honor, and we are in chambers --

15 THE COURT: Well, I suggest then we don't do any-
16 thing at the moment. If we remain in chambers this after-
17 noon, perhaps by tomorrow morning she will be all right;
18 if not, we will meet the problem when we have to.

19 Now, is there any reason why we should not
20 proceed, gentlemen?

21 MR. STOVINE: No.

22 THE COURT: MR. WILLIS was excused. The next
23 prospective juror, which I want to call in, is Mr. Gilman,
24 No. 9 -- oh, wait, we will have to fill up the No. 7 spot.

25 Is that what you were going to say?

26 MR. FITZGERALD: Exactly.

11-4

1 THE COURT: We won't call in Mr. Elinan next. We
2 will call in a prospective juror to sit in Seat No. 7 to
3 replace Mrs. Willis.

4 MR. STOVITZ: I notice there was a lady we questioned
5 this morning, the new one, Mrs. Evans, who took over for
6 Mr. Turkish.

7 THE COURT: What about Mrs. Evans?

8 MR. STOVITZ: She is in jury seat No. 2 for Mr.
9 Turkish, is the way I've got it.

10 THE COURT: Yes.

11 MR. STOVITZ: Right.

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1 (whereupon, another prospective juror enters
2 chambers.)

3 THE COURT: Good afternoon.

4 THE CLERK: The prospective juror's name is Mrs.
5 Billie H. O'Donnell; B-i-l-l-i-e, O apostrophe D-o-n-n-e-l-l.

6
7 VOIR DIRE EXAMINATION OF BILLIE H. O'DONNELL
8 BY THE COURT:

9 Q Mrs. O'Donnell, we have asked you to come into
10 chambers so that we could ask you some questions out of
11 the presence of the other prospective jurors.

12 If you were selected as a juror in this case,
13 would you be able to serve?

14 A No.

15 Q Why?

16 A Because I don't feel I could give them a fair
17 trial.

18 Q Well, I will get to that in a minute.

19 A All right. Okay.

20 Q Apart from any beliefs you might hold, is
21 there any other reason why serving would be an undue
22 hardship for you?

23 A Personally, I would hate to leave the company
24 that long.

25 Q Who do you work for?

26 A The Telephone Company.

1 Q Well, of course, I realize it would be an
2 inconvenience for anyone to serve on a jury in a long
3 trial.

4 A Yes.

5 Q But apart from the inconvenience, is there
6 any reason why you could not serve other than your beliefs,
7 which we will talk about?

8 A No.

9 Q You may recall, Mrs. O'Donnell, that I have
10 asked various prospective jurors questions regarding the
11 death penalty.

12 Have you had an opportunity to think about
13 those questions and your answers to them?

14 A Yes.

15 Q All right. I am going to put the same two
16 questions to you then.

17 The first one: Do you entertain such con-
18 scientious opinions regarding the death penalty that you
19 would be unable to make an impartial decision as to any
20 defendant's guilt regardless of the evidence in the trial?

21 A No.

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

26 A No.

1 Q Now, you have indicated that you hold certain
2 beliefs which you think, I take it, should disqualify you
3 from serving as a juror; is that right?

4 A Yes.

5 Q What beliefs do you hold?

6 A After reading things in the papers, and things
7 like that, I have already formed an opinion, so I feel that
8 I would be at a disadvantage to start out with. My mind
9 is already made up.

10 Q Made up as to what?

11 A As to the guilt or the innocence of the
12 people.

13 Q Are you saying that by reason of whatever you
14 learned about this case that you have made up your mind that
15 one or more of the defendants is guilty?

16 A Yes.

17 Q Now, is that something that you would be unable
18 to set aside and go ahead and listen to the evidence in
19 the case and make your decision independently?

20 A I feel I would be unable to set it aside, yes.

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12a-1

1 Q You would be unable to set it aside?

2 A Unable, right.

3 Q In other words, Mrs. O'Donnell, you consider
4 yourself, at the moment, to have made up your mind?

5 A Yes.

6 Q On that question?

7 A Yes.

8 Q And it would either take some or a lot of
9 evidence on the part of the defendants to prove their
10 innocence to you; is that what you are saying? Is that
11 correct?

12 A That my mind is made up, yes. It would take
13 an awful lot.

14 Q Is this on the basis of newspaper stories?

15 A That along with just listening to the radio
16 and discussing it with people and forming an opinion.

17 Q Well, is there something about this case
18 that causes you to do that, or do you do that in every
19 criminal case?

20 A No. I don't think most of them have as
21 much publicity so that you read so much about it.

22 Q And do you believe that publicity?

23 A I believed it enough to form an opinion.

24 Q Was there something special about the
25 publicity that caused you to believe it? Was there
26 something unique about what happened in this case?

12a-2

1 There have been other publicized trials, of
2 course. There are trials that receive publicity all the
3 time. Are you aware of that?

4 A Yes.

5 Q Now, do you form the same kind of opinions
6 in those cases whenever you read about them?

7 A No, not all the time.

8 Q Well, was there something about this case
9 that caused you to form a belief that the defendants were
10 guilty?

11 A Any one special thing?

12 Q Yes.

13 A No.

14 Q It was merely the fact that you read some
15 printed words that seemed to indicate to you that they were
16 guilty; is that it?

17 A Yes.

18 Q You don't question those words?

19 A Pardon me?

20 Q You don't question what you read?

21 A Not completely.

22 THE COURT: Any questions?

23 MR. SHINN: No, sir.

24 MR. FITZGERALD: No.

25 MR. REINER: One moment.

26 Yes, I do have a couple of questions, your

12a-3

Honor.

THE COURT: All right.

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VOIR DIRE EXAMINATION

BY MR. AXINER:

Q Mrs. O'Donnell, do you believe that Leslie Van Houten is guilty?

A I stated that I did, yes.

Q I am referring to only Leslie Van Houten.

Do you know which defendant Leslie Van Houten is?

A Yes, I do.

Q Do you recall ever reading anything that indicated that Leslie Van Houten, as opposed to any other person, was guilty?

A I don't know.

Q I am sorry, I didn't hear your answer.

A I don't know.

Q By that do you mean that you do not recall at the moment having read anything to indicate that Leslie Van Houten was guilty? Would that be a fair statement?

A That would be fair.

Q Do you recall hearing anything on the radio at any time that would indicate to you that Leslie Van Houten, as opposed to any other person or persons, was guilty?

A Not that I can recall.

Q Do you recall seeing on television, perhaps on one of the news programs, anything that would indicate that Leslie Van Houten, as opposed to any other person in this case, is guilty?

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1 A Not that I can recall.

2 Q Do you recall anything that was said to you
3 by any friend, acquaintance, or relative of yours, or
4 co-worker, to the effect that Leslie Van Houten was guilty?

5 A Not by name.

6 Q I see.

7 Are you assuming that Leslie Van Houten is
8 guilty because you have perhaps read or seen or heard
9 indications of the guilt of other defendants in this
10 case and assume that she is part of the entire group and,
11 therefore, if one is guilty that surely the others must be?

12 Would that be a fair statement of your thought
13 in the matter?

14 A I think so.

15 Q So that are you, in effect, telling us that
16 the massive publicity that you previously referred to that
17 indicated that some of the defendants were guilty, that
18 even though, to your recollection, none of this publicity
19 directly related to Leslie Van Houten, because it related
20 to other defendants and because she is joined with these
21 other defendants in this case, that you would then assume that
22 she probably is guilty as well?

23 A Yes.

24 THE COURT: Just a moment.

25 MR. REIMER: Did you answer the question?

26 MRS. O'DONNELL: Yes.

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1 THE COURT: Don't ask for an answer, sir, when I
2 am interrupting to comment or object.

3 MR. REIMER: Very well.

4 THE COURT: In the first place, she didn't say
5 anything about massive publicity. Those are your words.

6 In the second place, the question is so long
7 and involved that I seriously question whether she can
8 remember what you said at the beginning when you got to
9 the end.

10 I would suggest that you simplify it if you
11 want an answer that is an intelligible answer.

12 MR. REIMER: Very well.

13 Q In your view, Mrs. O'Donnell, had there been
14 a massive amount of publicity in this case?

15 A I don't think I would use the word massive.

16 Q What word would you use?

17 A Well --

18 Q To characterize the amount of publicity in
19 this case.

20 A A lot.

21 Q A lot?

22 A Yes.

23 Q And has that publicity, to your recollection,
24 indicated the guilt of any one of the defendants?

25 A Specifically?

26 Q Specifically.

1 Have you ever read anything in the newspaper,
2 heard anything on the radio or seen anything on the
3 television news, that suggested, say, for example, that
4 Mr. Manson was guilty?

5 A I didn't say that I read or heard anything that
6 said that they were guilty. I said I had formed my own
7 opinion.

8 Q Did you read or see anything with respect to Mr.
9 Manson that caused you to conclude that he personally was
10 guilty?

11 A I don't remember.

13-1

1 Q Perhaps you might tell us, how is it that
2 you have come to conclude that any of the defendants are
3 guilty, if it is true. If it is not true, indicate that
4 it isn't, that you cannot pinpoint anything that you have
5 heard, seen or read that suggested to you that they were
6 guilty.

7 A I don't necessarily remember everything I
8 read, but you automatically -- or at least I do -- I
9 sometimes form an opinion, this particular one I have.
10 I cannot read you word for word or tell you what I have
11 read.

12 Q Without quoting it verbatim, can you -- do
13 you recall having read anything that to your mind at the
14 time you read it indicated to you that Mr. Manson was
15 guilty?

16 A You are asking for phrases again from
17 newspapers or something? I cannot quote them.

18 Q Perhaps I might restate the question; I am
19 not referring now to specific statements made in the
20 newspaper or that you have heard on the radio or seen
21 on television.

22 But do you recall at any time without
23 reference to the verbatim quote reading or hearing or
24 seeing anything that at the time you said to yourself,
25 "That suggest to me that Mr. Manson is guilty," do you
26 recall something like that ever happened?

13-2

1 A It must have been something.

2 Q Because you have concluded that Mr. Manson
3 is guilty?

4 A Yes, I have.

5 Q Now, is there any time, again without
6 reference to any sort of verbatim quote, that you read,
7 heard or saw anything that at the time you said to
8 yourself, "Based upon that I think that Leslie Van Houten
9 is guilty"?

10 A No.

11 Q All right, so would it be a fair statement
12 to say that you did hear, read or see something that
13 suggested to you that Mr. Manson was guilty, and you now
14 believe that Leslie Van Houten is guilty, not based upon
15 what you heard, read or saw, but simply because she is
16 joined in this case as a co-defendant with Mr. Manson?

17 MR. KANAREK: On behalf of Mr. Manson I must
18 object to that question, your Honor.

19 MR. SELVITZ: It is ambiguous.

20 THE COURT: I think the question is ambiguous.
21 The objection is sustained.

22 MR. BEINER: I have no further questions.

23 MR. FITZGERALD: No questions.

24 MR. SHINN: No questions.

25 MR. KANAREK: No questions.

26 MR. STOVILL: No questions from the People, your

1 Honor.

2 THE COURT: Thank you, Mrs. O'Donnell.

3 (Mrs. O'Donnell leaves the chambers of
4 the Court.)

5 MR. FITZGERALD: Challenge the juror for cause
6 under Section 773 Paragraph 2 on the ground of actual
7 bias.

8 MR. REIMER: Join.

9 MR. SHINN: Join.

10 MR. KANAREK: Join.

11 MR. STOWITZ: Submit it, your Honor.

12 THE COURT: The challenge is allowed, Mrs.
13 O'Donnell will be excused for cause.

14 MR. REIMER: Your Honor, while we are waiting for
15 the next juror to be called in, I might indicate to the
16 Court that the purpose of the question was simply to
17 inquire as to whether perhaps the massive publicity,
18 prejudicial publicity that has been directed toward
19 Mr. Hanson has been harmful not only to Mr. Hanson but
20 has been harmful to other defendants in this case,
21 even when they have not personally been mentioned in
22 the publicity.

23 I think that is an obvious observation.

24 I simply wanted to inquire from this juror,
25 and perhaps other jurors, to see if perhaps it was their
26 observations, as well.

1 MR. STOVITZ: It is calling for expert opinion
2 from a person not qualified to give an opinion on expert
3 matters.

4 MR. REINER: I am simply calling for their state
5 of mind, whether they in fact believe the other defendants
6 are guilty based not upon what they read about them, but
7 based upon what they read about Mr. Hanson.

8 THE COURT: The reason I sustained the objection
9 was twofold:

10 One, the question might be too involved for
11 the witness to know what was being asked.

12 Secondly, because it was loaded up with
13 phrases like "massive publicity" which were not phrases
14 used by her. It is simply a loaded question.

15 MR. REINER: I am referring to the last question
16 I asked. I am not referring to the prior question.

17 THE COURT: All right.
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13a file.

(Prospective juror enters the room.)

THE COURT: Good afternoon, sir. Be seated.

PROSPECTIVE JUROR: Good afternoon.

THE CLERK: The prospective juror's name is
Robert Moreno; R-o-b-e-r-t, M-o-r-e-n-o.

YOUR DIRECT EXAMINATION OF ROBERT MORENO

BY THE COURT:

Q Mr. Moreno, we have asked you to come in chambers so we can ask you questions out of the presence of the other prospective jurors, and you can speak freely your own thoughts and opinions in giving your answers to these questions.

First, if you were selected as a juror in this case would you be able to serve?

A I think so.

Q All right, sir. Now, you recall that I asked the other prospective jurors questions regarding the death penalty?

A Yes.

Q Have you had an opportunity to think about those questions, and your answers to them?

A Yes, sir, I have.

Q All right, I am going to ask you the same questions, then.

The first one is, do you entertain such

13A2

1 conscientious opinions regarding the death penalty that you
2 would be unable to make an impartial decision as to any
3 Defendant's guilt regardless of the evidence developed
4 during the trial?

5 A No, I can't.

6 Q Do you entertain such conscientious opinions
7 regarding the death penalty that you would automatically
8 refuse to impose it without regard to the evidence
9 developed during the trial?

10 A No.

11 Q All right, sir, now, we want to ask you
12 what you may have learned about this case over the past
13 months from reading about it, watching television, or
14 from whatever source, and whether or not you have or have
15 not formed any opinions about the case or any of the
16 defendants as a result of anything you may have learned.

17 Have you been in the Los Angeles area con-
18 tinuously since last August?

19 A Yes, I have.

20 Q And do you subscribe to a daily newspaper?

21 A No, I got -- well, I got the Sunday paper, not
22 a daily.

23 Q That paper is that?

24 A The Los Angeles Times.

25 Q Do you watch television news reports on a
26 regular basis?

1 A Not regularly.

2 Q Have you ever read anything about this case
3 or heard anything about the case?

4 A I have read some -- not extensive.

5 Q Do you remember when you first learned about
6 the fact there had been some people killed?

7 A Last year.

8 Q Was that shortly after it happened?

9 A I guess a day or so after.

10 Q Then have you made any effort to follow the case,
11 either in the newspapers or on television or radio since
12 then?

13 A No, I have read some, but like I say, not
14 extensively.

15 Q Do you remember learning anything about the
16 defendants, when they were arrested, hearing anything or
17 reading anything about it at that time?

18 A I don't know what you mean.

19 Q Well, the defendants were arrested sometime
20 after the killings were discovered.

21 A Yes.

22 Q The killings were discovered in August and the
23 defendants were arrested around the 1st of December.

24 Now, were you aware of that fact?

25 A Yes.

26 Q From what you read and heard?

A Yes.

13a4

1 Q Now, at the time the defendants were arrested
2 did you read about them at that time?

3 A Yes, I did.

4 Q Do you remember anything you read at that time?
5 For example, did you ever learn anything about
6 the names of the victims?

7 A Oh, yes, I mean, your Honor, I remembered that,
8 yes.

9 Q Did you know the names of the victims before
10 you came into this court?

11 A Yes.

12 Q Do you know all of them, the names of all the
13 victims?

14 A Mostly all of them, yes.

15 Q Did you know the names of all the defendants
16 before you came into court?

17 A Most of them, yes.

18 Q Did you ever learn anything about any details
19 surrounding the manner in which these people were killed?

20 A No, not in great detail, just that they were
21 killed.

22 Q Did you learn anything about the location of
23 the killings?

24 A No, sir.

25 Q Now, you know, of course, the defendants have
26 been arrested and charged with these offenses, that is why

1 they are here?

2 A Yes.

3 Q They are here to be tried, you understand that?

4 A Yes.

5 Q Now, aside from those facts have you ever
6 learned anything that in your mind connects the defendants
7 with the commission of the crimes that have been charged
8 against them?

9 A Well, no, not really.

10 Q Well, your answer sounds as if there may be
11 something.

12 Can you tell me what that something might be
13 if there is something?

14 A You asked if there was any connection between
15 them.

16 Q Yes, other than the fact that they have been
17 arrested, obviously, and they have been charged with the
18 crime.

19 A Just that.

20 Q Have you learned anything else, any facts?

21 A Just what the news media has put out.

22 Q That is what I am trying to find out.

23 A Yes.

13b-1

1 Q What have you, if anything, learned from
2 the news media, or from any other source, if you have,
3 which would tend to connect the defendants with the
4 commission of the offense?

5 A Well, one of the other defendants, I guess,
6 has testified that they did it. I mean that is about all.

7 Q Who is that?

8 A Linda Kasabian.

9 Q Anyone else?

10 A That is about all.

11 Q That you learned from the newspaper?

12 A Yes.

13 Q And what is your understanding of what you
14 read about Linda Kasabian's statement? What do you
15 gather from what she said?

16 (No response.)

17 Did you draw any conclusions? Did you form
18 any opinions on the basis of her statements?

19 A Well, if she was there and said it happened,
20 maybe it did. She would have to prove it. I don't know
21 if she was there or not.

22 Q Was this, whatever it was you read in the
23 newspaper, regarding Linda Kasabian? Did this purport
24 to be a statement made by her regarding the crime?

25 A Yes, well, the way I guess the news media
26 put it, yes.

13b-21

Q That is what you understood it to be?

A Yes.

Q And what in effect -- did you read the statement, first of all?

A Oh, I don't remember. It has been quite a while.

Q What is your impression of what she said?

A Well, that she was there and she saw it and that is about it.

Q What about the other defendants?

A Well, the way they implied there, I guess they were all there.

Q That is what you gathered from whatever it was you learned?

A Yes.

THE COURT: Any questions?

MR. REINER: No.

MR. FITZGERALD: No.

MR. SHINN: No.

MR. KANAREK: No.

MR. STOVITZ: May I ask a question?

THE COURT: Yes.

VOIR DIRE EXAMINATION OF MR. MORENO

BY MR. STOVITZ:

Q What is your business or occupation?

1 A I am an electronic technician.

2 Q For whom, sir?

3 A For Burroughs Corporation.

4 Q I take it you have a college background,
5 is that right?

6 A Well, yes, somewhat. I did not go to
7 college. I went to trade school.

8 Q How old are you, sir?

9 A 30.

10 Q 30? Do you want to sit on this jury?

11 A Do I want to?

12 Q Yes.

13 A Well, not specially, not for the length
14 that it is going to be.

15 Q Now, I would like you to think about what
16 you have read in the papers -- can we have just a moment,
17 your Honor?

18 THE COURT: Yes.

19 (Off the record discussion between Mr.
20 Pugliesi and Mr. Stovitz.)

21 BY MR. STOVITZ:

22 Q I would like you to think about what you
23 have read in the papers, and what you have heard over
24 the radio and over TV.

25 Can you tell me the name of one other party
26 that was supposed to have been present with this Linda

1 Kasabian?

2 A I cannot remember exactly. The person
3 is being held in Texas, I guess.

4 Q Now, what did this Linda Kasabian look
5 like when you saw her picture on TV?

6 A I never saw her picture. I don't
7 remember.

8 Q What did she look like when you saw her
9 picture in the newspaper?

10 A I don't remember seeing her picture in
11 the newspaper.

12 Q Anything unusual about her physical
13 appearance?

14 A I never seen her. I don't know.

15 Q Oh, and do you know where Linda Kasabian
16 was originally from?

17 A I don't remember.

18 Q Could you have mistaken the name of one
19 or the other defendants for Linda Kasabian?

20 A No, the names don't sound alike, no.

21 Q What is that?

22 A No, I could not.

23 Q But you have a definite impression that
24 you read a statement by Linda Kasabian concerning her
25 participation and the participation of other defendants,
26 is that right?

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A Yes, I took it for granted, I guess.

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Q And you take it for granted that that state-

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ment is true?

13c file 4

A Well, yes, I guess I do.

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1 MR. STEVITS: I have no further questions.

2 THE COURT: Thank you, Mr. Moreno, you may go back
3 in the other room.

4 (Mr. Moreno leaves the chambers of the Court.)

5 MR. FITZGERALD: I challenge the juror for cause.

6 MR. BRINER: Join.

7 MR. SHINN: Join.

8 MR. KALINER: Join.

9 MR. STEVITS: Submit it, your Honor.

10 THE COURT: The challenge is allowed. Mr. Moreno is
11 excused for cause.

12 (A prospective juror enters the chambers of the
13 Court.)

14 THE COURT: Good afternoon, sir.

15 THE CLERK: The prospective juror's name is
16 John T. Phillips, J-e-h-n; P-h-i-l-l-i-p-s.

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18 VOIR DIRE EXAMINATION OF JOHN T. PHILLIPS
19 BY THE COURT:

20 Q Mr. Phillips, we asked you to come in here so
21 we could ask you questions out of the presence of the other
22 prospective jurors.

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

25 A Not the length of time, your Honor. My
26 company will only compensate me for the calendar month.

13c2

1 Q What company is that?
2 A Northrop Corporation.
3 Q Northrop?
4 A Yes, Northrop Aircraft.
5 Q Have you discussed with them what would happen
6 if you were selected on a jury --
7 A I raised that possibility.
8 Q -- that was in trial longer than 30 days or
9 a month?
10 A Yes, I raised that possibility before I came
11 down last week.
12 Q Was this some supervising employee or something?
13 A The supervisor. He inquired from the
14 personnel department.
15 He said the company policy was only for a
16 calendar month compensation.
17 Q Have you talked to anybody at the company
18 since you came into the panel on this case?
19 A No, I have not.
20 Q Well, I am going to ask you some other
21 questions, passing that matter for the time being,
22 Mr. Phillips.
23 Do you recall that I asked some questions
24 regarding the death penalty of the other prospective
25 jurors?
26 A Yes.

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1 Q Have you had an opportunity to think about
2 those questions and your answers to them?

3 A Yes.

4 Q All right, I am going to ask you the same
5 questions.

6 First, do you entertain such conscientious
7 opinions regarding the death penalty that you would be
8 unable to make an impartial decision as to any defendant's
9 guilt regardless of the evidence in the case?

10 A No.

11 Q Do you entertain such conscientious opinions
12 regarding the death penalty that you would automatically
13 refuse to impose it without regard to the evidence in
14 this case?

15 A No.

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1 Q Now, I want to ask you next about what, if
2 anything, you may have learned about this case over the
3 past months from reading about it, watching it on
4 television, listening to it on the radio, or from whatever
5 source, and whether or not you formed any opinions as a
6 result of what you have learned.

7 First, have you been in the County continuously
8 since last August?

9 A Yes.

10 Q Do you subscribe to a daily newspaper?

11 A Yes, the Los Angeles Times.

12 Q Have you followed this case in the Times?

13 A Not especially. If it is something, you know,
14 that is there when I read the news, I read it, but I
15 didn't go looking for it or anything like that.

16 Q When you do see something about the case,
17 do you read all of the article or just scan the headlines?

18 A I just scan it, usually.

19 Q Do you remember that the defendants were
20 arrested sometime after the killings were discovered?

21 A Yes, I remember that.

22 Q Do you remember reading about the fact of the
23 arrests?

24 A Yes, I remember that. I don't remember the
25 exact dates or anything, but it was sometime afterwards.

26 Q Did you ever read or hear anything which

1 appeared to be a description by anybody about what
2 actually happened at the time of the alleged crimes?

3 A Not in detail, I don't believe. I don't
4 remember anything.

5 I mean, the only thing I remember, I saw in
6 the newspaper about the location of the bodies, the
7 scene, and that is about all that I can remember, but I
8 don't remember the exact details of that now.

9 Q Did you ever learn through some statement or
10 otherwise any details about the commission of the offenses?

11 A No.

12 Q The alleged offenses?

13 A No. I really haven't been paying that much
14 attention to it.

15 MR. RAMSEY: I didn't hear the last few words.

16 (The answer was read by the reporter.)

17 THE COURT: Q It is obvious, I am sure, to you
18 that the defendants have been arrested and they have been
19 accused of these offenses.

20 A Yes.

21 Q And they have been brought before the court
22 to stand trial.

23 A Yes.

24 Q Now, aside from these facts, sir, have you
25 learned anything which causes you to connect the defendants
26 with the commission of the alleged crimes?

1 A No. I don't believe I recall any evidence
2 that would directly connect them to the crime, no.

3 Q Anything that you think would indirectly
4 connect them with the crime?

5 A I really don't recall anything of that
6 nature either, your Honor.

7 Q Do you consider that at this moment you are
8 impartial on the question of guilt or innocence of any
9 defendant?

10 A Yes.

11 Q Have you formed any opinion as to the guilt
12 or innocence of any defendant?

13 A No, I don't believe I have.

14 Q Do you think that you can give the presumption
15 of innocence to all the defendants?

16 A I believe so, under those circumstances.

17 Q Under what circumstances?

18 A The circumstances which you have stated as
19 far.

20 Q Well, you understand, do you, that in every
21 criminal case the defendant is entitled to the presumption
22 of innocence?

23 A Right.

24 Q And that presumption remains until such time
25 as the People have proved his guilt beyond a reasonable
26 doubt?

1 A Right.

2 Q If the People fail to prove the guilt of any
3 defendant in this case beyond a reasonable doubt, are you
4 willing to vote for an acquittal?

5 A Yes.

6 Q As to that defendant?

7 A Yes.

8 Q or defendants?

9 A Yes.

10 Q And if the People do prove the guilt of any
11 defendant beyond a reasonable doubt, are you willing to
12 vote a verdict of guilty?

13 A Yes.

14 Q Do you know of any reason why you could not
15 serve as a fair and impartial juror?

16 A Well, I have thought about that, your Honor.
17 Sometimes we all like to think we are objective
18 in all cases, but sometimes when we are faced with a
19 situation which we know is directly opposed to both our
20 moral and ethical situation, sometimes we wonder if we
21 could actually be fair and impartial under these circum-
22 stances.

23 I like to think I can, but then I always have
24 my doubts whether I actually am.

25 Q Well, are you talking now about the appearance,
26 for example, of the defendants?

1 A Their appearance, their mode of life as has been --

2 Q Do you think that that would affect your
3 ability to be fair and impartial?

4 A I think over a period of time it probably
5 would.

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1 Q You understand that the defendants have no
2 burden in a criminal case, that they don't have to put on
3 any evidence?

4 A Right.

5 Q All of the burden rests with the People to
6 prove their guilt beyond a reasonable doubt.

7 A Yes.

8 Q So the defendants could sit mute if they
9 wanted to and do nothing --

10 A Yes.

11 Q -- say nothing, put on no evidence --

12 A Yes.

13 Q -- call no witnesses.

14 A Yes.

15 Q Do you understand that?

16 A Yes.

17 Q And if the People fail to prove their guilt
18 beyond a reasonable doubt, they are entitled to an
19 acquittal?

20 A Right.

21 Q Do you have any feeling against that rule
22 of law?

23 A Not as such, no.

24 Q Well, suppose that occurred in this case,
25 that the defendants put on no defense, called no witnesses
26 and offered no testimony, and the People failed to prove

14a-2

1 their guilt beyond a reasonable doubt. Do you think that
2 because you don't approve of their life style that you
3 might be inclined to find them guilty?

4 A I hope I wouldn't if they were innocent.

5 Q Do you have some question about your ability
6 to do that?

7 A I have never been faced with the situation
8 before, your Honor. I really don't know. I hope I have
9 that ability.

10 Q What you are really being asked is whether you
11 could set aside, set to one side, your beliefs and feelings
12 about the defendants as individuals and listen to only
13 the evidence that comes in during the case and make your
14 decision solely on the basis of that evidence?

15 A I understand that, your Honor, and I appreciate
16 what you are trying to say, but like I said before,
17 we always like to think we are being objective but, you
18 know, sometimes, under certain circumstances, we aren't.

19 I have my doubts in this case whether I
20 could actually be.

21 THE COURT: All right. Any questions?

22 MR. REIMER: No questions.

23 MR. SHINN: No questions.

24 MR. FITZGERALD: No.

25 MR. KANAREK: No questions, your Honor.

26 THE COURT: Any questions?

14a-3

1 MR. STOVITZ: We have no questions, your Honor.

2 THE COURT: All right.

3 You may go back into the courtroom. Thank
4 you, Mr. Phillips.

5 MR. PHILLIPS: Thank you.

6 (Whereupon the prospective juror leaves
7 the chambers.)

8 MR. FITZGERALD: We will challenge this juror for
9 cause, actual bias, under 1073 Subparagraph 1.

10 MR. REINER: Join.

11 MR. KANAREK: Join.

12 MR. SHINN: Join.

13 MR. STOVITZ: Submit it.

14 THE COURT: The challenge will be allowed. The
15 juror will be excused. That is, Mr. Phillips will be
16 excused for cause.

17 MR. KANAREK: Your Honor, if I may --

18 MR. REINER: Excuse me. May I get a drink of water?

19 MR. STOVITZ: Are you going to have a recess at
20 a quarter to 3:00?

21 THE COURT: Did you want to say something?

22 MR. KANAREK: I don't want to speak outside the
23 presence of Mr. Reiner.

24 MR. STOVITZ: He can hear you. He has got a speaker
25 in there.

26 THE COURT: Go ahead.

14a-4

1 MR. KANAREK: Your Honor, in connection with our
2 motion to dismiss, I think that this last bit of evidence
3 from this prospective juror is particularly significant
4 because absent the prosecution's --

5 THE COURT: Your motion to dismiss has already been
6 decided, Mr. Kanarek.

7 MR. KANAREK: I understand, your Honor, but perhaps
8 your Honor, on his own motion, may even reinstate and
9 decide that the motion is good, and I would like, in that
10 regard, to point out to the Court that absent the prose-
11 cution's doing what they have done in connection with
12 inculcating the general public about the so-called life
13 style to enhance their probability, the result that they
14 want in connection with the conspiracy, these people
15 wouldn't know about this so-called life style, and that
16 is the subtlety, that is the insidiousness of the
17 of the prosecution's publicity in this case, your Honor.

18 It is just so apparent, it just permeates
19 this, all of this voir dire, and Mr. Hanson has been denied
20 a fair jury in this case by virtue of this perpetuation
21 by the prosecution.

14b file.

1 MR. STOVITZ: We deny that we did anything to
2 perpetuate their life style or make known their life
3 style.

4 If Mr. Kanarek read any of the earlier accounts
5 when the life style was played up by the friends of the
6 Manson group at the Spain Ranch, they gave free interviews,
7 they gave interviews for money, these interviews were
8 published in the newspapers and in periodicals, and it was
9 not done by the People at all.

10 MR. DOLINGER: Your Honor, the prosecution never
11 directly or indirectly disseminated any publicity with
12 respect to the life style of these defendants. This is a
13 bald-faced declaration by Mr. Kanarek that is totally
14 unsupported by the evidence.

15 MR. STOVITZ: In the future, any time we do not
16 respond to Mr. Kanarek, may the record reflect that our
17 silence does not indicate assent or consent but utter
18 disgust.

19 THE COURT: All right, let's proceed, gentlemen.

20 MR. KANAREK: Your Honor, despite the polemics of
21 Mr. Stovitz, your Honor, I don't think that I understood
22 exactly when we are going to get to the other 27 editions
23 of the press releases.

24 MR. STOVITZ: I told you Friday, counsel.

25 THE COURT: This is something that you can take up
26 with Mr. Stovitz. We don't need to do it at this time.

MR. KANAREK: That's right. Your Honor did say that.

1 I am sorry. You are right.

2 (Whereupon, a prospective juror enters the
3 chambers.)

4 THE COURT: Good afternoon.

5 MRS. ALLEN: Good afternoon.

6 THE CLERK: The prospective juror's name is Mrs.
7 Ann L. Allen; A-a-n, A-l-l-e-n.

8
9 YOUR DIRECT EXAMINATION OF MRS. ANN L. ALLEN
10 BY THE COURT:

11 Q Mrs. Allen, we have asked you to come into
12 chambers so that we can ask you some questions out of the
13 presence of the other prospective jurors.

14 A Yes.

15 Q If you were selected as a juror in this case,
16 Mrs. Allen, would you be able to serve?

17 A Yes.

18 Q Now, do you recall that I have asked the
19 other prospective jurors in the courtroom certain
20 questions regarding the death penalty?

21 A Yes.

22 Q Have you had an opportunity to think about
23 those questions and your answers to them?

24 A Yes.

25 Q You will have to answer audibly so the reporter
26 can get it.

1 A I am not opposed to the death penalty.

2 Q I am going to ask you those questions in a
3 moment, but have you had a chance to think about them?

4 A Yes.

5 Q Would you keep your voice up, please,
6 because all of these attorneys have to hear what you are
7 saying.

8 A Yes.

9 Q First, do you entertain such conscientious
10 opinions regarding the death penalty that you would be
11 unable to make an impartial decision as to any defendant's
12 guilt regardless of the evidence in the case?

13 A No.

14 Q Do you entertain such conscientious opinions
15 regarding the death penalty that you would automatically
16 refuse to impose it without regard to the evidence in the
17 case?

18 A No.

19 Q Now, I am going to ask you some questions
20 regarding what you may have learned about this case over
21 the past month, watching television, listening to the radio,
22 reading about it in the newspapers, or whatever source.

23 Have you lived in the Los Angeles area con-
24 tinuously since last August?

25 A Yes, I have.

26 Q Do you subscribe to a daily newspaper?

1 A Yes, I do.

2 Q What paper is that?

3 A The Los Angeles Times.

4 Q Do you watch the television news reports?

5 A Yes.

6 Q On a regular basis?

7 A Yes.

8 Q Did you first learn about this case, or
9 rather, the killings that occurred, sometime shortly after
10 they were discovered?

11 A Yes. The next morning.

12 Q Have you made any conscious effort to follow
13 this case since that time?

14 A No, not conscious.

15 Q Do you recall reading or hearing anything
16 about the time that the defendants were arrested?

17 A Yes.

18 Q Was that something you read in the newspaper?

19 A Yes, or heard on the news, I don't remember
20 exactly.

21 Q Did you ever learn from any source anything
22 which appeared to be a description by someone of either
23 what occurred in the way of the killings or how the killings
24 happened?

25 A Yes.

26 Q Do you recall what it was that you read or

1 heard in that regard?

2 A I believe I read in the newspaper.

3 Q What was that?

4 A An account, I guess, by one of the defendants.

5 Q Which one?

6 A Describing --

7 I believe it was one of the girls, I don't
8 know which one.

14c-1

1 Q What did you understand it to be?

2 A It was a description of what happened the
3 night of the killings in pretty much detail, as I remember
4 it.

5 Q Did you understand from that that this person,
6 whoever it was, was present at the time? In other words,
7 was she relating her own account or was she describing
8 somebody else's account?

9 A I believe it was her own account. She was
10 there. I am not positive.

11 Q And were other persons named in this account?

12 A I believe so.

13 Q Do you know who the other persons were that
14 were named?

15 A I believe the other defendants.

16 Q Do you recognize the names?

17 A The names are familiar.

18 Q Are?

19 A Yes, are familiar.

20 THE COURT: Any questions?

21 MR. FITZGERALD: No.

22 MR. REINER: No questions.

23 MR. SHINN: No questions.

24 MR. KANAREK: No questions.

25 MR. STOVITZ: Submit it.

26 THE COURT: Thank you, Mrs. Allen. You may go

14c-2

1 back into the courtroom.

2 (Whereupon Mrs. Allen leaves the Court's
3 chambers.)

4 MR. STOVITZ: I might state that the reason for
5 not questioning the juror was because of your Honor's
6 indication at noontime of your Honor's feelings in the
7 matter.

8 I want to state that I disagree with your
9 Honor; that this juror seems to be intelligent enough
10 to be able to put aside what she read in the newspapers
11 and decide this case solely on the evidence.

12 However, I didn't want you to feel like I
13 was committing a nuisance act by trying to voir dire this
14 juror.

15 MR. BUGLIOSI: I think we are narrowing down the
16 scope of the group of jurors from whom we can choose.

17 THE COURT: No doubt about it.

18 MR. BUGLIOSI: To the point where it might take us
19 a couple of months to pick a jury. We are becoming so
20 strict. The sequestration problem, the length of trial
21 is a problem, and now if they have heard or read any of
22 these articles there appears to be an automatic exclusion.

23 THE COURT: Not any article, sir. I have not said
24 that.

25 MR. BUGLIOSI: No. I meant the one in the Times
26 and the book.

1 The prognosis is a somber one in terms of
2 time.

3 THE COURT: Whose fault do you suppose that is?

4 MR. STOVITZ: It is no fault of anyone other than
5 the circumstances of the case.

6 MR. BUGLIOSI: I hope the Court isn't suggesting
7 that it is the prosecution's fault.

8 MR. STOVITZ: And it is not the fault of the Court,
9 nor is it the fault of --

10 THE COURT: I think it is the fault of a number of
11 different people and a number of different things. I
12 will let it go at that.

13 I am concerned now not with pointing my
14 finger at anybody in particular, but it is clear from what
15 I know about the case that various people are at fault
16 with respect to pretrial publicity, on both sides, and
17 including outside agencies that have no connection with
18 it. For example, the newspapers.

19 MR. BUGLIOSI: I don't think Mr. Stovitz or I have
20 ever made a statement over the television or over the radio
21 that --

22 THE COURT: No, I don't mean to imply that you as
23 individuals are at fault. I really had no individuals
24 in mind at that time. Well, I won't say that. I have
25 individuals in mind that I believe are responsible, but
26 I wasn't intending to imply anything by that statement.

1 The point is that I am interested in getting
2 a fair and impartial jury. If it takes two months, then it
3 takes two months, that is all.

4 MR. STOVITZ: The only thing is, your Honor, the
5 point that we are trying to make, if we could say to
6 ourselves that there is a light at the end of a tunnel,
7 if it is going to take two months, fine, we will get there;
8 but it seems like we are, to use the expression, spinning
9 our wheels.

10 Perhaps if we were to ask the Jury Commissioner
11 to give us one thousand jurors this coming Monday, we will
12 all go over to some other room that can hold one thousand
13 jurors, and then ask them the questions point-blank: Have
14 you ever read anything about a statement of any of the
15 defendants, raise your hand. Then take their names and
16 exclude them, and let's get down to the 300 jurors that
17 haven't.

18 I think three out of ten is a fair average.
19 And we can start with those 300.

20 But under our present system of taking 60
21 at a time, we spend one day in open court voir diring,
22 and then we spend about one day for five jurors or six
23 jurors here in chambers.

24 It just seems that we ought to put our heads
25 together and say if the defendants and the People and the
26 Court are willing to speed it up, maybe there is a better

1 way.

2 We are not disagreeing with your desire in
3 trying to keep the jurors as pure and as absolutely pure
4 as possible. To think that is the aim of this case,
5 that the defendants can get a fair trial in spite of all
6 that has written, in spite of what may or may not have
7 been done by the defendants, they can get a fair trial
8 under our system.

9 But I just think that we ought to get
10 together and try to think of a way of working a little
11 faster.

12 There is talk about the jurors' financial
13 hardship. Mr. England and I got paid by the month, we
14 have no financial hardship, but I can't know whether or not
15 that statement holds true for the other four attorneys in
16 the case.

4d 117

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1 THE COURT: Well, that may be a fact, but I can't
2 help --

3 MR. STOVITZ: I know that that is another point
4 beyond your Honor's control.

5 THE COURT: I can't prejudice the defendants' right
6 to a fair and impartial jury because of that.

7 MR. STOVITZ: No. I was just merely indicating
8 that maybe both things can be consistent, that we can
9 find these pure, unbiased jurors, and --

10 THE COURT: If you have some specific suggestions
11 for expediting the securing of an impartial jury, I would
12 be delighted to hear them.

13 MR. SHINN: Your Honor, this is just the thing that
14 the Court in the Shepard case set certain guidelines on,
15 and I think this is one of the guidelines that your Honor
16 is following right now in trying to secure a proper jury.

17 That is the primary purpose, I think, your
18 Honor. The other issue is a side issue. We are trying to
19 get a fair and impartial jury.

20 THE COURT: I am inclined to agree with Mr. Shinn.
21 I think whatever hardship results from the fact that it
22 must be done, it may be unfortunate but it is simply a
23 necessary corollary to it.

24 MR. SHINN: We can go to certain limits, and if your
25 Honor feels we can't get a fair and impartial trial, then
26 I feel the Court should continue or dismiss or give us a

change of venue, or bring in jurors from other counties,
or bring in another judge.

I mean, that is the guidelines set down.

THE COURT: That last statement intrigues me. Would
you expand on that?

MR. SHINN: No reflection on you, your Honor.
The fact that you read the newspapers before being
assigned to this case. Maybe before another judge we
could waive the jury.

MR. FITZGERALD: If we can voir dire him first.

We will interpose a challenge against
Mrs. Allen.

MR. KAMARSK: Your Honor --

THE COURT: One thing at a time.

A challenge has been interposed. Does anyone
else join?

MR. KAMARSK: Join.

MR. RUTHER: Join.

MR. SHINN: Join.

MR. STOVITZ: Submit it.

THE COURT: The challenge is allowed. Mrs. Allen will
be excused for cause.

MR. KAMARSK: Your Honor, just a few comments along
this line.

Referring to Mr. Stovitz's last comment, he
has made a very eloquent motion to disqualify, actually,

1 your Honor, by his statements, because, I mean, it may just
2 well be, your Honor, our law contemplates due process, I
3 mean, that is the beauty of our law, the beauty of our law
4 is that we follow due process, we are supposed to follow
5 due process.

6 Now, if there is objectively imposed upon a
7 case certain facts, certain situations that make it
8 impossible to get a fair trial, your Honor, and State
9 action has done this, then we have no alternative but to
10 dismiss it.

11 Now, the People have certain remedies that they
12 can pursue after this dismissal occurs, but it seems a
13 shame to have to go through the tortures of a case like
14 the Shepard case, Shepard vs. Maxwell, the Millie Sol
15 Estes case, the Rideau vs. Louisiana case.

16 This Court administers the Federal
17 Constitution and the California Constitution in this
18 very room and --

15-1

1 THE COURT: Well, all right.

2 MR. KAMMERER: There is no question that we are not
3 going to be able to get --

4 THE COURT: It appears to me without question so
5 far that we will be able to obtain a fair and impartial
6 jury. It is just a question of screening the prospective
7 jurors until we achieve that goal, and I intend to do that.

8 MR. STOVITT: In Shepard vs. Maxwell, your Honor,
9 every one of the jurors in the second Shepard case knew
10 about the previous conviction of Dr. Shepard.

11 They knew about the evidence in the previous
12 case, and yet Dr. Shepard was acquitted in the second
13 trial because the jurors followed their oath.

14 MR. KAMMERER: I cannot agree that that is why
15 Dr. Shepard was acquitted.

16 THE COURT: We are going to recess at this time,
17 for 15 minutes.

18 (Recess.)

15a-1

(Whereupon, the proceedings were resumed at 3:00 o'clock p.m.)

(The following proceedings were had in the chambers of the Court out of the hearing of the prospective jurors, all defendants and their counsel being present; Mr. Buglioni and Mr. Stovitz were also present:)

THE COURT: Let's bring in the next prospective juror.

All counsel and all defendants are present.

(A prospective juror enters the room.)

THE COURT: Good afternoon.

THE CLERK: The prospective juror's name is Mrs. Nancy I. Compton, N-a-n-c-y; C-o-m-p-t-o-n.

VOIR DIRE EXAMINATION OF MRS. COMPTON

BY THE COURT:

Q Mrs. Compton, we have asked you to come in here so that we can ask you questions out of the presence of the other prospective jurors.

First, if you were selected as a juror in this case would you be able to serve?

A No, I would not.

Q What is your situation?

A I have a five-year-old son and I have been separated for two years. I have no one to take care of him.

1 For serving on this jury I arranged for him
2 to go back to Denver to stay with his father so I would be
3 able to do this.

4 I don't have any other relatives.

5 MR. KANARER: Your Honor, I cannot hear the pres-
6 spective juror, your Honor.

7 THE COURT: Would you keep your voice up, please.

8 MRS. COMPTON: Shall I repeat it?

9 THE COURT: No, that won't be necessary.

10 Mr. Kanarer, do you want anything repeated?

11 MR. KANARER: Just the last answer, your Honor.

12 MR. FITZGERALD: I can tell him.

13 (Off the record discussion between Mr.
14 Fitzgerald and Mr. Kanarer.)

15 MR. KANARER: Mr. Fitzgerald has filled me in.
16 There is no need to read the answer, your Honor.

17 THE COURT: Are you employed?

18 MRS. COMPTON: No.

19 BY THE COURT:

20 Q Are you regularly employed?

21 A Off and on. When he is in school I sometimes
22 work.

23 Q How old did you say your son is?

24 A Five.

25 Q Do you feel that your presence is required
26 at home to take care of him?

1 A Very much so, yes.

2 Q Do you leave him with anyone else?

3 A No.

4 THE COURT: Do counsel care to stipulate?

5 MR. FITZGERALD: So stipulate.

6 MR. REINER: So stipulate.

7 MR. KAHANE: So stipulate.

8 MR. SIGVITZ: People join.

9 May I beg your Honor's indulgence to ask one
10 question. I know she will be excused by stipulation.

11 Would your Honor ask the question concerning
12 whether or not she read the particular article in question,
13 just so we might have a statistical tally.

14 THE COURT: Well --

15 MR. KAHANE: I think if there is a stipulation,
16 your Honor --

17 MR. SIGVITZ: The juror is going to be excused as
18 far as we are concerned.

19 THE COURT: We are just wasting time.

20 THE JUROR: I don't mind answering. I can answer
21 very quickly.

22 THE COURT: I don't think there is any point to be
23 served by it. The attorneys have agreed by stipulation
24 that you may be excused, Mrs. Compton, thank you very much.

25 MRS. COMPTON: Thank you.

26 THE COURT: Would you please not discuss with

1 anyone else what went on in her?

2 MRS. COMPTON: Right. Now, in the hallway when
3 the press approaches me, should I just ignore them?

4 THE COURT: Just tell them you are not permitted to
5 relate what occurred.

6 MRS. COMPTON: Thank you.

7 THE COURT: Thank you.

8 (A prospective juror enters the chambers
9 of the court.)

10 THE COURT: Good afternoon.

11 THE CLERK: The prospective juror's name is Mrs.
12 Maureen D. Cotter, M-a-u-r-e-e-n; C-o-t-t-e-r.

13

14 VOIR DIRE EXAMINATION OF MRS. MAUREEN D. COTTER
15 BY THE COURT:

16 Q Mrs. Cotter, if you were selected as a juror
17 in this case would you be able to serve?

18 A No.

19 Q Why is that?

20 A Because I have a baby at home.

21 Q How old is your baby?

22 A Two.

23 Q Is there anyone who can take care of the
24 baby other than you?

25 A No.

26 Q Keep your voice up, please.

1 A Not during the night, because he works
2 five hours. He doesn't have straight time, you know,
3 from 8:00 to 3:00, you know.

4 Q Your husband, you meant

5 A Yeah, he works five hours, so it would be
6 hard to get somebody to care for him.

7 THE COURT: Do counsel care to stipulate?

8 MR. FITZGERALD: So stipulated.

9 MR. REINER: So stipulated.

10 MR. SHINN: So stipulated.

11 MR. KANAREK: So stipulated.

12 MR. STOVITZ: So stipulated.

13 THE COURT: All right, fine. Mrs. Cotter, you will
14 be excused, and will you refrain from discussing with anyone
15 what has occurred in here?

16 MRS. COTTER: Yes.

17 THE COURT: Including the press.

18 MRS. COTTER: Yes.

19 THE COURT: Especially the press. Thank you.

20 MRS. COTTER: Thank you.

15c file.

15B-1

1 THE COURT: The record will indicate that
2 Mrs. Carter was excused by stipulation of all counsel.
3 (A prospective juror enters the chambers of the
4 court.)

5 THE CLERK: The prospective juror's name is
6 Thomas A. Sorenson; T-h-o-m-a-s, S-o-r-e-n-s-o-n.

7
8 VOIR DIRE EXAMINATION OF THOMAS A. SORENSON
9 BY THE COURT:

10 Q Mr. Sorenson, if you were selected as a juror
11 in this case would you be able to serve?

12 A No, sir.

13 Q Why not?

14 A I start school in September.

15 Q What school?

16 A Long Beach City College.

17 Q Is this your first year?

18 A No, second.

19 Q Any other reason?

20 A No, sir.

21 Q When does school start?

22 A Sometime in September. I don't know what the
23 exact date is.

24 Q I am going to ask you the questions that I
25 asked the other prospective jurors regarding the death
26 penalty.

1 Do you have such conscientious opinions
2 regarding the death penalty that you would be unable to
3 make an impartial decision as to any defendant's guilt
4 regardless of the evidence in the case?

5 A No.

6 Q Do you entertain such conscientious opinions
7 regarding the death penalty that you would automatically
8 refuse to impose it without regard to the evidence?

9 A No.

10 Q Keep your voices up, please, so we can hear
11 you.

12 Have you lived in Los Angeles County continuously
13 since last August?

14 A Yes.

15 Q Do you subscribe to any daily newspaper?

16 A Yes, I do.

17 Q What paper is that?

18 A Long Beach Independent.

19 Q Do you read the paper regularly?

20 A Yes.

21 Q Do you watch TV news reports regularly?

22 A Yes.

23 Q When did you first become aware of the killings
24 that are the subject of this case, do you remember?

25 A I think I heard it that night on TV, that they
26 found out about it.

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1 Q Shortly after they were discovered?

2 A Yes.

3 Q And do you recall that the defendants were
4 arrested sometime later, several months later?

5 Do you recall that?

6 A I am not sure when -- I don't remember when.

7 Q Well, whenever it was do you recall reading
8 about it or hearing about it?

9 A Yes.

10 Q Did you ever hear or read any statement
11 which appeared to you to be a statement made by some
12 person regarding details of the alleged crimes?

13 A Yes.

14 Q Do you remember what that statement was or
15 who the person was, whose statement you thought it was?

16 A I don't remember just who it was. It was one
17 of the girls involved; she had an article about one of the
18 killings.

19 Q You mean one of the defendants?

20 A Right.

21 Q And do you remember where you learned this,
22 by reading it in the newspaper?

23 A It was in a newspaper article.

24 Q And what was your understanding? Did you read
25 the article?

26 A I -- yeah, I read it.

1 Q What was your understanding of what was said
2 in the article?

3 A It was pretty gruesome, I mean, I think she
4 described how one of the persons was killed.

5 I think it was a musician or something, I
6 don't remember the name.

7 Q A musician?

8 MR. STOVIER: I think he means Gary Hinman, your
9 Honor.

10 MR. ROSENBERG: Hinman, yes, that was the name.

11 MR. KAMAKAKI: Your Honor, I must --

12 Q BY THE COURT: Well, Gary Hinman was not a
13 victim in this case. Do you understand that?

14 A No, I did not, your Honor.

15 Q Do you know the names of any of the victims of
16 this case?

17 A A few.

18 Q Well, for instance.

19 A Well, Sharon Polanski and La Bianca.

20 Q Well, now, did this statement you were
21 referring to appear to be describing the alleged offenses
22 involved, or involving, rather, Mrs. Polanski and the
23 La Bianca?

24 A No, sir.

25 Q Was this something else?

26 A Yes.

1 Q Well, some of the other victims were a
2 Mr. Gehring, Frykowski, Miss Folger and a Mr. Parent.

3 Are those names familiar to you?

4 A I have heard them before.

5 Q The statements seem to relate to any of them?

6 A No, not that I recall.

7 Q Have you read about the killing of Gary Hinman
8 in the newspaper?

9 A Yes.

10 Q Well, did the statement seem to relate to
11 that case?

12 A Yes.

13 Q You realize that was not this case?

14 A I thought it was all part of the same.

15 Q Do you know the name of the person whose
16 statement this was?

17 A No, I do not.

18 Q It was your understanding that this person
19 was also a defendant in this case?

20 A I was not sure whether she was a defendant in
21 this case or not, but I just know it was from one of the
22 girls.

23 It was a continuous article for a week, something
24 like that. They had an article in there one day and
25 continued it to the next.

26 Q And do you remember approximately when this was

1 that you read this article?

2 A No, it was months ago.

3 Q December, January, around there?

4 A I think it was a little later than that.

5 THE COURT: Does anyone else have any questions?

1 MR. FITZGERALD: Yes, your Honor.

2
3 VOIR DIRE EXAMINATION

4 BY MR. FITZGERALD:

5 Q What did this girl say in this story you
6 read?

7 A Well, it was describing how, I believe, Nisman
8 was stabbed, and then he was tied to a chair or something,
9 and left for a while, and they came back and did it again,
10 put a pillow on his face or something.

11 It was quite a while ago. I did not read it
12 extensively. I just glanced through it on the way to work.

13 Q We understand that.

14 When you refer to the term "they," who are
15 you referring to when you say "they returned"?

16 Who is the "they"?

17 A I don't recall any of the names. I guess I
18 just took it for granted it was part of the defendants,
19 because I don't remember any of the names.

20 Q Have you ever heard anything about Charles
21 Manson?

22 A Well --

23 Q Or read anything?

24 A Well, just about that he was the leader of the
25 cult or something like that.

26 I did not read anything actually about his part

1 in any of the killings.

2 Q And how did he lead the so-called cult, if you
3 know, of which you read?

4 A That I read and heard, he had some kind of
5 traces that he put out in them or something. That is about
6 all I heard.

7 I haven't read too much about him.

8 Q And how is Mr. Manson connected with this case,
9 in your mind, if at all?

10 A I guess in my mind, I think of him as the
11 leader of the group, just the leader of a group of kids
12 traveling around looking for kids.

13 Q Do you associate the name Charles Manson with
14 this case at all, people of the State of California vs.
15 Manson and Atkins, Freuchel and Van Houten, in which they
16 are charged with the murder of Sharon Tate and other
17 people?

18 A When I hear Sharon Tate, I think of Manson.

19 Q Why?

20 A Because I heard it so much on radio, TV, and
21 so forth.

22 Q What sort of things have you heard connecting
23 Manson with Sharon Tate, if you have?

24 A Just that he was suspect, and accused of the
25 killings.

26 Q. PERSONAL: I have nothing further.

1 MR. REINER: Just a couple of questions.

2
3 VOIR DIRE EXAMINATION

4 BY MR. REINER:

5 Q This was a series of articles that continued
6 for approximately five days, that you read?

7 A I believe not.

8 Q And did you read these articles each day?

9 A No, sir.

10 Q And did you read some of these articles?

11 A Right.

12 Q How many?

13 A Maybe two.

14 MR. REINER: Thank you very much, nothing further.

15 MR. STOVITZ: Mr. Shinn?

16 MR. SHINN: Yes.

17
18 VOIR DIRE EXAMINATION

19 BY MR. SHINN:

20 Q Was this article you read in the newspaper?

21 A Yes, it was.

22 Q In the Long Beach newspaper?

23 A The Long Beach Independent.

24 Q And did this article state that this person
25 testified some place at a trial?

26 A I don't recall.

1 I thought it was like a biography, like some
2 girl was writing a book and she was telling her story, and
3 they said this would be a continuous story for a week or so.

4 Q And would you say that case involved the Hinman
5 case, you think?

6 A Yes, sir, I believe that is what it was.

7 MR. SHINN: I have nothing further.

8 MR. STOVITE: Mr. Kanarek?

9 MR. KANAREK: I have no questions, your Honor.

10
11 VOIR DIRE EXAMINATION

12 BY MR. STOVITE:

13 Q Mr. Eriksen, how old are you, sir?

14 A 22.

15 Q When did you graduate from high school?

16 A '63.

17 Q And was there some hiatus there before you
18 started college?

19 A Pardon me?

20 Q Was there some period of time you spent some-
21 where else before you started college?

22 A No.

23 Q When did you start college?

24 A In '65, September.

25 Q This is just your second year you are going
26 into/^{or}you're going to finish up?

1 A I went to college for about eight months; then
2 I quit and went in the Marines, got out and I started
3 working at the Long Beach Naval Ship Yard about two years
4 ago.

5 They have an apprenticeship program there, and last
6 year they started sending me to Long Beach City College.

7 This would be my second year attending college.

8 Q So this interruption of your schooling would
9 be quite a hardship on your future life, is that right?

10 A Not on my future life. It might set me back.

11 I might have to miss a semester, that is about
12 all, I guess.

13 Q In other words, you're not going to be afraid
14 of being drafted?

15 A No.

15d-1

1 Q Now, you know the author of these articles
2 that you read in the Long Beach newspaper?

3 A No, I don't remember.

4 Q Does the name Susan Atkins sound like the
5 party whose biography was being told?

6 A I cannot remember.

7 Q Does the name Bobby Beausoleil, does that
8 sound like the biography?

9 A I read the name somewhere.

10 Q The name Mary Brunner, does that ring a bell?

11 A No.

12 Q The name Kasbian, Linda Kasbian, does that
13 ring a bell?

14 A I heard the name.

15 Q You don't know whether that was her life
16 story that was being told?

17 A I don't remember.

18 Q And I take it you have lived in Long Beach
19 and you worked in Long Beach, is that right?

20 A Yes.

21 Q And you went to school in Long Beach?

22 A Yes.

23 Q Did you ever read any book, "The Killing of
24 Sharon Tate"?

25 A No.

26 Q What about any magazine articles such as Time

1 or Life or Limb?

2 A No.

3 Q As a result of reading this series of articles
4 in the Long Beach paper, do you have any opinion that Mr.
5 Hanson is more likely to be guilty than not guilty on these
6 charges here?

7 A Involving this case?

8 Q Yes.

9 A Well, I drew an opinion that he was from what
10 I read.

11 Q In other words, from what you read about the
12 other cases, that he is more likely to be guilty in this
13 case?

14 A Right.

15 Q What about any of the other defendants, do
16 you feel that they are more likely to be guilty of this
17 because of what you read about Mr. Hanson and the other
18 cases?

19 A Probably, I just associate them all together.

20 MR. STOVIER: I have no further questions, your Honor.

21 THE COURT: Did you learn anything, Mrs. Sorensen,
22 other than the fact that the defendants were arrested in
23 this case, obviously, and had been charged with the crimes
24 that are before the Court for trial?

25 Aside from those facts, did you learn anything
26 which leads you to believe that there is some connection

15d-3

1 between the defendants and the crimes alleged in this
2 case?

3 A No, I don't think so, except just what I
4 read.

5
6 YOUR HONOR EXAMINATION OF MR. SORINSEN (Resumed)
7 BY THE COURT:

8 Q What you read did not relate to this case?

9 A Then I have not read too much about this
10 case except immediately after it happened I just heard about
11 the Tate murders, the Manson Family, and that is all.

12 Q If I am correct, you tell me. If I am not
13 correct, you tell me also.

14 That you seem to be saying is that you read
15 something which you believe was a statement by one of the
16 defendants in this case, relating another crime committed,
17 that is the subject of another case; is that right?

18 A It might not be one of the defendants in this
19 case that wrote that article because I think it was Linda
20 Resnais that wrote the article.

21 Q Whatever it was you read you believe related
22 to some other case?

23 A Right.

24 Q And because of that you think that it is more
25 likely that the defendants in this case are guilty than
26 innocent, is that correct? I don't want to put words in

1 your mouth. You tell me if that is not correct.

2 A Well, technically I guess it would not be
3 considered.

4 Q I am not talking about what the law is.
5 We simply want to know what your state of mind is.

6 We don't intend to be critical; we simply
7 want to find out.

8 A I just assumed they were guilty of all of
9 these murders that I read about.

10 Q Well, does that assumption reach the proportions
11 of an opinion?

12 In other words, do you believe that the
13 defendants are guilty of the crimes in this case because
14 of what you have learned?

15 A Yeah, I guess I do.

16 Q Let me change the question a little bit so
17 that you look at it from another angle.

18 Suppose you were being tried in this court
19 for some criminal offense, whatever, would you want someone
20 sitting on the jury that believes as you do now, that had
21 the same frame of mind that you have now?

22 A No, I wouldn't.

23 THE COURT: Thank you very much for answering the
24 questions forthrightly.

25 You may go back into the court.

16-1

1 MR. FITZGERALD: Your Honor, I intend to interpose
2 a challenge for cause, but before I do so I would like to
3 point out for the Court's edification that the Prosecution
4 will attempt to introduce into evidence during the guilt
5 and/or penalty phase of this trial the corpus of the so-
6 called Hinman homicide.

7 I point this out only that it may be relevant
8 in examining future prospective jurors.

9 THE COURT: How do you know that?

10 MR. FITZGERALD: Because I have been so informed by
11 the prosecution.

12 And with that in mind, your Honor, we would
13 interpose a challenge for cause against this juror,
14 pursuant to 1073, paragraph 2.

15 MR. STOVITZ: Yes.

16 I might say, your Honor, that in the event we
17 do not introduce the evidence in our case-in-chief --
18 and right now we are right on the borderline as to whether
19 or not we will or will not -- most likely we will not
20 introduce it in our case-in-chief, unless something drastic
21 happens by way of connecting evidence -- but we definitely
22 will attempt to introduce this evidence during our penalty
23 phase as to the defendant Susan Atkins and Charles Manson,
24 in the event that there is a verdict of first-degree murder.

25 MR. SHINN: Join in Mr. Fitzgerald's challenge for
26 cause.

16-2

1 MR. BEIMER: Join.

2 MR. KANAREK: Join.

3 THE COURT: I am going to allow the challenge, and
4 Mr. Sorensen will be excused for cause.

5 But to get back to this other subject for a
6 moment now, I want to be sure that I understand the
7 connection.

8 So far as I know -- I may be wrong, because
9 I haven't been in on all of the aspects of all of these
10 cases with all the defendants, and I haven't made any
11 attempts to follow the other cases -- so far as I know,
12 there has been no confession by any defendant in this case
13 regarding any other case.

14 Is that right or is that wrong?

15 MR. STOVITZ: That is not completely correct.

16 MR. FITZGERALD: It is incorrect.

17 MR. STOVITZ: Well, so that I might present my
18 version, my beliefs --

19 THE COURT: The only reason that I am asking the
20 question is because of this voir dire on pretrial publicity
21 I can see the connection.

22 MR. STOVITZ: Your Honor, I believe that in the
23 Los Angeles Times article of December 14th, the alleged
24 statement of Susan Atkins did not involve the killing of
25 Gary Hinman at all.

26 In the book, Five To Die, the killing of

1 Gary Hinman is discussed, and I cannot remember now whether
2 in the book, the Killing of Sharon Tate, whether or not
3 the killing of Gary Hinman was discussed.

4 However, there was a witness by the name of
5 Mary Brunner who testified in the second Hinman trial whose
6 testimony was written up after she testified.

7 Also, Mrs. Neiswinder, who is one of the
8 reporters out here from the Long Beach newspaper, has
9 covered the case from the very beginning of the Gary Hinman
10 case, when Manson was not even connected with the Hinman
11 murder at all. She was reporting the Hinman murder in
12 the Long Beach newspaper, because it was being tried in the
13 Santa Monica papers.

14 MR. REINER: The Santa Monica courts.

15 MR. STOVITZ: The Santa Monica courts, that's right.
16 It wasn't being tried in the Santa Monica papers.

17 She was reporting the case and she has con-
18 tinued, to use the expression, staying on top of the case,
19 and I don't know whether or not she quoted the Susan Atkins'
20 story from the December Times or not. I know that she has
21 written a series of articles, biographical sketches,
22 and things of that nature, in the Long Beach paper.

16a-1

1 So this case has received a great deal of
2 publicity in the Long Beach paper.

3 Would you say that is a fair statement,
4 Counsel?

5 MR. FITZGERALD: Yes, with an addendum, that Miss
6 Atkins' allegedly confessed to the Gary Hinman -- to being
7 a principal in the homicide of Gary Hinman. She also
8 allegedly made an accusatory statement in regard to Charles
9 Manson, Robert Eugeneolell and Mary Brunner.

10 Aspects of that confession, that alleged
11 confession and alleged accusatory statement, have been
12 made public in various forms.

13 Early in December, it is my understand that
14 Attorney Richard Caballero released certain aspects of that
15 alleged confession in the Gary Hinman homicide to the press.

16 Also, there is pending -- there will be pending
17 before your Court an alleged statement by Miss Atkins to
18 one Virginia Graham, and one Roni Howard. Those are also
19 alleged confessions.

20 In those two alleged confessions, the Hinman
21 homicide is mentioned.

22 MR. STEVENS: I might also add additionally, there
23 was a preliminary hearing in which the alleged confession
24 of Susan Atkins was testified to by Deputy Sheriffs in the
25 West Los Angeles Court in connection with the Gary Hinman
26 case in which she was held to answer for the Gary Hinman

16a-7

1 murder case.

2 Whether or not testimony from the preliminary
3 hearing was ever reported or not, I do not know. I cannot
4 remember hearing or reading anything about that in the
5 newspaper.

6 MR. REINER: Your Honor, I might point out, and I
7 think I am correct, and I am sure counsel will correct me
8 if I am not, up until the time that Mary Brunner testified
9 in the Beausoleil trial recently, the only statement that
10 ever appeared in print would relate to Susan Atkins. There
11 is nothing that appeared in print, no statements relating
12 to any other defendants in this case, including Linda
13 Babbian.

14 THE COURT: What was the statement as to Susan
15 Atkins?

16 MR. REINER: There were many statements attributed
17 to Susan Atkins, in the press, from the preliminary hearing,
18 statements made allegedly by Miss Atkins either to Roni
19 Howard or Virginia Graham, statements allegedly made by
20 Miss Atkins to the Grand Jury, statements allegedly made
21 by Miss Atkins pursuant to the newspaper articles or the
22 book.

23 But all statements that appeared anywhere in
24 the press allegedly made by some female defendant in this
25 case, other than the statement that was made by Mary Brunner
26 when she testified, all would be statements of Miss Atkins.

1 In other words, in trying to determine
2 whether a juror has been exposed to a statement by a
3 particular defendant, if he heard of it prior to the
4 time that Mary Brunner testified, it would then, of
5 course, have to have been some statement attributable
6 to Susan Atkins because no other statements have appeared
16b file. 7 in the press.

16B-1

1 THE COURT: When did Mary Brunner testify, did
2 you say?

3 MR. REINER: It was quite recently.

4 Perhaps Mr. Stovitz would have the date in
5 mind better than that.

6 THE COURT: I think I read about that. That was
7 within the past two or three weeks, wasn't it?

8 MR. STOVITZ: No. Within the past two or three
9 months, because Beausoleil's sentencing was continued for
10 at least four weeks so that he could prepare a motion for
11 new trial. He was sentenced three weeks ago, when this
12 case first started. So, she testified in February or
13 March.

14 MR. REINER: That late?

15 MR. STOVITZ: Yes.

16 MR. REINER: I mean, that early? I thought it was
17 much later.

18 MR. STOVITZ: About March.

19 No, April.

20 MR. REINER: Right.

21 MR. SHINN: She testified in the trial and then she
22 testified, I think, three days later at the Grand Jury
23 hearing, which resulted in the indictment of Manson and
24 Susan Atkins again.

25 The preliminary, which I didn't handle, I
26 think Mr. Caballero did, but I did handle the motion to
suppress the confession, the admissions to the police

1 officers, I don't think that it involved Mr. Manson or
2 anyone else, only Mr. Beausoleil.

3 I think there was a mention of the name but
4 nothing involving Mr. Manson or Bruce Davis.

5 MR. REINER: Perhaps I might inquire of Mr. Shinn
6 the date that the Grand Jury indictment was returned --
7 Mr. Stovitz, rather. That would give us an indication when
8 she testified in the Beausoleil case because I think it
9 preceded it by a few days.

10 MR. STOVITZ: I don't have it. I think it was April.

11 THE COURT: Are you talking about Mary Brunner?

12 MR. REINER: Mary Brunner's testimony.

13 MR. KANAREK: Your Honor, if I make a point?

14 I don't believe that Mr. Reiner -- maybe I
15 didn't hear him right, but I think I did -- I don't think
16 what he stated was correct.

17 Susan Atkins, in her statement, which I believe
18 was December 14th, that is that Sunday article in the L.A.
19 Times, did mention people that are defendants in this case,
20 your Honor.

21 He said, he indicated that Susan Atkins had
22 not made any such statement.

23 THE COURT: Who said that?

24 MR. KANAREK: Mr. Reiner.

25 MR. REINER: No, I didn't say that.

26 THE COURT: He didn't say that.

1 MR. STOVITZ: No. He said that in her testimony
2 given at the preliminary hearing involving Gary Hinman's
3 death, she did not involve Mr. Manson. That is what the
4 statement was.

5 MR. CHINN: Wait a minute, whose preliminary?

6 MR. STOVITZ: Susan tkin's preliminary.

7 MR. CHINN: She didn't take the stand.

8 What do you mean?

9 THE COURT: All right. Is there anything else before
10 we call in the next prospective juror?

11 (Whereupon, another prospective juror enters
12 the chambers.)

13 THE COURT: Good afternoon, sir.

14 THE CLERK: The prospective juror's name is William
15 M. Zamora; W-i-l-l-i-a-m, Z-a-m-o-r-a.

16
17 VOIR DIRE EXAMINATION OF WILLIAM M. ZAMORA
18 BY THE COURT:

19 Q Mr. Zamora, if you were selected as a juror in
20 this case, would you be able to serve?

21 A I believe so.

22 Q I am going to ask you the same questions
23 regarding your opinions, if any, about the death penalty
24 that I put to the other prospective jurors.

25 Have you had a chance to think about those
26 questions and your answers to them?

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A Yes. They would be the same, sir.

Q All right. I am going to ask you the questions.

Do you entertain such conscientious opinions regarding the death penalty that you would be unable to make an impartial decision as to any defendant's guilt regardless of the evidence in this case?

A No.

16c

16c-1

1 Q Do you entertain such conscientious opinions
2 regarding the death penalty that you would automatically
3 refuse to impose it without regard to the evidence in the
4 case?

5 A No.

6 Q Now, I'm going to ask you some questions
7 about what you have learned, if anything, about this
8 case over the past months from reading about it or from
9 watching television, or from whatever source.

10 A Yes, sir.

11 Q Have you lived in the Los Angeles area
12 continuously since last August?

13 A No. I was out of the country.

14 Q Where?

15 A I was in Europe.

16 Q When were you absent? During what time?

17 A Well, it was November to January. Then
18 I was also gone the last two months. Just came back.

19 Q You were here during August of 1969?

20 A Yes, I was.

21 Q All right.

22 Now, did you learn about this case or the
23 killings that are the subject of the case before you left?

24 A Not very much.

25 Q Did you learn anything?

26 A Yes. I followed the usual routine on the

16c-2

1 radio and the newspapers.

2 Q And you were not here in November or December;
3 is that right?

4 A No, sir. That's right.

5 Q Or January?

6 A I was here part of January.

7 Q Now, do you remember learning anything about
8 the arrests of these defendants?

9 A No.

10 Q Have you ever learned anything which appeared
11 to you to be a description by somebody of what actually
12 happened when the alleged crimes occurred?

13 A No.

14 Q That is, the nature of the killings, the
15 manner in which the people were killed, or anything like
16 that?

17 A No, sir.

18 Q Now, aside from the fact that the defendants
19 have been arrested and charged with these offenses, which
20 you know to be the fact because I told you that when you
21 came into this case, and they are now before the Court
22 to stand trial, but aside from those facts, Mr. Zamora,
23 have you ever learned anything which causes you to believe
24 that there is a connection between the defendants and the
25 alleged crimes?

26 A No, sir.

16c-3

1 Q Do you believe that you could be a fair and
2 impartial juror in this case if you are selected?

3 A Yes, sir.

4 Q Do you recall yesterday that I told the
5 jurors that in a criminal case, any criminal case, a
6 defendant is presumed to be innocent until the contrary
7 appears --

8 A Yes.

9 Q -- in other words, until his guilt is proved
10 by the prosecution beyond a reasonable doubt?

11 A Yes.

12 Q Did you understand that?

13 A Yes, sir.

14 Q Are you willing to give the defendants in
15 this case the presumption of innocence?

16 A Correct.

17 Q If the People fail to prove their guilt
18 beyond a reasonable doubt or the guilt of any particular
19 defendant beyond a reasonable doubt, are you willing to
20 vote for an acquittal as to that defendant or defendants?

21 A Yes, sir.

22 Q On the other hand, if the People do prove
23 their guilt beyond a reasonable doubt, are you willing to
24 vote a verdict of guilty?

25 A Yes, sir.

26 THE COURT: Mr. Fitzgerald?

16c-4

MR. FITZGERALD: Yes, sir.

VOIR DIRE EXAMINATION

BY MR. FITZGERALD:

Q Were you born in Europe?

A No, I was not.

Q Where in Europe were you visiting from November of '69 to January, 1970?

A Spain mainly.

Q Are you of Spanish extraction?

A No. Well, you might say my ancestors are, but I have no relatives in Spain.

Q Did you read about this case in the Spanish newspapers or in any other European newspapers, Mr. Zamora?

A No, I didn't.

Q Are you familiar with the name Roman Polanski?

A Yes.

Q How are you familiar with that name?

A Through a picture. He is the director of a certain picture that I know of. That is just about as much as I know of him.

Q Do you know a Wojciech Frykowski?

A No.

Q You didn't hear about this case at all

1 in Europe?

2 A No.

3 MR. FITZGERALD: I have nothing further.

16d fls.

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1 THE COURT: Mr. Reiner?

2 MR. REINER: I have no questions, your Honor.

3 THE COURT: Mr. Shinn?

4 MR. SHINN: No questions, your Honor.

5 THE COURT: Mr. Kanarek?

6 MR. KANAREK: No questions.

7 THE COURT: Mr. Stovitz?

8 MR. STOVITZ: Thank you.

9
10 VOIR DIRE EXAMINATION OF MR. ZAMORA

11 BY MR. STOVITZ:

12 Q What is your business or occupation, Mr. Zamora?

13 A I work for the Division of Highways. I am a
14 highway engineer technician.

15 Q For the State of California?

16 A Right.

17 Q And what was the reason or occasion for you to
18 go to Europe?

19 A Well, I had certain things that I wanted to buy
20 there that only can be bought through the Christmas
21 holidays, and that was my reason for going there.

22 Q What about your second trip to Europe?

23 A Well, that was unexpected. It was just sort of
24 a take-off on a holiday, because the first one was not a
25 holiday. Like I say, it was business.

26 Q You and your wife ^{went} on the second trip?

1 A I am not married.

2 Q During the second trip, in Europe, what
3 countries did you visit?

4 A Italy, Germany, and Spain again.

5 Q Did you read the Italian newspapers?

6 A Yes, I did.

7 Q Did you read anything about this case in the
8 Italian newspapers?

9 A No, I didn't.

10 Q Did you see any English newspapers while you
11 were in Europe?

12 A The only thing I saw was Newsweek on the plane,
13 and I didn't get a chance to see it because I went to
14 sleep.

15 Q Now, it is your testimony today, Mr. Zamora,
16 that at no time can you remember any particular article that
17 you might have read in any magazine, either European or
18 English, or any newspaper; is that right?

19 A That's right.

20 MR. STOVITZ: I have no further questions.

21 THE COURT: All right, Mr. Zamora. Thank you.

22 You may go back into the courtroom.

23 MR. ZAMORA: Thank you, sir.

24 (Whereupon, Mr. Zamora leaves the chambers.)

25 THE COURT: I am going to call on Mr. Ellman, No. 9
26 now. He has already been examined but I don't think on the

1 particular questions relating to his knowledge of any
2 confession.

3 MR. REIMER: Have we examined Mr. Stringer?

4 I believe we have this morning.

5 THE COURT: No, I don't believe so.

6 MR. REIMER: No, we have not called Mr. Stringer back.

7 THE COURT: No. Mr. Stringer will be the next one
8 after Mr. Ellman.

9 MR. REIMER: Very well.

10 (Whereupon, prospective juror Clarence Ellman
11 enters chambers.)

12 THE COURT: Good afternoon, Mr. Ellman.

13 MR. ELLMAN: Good afternoon.

14
15 VOIR DIRE EXAMINATION OF CLARENCE ELLMAN
16 BY THE COURT:

17 Q We have asked you to come back in because there
18 are some questions that we wanted to ask you which may not
19 have been covered the first time you were here.

20 A Yes, sir.

21 You know, of course, that these defendants have
22 been arrested and charged with the offenses in this case.

23 A Yes, sir.

24 Q And that they are on trial in court for these
25 charges?

26 A Yes, sir.

1 Q Now, apart from those facts, Mr. Ellman, have
2 you ever learned anything over the past months which causes
3 you to believe that there is some connection between the
4 defendants and the alleged offenses?

5 A No, I don't think so, your Honor.

6 Q Have you ever read or heard any statement
7 which seemed to you to be a description by someone of what
8 happened at the time of the offenses?

9 A If I have, it has been so long ago.

10 I had read about it, naturally, when it first
11 happened and all.

12 Q When it first happened you read about the facts?

13 A The headlines and all. I don't think I ever
14 read one article all the way through.

15 Q You read about the fact that some people had
16 been killed?

17 A Yes.

16a-1

Q All right.

Did you read anything about the way they had been killed?

A No.

I believe one was shot. I think I remember that.

Q Was this in the initial publicity right after the discovery of the bodies?

A I think so.

Q Now, do you recall learning anything about the arrest of the defendants sometime later?

A What brought it all about, I don't remember.

Q Do you remember reading or hearing anything about the fact that the defendants were arrested, Mr. Eileen?

A Yes.

Q Do you remember what you heard or read?

A Well, it seemed like someone was in prison and talked, or something like that. I remember something like that, the jailer, or some other party.

Q That is what I want you to tell me.

A Yes. Well, I remember something about that.

Q What do you remember?

A Well, someone was supposed to have told

15a-2

1 someone else in there regarding this, and that is about
2 all I remember.

3 Q Do you remember who either of those "someones"
4 was?

5 A I can't recall.

6 Q Well, did you understand from whatever it was
7 you learned that it was one of the defendants who is
8 reported to have said something?

9 A I kind of believe it was.

10 Q Do you remember which defendant?

11 A Since you brought it up, I think it was
12 Atkins.

13 Q Susan Atkins?

14 A Yes.

15 Q Now, is this something that you learned in
16 the newspaper?

17 A Well, that would be the only way I would know
18 about it, I guess.

19 Q All right.

20 Now, apparently I have been able to refresh
21 your memory a little bit.

22 A Yes.

23 Q Can you tell me a little bit more about what
24 you remember about the statement of Susan Atkins?

25 A No. About the statement? No.

26 I remember something about a boy, I remember

16e-3

1 reading this. A boy that was supposed to be visiting,
2 a boy that done garden work or something. I remember that
3 part about the case.

4 Q Now, going back for a moment to this statement,
5 or whatever it was, of Susan Atkins, did you read the
6 statement?

7 A I don't think so. I didn't read too much
8 about any of it.

9 Q What did you understand that that statement
10 was all about? Just in your own words, Mr. Eiland? What
11 do you think the substance of that statement was?

12 A I really couldn't say.

13 Q Well, even though you may not have read the
14 statement in its entirety, or even at all, perhaps it was
15 described in the article in which it was referred to.

16 A I still don't remember now, but I do remember
17 there was something like that.

18 Q Did you understand from what was said,
19 whatever it was, that there was some connection between
20 one or more of these defendants and the alleged offenses
21 in this case?

22 A Yes, I guess so. Yes. I am not too sure
23 now. I really don't remember the article.

24 Q Was there anything else other than that
25 statement that you referred to that has, at any time,
26 caused you to believe that there is some connection between

10a-4

any of the defendants and the alleged offenses in this case?

A I can't say, no, sir.

THE COURT: Any questions, Mr. Fitzgerald?

MR. FITZGERALD: No.

MR. REINER: No questions.

THE COURT: Mr. Shinn?

MR. SHINN: No questions.

THE COURT: Mr. Kanarek?

MR. KANAREK: No questions.

MR. STOVITZ: May I, your Honor?

THE COURT: Yes.

VOIR DIRE EXAMINATION OF MR. EILMAN

BY MR. STOVITZ:

Q Mr. Eilman, whatever you may remember now, do you think that you could put that aside completely and concentrate solely on the evidence in this case?

A I think so, yes.

Q Now, you have been sitting out there for, what? Eight days now?

A Every bit of it. I am trying to remember. I will go along with that.

16F is.

145-1

1 Q You understand that all counsel and the
2 Court and myself apologize for this inconvenience,
3 but you realize the necessity, right?

4 A I realize that, yes.

5 Q You haven't been able to do any reading
6 out there while you have been sitting out there, have you?

7 A No, I haven't been doing too much reading
8 out there.

9 Q But you have been thinking about why you
10 are here, and what you are doing here, and whether or
11 not destiny has selected you; right?

12 A Yes.

13 Q Now, do you think, as we asked you before,
14 that if you promise the Court that you will decide this
15 case solely on the evidence that you hear in this case,
16 do you think you could forget about that article that
17 you read about one of the defendants talking to an inmate
18 in the County Jail?

19 A I believe I have already forgotten it.
20 It has been so long.

21 Q Suppose if the inmate in the County Jail
22 was called to testify as a witness and that the inmate
23 in the County Jail testified to items A, B and C, but
24 you remembered now that the article talked about items
25 A, B, C, D, E and F. Do you think you could forget about
26 E and F and just concentrate on part A, B and C, the

1 testimony here?

2 A I think so.

3 Q You wouldn't wonder about what happened to
4 D and F, would you?

5 A No.

6 MR. STOVITZ: I have no further questions.

7
8 VOIR DIRE EXAMINATION OF MR. ELLMAN

9 BY THE COURT:

10 Q Do you have any recollection at all of what
11 it was that Miss Atkins, or whoever it was, said to this
12 person in the County Jail?

13 A No, sir, I can't remember.

14 Q Well, I am not asking you to remember, you
15 know, the details.

16 A I know.

17 Q But what was the subject?

18 A You have got me now. I just can't remember.
19 Really, I can't.

20 Q Did it have anything to do with this case?

21 A I think so, but what was said I have no
22 recollection at all.

23 Q Do you recall whether it was a description
24 of what happened?

25 A No, I don't.

26 Q Do you remember why the statement was being

1 published? In other words, what the context of it was?

2 A Well, it had to do with the happenings
3 and all, but I don't remember what the article -- what
4 the true facts of the article were, no. It was some
5 sort of a confession of being there or something.

6 Q A confession of being there?

7 A Or an alleged statement of being there, or
8 seeing something. But I don't remember the article.

9 Q Did you understand from the article that
10 Miss Atkins had some connection with what happened?

11 A Other than maybe being there and seeing,
12 or something, that is all I can recall.

13 Q But she had some connection -- whether she
14 is guilty or not, I am not asking you -- but she had some
15 first-hand knowledge; is that your understanding?

16 A I think that would be about the gist of it,
17 yes.

18 THE COURT: All right, sir.

19 Thank you, Mr. Ellman, for coming back in.
20 You may go back into the courtroom.

21 MR. ELLMAN: Okay.

22 MR. FITZGERALD: We interpose a challenge for cause,
23 your Honor, under 1073 P.C., Paragraph 2.

24 MR. REINER: Join.

25 MR. KANABEK: Join.

26 MR. SHINN: Join.

1 MR. BUGLIOSI: The People would oppose, your Honor,
2 ^{we} and would ask briefly to be heard.

3 I think we have to start out with the
4 proposition that there is absolutely no case authority
5 whatsoever for excusing this type of a juror.

6 Then I think we have to proceed to this
7 point: The Court has observed many prospective jurors
8 tell the Court and tell the defense attorneys that they
9 would be prejudiced. They have admitted it.

10 I think when we have a juror like this who
11 says, yes, I have heard something about it but I will
12 give these defendants a fair trial, I will base my
13 verdict solely on the evidence, I think that the Court
14 should exercise its discretion in each individual case
15 and form an opinion whether that person who is now on
16 the witness stand is telling the truth.

17 If the Court doesn't believe the witness is
18 telling the truth, then excuse the juror.

19 By listening to the juror testifying, by
20 observing the juror's demeanor, I think the Court should
21 make an independent evaluation and decision for each
22 prospective juror.

23 The third point that I would like to make is
24 this, your Honor. I think there is a very meaningful
25 distinction between a prospective juror's being exposed
26 to evidence in the case which we can all agree to will not

1 be introduced into evidence, e.g., Susan Atkins' statement
2 in the Los Angeles Times, we can all agree now that this
3 will not be introduced into evidence, and if the
4 prospective juror read that statement and it is not
5 introduced into evidence, conceivably they might consider
6 it against her even though it wasn't introduced into
7 evidence, but contrast that type of situation, and I
8 think there is a very meaningful distinction, with a
9 situation where the prospective juror has been exposed
10 to some type of evidence in the case and the People do,
11 in fact, offer that evidence at the trial. I think
12 there is a very meaningful distinction.

17 fls.

17-1

1 In the latter type situation I don't think the
2 defendant has been that prejudiced. I would think there
3 would be an enormous prejudice to the defendant to have a
4 juror who has been exposed to evidence which does not come
5 in at the trial. I think there is a very ---

6 THE COURT: Well, apparently you think this last case
7 was an instance of the latter example you gave, is that
8 right?

9 MR. BUGLIOSI: Perhaps I should have been listening
10 more closely, your Honor, but I think he said something
11 about a statement made by Miss Atkins or one of the defen-
12 dants in jail.

13 THE COURT: To begin with, he was quite hazy about
14 what it was.

15 MR. BUGLIOSI: Right, right.

16 THE COURT: He did finally recall it was a confession
17 of her having been there, or something.

18 MR. STOVITZ: We intend to introduce --

19 MR. BUGLIOSI: It was made to some other inmate.
20 Now, we do intend to introduce this evidence. That is the
21 statement she allegedly made to Ronnie Howard and Virginia
22 Graham. Now, if they take the stand and so testify --

23 THE COURT: Of course you don't know if these state-
24 ments will even be admissible.

25 MR. BUGLIOSI: No --

26 THE COURT: And furthermore, you are going to have,

17-2

1 as I understand it, if you call Miss Kasabian, a second
2 confession.

3 MR. BUGLIOSI: Not one involving Susan Atkins, I
4 don't believe.

5 THE COURT: Well, but she is going to testify to what
6 happened.

7 MR. BUGLIOSI: Yes.

8 THE COURT: The fact it is going to be a confession,
9 even though she is not on trial in this particular case.

10 MR. BUGLIOSI: Yes.

11 THE COURT: So that would in effect re-enforce what-
12 ever the juror had already heard from some other defendant,
13 which he is not sure of, but this might help him make up
14 his mind that what he heard was the same thing that she was
15 testifying to.

16 MR. BUGLIOSI: But I think the thing we have to try to
17 obviate is having a juror being exposed to evidence,
18 incriminating evidence, which is not going to be introduced
19 at the trial, if the evidence is in fact going to be
20 introduced I don't see that much prejudice.

21 MR. STOVITZ: For instance, to give you another
22 example, counsel has brought up the fact that Mr. Manson's
23 prior background has been exposed to the news media.

24 We will assume for the moment that they did
25 publish the fact that he had been in institutions for 14
26 years, and during the penalty trial we introduce evidence

17-3

1 that he has been in institutions for 14 years.

2 The error, if any, would be of no consequence
3 whatsoever because the juror is going to hear that same
4 evidence.

5 THE COURT: That would depend upon whether or not it
6 would affect their opinion on the guilt phase.

7 MR. FITZGERALD: It is a prior consistent statement
8 that has not been introduced into evidence.

9 Presumably this prospective juror, your
10 Honor, has heard a statement that he is later going to hear
11 from a witness on the witness stand.

12 He has, in effect, received evidence out of
13 court as to a prior consistent statement.

14 MR. BUGLIOSI: The Court can take judicial notice
15 that it is extremely commonplace at a criminal trial for
16 a prospective juror to have read some of the evidence in
17 the case.

18 THE COURT: We are not talking about some of the
19 evidence. We are talking here about a confession, a
20 vastly different thing.

21 MR. BUGLIOSI: What about a self-serving statement,
22 your Honor? We start out again with the assumption that
23 the People of the State of California are entitled to a
24 fair trial.

25 If Mr. Manson or if one of the female defendants
26 makes a self-serving statement over television or in the

17-4
1 newspapers, are we entitled to ask the prospective juror
2 if they read that statement, and if they had is this a
3 ground for our excusing the prospective juror under Section
4 1073, Paragraph 2?

5 I don't think so.

6 What I'm saying is I think the Court has
7 to make an individual determination in each case, instead
8 of removing these jurors wholesale just because they have
9 been exposed to pretrial evidence.

10 I would ask the Court to examine each juror
11 individually.

12A THE COURT: That is exactly what we are doing.

13 MR. BUGLIOSI: But it doesn't seem that way, your
14 Honor.

15 It seems if the magic words are spoken by a
16 prospective juror that they have heard or read about a
17 statement made by Miss Atkins, ergo, that juror is excused.

18 There is an abundance of evidence already in
19 the record that many jurors have said, "Yes, I have heard
20 about the statement and I don't think I can be fair."

21 So when a juror tells the Court under oath that
22 they can be fair, I think it should have some weight.

23 And the way we are proceeding now, irrespective
24 of how much the Court may believe a prospective juror's
25 statement that he may give the defendant a fair trial,
26 if he utters the magic words, that juror is gone.

17-5

1 I query whether the Court is necessarily
2 handcuffed to that extent. I think the Court has a lot
3 more discretion in this area.

4 I think the Court could keep some of these
5 jurors without any built-in error.

6 THE COURT: Well, I just think the risk is too great.
7 It is a delicate balance, and I don't see any necessity
8 for taking the risk of guessing wrong.

9 MR. BUGLIOSI: I certainly appreciate the Court's
10 problem. There is no question that there is a certain risk.

11 THE COURT: It will take us a little longer perhaps
12 to find 12 jurors who have not been exposed to that, but
13 I think it is well worth the time to take it now.

14 We cannot go back and correct it when it is
15 all over.

16 MR. BUGLIOSI: I do think, though, your Honor,
17 that the Court should not automatically --

18 THE COURT: I am not doing anything automatically.
19 I may have stressed, and I am sure I did, to you that my
20 feeling is, as a matter of fact I think I put it even
21 more bluntly than that, that I don't intend to let any
22 juror sit on the jury who has been exposed to a confession.

23 I don't change that opinion. I still think
24 just that.

25 MR. STOVITZ: It is not just finding the 12 jurors,
26 it is finding the 12 jurors, and then 12 more.

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After all the peremptories have been exercised,
and after all that has been done and the jurors --

THE COURT: Well, I realize the problem, Mr. Stovitz.
Let me say one other thing, now, if I read about
tomorrow morning in the newspaper or some day soon that the
Court has now ruled that no juror will sit on the jury
who has been exposed to a confession, we may be here six
months picking a jury.

So I hope you and your employer, and I am not
singling out anybody, I hope you all have the good sense
not to go out and make statements like that, apart from
any violation of the publicity order.

17B

17b-1

1 MR. STOVITZ: If you read about it today, your
2 Honor, it would not have come from our side because we
3 are not having our meeting until tomorrow morning.

4 THE COURT: You are not having your press conference
5 today?

6 MR. STOVITZ: Tomorrow morning I will discuss it
7 with Mr. Younger.

8 MR. KANAREK: Your Honor, may I ask in connection
9 with those papers, it is one floor, I think it is one or
10 two floors between here and the jail which is in this
11 building --

12 THE COURT: Incidentally, the bailiff informs me he
13 checked on that, Mr. Kanarek, and the papers definitely
14 were returned to Mr. Hanson today.

15 MR. KANAREK: Thank you very much, your Honor.

16 THE COURT: You let me know if they are not.

17 MR. KANAREK: Yes, your Honor.

18 MR. FITZGERALD: If there is no challenge pending
19 against Mr. Elinen, we will challenge Mr. Elinen for cause.

20 MR. REINER: I join.

21 MR. SHINN: Join.

22 MR. KANAREK: Join.

23 MR. BUGLIOSI: We would oppose, your Honor.

24 No. 1, he would give these people a fair
25 trial.

26 No. 2, he is very nebulous, very hazy.

17b-2

1 She made a statement, a self-serving state-
2 ment, as far as he is concerned. We certainly would
3 oppose.

4 I don't think it is a clear-cut case at all.

5 THE COURT: The challenge will be allowed. Mr.
6 Ellman is excused for cause.

7 I think that will wrap it up for today,
8 gentlemen, it is almost 4:15. It has been a long day.

9 MR. STOVITZ: 9:00 o'clock tomorrow morning, your
10 Honor?

11 THE COURT: 9:00 o'clock tomorrow morning.

12 We will now return to the courtroom.

13 (The following proceedings were had in open
14 court in the presence and hearing of the prospective
15 jurors, all defendants and their counsel being present;
16 Mr. Stovitz and Mr. Bugliosi also being present.)

17 THE COURT: All parties and counsel are present.

18 The prospective jurors are in the jury box.

19 Ladies and gentlemen, we will adjourn until
20 9:00 a.m. tomorrow morning.

21 Do not converse among yourselves or with
22 anyone else on any subject relating to this case, nor form
23 or express any opinion regarding the case until it is
24 finally submitted to those of you who are selected as
25 trial jurors.

26 Additionally, do not read, watch or listen

1 to any news reports concerning this trial or any of the
2 parties, so long as you are prospective jurors in this
3 case.

4 9:00 o'clock tomorrow morning.

5 (Whereupon at 4:15 o'clock p.m. an adjournment
6 was taken until the following day, Thursday,
7 July 9, 1970, at 9:00 o'clock a.m.)
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1 LOS ANGELES, CALIFORNIA, THURSDAY, JULY 9, 1970

2 9:02 o'clock a.m.

3 - - -

4 THE COURT: All parties and counsel are present.
5 We need another prospective juror.

6 THE CLERK: I have one ready, Judge.

7 THE COURT: All right, fine.

8 MR. STOVITZ: May I ask where this juror will be
9 sitting?

10 THE COURT: No. 9, to replace Mr. Ellman.

11 THE CLERK: The prospective juror's name is
12 George E. Rafferty, G-e-o-r-g-e, R-a-f-f-e-r-t-y.

13
14 VOIR DIRE EXAMINATION OF MR. GEORGE RAFFERTY
15 BY THE COURT:

16 Q Mr. Rafferty, we asked you to come into
17 chambers so that the Court and counsel could ask you
18 some questions out of the presence of the other prospective
19 jurors, regarding various matters.

20 First, if you were selected as a juror in
21 this case would you be able to serve?

22 A Yes.

23 Q Now, you will recall that I asked the other
24 prospective jurors questions regarding their opinions
25 about the death penalty.

26 Have you had an opportunity to think about

1 those questions and your own answers to them?

2 A No.

3 Q Well, let me put the questions to you now
4 then.

5 First, do you entertain such conscientious
6 opinions regarding the death penalty that you would be
7 unable to make an impartial decision as to any defendant's
8 guilt regardless of the evidence in the case?

9 A I don't think I can mete out the death
10 penalty.

11 Q Well, this question is directed not to
12 whether you would vote for the death penalty, but whether
13 your beliefs regarding it would prevent you from being
14 impartial on the issue of guilt.

15 Do you understand, sir?

16 A Yes.

2 fls.

1 Q You see, the first part of the trial
2 will be devoted solely to the question of whether or not
3 each of the defendants is guilty or not guilty?

4 A Yes.

5 Q And only if there is a conviction of murder
6 in the first degree will there be a penalty phase, at
7 which time the jury will have to determine which of the
8 two penalties provided by law should be imposed.

9 A Yes.

10 Q Now, my question is directed to the first
11 phase.

12 Would your beliefs regarding the death
13 penalty prevent you from being impartial on the issue
14 of guilt?

15 A No.

16 Q Then, the second question is directed to
17 the penalty phase and is this: Do you entertain such
18 conscientious opinions regarding the death penalty that
19 you would automatically refuse to impose it without
20 regard to the evidence in the case?

21 A Yes.

22 Q Now, by that do you mean that you have now
23 made up your mind and no evidence would change it?

24 A No.

25 Q Is my statement correct?

26 A That's right.

1 Q Can you conceive of any type of case or
2 any factual situation where you might change your mind?

3 A No way.

4 Q You have unalterably made up your mind
5 that you would, under no circumstances, vote for the
6 death penalty; is that right, Mr. Rafferty?

7 A Correct.

8 THE COURT: Do counsel wish to inquire?

9 MR. FITZGERALD: No questions.

10 MR. REINER: No questions.

11 MR. SHINN: No.

12 MR. KANAREK: No.

13 MR. BUGLIOSI: Move to excuse the prospective
14 juror under 1074, Sub (a).

15 MR. FITZGERALD: Oppose the challenge under the
16 equal protection and due process law.

17 MR. SHINN: Join.

18 MR. REINER: Join.

19 MR. KANAREK: Join.

20 THE COURT: Will you go back into the courtroom
21 and refrain from discussing this with anybody.

22 MR. RAFFERTY: Yes, sir.

23 (Mr. Rafferty leaves the chambers.)

24 MR. KANAREK: Before your Honor proceeds, I
25 understand -- I haven't read it myself -- I understand,
26 though, that there is in the paper the fact that your

1 Honor held me in contempt yesterday, or the day before --
2 no, it was yesterday -- and it got into the newspaper.

3 I would ask your Honor to inquire how that
4 got into the newspaper.

2a fls. 4

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LA-1

1 MR. STOVITZ: I didn't read it, and I read the
2 Los Angeles Times last night and this morning.

3 THE COURT: There is a brief reference to it.

4 MR. STOVITZ: In the Los Angeles Times?

5 THE COURT: Yes.

6 MR. SHINN: The Herald Examiner has a pretty good
7 column on it.

8 MR. REINER: I read it in the Herald Examiner.

9 THE COURT: It is mentioned down near the end of the
10 article, something to the effect that it is understood that
11 so-and-so, along with some other items that are mentioned.

12 MR. SHINN: Your Honor, it was in the Herald Examiner.

13 MR. FITZGERALD: He wasn't held in contempt. I mean,
14 as a matter of fact, my understanding of the record is
15 that he wasn't held in contempt.

16 THE COURT: I did make an order and, in effect, I
17 vacated it because of Mr. Kanarek's request to have counsel
18 and a further hearing and I did agree to that; but, never-
19 theless, the paper did have a brief reference to it.

20 It was stated more in the form of a rumor than
21 anything.

22 MR. SHINN: The Herald Examiner, your Honor, has a
23 big heading.

24 THE COURT: I don't know about that.

25 MR. SHINN: Yes. I saw it last night. It said,
26 "Manson's attorney held in contempt" in big bold letters.

1 MR. REINER: It is the lead in the Herald Examiner.

2 MR. BUGLIOSI: The lead?

3 MR. REINER: The lead story, the lead item.

4 THE COURT: I don't know how it got out.

5 MR. STOVITZ: I can only say to you that after we
6 had the session here in chambers yesterday, as I was leaving,
7 your Honor, the newspaper reporters seem to have some kind
8 of vision as to what is going on, because they asked me
9 whether or not Kanarek was held in contempt for being late.

10 I said that I can't discuss what goes on in
11 chambers, and that was all that was said about it as far
12 as I was concerned.

13 Later that afternoon, about 4:00 o'clock, one
14 of the reporters asked me again was he held in contempt?

15 I said, "I can't discuss it," and that was it;
16 but everybody seemed to know about it as we went out of
17 chambers.

18 MR. REINER: Your Honor, I believe I was the first
19 person out of your Honor's chambers, the first person to
20 leave the courtroom, and as I left the courtroom I was
21 immediately asked by a group of reporters whether
22 Mr. Kanarek was held in contempt.

23 I gave a "No comment" response, but I was the
24 first person out in the hallway and already the reporters
25 were waiting with that question.

26 THE COURT: I don't know. Maybe they just guessed
luckily.

2b-1

1 MR. SHINN: Your Honor, they even had the exact
2 time, seven minutes late.

3 MR. REINER: I might add/that some of the reporters
4 are clocking the proceedings with a stop watch. They
5 said that you were on the bench for 23 seconds.

6 THE COURT: The Times said 48.

7 MR. REINER: The representative from the CBS
8 network has a stop watch and he said 24 seconds.

9 THE COURT: Well, I again admonish everyone in
10 the room -- and that means everyone -- that the proceedings
11 that occur in chambers come within the express terms of
12 the publicity order and are not to be disclosed to anyone
13 for public dissemination.

14 This, in my opinion, is just another
15 example of why sequestration of the jury is necessary,
16 because it seems that no matter what precautions are
17 taken, there are leaks, and while these are harmless
18 now, they could be extremely prejudicial later on when
19 we are discussing the admissibility of evidence, for
20 example, and evidence that is ruled to be inadmissible,
21 and information of that sort, should get to the jury,
22 and other matters also.

3 fls.

3-1

1 THE CLERK: Your Honor, before I bring the next
2 prospective juror in, this is the lady who had fainting
3 spells.

4 The male nurse told me the fainting spells
5 are not related to her time of month; she has had fainting
6 spells prior to this.

7 I thought I should inform the Court.

8 (Prospective juror enters the chambers of
9 the Court.)

10 THE CLERK: The name of the prospective juror is
11 Sharon L. Moell, S-h-a-r-o-n; M-o-e-l-l.

12
13 VOIR DIRE EXAMINATION OF SHARON L. MOELL

14 BY THE COURT:

15 Q Mrs. Moell, we have asked you -- is it Miss?

16 A Yes.

17 Q We have asked you to come into chambers
18 so that we could ask you some questions out of the presence
19 of the other prospective jurors.

20 How is your physical condition?

21 A Good.

22 Q Now, if you were selected as a juror in
23 this case would you be able to serve?

24 A Yes, but I am out of a job so I have no
25 income.

26 Q You are presently looking for a job, are you?

1 A I'm going to as soon as my jury service is
2 over.

3 Q Then apparently it would be an extreme
4 hardship on you if you were selected as a juror?

5 A I would have to use my savings.

6 Q Are you asking to be excused then?

7 A Yes.

8 MR. FITZGERALD: We will offer to stipulate she may
9 be removed.

10 MR. REINER: I will join.

11 MR. SHINN: I will join.

12 MR. KANAREK: I will join.

13 MR. STOVITZ: People join.

14 THE COURT: All right, fine, then by stipulation
15 of all counsel, Miss Moell, you will be excused, thank you.

16 (Miss Moell leaves the chambers.)

17 MR. STOVITZ: I would like the record to reflect
18 that the lady appeared to be in her twenties, just to show
19 we are getting a cross section of the community on the
20 jury panel, as contrasted to Mr. Kanarek's assertion that
21 the jury is being hand-picked.

22 MR. SHINN: One of the very few.

23 MR. STOVITZ: What about the young man yesterday
24 that is going to college?

25 MR. SHINN: A few, a mere handful.

26 MR. KANAREK: Your Honor, I hate to belabor the

1 record, but counsel's statement is just so patently
2 ridiculous, I mean, for him to say this means we are
3 getting a cross section, because he thinks that this
4 lady is of a certain age.

5 I mean, I just want the record to reveal
6 I cannot agree with him.

7 MR. STOVITZ: That she is in her twenties?

8 MR. KANAREK: I answer the Court, your Honor, I
9 will respond to anything the Court asks me.

10 I am making the statement because that is
11 not the criterion as to whether the person's age is a
12 certain age or not.

13 THE COURT: All right, gentlemen, let's proceed.

14 (A prospective juror enters the chambers.)

15 THE COURT: Good morning, sir. Won't you sit
16 down here, please.

17 THE CLERK: The prospective juror's name is John
18 M. Baer; J-o-h-n, B-a-e-r.

19
20 VOIR DIRE EXAMINATION OF JOHN M. BAER

21 BY THE COURT:

22 Q Mr. Baer, if you were selected as a juror
23 in this case would you be able to serve?

24 A I think so, yes, as far as I know.

25 Q I have put to the other prospective jurors
26 in the courtroom some questions regarding the death penalty;

1 have you had an opportunity to think about those questions
2 and your answers to them?

3 A I have, yes, sir.

4 Q All right, I'm going to ask you the same
5 questions then:

6 First, do you entertain such conscientious
7 opinions regarding the death penalty that you would be
8 unable to make an impartial decision as to any defendant's
9 guilt regardless of the evidence in the case?

10 A No, sir.

11 Q Do you entertain such conscientious opinions
12 regarding the death penalty that you would automatically
13 refuse to impose it without regard to the evidence in the
14 case?

15 A No, sir.

16 Q All right, sir. Now, I am going to ask you
17 some questions about what, if anything, you may have
18 learned about this case or the defendants at any time
19 prior.

20 Have you been a resident of Los Angeles
21 County since last August?

22 A Yes, sir, longer than that.

3a fls.

3A-1

1 Q Do you subscribe to a daily newspaper?

2 A I do, but I am not an avid reader.

3 Q What paper is that?

4 A It is the Los Angeles Times.

5 Q Would you keep your voice up as much as you can
6 so the rest can hear?

7 A Well, excuse me.

8 Q Do you watch television news reports?

9 A Some, but not regularly.

10 Q Do you listen to the radio?

11 A No, not very much.

12 Recently the car I have been driving doesn't
13 have a radio in it.

14 Q Do you remember when it was that you first
15 learned about the killings which are the subject of this
16 case?

17 A I think it was very soon after the event
18 happened.

19 Q And how did you learn that?

20 A I did either hear or see something on television,
21 I think, or maybe just a headline in the paper.

22 MR. KANAREK: May the prospective juror be asked,
23 your Honor, to raise his voice a little bit.

24 MR. BAER: Yes, I'm sorry.

25 THE COURT: It is very difficult to hear in here.

26 MR. KANAREK: May the last answer be read.

3A2

1 THE COURT: Yes, read the answer.

2 (Whereupon, the reporter reads the answer as
3 follows:

4 "A I did either hear or see some-
5 thing on television, I think, or maybe just a
6 headline in the paper.")

7 THE COURT: Do you remember learning about the
8 arrest of the defendants in this case?

9 THE WITNESS: Only that some had been arrested.

10 Q BY THE COURT: Do you remember how you learned
11 that?

12 A By the news media, I suppose.

13 Q Have you ever learned anything about the case as
14 a result of hearing or reading any statement of any person
15 which purported to describe what happened in the actual
16 killing?

17 A Some, but I have only a vague recollection of
18 it.

19 I could not give a clear picture of it.

20 Q What do you recall?

21 A Well, at the Tate residence, I believe, as far
22 as the first occurred, that there was some sort of a party
23 and the murder occurred.

24 And someone was shot as he was running to the
25 automobile.

26 Q How did you learn this, through what source?

3A3

1 A Just the usual media.

2 Q Well, did this appear to be a reporter's
3 accounting of what happened or what?

4 A Yes, I presume so, yes. I have had no direct
5 connection with the case at all.

6 Q No, I understand that.

7 But have you ever learned anything as a result
8 of reading or hearing any statement which appeared to be a
9 statement from somebody who was actually present at the
10 time these events occurred?

11 A I cannot say for sure because the recollection
12 is rather vague.

13 I am not an avid reader of things of that sort.

14 As a matter of fact since many years ago I have
15 really tried to avoid reading the macabre press about such
16 things.

17 So I do not really, truly remember who said
18 what.

19 Q Even though you may not remember who said what,
20 do you remember ever learning anything which you believe to
21 be as a result of someone relating it who was actually
22 present?

23 A No.

24 Q Now, you know, of course, the defendants have
25 been arrested in this case; they have been charged by means
26 of an indictment with the commission of these offenses and

1 they are before this Court to stand trial?

2 A Yes, sir.

3 Q We all know that.

4 Now, aside from those facts did you ever learn
5 anything which caused you to believe that there was some
6 connection between the defendants and the commission of
7 these offenses?

8 A Only I assume that the Police Department was
9 thorough enough to have some reason to indict them.

10 Q All right.

11 A They would not take them into custody if they
12 did not have some reasonable suspicion.

13 Q All right. Well, would that be the same sort
14 of feeling you would have about any criminal case?

15 A Yes, I think so.

16 Q But what I am asking you now is if you learned
17 from any source anything which caused you to believe that
18 there was some connection as a result of anything you read
19 or heard between the defendants in this case and the
20 actual commission of the offense?

21 A I think that some of the media, I either heard
22 or read, did lead to the assumption there might be a
23 connection, yes.

24 Q Well, do you remember what it was that caused
25 you to believe that either there was a connection or that
26 the media were suggesting that there was a connection?

1 A Not particularly, no, sir.

2 Q Have you ever read anything or heard anything
3 which purported to be a statement or a description of what
4 happened by any of the defendants?

5 A I think not, sir.

6 Q Would you say, Mr. Baer, that at this time you
7 are entirely impartial on the subject of guilt or innocence
8 as to any defendant?

9 A Yes, sir.

10 Q Now, you heard me tell other prospective jurors
11 that in any criminal case the defendant is entitled to the
12 presumption of innocence?

13 A Yes, sir.

14 Q Are you prepared to give the benefit of that
15 presumption to each of the defendants in this case?

16 A Yes, sir.

17 Q Do you understand that that presumption con-
18 tinues until such time as the People are able, if they are
19 able, to prove the guilt of the defendant beyond a reasonable
20 doubt?

21 Do you understand that?

22 A Yes, sir.

4-1

1 Q If the People are unable to prove guilt
2 beyond a reasonable doubt, are you willing and would you
3 vote for an acquittal?

4 A Yes, sir.

5 Q On the other hand, if the People are able
6 to prove guilt beyond a reasonable doubt, would you vote
7 for a verdict of guilty?

8 A Yes, sir.

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

10 MR. FITZGERALD: Yes, sir.

11
12 VOIR DIRE EXAMINATION

13 BY MR. FITZGERALD:

14 Q Are you familiar with the name Sharon Tate?

15 A Yes.

16 Q Who do you think killed Sharon Tate?

17 A I do not know.

18 Q Do you think that the police have solved
19 the case?

20 A Not until this trial is finished.

21 Q You assume, however, that the police have
22 some evidence or they wouldn't have arrested these
23 defendants?

24 A Yes, surely.

25 Q Do you think that it is possible for an
26 innocent person to be arrested?

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A I think so.

Q And charged with a serious offense?

A I think so.

Q Have you read anything in the media or seen anything in the media about the defendants themselves?

A A little, I suppose, yes.

Q Have you read, heard or seen anything about any of the defendants' good character?

A No. I think there has been very little emphasis of that in the press.

Q Have you read, seen or heard anything about the defendants' bad character, if any?

MR. STOVITZ: I object to the question, your Honor, as being ambiguous.

Character is often considered one way by laymen and one way by lawyers.

THE COURT: Well, I think he can inquire.

MR. STOVITZ: Is he talking about moral character? Is he talking about character for truth, honesty and integrity?

THE COURT: That is something that can be followed up. Let's find out what the answer is first.

Overruled.

MR. BAER: In that case, would you repeat the question, please?

MR. FITZGERALD: May it be read back?

4-3

1 THE COURT: Yes.

2 (Whereupon the question was read by the
3 reporter.)

4 A A little, yes.

5 MR. FITZGERALD: Q Do you recall what you read,
6 saw or heard in that fashion?

7 A Some of them seem rather loose in their
8 moral attitude toward life, apparently did not wish to
9 live according to the usual standards.

10 Q Are you referring to sexual standards?

11 A That was one phase of it, I think, yes.

12 Q Are there any other phases of their bad
13 character that you have read, seen or heard about?

14 A They were involved in this tragic incident.

15 MR. KANAREK: I didn't get that.

16 (The answer was read by the reporter.)

17 MR. KANAREK: Thank you.

18 MR. FITZGERALD: Q But you don't think that
19 they were responsible for the death of Sharon Tate or
20 anybody else in this tragic incident; correct?

21 A I could not say for sure but certainly
22 someone was responsible for it.

23 Q I believe I asked you earlier your opinion
24 or who you thought killed Sharon Tate, and you said you
25 didn't know.

26 A That's right.

I am not trying to be ambiguous.

Q Perhaps you could explain it.

A Well, I certainly have not had access to all the information which the police files have uncovered, and until this trial goes through, probably none of us will know all the facts. Therefore, I cannot point my finger at any one of the defendants and say he or she is guilty until I know more about it, particularly inasmuch as I have read very little even in the press.

Q I take it you have read in the newspaper things about Viet-Nam and Cambodia and that you are not in possession of all the facts --

A Yes.

Q -- yet I take it that you have formed opinions, have you not?

A Some.

Q And that is what I am asking you in connection with this case. I am aware that you are not aware of all the facts.

A True.

Q But based on what you have read, seen or heard, Mr. Baer, do you think that the defendants are responsible?

A I would think there was some chance of it, yes, surely.

Q Would you prefer, if you had your choice, to sit as a juror where you hadn't read, seen or heard anything about the defendants or the offense prior to jury

1 service?

2 A I don't think that would bother me too much.
3 I know very little of this case compared with some people
4 that I know, and I think I can judge impartially.

5 Q All right.

6 Do you think you would be more fair, if I can
7 use that term, in a situation where you didn't know anything
8 about the facts prior to coming to court?

9 A Possibly so, yes.

10 Q You do not approve of the defendants' life style;
11 is that a fair statement?

12 A I think it leads to difficulties both for them-
13 selves and other people.

14 Q Because you have that feeling or opinion, Mr. Baer,
15 is that going to influence you in evaluating their guilt
16 or innocence?

17 A No, sir.

18 Q What if you were in their shoes, sir; would you
19 be satisfied to have a juror with your frame of mind,
20 Mr. Baer, sitting in judgment on them?

21 A I should think so.

22 Q Do you have an aversion to the macabre?

23 A I don't like to deal in it, no, but if it is
24 here and we have to deal with it, then I will try to deal
25 with it.

26 Q But I believe you mentioned earlier that some

1 years ago you stopped reading about macabre incidents in
2 the newspaper; is that right?

3 A Yes.

4 Q Was there some reason for that?

5 A I think it is unwise to fill one's mind with
6 things of that sort.

7 Q What I am trying to get at, Mr. Baer, was there
8 some incident?

9 A No.

10 Q Or point of demarcation in your life where you
11 stopped reading macabre incidents, whereas previously you
12 had read them, sir?

13 A No, no particular incident, no traumatic
14 incident of any sort. Maybe I was just growing up. Maybe
15 I decided that there were better things to fill one's mind
16 with.

17 MR. FITZGERALD: I havenothing further.

18 THE COURT: Mr. Reiner?

19 MR. REINER: Thank you, your Honor.

20
21 VOIR DIRE EXAMINATION OF MR. BAER

22 BY MR. REINER:

23 Q Mr. Baer, prior to coming to court as a
24 prospective juror, did you assume that the defendants were
25 guilty?

26 A No.

1 Q Did you indicated earlier that you assumed that
2 the Police Department would not have taken the defendants
3 into custody unless they had information indicating that
4 they were guilty?

5 A Yes.

6 Q Did you assume that the Police Department
7 acted correctly in taking the defendants into custody?

8 A Yes.

9 Q Well, then, again I would ask you, then, before
10 coming to court as a prospective juror, whether you had
11 made up your mind for sure, did you assume that the
12 defendants were probably guilty?

13 A If I had had to form an opinion, I suppose I
14 would have, yes.

15 Q All right.

16 Now, that assumption, such as it was, was
17 based in part upon your belief that the Police Department
18 would not have acted as they did, that is, taking the
19 defendants into custody to initiate the indictments, if
20 they did not have facts sufficient to justify their actions;
21 is that true?

22 A Yes.

4b-1

1 Q All right.

2 And was the assumption reinforced by what
3 you read in the media which you indicated led to an
4 assumption that there was a connection between the
5 defendants and the crime?

6 A I am afraid I lost the train of thought.

7 Q Very well, I will break that up.

8 You indicated earlier, did you not, Mr.
9 Baer, that from what you read in the media, in the
10 newspapers, that there was an assumption implicit in
11 these articles that there was a connection between the
12 defendants and the crimes; is that true?

13 A Yes.

14 Q Now, was your belief, or is your assumption,
15 rather, that the defendants were guilty based not only
16 in part upon the fact that they were arrested by the
17 police, was it also reinforced by the assumptions that
18 you discerned from the newspaper articles?

19 MR. STOVITZ: I object to the question as ambigu-
20 ous, compound; it is stating facts not before the Court.

21 The juror never stated that he made an
22 assumption of their guilt at all.

23 THE COURT: Read the question.

24 MR. REINER: Perhaps I can rephrase it.

25 THE COURT: All right.

26 MR. REINER: Q Mr. Baer --

4b-2

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A May I ask your name, sir?

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Q Yes.

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Reiner; Ira Reiner.

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A Reiner?

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Q Yes.

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Mr. Baer, a few moments ago you did indicate, did you not, that you assumed that the Police Department would not have arrested the defendants had they not believed that there was a connection between the defendants and the crime?

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A Yes.

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Q And you did assume, did you not, that the Police Department acted correctly based upon their information?

15

A Yes.

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Q All right.

And based thereon, Mr. Baer, you did assume yourself that there must apparently then be a connection between the defendants --

20

A Yes.

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Q -- and the crimes?

23

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A Right.

Q And did you not also indicate that based upon the newspaper articles that you read, or any other information that you received through the media, that there was an assumption implicit in the information that

1 came to you through the media that there was a connection
2 between the defendants and the crime?

3 A Yes.

4 Q By connection between defendants and the
5 crime, you understand that we are speaking in terms of
6 participation in the crimes; is that your understanding
7 of what was meant by connection?

8 A Yes.

9 Q Therefore, the question is this, Mr. Baer:
10 Was your assumption that the defendants were connected
11 with this particular crime -- these crimes -- based in
12 part upon your belief that the Police Department would not
13 have acted if they did not have facts to justify their
14 acts?

15 A Yes.

16 Q Was it based therefore in part upon a
17 reinforcement of your assumptions by the fact that it
18 appeared to you that the newspaper articles and other
19 information from the media also assumed that the defendants
20 were connected with these crimes?

21 A Yes.

22 Q Okay.

23 A That would be reasonable, I suppose, because
24 mostly that which I heard about even the police having
25 made the arrest was, of course, through the news media.

26 Q Sir, you did indicate, did you not, that

1 you do not have or have not had access to the entire police
2 files with respect to this case; is that true?

3 A Yes, surely.

4 Q And because of this, Mr. Baer, you feel that
5 you don't have all the information; is that true?

6 A I have very little, if any.

7 Q Is it your belief that all of the information,
8 proof, is contained in the police files?

9 A All that is available, I would think. That
5 fls 10 would be the main source.

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1 Q I see, and then if one had access to the police
2 files, then one would know the truth of the matter, would
3 that be a fair statement of your belief?

4 A That would be all we would know unless someone
5 else can bring more information to light.

6 Q Now, you indicated that your knowledge of the
7 facts is less than that compared to some other people that
8 you know.

9 Would you perhaps expand upon that?

10 A Just that they read or watched the media more
11 continually, more closely, more avidly than I.

12 Q I see, did they from time to time indicate to
13 you that they did watch television news more carefully and
14 read the newspaper articles more carefully?

15 A Yes.

16 Q Did they express their opinions as to what they
17 thought about the matter?

18 A I don't remember any specific instances, no.

19 Q Was it your impression that these people whom
20 you are referring to assumed that the defendants were guilty?

21 A I don't remember that we even spoke about that
22 particular phase of it. I know that some people do regularly
23 watch the news media, and I do not.

24 Q You have indicated that you cannot say for sure
25 that the defendants were guilty, and of course that is a
26 reasonable statement.

1 But speaking in terms of probabilities, as you
2 sit here now, irrespective of what you may do as a
3 prospective juror, do you think in your own mind that the
4 defendants are probably guilty, based upon your assumptions
5 with respect to the Police Department and the information
6 that you have read in the newspaper?

7 A I will not judge until I know more of the facts.

8 Q Yes, sir, if it should happen that you would be
9 a juror in this case, of course, you would reserve judgment.
10 But we are inquiring now just as to what your present state
11 of mind is, not as a juror, but just as a citizen brought
12 here to court as a possible prospective juror, based upon
13 your assumptions with respect to the Police Department,
14 based upon the articles that you have read in the newspaper
15 and just dealing in probabilities, would it be a fair state-
16 ment to say that in your mind the defendants are probably
17 guilty?

18 MR. STOVITZ: That is objected to, your Honor, as
19 ambiguous and compound.

20 THE COURT: I don't see anything ambiguous about it.
21 He may state what his belief is, if he has one.

22 MR. STOVITZ: But is it a belief based on his total
23 knowledge of everything from the time he was first born
24 until now?

25 THE COURT: Who knows? Objection overruled.

26 MR. REINER: May the question be read?

3
1 THE PROSPECTIVE JUROR: I can answer it.

2 Q BY MR. REINER: Okay, go ahead.

3 A It is only based on the very meagre knowledge
4 that I have of the case.

5 Q Yes, sir, but irrespective of what it is based
6 upon, would it be a fair statement to say that at this
7 moment, absent hearing any other information, that you
8 think that the defendants are probably guilty?

9 A If you are trying to get me to say that they are
10 guilty before they have been tried, I would like to avoid
11 that.

12 Q No, sir, I am not trying to get you to say
13 anything, and if I give you that impression I apologize.

14 I know that you appreciate that if you are a
15 juror in this case it will be your duty to render a
16 judgment based solely on the evidence you hear in court
17 and not based on anything that you may have heard before
18 you came to court.

19 A Yes.

20 Q At the moment we are inquiring only as to what
21 your present state of mind is.

22 Now, do you at this moment believe that the
23 defendants are probably guilty?

24 A I would not say probably, I would say possibly.

25 MR. REINER: Thank you very much.

26 THE COURT: Mr. Shinn.

VOIR DIRE EXAMINATION OF MR. BAER

BY MR. SHINN:

Q Yes, Mr. Baer, what is your business or occupation?

A I am with the Department of Water & Power as an electrical tester.

Q Did you read anything about this case in magazines?

A No, sir.

Q And all the information you have now is from newspapers and whatever people told you on TV and radio?

A That's right.

Q Did you ever hear the name, Mr. Kanarek?

A I think I heard it mentioned in the jury room this morning.

Q This morning?

A Yes.

Q Was that the first time you heard about Mr. Kanarek?

A At the moment I think so. I may have heard it before but I don't have a recall of the incident.

Q What did you hear about Mr. Kanarek in the jury room?

A Someone was asking how to spell that name.

Q Was that the only thing they talked about?

A Yes, sir.

1 Q You did not see or hear about Mr. Kanarek,
2 say, on television the last couple of days or the last week?

3 A No, it so happens I have not had a chance to
4 watch TV in recent days.

5 Q Well, did you read or hear about a Mr. Kanarek
6 in conjunction with a Mr. Younger?

7 A Judge whom?

8 Q No, Mr. Younger, you know.

9 A Yes, I know.

10 Q You know Evelle Younger?

11 A Yes, I know of Mr. Younger.

12 Q He is the District Attorney.

13 A Yes, sir.

14 Q Did you hear or read about Mr. Younger in
15 connection with Mr. Kanarek?

16 A No.

17 MR. SHINN: I have nothing further, your Honor.
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1 THE COURT: Mr. Kanarek?

2 MR. KANAREK: No questions, your Honor, thank you.

3 THE COURT: Mr. Stovitz?

4 MR. STOVITZ: Yes.

5
6 VOIR DIRE EXAMINATION OF MR. BAER

7 BY MR. STOVITZ:

8 Q Mr. Baer, in your position as an electrical
9 tester, you undoubtedly know how much it costs to run the
10 lights in the various buildings, and things like that,
11 is that right?

12 A That is rather detailed.

13 Q Oh, I have heard rumors that it is cheaper
14 to keep the lights on all night long than to turn them
15 on and off.

16 Have you heard that rumor?

17 A It depends on the type of light.

18 Q I see. All right, now, can you distinguish
19 in your mind the difference between rumor and evidence?

20 A I think so in some cases, it might depend
21 on how it is presented.

22 Q All right, and if you were asked to take an
23 oath to decide this case on the evidence and only on
24 the evidence, do you think you could keep that oath?

25 A Yes, sir.

26 Q Do you think you could disregard all types

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1 of rumors whatsoever and concentrate solely upon what
2 you see and hear in this courtroom?

3 A Yes, sir, I certainly will try.

4 Q All right, and do you have any doubt in
5 your mind whatsoever that you could set aside whatever
6 it was that you had previously heard, seen or read about
7 this case?

8 A Yes, sir.

9 Q You do have a doubt --

10 A No, I could set it aside.

11 MR. STOVITZ: I have nothing further.

12 MR. BUGLIOSI: I have a few questions.

13
14 VOIR DIRE EXAMINATION OF MR. BAER

15 BY MR. BUGLIOSI:

16 Q You indicated, sir, words to the effect
17 that the police must have had a reasonable suspicion
18 to have arrested these defendants?

19 I take it by that you mean that the police
20 don't go out and do so at random, pick anyone off the
21 street and say, "I think I will arrest you."

22 They have to have some basis?

23 A Surely.

24 Q Is that right, sir?

25 A Stated in a very minimal way.

26 Q Right. You don't feel because the police

1 arrested these defendants that they are more likely to
2 be guilty than any burglar suspect that the police arrest,
3 or rape suspect?

4 A Only as pertains to this case.

5 Perhaps these are more apt to have been
6 associated with the case than some burglary suspect might
7 have been.

8 Surely they must have had some reason for
9 arresting these defendants.

10 Q But you don't feel the police had any more
11 reason to arrest these people for these murders, than,
12 say, the police would have a reason to arrest someone on
13 a burglary?

14 A No. If they trace the burglary to the
15 person, associated him with the crime.

16 Q Right. In other words, you don't think
17 there is anything particularly significant about this
18 case that would cause the police to be absolutely right
19 just because it is the Tate case.

20 Do you agree with me on that?

21 A Yes.

22 Q You realize that now and then, perhaps you
23 can almost say it is not unusual, that sometimes the
24 police will arrest a person and they will make a mistake.

25 You realize that?

26 A That is possible. I am sure they try not to.

1 Q Right.

2 Now, you also said words to the effect that
3 you think there is some chance, I think those are your
4 words, that these defendants are responsible for these
5 murders.

6 Do you recall saying that, sir, words to
7 that effect?

8 A Yes, right.

9 Q Conversely, do you feel that there is some
10 chance that they are not responsible for these murders?

11 A Could be.

12 Q You are positive, sir, you could give these
13 defendants a fair trial?

14 A I certainly would try.

15 Q And you would base your verdict only, when
16 I say "only," I am underlining --

17 A You mean only.

18 Q I am underlining and Italicizing the word,
19 only.

20 You would base your verdict only on the
21 evidence that comes in this court and not on anything
22 you heard or read outside of this court?

23 A Yes.

24 Q You promise the defendants and the prosecu-
25 tors you will?

26 A Yes, sir.

1 MR. BUGLIOSI: Nothing further.

2 MR. SHINN: May I ask another question, your Honor.

3 THE COURT: Yes.

4
5 VOIR DIRE EXAMINATION OF MR. BAER (Reopened)

6 BY MR. SHINN:

7 Q Mr. Baer, would this work a hardship on
8 you if you are chosen as a juror, this trial will take
9 from three to five months?

10 A Some, but not unbearable, I suppose.

11 MR. SHINN: I have no further questions.

12 MR. FITZGERALD: May I ask a question, your Honor?

13 THE COURT: Very well.

14
15 VOIR DIRE EXAMINATION OF MR. BAER

16 BY MR. FITZGERALD:

17 Q Do you feel that it is just as probable
18 that they are not responsible as it is that they are?

19 A No, I do not think so because I think the
20 police must have had some evidence leading them to these
21 defendants, otherwise they would not have made the
22 arrests.

23 Because, as I think it was mentioned earlier,
24 police don't just go out and pick up six people from off
25 the street and say "You're guilty."

26 They must have some evidence.

MR. FITZGERALD: Thank you, sir.

MR. BAER: Therefore the proportion of probability
could not be even.

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VOIR DIRE EXAMINATION OF MR. BAER (REOPENED)

BY THE COURT:

Q Mr. Baer, you realize, of course, as a juror you are not dealing in probabilities, you are dealing in evidence.

A Yes, sir. His statement or question was based on probabilities.

Q Yes, that's right.

Of course, you have no way of knowing what the probability is, do you?

A Certainly not.

Q What I want to know, and what the attorneys want to know is, regardless of what the probabilities are, there is no way of estimating them, if you are honestly and sincerely able to give each of the defendants the benefit of the presumption of innocence, and put to one side of your mind anything you may have learned about this case, forget about any probabilities, and decide the case solely and exclusively on the evidence that comes in during the course of the trial?

A Yes, sir, I will surely try to.

Q And not weight that evidence by any kind of probability.

A Right. I wish that it were possible for the defendants to be free, if they could live correctly.

MR. BUGLIOSI: Your Honor, could I have that last

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1 answer read?

2 MR. BAER: I wish the defendants could be free if
3 they could live correctly.

4 THE COURT: I don't quite understand what you mean,
5 Mr. Baer. Could you explain what you mean?

6 THE WITNESS: I don't want anyone to be in jail that
7 does not need to be.

8 Q BY THE COURT: In other words, if they are in
9 fact innocent.

10 A They should be free.

11 Q You want them to be vindicated in the trial, is
12 that what you mean?

13 A Right, sir.

14 Q And on the other hand if, in fact, the evidence
15 shows them to be guilty beyond a reasonable doubt, then --

16 A -- they must be judged according to the law.

17 I am not the judge and I did not make the law.

18 Q But you understand that if you are a juror you
19 will be a judge of the facts?

20 A Yes, sir.

21 Q And you will have to make that determination
22 if you are able to.

23 A Yes, sir.

24 Q Are you willing to assume that responsibility?

25 A Yes, sir.

26 Q And judge the case solely on the evidence?

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1 A Yes, sir.

2 Q I mean the evidence that comes in during the
3 trial.

4 A Yes, sir.

5 THE COURT: Anything further?

6 MR. BUGLIOSI: Just one more question, your Honor.

7

8 VOIR DIRE EXAMINATION OF MR. BAER (REOPENED)

9 BY MR. BUGLIOSI:

10 Q Sir, I take it that you would not want these
11 defendants to be free if you were satisfied beyond a
12 reasonable doubt they were guilty of these crimes?

13 A True.

14 Q You would not want them to be free?

15 A I would not want them to be free.

16 MR. BUGLIOSI: Right. No further questions.

17 THE COURT: Just one more.

18

19 VOIR DIRE EXAMINATION OF MR. BAER

20 BY THE COURT:

21 Q Now, to get back to this question of probabilities
22 that you mentioned.

23 Do you find any different probability in this
24 case than you would find in any criminal case where a
25 defendant is arrested, indicted and brought before the
26 Court to stand trial?

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1 A No, I certainly don't think there would be any
2 particular difference.

3 If one person commits a crime and leaves a
4 trail which the police trace, and they have reasonable
5 -- and it is reasonable for them to arrest him, believing
6 he has committed it, and another person commits another
7 crime, and the trail is just as clear, then the probability
8 I should think would be equal in the two cases.

9 If the evidence is meagre in one case and very
10 direct in another case, then the two probabilities would
11 not be equal.

12 Q But you have no way of knowing anything about
13 that at this point, do you?

14 A That's right, I can only judge on the evidence
15 available, when all of the evidence becomes available.

16 THE COURT: All right, sir.

17 Mr. Baer, will you refrain from discussing with any-
18 one what has been said in here this morning?

19 MR. BAER: Yes, sir.

20 THE COURT: All right, sir, you may go back into the
21 courtroom, thank you.

22 (Mr. Baer leaves the chambers of the Court.)
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1 MR. FITZGERALD: There will be a challenge for cause,
2 your Honor, for actual bias, Penal Code Section 1073,
3 Paragraph 2 -- on two grounds:

4 One, because of the juror's exposure to
5 prejudicial pretrial publicity.

6 The second ground is that because of the
7 existence of his state of mind, which is detrimental to the
8 interests of the defendant.

9 I think it would be fair for me to summarize
10 his state of mind as being a feeling, as a result of the
11 arrest of these defendants it is more likely they are guilty
12 than innocent.

13 How much more likely, it is unclear from the
14 prospective juror's statement, but I think his statement is
15 clear that as a result of their being arrested, it is more
16 likely they are guilty.

17 That is in direct contravention to the law.

18 It is in direct contravention to a particular
19 instruction that will be given to the juror that they can-
20 not infer or speculate from the fact that a defendant has
21 been arrested, that he is more likely to be guilty than
22 innocent.

23 THE COURT: He did not say that. He said it is
24 possible they were guilty.

25 That was the exact word he used.

26 And that possibility is not a disability.

5C6
1 The Code clearly so provides. I think it
2 would be a strange individual who did not somewhere in the
3 recesses of his mind think that there was a possibility that
4 a person who was arrested and indicted and brought before the
5 Court to stand trial is guilty.

6 MR. FITZGERALD: I agree with your Honor's statement.

7 THE COURT: Otherwise he would have to assume that
8 the police act in a frivolous manner in every case, and
9 just go out and arrest people off the street.

10 I don't believe any rational person believes
11 that. It may happen.

12 MR. FITZGERALD: I believe that.

13 THE COURT: Well, then, you are the only exception
14 I have ever known.

15 MR. STOVITZ: Mr. Fitzgerald's friends believe that,
16 too, your Honor.

17 THE COURT: That is not a disqualifying state of mind,
18 let's put it that way.

19 MR. FITZGERALD: Correct. What I am doing is, I
20 am equating the word "likely" in the instruction with the
21 word "probability" that the juror used.

22 I am saying that when he says the probability
23 is that they are guilty, he is saying it is more likely
24 that they are guilty than they are innocent based on the
25 arrest, that is all.

26 THE COURT: Well, that reminds me of the question that

1 is frequently asked on voir dire by attorneys that has
2 always caused me to wonder, because if I were sitting as a
3 juror I am not sure how I would answer, and that is:

4 Do you think it is more likely that a defendant
5 is guilty than innocent?

6 Well, statistically, the purest statistical
7 matter, yes, statistics will show more people are convicted
8 than acquitted.

9 Of course, the question relates to the
10 particular defendant, so it is not a statistical question.

11 But when you bring someone in who is not
12 familiar with anything and you ask him that question, he
13 is thinking in a statistical way because he knows nothing
14 about the case.

15 He is saying, "Well, there must have been
16 something." Every rational person takes that approach,
17 you know, there is something. Now, that does not mean you
18 are guilty.

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1 That is exactly the state of mind that
2 he projects to me, that regardless of the fact that the
3 police must have acted on something, he is able to be
4 fair and impartial, which is the test.

5 MR. SHINN: Your Honor --

6 MR. REINER: Excuse me. Let's argue in order.

7 Are you finished?

8 MR. FITZGERALD: Yes.

9 MR. REINER: It is true that the prospective juror
10 indicated in his mind the possibility the defendants are
11 guilty at one time, another time he stated it in terms
12 of a probability, and at other times he stated it in
13 terms of a likelihood.

14 In addition to -- rather than saying in
15 addition to anything, the Court indicated in his view
16 the prospective juror was thinking in terms of statistical
17 probabilities when he said it was more likely than not
18 that the defendants were guilty, and was not addressing
19 himself -- did not seem to be addressing himself to
20 the likelihood of these particular defendants being
21 guilty in this particular case.

22 THE COURT: The reason that I said that was because
23 I put another question to him as to whether or not he
24 would feel the same way in any criminal case.

25 MR. REINER: Yes, I recall that question.

26 However, I recall another question that

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1 I put to the prospective juror when he said that the
2 information that he had read in the newspapers and he
3 had heard from the media with regard to these particular
4 defendants in this particular case reinforced his views,
5 his assumptions, that he would carry into any criminal
6 case, that it is more likely than not that the defendants
7 are guilty.

8 So, he indicated, in addition to any
9 statistical approach that he would bring to his answer,
10 that he also felt, in this particular case, the likeli-
11 hood was reinforced by what he had heard.

12 For that reason, I feel that a challenge for
13 cause should be granted, your Honor.

14 THE COURT: Well, I didn't so interpret his remarks.

15 Anything further, gentlemen, before I rule
16 on the challenge?

17 MR. KANAREK: Yes.

18 I join in the challenge, your Honor.

19 MR. SHINN: I join in the challenge, but I would
20 say, your Honor, if you take the total context of his
21 answers, I think he does lean toward the prosecution.

22 I say that we have to listen to all his
23 answers, your Honor.

24 THE COURT: His answers belie that.

25 MR. KANAREK: Your Honor, if I may say, in that
26 connection, I think we shouldn't be a slave to words.

1 Reasonable doubt is a probability concept
2 because, as a matter of fact, there is in the reasonable doubt
3 instruction about this possible -- every possible doubt --
4 so we are, and I say this with the greatest respect to
5 the Court, the Court is not correct when the Court says
6 we are not dealing with probabilities here. We are
7 dealing with probabilities as the analysis is made with
8 respect to the evidence in this case.

9 We are not talking now about a myriad of
10 defendants, but analyzing this case, with respect to the
11 evidence in this case as to these defendants, it is a
12 probability concept.

13 In fact, I would say that upon reflection
14 I think perhaps the Court will agree with me that it is
15 a probability concept.

16 THE COURT: I don't understand what you are saying,
17 Mr. Kanarek.

18 MR. KANAREK: When we say "reasonable doubt," your
19 Honor, we are talking about probability.

20 When we say that the prosecution has proved
21 their case beyond -- or must prove their case beyond a
22 reasonable doubt, we are talking about probability, because
23 we then go on and admit that in law you can't have this
24 absolute certainty. We talk about that all the time.

25 Now, this man, even though we have used the
26 word "probability" here, the totality of his answers amount

1 to the fact that there is, in his mind, at the present
2 time, no presumption of innocence on the part of these
3 defendants.

4 And that is what I mean by a slave to words,
5 your Honor.

6 The presumption of innocence, as I say,
7 looking at what we mean when we say "presumption of
8 innocence," this man is not presuming these defendants
9 innocent.

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1 THE COURT: Well, I am sorry but I cannot agree with
2 you.

3 I think that is exactly what he has conveyed.
4 He has been entirely honest. I think he stated what the
5 overwhelming majority, if not all rational people coming
6 into a criminal case, would feel, that there is a possibility
7 that the defendants are guilty.

8 I mean, it is obvious there is a possibility.
9 That is not the test. The question is whether he can
10 forget about possibilities and probabilities and listen to
11 the evidence and make a decision on that basis alone,
12 which is a subjective, moral certainty, not having anything
13 to do with statistics or mathematics or possibilities, or
14 anything else. That is the important part, and I believe
15 this man can do it.

16 The challenge will be disallowed.

17 I guess we had better take our recess at this
18 time, gentlemen.

19 MR. STOVITZ: Will we have an 11:00 o'clock recess, or
20 will this be it, your Honor?

21 MR. BUGLIOSI: Normally we do take it later, your
22 Honor.

23 THE COURT: Yes, we do have two hours to go, I see.

24 I think we can question one more prospective
25 juror.

26 I want to bring Mr. Stringer back, who is No. 10.

1 (Whereupon, prospective juror Robert L.
2 Stringer enters chambers.)

3 THE COURT: Good morning, Mr. Stringer.

4 MR. STRINGER: Good morning, your Honor.

5
6 VOIR DIRE EXAMINATION OF MR. STRINGER

7 BY THE COURT:

8 Q Did you find out anything more about your
9 family situation, Mr. Stringer?

10 A Yes, sir. It is going to be difficult.

11 Q Well, it is going to be difficult for everybody,
12 I guess.

13 A Yes, it is.

14 Q It is going to be something that you would
15 consider to be an undue hardship?

16 A Yes, I believe it would, sir.

17 Q And would you explain why you believe that?

18 A Mostly due to the fact that I can't get anybody
19 to stay with my wife that long, and plus the work that
20 would have to be done around the house, plus the four
21 children have to be going to school.

22 Q Just to refresh our recollections, Mr. Stringer,
23 you stated yesterday that your wife was now pregnant; is
24 that right?

25 A Yes.

26 Q And she is expecting when?

1 A October.

2 Q October?

3 A Yes.

4 Q Are you requesting to be excused?

5 A Yes, sir. I will have to on those bases.

6 Q Well, of course, I am not sure that you will
7 be yet, Mr. Stringer.

8 A Yes.

9 Q I want to find out what your state of mind is.
10 You would rather not serve; is that correct?

11 A That is correct. Under these conditions, yes.

12 THE COURT: Do you gentlemen wish to stipulate?

13 MR. FITZGERALD: I have talked it over and there
14 will be no stipulation, your Honor.

15 THE COURT: All right.

16 Q Now, we have asked you a number of questions
17 yesterday, Mr. Stringer, but I wanted to ask you some
18 additional questions this morning.

19 A Yes.

20 Q You know, of course, that the defendants have
21 been arrested and charged with the offenses in this case.

22 A Yes, sir.

23 Q And that they are before the court to stand
24 trial, to determine their guilt or innocence?

25 A Yes, sir.

26 Q Now, aside from those facts, have you ever

1 learned anything by reading or hearing it, or from any
2 other source, that caused you to believe that there is
3 some connection between the defendants and the offenses
4 charged against them?

5 A No, sir, I haven't.

6 Q Have you ever read or heard anything which
7 caused you to believe that there was a statement by anybody
8 relating what happened at the time of the killing?

9 A I don't recall that, sir.

10 Q Have you ever read or heard anything which
11 appeared to be a statement by any of the defendants about
12 anything?

13 A No, sir.

14 THE COURT: Any other questions?

15 MR. FITZGERALD: No, your Honor.

16 MR. REINER: No questions.

17 MR. SHINN: No questions, your Honor.

18 MR. KANAREK: No questions, your Honor.

19 THE COURT: Mr. Stovitz?

20 MR. STOVITZ: Yes, sir.

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VOIR DIRE EXAMINATION OF MR. STRINGER

BY MR. STOVITZ:

Q Mr. Stringer, do you know this gentleman here, Mr. Manson?

A Yes.

Q Do you know why the police arrested him?

A I believe vaguely I know why.

Q Why do you believe the police arrested him?

A As far as what I know, he was the instigator, you might say, or the leader of the gang; something like that.

Q How did you learn that?

A Well, this is what I have heard, sir.

Q You heard that from people you work with, or did you read it in a magazine, or read it in a book, or see it on TV?

A I think I saw that on TV.

Q Now, someone had to tell the TV to say that, right? Someone had to tell the reporter on TV to say that he was the instigator of the gang; right?

MR. KANAREK: I will object to that question, your Honor. That is not --

MR. STOVITZ: I will reframe the question.

BY MR. STOVITZ:

Q Do you know how the man on TV got the information that Mr. Manson was the leader of the gang?

6b-2

1 A No, sir.

2 Q Do you know whether or not the man on TV
3 went out and did his own investigating work, or did he
4 talk to a policeman, or did he talk to some witness,
5 or how he found out about it?

6 A I don't know.

7 Q Now, Mr. Stringer, do you think you can put
8 aside what you heard on TV, that Mr. Manson was the leader
9 of the gang, and just concentrate on the evidence, and if
10 the evidence shows that he is not a leader or anything
11 like that, just follow the evidence?

12 A Yes, I can do that.

13 Q All right.

14 Now, the young lady at the end of the couch
15 there, Miss Susan Atkins. Do you know why she was
16 arrested by the police?

17 A No more than what I have heard in the
18 courthouse.

19 Q What did you hear in the courthouse?

20 A I think there were seven counts of murder,
21 if I am not mistaken.

22 Q Yes; but why? Why was she charged with
23 seven counts of murder?

24 A I don't know.

25 Q All right.

26 The next young lady, Patricia Krenwinkel.

1 Do you know why the police arrested her?

2 A No, sir.

3 Q Do you know where she was arrested?

4 A No.

5 Q Do you know what she was doing at the
6 time she was arrested?

7 A No.

8 Q What about the next young lady, Leslie Van
9 Houten? Do you know where the police arrested her?

10 A No, sir.

11 Q Do you know what Leslie Van Houten's
12 connection with Mr. Manson is?

13 A No, sir.

14 MR. STOVITZ: I have no further questions. Thank
15 you.

16
17 VOIR DIRE EXAMINATION OF MR. STRINGER

18 BY THE COURT:

19 Q Mr. Stringer, do you think that you could
20 set aside whatever you have learned about the defendants
21 or anything about this case and decide the case solely
22 on the basis of the evidence that is introduced during
23 the trial?

24 A Yes, sir.

25 Q And do you think that you could be entirely
26 fair and impartial in judging that evidence to determine

1 the question of whether the defendants are guilty or
2 not guilty?

3 A Yes, sir.

4 THE COURT: All right, sir.

5 MR. BUGLIOSI: Your Honor, could I just ask a
6 couple of questions?

7 THE COURT: All right.

8
9 VOIR DIRE EXAMINATION OF MR. STRINGER:
10 BY MR. BUGLIOSI:

11 Q You say that your children are 12, 10, 9
12 and 7; is that right, sir?

13 A Yes.

14 Q And you say that there is no one to take
15 care of them other than you and your wife; is that
16 correct?

17 A That is correct.

18 Q So, if you are tied up on this jury, Mr.
19 Stringer, and your wife is hospitalized during her
20 pregnancy, there is no one to take care of these
21 children?

22 A No, sir.

23 Q Has your wife requested of you that you
24 not serve, or to try to get out of serving on this jury?

25 A Yes, sir.

26 Q Did she just ask you casually, Mr. Stringer,

1 or did she make kind of a fervent plea?

2 A It was casual.

3 Q Casual?

4 A Yes, sir.

5 Q Is she under the impression that you have
6 to serve on this jury?

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7 A No, sir.

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1 Q She thinks that you can get out of
2 serving just by asking not to serve?

3 MR. KANAREK: I will object to that question as
4 being insulting to the witness, your Honor.

5 THE COURT: I don't think it makes -- I don't see
6 the relevancy of this, Mr. Bugliosi.

7 MR. BUGLIOSI: He told us it was a hardship.
8 I am trying to find out what his wife's state of mind
9 is as far as he knows.

10 BY MR. BUGLIOSI:

11 Q Does your wife think you can get out of
12 sitting as a juror on this case simply by asking not
13 to serve?

14 MR. KANAREK: I will object to that as improper
15 voir dire examination, your Honor.

16 THE COURT: I don't think we are interested in
17 what his wife thinks; I mean, as a legal matter.

18 MR. BUGLIOSI: All right. No further questions.

19 THE COURT: I sympathize with her, of course.

20 MR. STOVITZ: No further questions.

21 THE COURT: All right.

22 Will you go back into the courtroom,
23 please, and do not discuss with anyone anything that
24 has been said in here.

25 MR. STRINGER: Yes, sir.

26 THE COURT: Thank you.

1 MR. STRINGER: Thank you.

2 (Whereupon Mr. Stringer leaves the Court's
3 chambers.)

4 MR. STOVITZ: Your Honor, we would ask your Honor
5 to exercise your discretion in excusing this juror for
6 hardship.

7 It doesn't appear likely that we will have
8 a jury until possibly August 1st.

9 THE COURT: Where did you pick that date from?

10 MR. STOVITZ: Well, today is July 9th.

11 THE COURT: I am always amazed when attorneys in
12 this case can pinpoint the date upon which various things
13 will happen.

14 MR. BUGLIOSI: Incidentally, August the 1st is
15 Saturday.

16 THE COURT: We may be working Saturday. Don't
17 laugh.

18 MR. STOVITZ: August the 1st happens to be my
19 birthday, that is why I picked it. It is my birthday.

20 Anyway, your Honor, it just doesn't appear
21 likely that we will be able to select the jurors and the
22 alternates by that time.

23 We also have various pretrial motions that
24 counsel would like to bring up before the actual evidence
25 commences. We also have the so-called challenge to the
26 petit jury.

1 If there is a conviction in this case of
2 first degree murder, there will be a penalty trial.

3 I know, speaking as a family man, I would like
4 to be present when my wife is having a child, and I would be
5 concentrating upon that event rather than the trial, and
6 it may cause all kinds of problems.

7 The juror appears to be young, he appears to
8 be needed at his home from what he says; besides the
9 ordinary guidance of children. It is summertime. These
10 children should be considered in this juror's hardship
11 request.

12 MR. BUGLIOSI: Yes, your Honor.

13 This hardship works both ways. With respect
14 to the attorneys, this is an adversary proceeding, but
15 with respect to the Court, the Court is totally neutral
16 and impartial, and I submit that it works both ways this
17 hardship.

18 The fact that he has these problems could
19 inure to the detriment of the defendants as well as to
20 the detriment of the prosecution, and I think if a juror
21 does not want to serve, No. 1; and No. 2, if he does have
22 a legitimate hardship, we would ask the Court, on its own
23 motion, to dismiss or excuse this type of juror.

24 The Court does not need the stipulation of
25 counsel.

26 THE COURT: I don't think this sort of thing need

1 necessarily be an undue hardship.

2 In the first place, many people, many
3 fathers, are away when their children are born. That is
4 not uncommon.

5 As a matter of fact, I am sure arrangements
6 could be made for a juror to visit his wife in the
7 hospital, if that were necessary.

8 MR. BUGLIOSI: She is not only pregnant, but she
9 has four young children, your Honor.

10 THE COURT: Yes, I understand.

11 Things have a way of developing, and problems
12 get solved.

13 I am not going to excuse him on hardship
14 grounds.

15 All right. We will take the recess. Then
16 we have 12 people in the box all of whom have been examined
17 in chambers, so we will go back into open court.

18 My notes indicate that the defendants will
19 have the right to exercise a joint challenge next if they
20 care to.

21 We will take a 15-minute recess.

22 MR. STOVITZ: Your Honor, I have some paper work
23 that has built up, so I will not be here for the balance
24 of the morning session.

25 THE COURT: Very well.

26 (Recess.)

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1 (The following proceedings were had in open
2 court in the presence and hearing of the prospective jurors,
3 all defendants and all counsel being present; Mr. Bugliosi
4 being present for the People in the absence of Mr. Stovitz.)

5 THE COURT: All parties and counsel are present.
6 All of the prospective jurors are in the jury box.

7 Do you have additional voir dire, Mr. Fitzgerald?

8 MR. FITZGERALD: No questions, your Honor.

9 THE COURT: Mr. Reiner?

10 MR. FITZGERALD: Can we have just a moment, your
11 Honor?

12 (Pause.)

13 MR. FITZGERALD: Could we approach the bench.

14 THE COURT: Very well.

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

17 MR. FITZGERALD: We just want to make sure that our
18 records are correct as to jurors that have not been
19 interrogated in open court.

20 Our records indicate that Juror No. 1 has not
21 been interrogated in open court, Mrs. McKenzie.

22 THE COURT: Well, I have not been keeping a personal
23 note.

24 MR. BUGLIOSI: I have a list here of those who have
25 not been interrogated:
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1 Mrs. Shirley Evans, No. 2; No. 4, Mrs. Lee;
2 No. 7, Mr. Zamora, No. 9, Mr. Baer, No. 10, Mr. Stringer,
3 and No. 11, Mr. Cato.

4 I think every other one has been.

5 THE COURT: I believe that is correct.

6 MR. FITZGERALD: Thank you.

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

9 MR. FITZGERALD: I will not question the jurors. We
10 will pass for cause.

11 THE COURT: Mr. Reiner.

12 MR. REINER: Thank you, your Honor.

13
14 VOIR DIRE EXAMINATION OF MRS. EVANS

15 BY MR. REINER:

16 Q Mrs. Evans, we will begin with you since you are
17 seated in the No. 2 seat, Mrs. Evans, you have been in court
18 and you have heard the questions that have been put to the
19 other prospective jurors by Mr. Fitzgerald and myself
20 earlier, is that true?

21 A Yes, sir.

22 Q And you have been considering your answers in
23 the event that you also will be called as a prospective
24 juror, is that correct?

25 A Yes, sir.

26 Q There are certain questions that although they

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1 have been asked of other prospective jurors must nonetheless
2 be asked, at least in our belief, of each prospective juror,
3 so I will be redundant and I will be asking questions of you
4 that you have heard asked before.

5 Now, do you presume that the defendant Leslie
6 Van Houten is innocent?

7 A Yes, sir.

8 Q And you presume that she is innocent because
9 you know that you will be instructed by the Court that you
10 must presume that she is innocent.

11 A Yes, sir.

12 Q And that presumption must stay with Miss
13 Van Houten until and unless there is evidence presented by
14 the prosecution to overcome that presumption of innocence?

15 A Yes, sir.

16 Q And that evidence that is presented must be of
17 such sufficient force and effect that it overcomes that
18 presumption to the point that it persuades you beyond all
19 reasonable doubt that she is guilty?

20 A Yes, sir.

21 Q And if the evidence that is presented against
22 Leslie Van Houten does not persuade you beyond all reason-
23 able doubt, but merely raises suspicions in your mind, you
24 will then continue to presume she is innocent and return a
25 verdict of acquittal?

26 A Yes, sir.

1 Can you do this in good conscience?

2 A Yes, sir.

3 Q Do you feel there would be any difficulty at
4 all by following the rule of the presumption of innocence?

5 A No, sir.

6 Q The crimes that we are talking about are
7 specially grotesque.

8 Will you make a conscious attempt to discipline
9 your mind so that if you should be a juror in this case,
10 during the course of your deliberations you would not
11 allow your emotions to overwhelm your judgment?

12 A Yes, sir.

13 Q You would not then be so terribly upset with
14 the grotesqueness of the crime that you would lash out at
15 any defendant named in this case irrespective of the
16 evidence that will be presented against that particular
17 defendant?

18 A No, sir.

19 Q You appreciate there are four defendants in
20 this case?

21 A Yes, sir.

22 Q And that each defendant is to be treated
23 separately?

24 A Yes, sir.

25 Q There will be evidence that will be presented
26 here in this case that will be assignable to one defendant

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1 or perhaps two defendants or more.

2 Will you take special care to assign only that
3 evidence that is presented in this case to Leslie Van Houten
4 that relates to Leslie Van Houten?

5 A Yes, sir.

6 Q And you will not inadvertently or in any other
7 way assign any evidence in this case to Leslie Van Houten
8 that does not relate to Leslie Van Houten?

9 A No.

10 Q Now, I don't know whether you were present
11 when Miss Van Houten addressed the Court earlier, and if you
12 were not present I don't know whether you perhaps read about
13 it in the newspaper.

14 But irrespective of whether you did or not,
15 at this point I am not inquiring as to your interpretation
16 of her conduct.

17 But if it should appear to you at any time
18 during this trial that Miss Van Houten wishes to be
19 convicted if any member of the Family is convicted, will
20 you nonetheless base your judgment in this case on the
21 evidence and not upon her wishes?

22 A Yes, sir.

23 Q Then it is the evidence in this case and not
24 the wishes of Miss Van Houten that will control your
25 decision in this case?

26 A Yes, sir.

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1 Q There will be a witness by the name of Linda
2 Kasabian who will testify in this case, and there will be,
3 of course, a question as to whether she is or is not an
4 accomplice to these killings.

5 You will be given a definition by the Judge as
6 to what constitutes an accomplice.

7 Will you follow that definition?

8 A Yes, sir.

9 Q I don't know at this moment whether you have
10 in your own mind your idea of what an accomplice to a
11 crime is, but irrespective of whether you have such notions
12 or not, will you put them aside?

13 A Yes, sir.

14 Q And you will follow the definition of the Court?

15 A Yes, sir.

16 Q Now, applying the definition that the Judge
17 will give you, if you decide that Linda Kasabian was
18 in fact an accomplice, will you then follow the instruction
19 the Court will give you with respect to how you are to
20 treat the evidence of an accomplice?

21 A Yes, sir.

22 Q And if you decide that Linda Kasabian is
23 in fact an accomplice, and if the Court instructs you that
24 you are to completely disregard the evidence of an
25 accomplice, in the absence of any totally independent
26 corroborating evidence, will you so disregard that

1 testimony?

2 A Yes, sir.

3 Q Now, when we speak of totally independent
4 corroboration evidence, you appreciate we are speaking of
5 evidence that to you is credible.

6 A Yes, sir.

7 Q And if the so-called corroborating evidence is
8 not to your thinking credible, you will then disregard it?

9 A Yes, sir.

10 Q And once again, to reiterate, the corroborating
11 evidence, such as it may be, of the testimony of the
12 accomplice, must relate to Leslie Van Houten and not to
13 other defendants.

14 A Yes, sir.

15 Q So that if the testimony of Linda Kasabian is
16 corroborated as to one or more of the defendants, you will
17 not assign any of that to Leslie Van Houten unless it does
18 corroborate her testimony with respect to Leslie Van Houten.

19 A Yes, sir.

20 Q So that if the testimony of Linda Kasabian is
21 in fact corroborated with respect to one or more of the
22 other defendants, you will nonetheless acquit Leslie
23 Van Houten if it is not corroborated with respect to
24 Leslie Van Houten?

25 A Yes, sir.

26 MR. REINER: Thank you very much.

Would you pass the microphone to Juror No. 4,

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1 Mrs. Lee.

2
3 VOIR DIRE EXAMINATION OF MRS. LEE

4 BY MR. REINER;

5 Q Mrs. Lee, will you presume that Leslie Van Houten
6 is innocent?

7 A Yes.

8 Q And do you do that in good conscience?

9 A Yes.

10 Q Do you feel that because of the notoriety this
11 case has attracted that perhaps there would be some pressure
12 brought to bear upon you by your friends and acquaintances
13 if at the conclusion of this case you should return to your
14 community if you acquitted a single one of these defendants?

15 A I don't really know. I would certainly imagine
16 so.

17 Q You would imagine that you would perhaps be
18 subjected to criticism among your friends and acquaintances
19 if you were to acquit even a single defendant?

20 A Yes.

21 Q Now, recognizing candidly that you would be
22 subject to such criticism, let me ask you now, do you
23 think it would affect your judgment in this case?

24 A No.

25 Q So notwithstanding any possible criticism you
26 may receive from friends and acquaintances who were informed

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1 of the facts, and I put "the facts" in quotations, of the
2 case in the news media, you would base your judgment on the
3 evidence presented here in court?

4 A Yes.

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

7 THE COURT: Do you want to make an objection,
8 Mr. Kanarek?

9 MR. KANAREK: Yes, I would, your Honor.

10 THE COURT: An objection to a question?

11 MR. KANAREK: Yes.

12 THE COURT: State what it is that you want.

13 MR. KANAREK: I would prefer to do it at the bench
14 if I may, your Honor.

15 THE COURT: Does it have anything to do with this
16 voir dire examination?

17 MR. KANAREK: Yes, your Honor.

18 THE COURT: All right, you may.

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

21 MR. KANAREK: Your Honor, this juror is making the
22 most incredible answers, that she feels she will be subject
23 to criticism if she acquitted one or more of these defen-
24 dants.

25 In view of that statement, in the presence of
26 all these prospective jurors, I ask the Court to admonish

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1 the jury that what the neighborhood thinks of a particular
2 verdict is not to be used in deciding the case, and your
3 admonishment not sufficing, I make a motion for a mistrial,
4 and that this entire panel be dismissed.

5 This is the most incredible line --

6 THE COURT: Well, my feeling is that the question
7 is one which calls for speculation.

8 The answer, for that reason, is speculative,
9 and it really does not mean anything.

10 She has no way of knowing whether the neighbors
11 are going to criticize her or not.

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1 MR. KANAREK: Your Honor, we are talking about
2 states of mind.

3 The purpose of the voir dire, I am sure we
4 agree, is to get the state of mind of the jury and to get
5 a fair and impartial jury.

6 THE COURT: That is right.

7 MR. KANAREK: Here we have a prospective juror in
8 the box stating that in her opinion the community is
9 going to be up in arms against her if she acquits some-
10 body.

11 THE COURT: That is not what she said.

12 MR. KANAREK: Well, I think she said that her
13 neighbors -- they will be unhappy with her. This is
14 paraphrasing it.

15 THE COURT: The motion for a mistrial is denied.
16 Let's proceed.

17 MR. KANAREK: Will your Honor admonish --

18 THE COURT: I don't see anything to admonish about.
19 She gave a speculative answer.

20 MR. KANAREK: But it is our position it will affect
21 the state of mind --

22 THE COURT: I don't know it affects anybody. These
23 are matters that are brought out during the course of
24 the voir dire examination.

25 She has been instructed; she knows what her
26 duty is; she will be instructed again.

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1 MR. KANAREK: But the other jurors are hearing this.
2 I ask they all be admonished.

3 THE COURT: It is speculation as far as they are
4 concerned.

5 MR. KANAREK: But it is our position it will affect
6 their state of mind.

7 THE COURT: I don't see how.

8 You have an opportunity to go into this on
9 voir dire if you care to.

10 MR. KANAREK: I don't wish to belabor this kind of
11 topic.

12 I would ask your Honor to admonish them they
13 are not to be guided in their decision by what their
14 neighbors think.

15 THE COURT: I instructed them a number of times
16 that they are to decide the issues only on the evidence
17 developed during the trial.

18 MR. BUGLIOSI: The cases of People vs. Acosta,
19 115 Cal. App. 103 and People vs. Kosta, 14 Cal. App. 696,
20 and People vs. Clark, 116 Cal. App. 2d 219, among other
21 cases, clearly and unequivocally hold that the mere fact
22 that one has been charged or indicted for a crime does
23 not make that person an accomplice.

24 And at the termination of a case, when the
25 defense and prosecution submit instructions to the Court
26 over and above CALJIC, we certainly would ask the Court

1 to give that instruction.

2 I believe it is a correct statement of law.

3 If it is a correct statement of law I
4 would appreciate if the Court would let me ask each juror
5 that if the Court instructs you that the mere fact that
6 Linda Kasabian has been indicted for these crimes does
7 not in and of itself make her an accomplice, would you
8 follow the Court's instruction on that.

9 MR. REINER: Your Honor, if I might respond, it is
10 true that the mere fact that she has been indicted does
11 not in and of itself establish her as an accomplice.

12 That is a matter to be considered.

13 However, I don't think the Court should
14 properly instruct the jury as to what does not constitute
15 an accomplice without also instructing the jury as to
16 what does constitute an accomplice.

17 And now I think we have gone too far.

18 I stayed completely away from what does
19 or not constitute an accomplice, and just simply have
20 said "you will be given a definition," and ask them to
21 follow it.

22 THE COURT: Well, I am not going to permit it. I
23 think we are getting into the range of instruction now.

24 My personal guess would be that 15 seconds
25 after you ask some of these questions regarding technical
26 legal definitions, that the juror does not remember what

1 you said.

2 So I think it is a total waste of time.

3 MR. BUGLIOSI: This is such a simple basic
4 question.

5 THE COURT: What you are concerned with is whether
6 or not the respective juror would follow the Court's
7 instructions regardless of what they are.

8 When you get beyond the mere general
9 statement, focusing their attention generally on the
10 area by way of illustration, I think it is a total waste
11 of time, at that point, and the objection becomes an
12 instruction rather than voir dire.

13 MR. BUGLIOSI: But the heart of our case, and the
14 star witness for the prosecution is Linda Kasabian,
15 it is so important that this jury realize that she is not
16 an accomplice.

17 THE COURT: Now you are talking about argument and
18 instruction.

19 This is the wrong part of the trial, Mr.
20 Bugliosi.

21 MR. BUGLIOSI: I do not intend to tell them she is
22 not an accomplice. I would like to say, "If the Court
23 instructs you that the mere fact that she is charged
24 does not make her an accomplice, would you follow the
25 Court's instructions on that?"

26 Some person might have the frame of mind,

1 "Well, she has been charged with these crimes, obviously
2 she is an accomplice, because the word 'accomplice' is
3 a generic term."
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1 THE COURT: At this stage of the trial they don't
2 even know what you are talking about.

3 MR. BUGLIOSI: It is a generic term, the man on the
4 street uses, "He is an accomplice."

5 THE COURT: I will permit you to ask that question
6 for the same reason I have permitted counsel to ask other
7 questions.

8 MR. FITZGERALD: May I be heard?

9 We object as a matter of law.

10 Linda Kasabian is an accomplice, and I will
11 submit to the Court --

12 THE COURT: That is not the issue.

13 The question is whether he can ask if a
14 particular instruction is given will they follow it.

15 MR. BUGLIOSI: That is all I want to ask.

16 THE COURT: He is not determining what is or what is
17 not an accomplice.

18 MR. FITZGERALD: Has your Honor approved the
19 instruction? I believe your Honor will not give that
20 instruction.

21 THE COURT: I don't know whether I will give it or
22 not.

23 MR. FITZGERALD: He is going to read his proposed
24 instruction and then ask the jury if they will follow that
25 law.

26 MR. BUGLIOSI: I am going to say, in other words, if

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1 I had wings I could fly. If is a big if.

2 "If the Court instructs you that the mere fact
3 that she has been charged does not make her an accomplice,
4 will you follow the Court's instruction on it?"

5 That is all I am asking.

6 MR. REINER: Then that has to be followed with a
7 definition of what does constitute an accomplice.

8 THE COURT: We are not getting into that.

9 MR. REINER: I agree --

10 THE COURT: I permitted you to go into accomplice
11 questions. This is the other side of the coin.

12 That is as far as we are going to go.

13 MR. FITZGERALD: I will ask the jury, then, "If you
14 are instructed by his Honor that Charles Watson is entirely
15 responsible for this offense and the defendants are innocent,
16 will you follow that instruction?"

17 The point is he is asking for a statement of
18 law that will never be given.

19 MR. BUGLIOSI: These cases in California clearly hold
20 in unambiguous language that the mere fact a person is
21 charged with a crime does not make them an accomplice.

22 They will have to determine on their own
23 whether she is an accomplice based on the Court's
24 instructions.

25 The mere fact that a Grand Jury indicted her
26 does not make her an accomplice. It is up to them to decide.

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1 based on the Court's instruction.

2 MR. FITZGERALD: The first sentence in CALJIC 310 is:

3 "An accomplice is one who is liable to be
4 prosecuted for the identical offense charged
5 against the defendants on trial."

6 Linda Kasabian has been indicted. In her motion
7 to dismiss the indictment the prosecutors argued she was in
8 fact an accomplice, and her motion under 995 --

9 THE COURT: All of this is wholly irrelevant to the
10 voir dire examination.

11 MR. BUGLIOSI: I didn't even ask questions on
12 accomplices, your Honor, but now Mr. Reiner has gone into
13 it, it is focused on Linda Kasabian.

14 THE COURT: The voir dire examination is becoming too
15 lengthy on both sides.

16 I think you should begin to shorten it up.
17 I am going to have to cut down on the questioning. I don't
18 want to have to do that.

19 MR. BUGLIOSI: I can say this, with the first panel
20 coming over here, I spoke to them in depth.

21 But every one of these substitute jurors I
22 do not intend to go into any depth at all with.

23 THE COURT: I will permit you to ask that question,
24 but if you go beyond that I am going to stop you.

25 MR. BUGLIOSI: Thank you very much.

26 MR. KANAREK: May the record reflect on behalf of

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1 Mr. Manson we object to Mr. Bugliosi going into this
2 matter at this time.

3 THE COURT: All right.

4 MR. FITZGERALD: May we object to the question up here
5 rather than in the presence of the jury?

6 MR. REINER: Your Honor, to what extent may I go into
7 what an accomplice is?

8 THE COURT: To the extent you have already gone into
9 it and no more.

10 MR. REINER: Your Honor, I haven't even attempted to.

11 May I continue for one second -- I have not been
12 heard in argument as yet, I have mostly been listening to
13 other counsel.

14 I asked only one question that relates to the
15 definition of what constitutes an accomplice, and it is
16 the same question every time:

17 "The Court will give you a definition; will
18 you follow that definition, whatever it is?"

19 I haven't even hinted at or suggested what an
20 accomplice is.

21 Now, Mr. Bugliosi wants to indicate that the
22 Court may give an instruction as to what an accomplice is
23 not.

24 That is the most incomplete type of statement
25 of any rule of law, without an accompanying statement of what
26 it is.

1 THE COURT: That is not what he is asking.

2 He asked if he may ask the question in the
3 form, "If you were instructed so-and-so would you follow
4 the instruction?"

5 That is what I permitted you to do.

6 MR. REINER: The only portion he will give is a portion
7 of one instruction, the fact that she has not been indicted
8 is not evidence.

9 THE COURT: Let us proceed, gentlemen, I have
10 indicated to you what I will allow.

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

5 MR. REINER: Your Honor, may the reporter read
6 the last question?

7 (Whereupon the record was read by the
8 reporter.)

9 THE COURT: All right. You may proceed, Mr.
10 Reiner.

11 MR. REINER: Thank you.

12 BY MR. REINER:

13 Q Then, Mrs. Lee, you appreciate, then, that
14 your judgment must be based solely upon the evidence
15 here in court and you may not permit yourself to be
16 influenced by what you speculate upon or think may be
17 the attitudes of your friends and acquaintances?

18 A Yes.

19 Q Thank you very much.

20 A You're welcome.

21 MR. REINER: Would you pass the microphone to
22 Mr. Zamora, in Seat No. 7.

23
24 VOIR DIRE EXAMINATION OF WILLIAM ZAMORA

25 BY MR. REINER:

26 Q Mr. Zamora, you will be instructed by

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1 the Court to presume that these defendants are innocent.

2 A Yes.

3 Q Now, will you, in fact, presume that Leslie
4 Van Houten is innocent?

5 A Yes.

6 Q And will you continue to presume that she
7 is innocent?

8 A Yes.

9 Q -- until and unless evidence is presented
10 by the prosecution to indicate that she is guilty beyond
11 all reasonable doubt?

12 A Yes.

13 Q And if the evidence that is presented against
14 Leslie Van Houten is insufficient to persuade you beyond
15 all reasonable doubt and creates only a suspicion in your
16 mind of her possible guilt, Mr. Zamora, will you then
17 acquit her?

18 A Yes.

19 Q And can you do this in good conscience?

20 A Yes, I could.

21 Q Do you have any reservations with respect
22 to applying this doctrine of presumption of innocence to
23 Leslie Van Houten?

24 A No.

25 Q Do you feel that perhaps you would have any
26 subconscious inclinations to group all defendants together

1 and to convict all if there is evidence with respect only
2 to perhaps one or two or three of them?

3 A No.

4 Q If it should happen that you find that
5 there are such inclinations on your part, Mr. Zamora,
6 at the time that you would be deliberating, sir, would
7 you make a conscious attempt to discipline yourself to
8 consider each defendant separately?

9 A Yes.

10 Q And would you assign any of the evidence
11 that comes into this case during the course of the trial
12 to Leslie Van Houten that in your judgment relates to
13 Leslie Van Houten?

14 A Yes.

15 Q There will be a witness by the name of
16 Linda Kasabian who will testify at this trial for the
17 prosecution, Mr. Zamora, and there will be a question of
18 whether she is or is not an accomplice.

19 You will be given a definition by the Court
20 as to what constitutes an accomplice.

21 Will you follow that definition, Mr.
22 Zamora?

23 A Yes.

24 Q And will you follow that definition
25 irrespective of any views that you may have of your own
26 as to what does or does not constitute an accomplice?

1 A Yes.

2 Q And if you decide in your own judgment
3 that Linda Kasabian is, in fact, an accomplice to these
4 killings, will you then follow the Court's instructions
5 as to how you must regard her testimony?

6 A Yes.

7 Q And if the Court instructs you that in the
8 event you decide that Linda Kasabian is an accomplice,
9 that you will be obligated to disregard all of her
10 testimony in the absence of any credible, totally
11 independent corroborating evidence, you will follow that
12 instruction?

13 A Yes.

14 Q And you understand that I am referring,
15 at this time, to evidence that is corroborating as it
16 relates to Leslie Van Houten, do you not?

17 A Yes.

18 Q So that if it relates to any other
19 defendants and does corroborate her story with respect
20 to any other defendant, but does not corroborate her
21 story with respect to Leslie Van Houten, you will then
22 disregard her testimony so far as it relates to Leslie
23 Van Houten?

24 A Yes..

25 MR. REINER: Thank you very much.

26 Would you pass the microphone to Juror No. 9,

1 Mr. Baer.

2
3 VOIR DIRE EXAMINATION OF JOHN M. BAER

4 BY MR. REINER:

5 Q Mr. Baer, will you follow the Court's
6 instructions to presume that the defendants are innocent?

7 A Yes.

8 Q You appreciate that I am speaking on behalf
9 of Leslie Van Houten and not on behalf of any other
10 defendant in this case?

11 A Yes, sir.

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1 Q You appreciate that, sir?

2 A Yes, sir.

3 Q I don't think you have the microphone on,

4 Mr. Baer. I am unable to hear you.

5 A Can you hear me now?

6 Q Yes.

7 I am sorry, I didn't hear your answer?

8 A Yes.

9 Q Okay.

10 Now, whenever I speak, Mr. Baer, you understand
11 that I am speaking on behalf of Leslie Van Houten --

12 A Yes.

13 Q -- and whenever any other attorney speaks, he
14 is speaking on behalf of his particular client.

15 A Yes, sir.

16 Q So that there isn't anything that will be said
17 by any other attorney in this case that will relate to
18 Leslie Van Houten unless I also speak and join in that.

19 Do you understand that, sir?

20 A Yes, sir.

21 Q There are four defendants in this case and
22 they have to be treated separately.

23 Do you appreciate that, sir?

24 A Yes, sir.

25 Q So that in the event that the evidence that
26 comes into this case indicates that one or more defendants

1 are guilty, will you acquit Leslie Van Houten if the
2 evidence that comes in is insufficient to establish her
3 guilt beyond all reasonable doubt?

4 A Yes, sir.

5 Q And you will not convict all defendants because
6 there is evidence that would indicate that one or more
7 defendants are guilty; is that correct?

8 A No, sir.

9 Q And that is, of course, in the absence of evi-
10 dence indicating that all of the defendants are guilty?

11 A Right.

12 Q I am unaware, and I don't wish to inquire at
13 this time, as to your interpretation of Miss Van Houten's
14 conduct from time to time during the course of this trial,
15 if you are aware of it, but if during the course of the
16 trial Miss Van Houten should indicate, or you interpret
17 her conduct as indicating to you, that she wishes to be
18 convicted if any member of the Family is convicted, would
19 you nonetheless base your judgment on the evidence in
20 this case and not upon her wishes in the matter?

21 A Yes.

22 Q So that if/ the evidence in the case from
23 Leslie Van Houten has not been proved guilty beyond all
24 reasonable doubt, Mr. Baer, you will acquit her even if
25 it should appear to you that she wishes to be convicted?

26 A Yes.

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1 Q Now, there will be the testimony of Linda
2 Kasabian that I have previously referred to.

3 If you should, in following the Court's
4 instructions, believe that she is an accomplice to these
5 killings, Mr. Baer, will you then follow the Court's
6 instructions with respect to how you are to regard her
7 testimony?

8 A Yes, sir.

9 Q Now, if the Court should instruct you that in
10 the event you do believe that she is an accomplice to these
11 killings, that you are required, as a matter of law, to
12 totally disregard her testimony in the absence of totally
13 independent, credible corroborating evidence, will you do
14 so, sir?

15 A Yes, sir.

16 Q Would you then disregard the testimony of
17 Linda Kasabian?

18 A Right, sir.

19 Q Now, when I speak, sir, of totally independent,
20 credible, corroborating evidence, at the moment I am
21 referring only to Leslie Van Houten.

22 Do you understand that?

23 A Yes.

24 Q So that even in the event that Linda Kasabian's
25 testimony is corroborated with respect to one or more other
26 defendants, if it is not corroborated with respect to

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1 Leslie Van Houten, then you will disregard Linda Kasabian's
2 testimony as it relates to Leslie Van Houten; is that
3 correct?

4 A Yes, sir.

5 Q Do you feel that there are any reasons why
6 you would have any reservation whatsoever in any of the
7 answers that you have given, Mr. Baer?

8 A No, sir.

9 MR. REINER: All right. Thank you very much.

10 Would you pass the microphone to the gentlemen
11 next to you, Mr. Stringer, please?

12
13 VOIR DIRE EXAMINATION OF ROBERT L. STRINGER
14 BY MR. REINER:

15 Q Mr. Stringer, will you presume that Leslie
16 Van Houten is innocent?

17 A Yes, sir.

18 Q And will you continue to presume that she is
19 innocent until and unless evidence is presented in this
20 case that would convince you beyond all reasonable doubt
21 that she is guilty?

22 A Yes, sir.

23 Q And if --

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

25 (Whereupon, all counsel approach the bench and
26 the following proceedings occurred at the bench outside of

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1 the hearing of the prospective jurors)

2 THE COURT: Mr. Reiner, I don't see any reason at
3 all why these questions can't be put to all of the jurors at
4 the same time.

5 They can be put to them and they can all
6 answer yes or no.

7 There is no necessity for going over and
8 repeating all of these to each juror individually. We are
9 just unnecessarily taking up time.

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8B 1 MR. REINER: Your Honor, I have shortened my
2 questions substantially. I have spent no more than three
3 minutes per prospective juror. That is hardly a lot of
4 time for a capital case.

5 THE COURT: You know as well as I how the minutes
6 mount up and the days roll by, Mr. Reiner.

7 MR. REINER: I appreciate that.

8 THE COURT: I see no reason for getting up and
9 repeating time after time after time the identical
10 questions.

11 MR. REINER: In my judgment, your Honor, and perhaps
12 other counsel would agree with me, in the trial of jury
13 cases it is important to look at a juror and get a
14 response from a juror rather than ask the questions en bank.

15 THE COURT: There is no reason why the responses
16 can't come in at the same time.

17 MR. REINER: Responses en bank are almost like no
18 responses at all, your Honor.

19 THE COURT: I don't agree.

20 MR. REINER: I think I went as far as one can
21 reasonably go in shortening the voir dire examination. I
22 have shortened it to three minutes per prospective juror.
23 That can hardly be called, by any stretch of the imagination,
24 in a capital case, a long time.

25 THE COURT: It is not three minutes.

26 MR. REINER: I have timed it because I thought that

1 there might be these objections. I don't know if you have
2 timed it, your Honor, but I have timed it.

3 THE COURT: You have my views, Mr. Reiner. Let's
4 proceed.

5 MR. REINER: May I continue spending approximately
6 three minutes per juror, your Honor?

7 THE COURT: That is not the point. The point is that
8 these questions can be asked to the remaining jurors that
9 you have not yet examined, and they can each respond individ-
10 ually.

11 The questions do not have to be repeated to each
12 individual juror. There is no reason whatever for it.

13 MR. REINER: So long as I limit the amount of time,
14 your Honor, may I use my own judgment as to what I may
15 wish to ask a juror?

16 THE COURT: No, you may not. I am telling you to do
17 it otherwise.

18 MR. REINER: Will your Honor please not pull away
19 from counsel when I am in the middle of talking.

20 THE COURT: Mr. Reiner, I have told you what I
21 wanted you to do.

22 MR. REINER: May I respond and indicate my position,
23 your Honor?

24 Your Honor is always pulling away and turning
25 your chair when I am speaking.

26 THE COURT: I want no argument on this subject when I

1 have already told you.

2 MR. REINER: Your Honor indicated that you didn't
3 want to hear more argument by pulling away, so I suppose
4 there is no further point in discussing it.

5 MR. BUGLIOSI: Your Honor, I would, for the record,
6 join with Mr. Reiner.

7 There are seven counts of murder here, and I
8 think on crucial questions that the jurors should be
9 permitted to respond individually.

10 THE COURT: I agree. I am not talking about the
11 response of the jurors. I am talking about repeating the
12 questions.

13 The questions should be put and each juror should
14 respond individually.

15 MR. BUGLIOSI: Mr. Reiner's position, your Honor,
16 with which I agree, is that to ask a question of the
17 group somehow is not as accurate as when you are speaking to
18 them directly and individually.

19 THE COURT: I believe it is.

20 Now, let's proceed, gentlemen.

21 (Whereupon, all counsel returned to their
22 respective places at counsel table and the following
23 proceedings occurred in open court within the presence and
24 hearing of the prospective jurors:)

25 MR. REINER: Your Honor, I do not recall the last
26 question. May it be read back?

1 THE COURT: It is too time-consuming, Mr. Reiner.
2 Let's proceed. The reporter will have to go back through
3 all the comments at the bench to find it.

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1 MR. REINER: Thank you, your Honor.

2 Q Mr. Stringer, you do appreciate that there
3 are four defendants in this case --

4 A Yes.

5 Q -- and that they are to be treated
6 separately?

7 A Yes, sir.

8 Q And will you make a definite, conscious
9 attempt to discipline your thinking during the course of
10 this trial as the evidence comes in during the trial
11 not to confuse evidence that relates to one defendant
12 and perhaps inadvertently assign it to some other
13 defendant?

14 A Yes, sir.

15 Q So if evidence comes in in this case that
16 relates to one of the other defendants and does not
17 relate to Leslie Van Houten, you will not put it all
18 together in one bag, so to speak, and assign it to
19 Leslie Van Houten?

20 A No, sir.

21 Q Irrespective of your view as to Miss Van
22 Houten's conduct, will you base your judgment solely
23 upon the evidence in this case and not allow your
24 opinion as to her wishes in this case to affect your
25 judgment?

26 A Yes, sir.

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1 Q So that if it appears to you, Mr. Stringer,
2 that she wishes to be convicted with the other members
3 of the Family, that you will nonetheless acquit her if
4 the evidence is insufficient?

5 A Yes.

6 MR. REINER: Thank you very much.

7 Would you pass the microphone to the
8 gentleman next to you, Mr. Cato.

9
10 VOIR DIRE EXAMINATION OF MR. CATO

11 BY MR. REINER:

12 Q Mr. Cato, there will be a witness in this
13 case by the name of Linda Kasabian and, of course, there
14 will be a question as to whether she is or is not an
15 accomplice.

16 You will be given a definition by the Court
17 as to constitutes an accomplice.

18 Will you follow that definition?

19 A Yes, sir.

20 Q And that is irrespective of any views that
21 you may bring into this case indicating -- any views that
22 you would bring into this case as to what an accomplice
23 is; is that true?

24 A Yes, sir.

25 Q Now, if you should decide that Linda Kasabian
26 is, in fact, an accomplice, would you follow the Court's

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1 instructions with respect to how you are to regard the
2 testimony of an accomplice?

3 A Yes.

4 Q And --

5 THE COURT: Just a moment.

6 Mr. Cato, did you hear all of the questions
7 that were asked of the other prospective jurors here this
8 morning?

9 MR. CATO: Yes.

10 THE COURT: By Mr. Reiner?

11 MR. CATO: Yes.

12 THE COURT: Would your answers be any different
13 in any respect to any of their answers?

14 MR. CATO: No, sir.

15 THE COURT: All right.

16 Let's proceed, Mr. Reiner.

17 MR. REINER: Is your Honor foreclosing counsel
18 from asking questions that were previously asked of other
19 prospective jurors?

20 THE COURT: He has already answered the question,
21 sir.

22 Let's proceed.

23 MR. REINER: May I have an indication from the
24 Court as to whether or not I may or may not ask questions
25 of this juror that I previously put to other prospective
26 jurors?

1 THE COURT: You may proceed with other questions,
2 Mr. Reiner.

3 MR. REINER: Am I to assume that I may not ask
4 any questions of this prospective juror if I have asked
5 any other prospective jurors those questions?

6 THE COURT: You may not presume anything.

7 MR. REINER: I am not able to understand.

8 THE COURT: Proceed with your voir dire or sit
9 down and let someone else proceed.

10 MR. REINER: Thank you.

11 Q Mr. Cato, will you, in fact, presume that
12 the defendant, Leslie Van Houten, is innocent?

13 A Yes.

14 Q And in fact, do you, in the absence of
15 evidence to the contrary, presume that she is innocent,
16 sir?

17 A Yes, sir.

18 Q Do you feel that because of the notoriety
19 that this case has attracted that you would have any
20 difficulty in applying that presumption of innocence?

21 A No, sir.

22 THE COURT: You are doing just what I asked you
23 not to.

24 MR. REINER: Your Honor, I did not understand your
25 Honor's instructions, and I tried to clarify them, but
26 your Honor refused to respond.

1 THE COURT: You understand perfectly well what I
2 said.

3 Proceed.

4 MR. REINER: Your Honor refused to say whether I
5 may or may not ask questions previously put to other
6 prospective jurors.

7 THE COURT: You cannot simply repeat questions.
8 You can ask this prospective juror if his answers would
9 be different. If they are, you may go into it. If they
10 are not, you may not.

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