

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

CHARLES MANSON, SUSAN ATKINS,
LESLIE VAN HOUTEN, PATRICIA KRENWINKEL,
Defendants.

107

No. A253156

REPORTERS' DAILY TRANSCRIPT
Wednesday, September 30, 1970
A. M. SESSION

APPEARANCES:

For the People:

DONALD A. MUSICH,
STEPHEN RUSSELL KAY,
[REDACTED] and
VINCENT T. BUGLIOSI,
DEPUTY DISTRICT ATTORNEYS

For Deft. Manson:

I. A. KANAREK, Esq.

For Deft. Atkins:

DAYE SHINN, Esq.

For Deft. Van Houten:

[REDACTED]
RONALD HUGHES, Esq.

For Deft. Krenwinkel:

PAUL FITZGERALD, Esq.

VOLUME 107

PAGES 12163 to 12255

JOSEPH B. HOLLOMBE, CSR.,
MURRAY MEHLMAN, CSR.,
Official Reporters

COPY

I N D E X

PEOPLE'S WITNESSES: DIRECT CROSS REDIRECT RECROSS

FLYNN, Juan 12214 K
 12231 H

E X H I B I T S

DEFENDANTS':

FOR IDENTIFICATION

AU - Photograph 12230
AV - Photograph 12230
AW - Photograph 12230

1. LOS ANGELES, CALIFORNIA, WEDNESDAY, SEPTEMBER 30, 1970

2. 9:45 o'clock a.m.

3. - - - -

4. (The following proceedings were had in the
5. chambers of the court, all counsel being present, out of
6. the hearing of the jury:)

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

9. I want to take up two separate matters with
10. you.

11. First, in connection with the witness Michael
12. Hendricks, you may recall I appointed two doctors. We
13. received a report from Dr. Meyers, and I'm having copies
14. made for counsel. I don't think you have received --

15. THE CLERK: They have received them, Judge.

16. THE COURT: What about Dr. Abe's?

17. THE CLERK: Not yet, your Honor, but they received a
18. copy of Dr. Meyers.

19. THE COURT: We don't yet have Dr. Abe's report.

20. Now, although I don't think it is required
21. I am perfectly willing to have the doctors appear and be
22. questioned, at least within reasonable limits, and I
23. wanted to find out when would be most convenient.

24. MR. BUGLIOSI: Whatever day it is, your Honor, I
25. would prefer if it did not encroach upon our regular
26. court time.

Early in the morning or the afternoon.

THE COURT: Bear in mind we have to give the doctors a certain amount of leeway so they can arrange their calendars.

MR. KAY: It may be 9:00 o'clock in the morning. We can come into session at 9:00 o'clock and finish by 9:45.

THE COURT: It doesn't make any difference to me if you can agree on the date or time.

MR. BUGLIOSI: Today is Wednesday. Next Monday at 9:00 would be fine.

MR. HUGHES: It would be possible in the afternoon--

MR. BUGLIOSI: Afternoon at 1:00 o'clock or 1:30?

MR. HUGHES: I was thinking in the afternoon like at 4:15, because if we go late -- I was thinking in terms of traffic.

9:45 is a good time to miss traffic, and if we went late some evening, that would be a good time to miss a little traffic that way.

THE CLERK: Your Honor, we tentatively set it up for tomorrow.

THE COURT: Yes, I know we did.

What about tomorrow?

MR. SHINN: In the afternoon, 1:00 o'clock is satisfactory.

MR. BUGLIOSI: No trouble tomorrow. We don't have

1 Dr. Abe's report yet.

2 THE COURT: He was supposed to get it in today, but
3 it is conceivable he won't have it until tomorrow.

4 2 fls.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

2-1

1 MR. BUGLIOSI: If he has it tomorrow, we can go
2 tomorrow. No problem.

3 THE COURT: Make it tomorrow afternoon.

4 MR. BUGLIOSI: Fine.

5 THE COURT: I don't want to dismiss the jury.
6 I don't anticipate that examination should take very long
7 with either of the doctors.

8 As I say, I don't even think it is required.
9 It is something that I relied on, and I think the reports
10 can simply be filed as part of the file, and I can make a
11 determination. But I don't want to foreclose anybody from
12 asking questions, and I certainly don't anticipate that it
13 should be a prolonged examination.

14 MR. BUGLIOSI: Is there any request by the defense
15 that these doctors be examined?

16 MR. SHINN: I think so, your Honor. Just a short
17 period of time; maybe a half an hour.

18 MR. FITZGERALD: After reading Meyers' report, I am
19 not going to cross-examine him.

20 MR. BUGLIOSI: Mr. Kanarek, do you want to cross-
21 examine?

22 MR. KANAREK: Yes, I would like a short examination.

23 THE COURT: I will give counsel that opportunity.

24 What I started to say was that I don't think we
25 should excuse the jury, because I don't think it should take
26 that long, and I think you should be prepared to go on with

1 whatever else is happening, or call a new witness after the
2 doctors are completed.

3 So, why don't we set it up, why don't we get
4 both of the doctors here tomorrow afternoon, Mr. Darrow?

5 THE CLERK: I will call them. Dr. Abe inferred that
6 he would like it in the morning, but I will call him.

7 What time would you like?

8 THE COURT: The usual time, 2:00 o'clock.

9 THE CLERK: Very well.

10 THE COURT: Both at the same time.

11 THE CLERK: I will have to call them, your Honor. That
12 is all I can do.

13 THE COURT: We will plan on it tentatively, then,
14 and you can let us know.

15 Now, the other matter was in connection with
16 these statements of Roni Howard and Virginia Graham which
17 Mr. Bugliosi handed to me.

18 Have the defense counsel received copies of
19 these?

20 MR. BUGLIOSI: Yes.

21 MR. FITZGERALD: At the outset, has your Honor been
22 supplied copies of the original statements, the unedited
23 versions?

24 THE COURT: That is the point I am about to make.

25 I can't tell whether these are the entire
26 statements or the edited statements.

1 MR. BUGLIOSI: That is the edited statement.

2 I gave the Court, several months ago, those
3 blue backs -- not blue backs, but tape-recorded conversations
4 with a blue cover -- of Roni Howard and Virginia Graham,
5 and you read it at that time.

6 THE COURT: You took those back, didn't you?

7 MR. BUGLIOSI: Yes.

8 Most of that will not be admissible.

2a-1

1 THE COURT: I know, but I have to compare them.

2 MR. BUGLIOSI: There are things in there that are
3 not in the tape recorded conversation. That was just
4 with the police. I spoke to these two individuals myself
5 personally and elicited additional information. But the
6 statements that you have there are what the prosecution
7 believes would be admissible in that we don't believe
8 there is anything in there that implicates, either
9 directly or indirectly, a co-defendant.

10 Does the defense have a copy of Virginia
11 Graham's and Roni Howard's statements?

12 I don't mean that. I mean the blue cover
13 one. Do you have that?

14 MR. FITZGERALD: Yes.

15 MR. SHINN: If he is going to delete some portions
16 of the original conversation, I would like to have read
17 into the record both of these statements, your Honor, so
18 that the next court could compare whether or not there
19 was any effective deletion.

20 That is the only way to compare whether or
21 not there was an effective deletion, your Honor.

22 THE COURT: Whether or not there was an effective
23 deletion depends on what the witness testifies to.

24 MR. SHINN: Correct.

25 Mr. Bugliosi is stating now that he has
26 deleted portions of that conversation and he has handed

2a-2

1 the Court a copy, your Honor.. Now, we have to compare
2 whether or not the deletions were effective.

3 MR. BUGLIOSI: I haven't the complete statement with
4 me today.

5 Do you want those again, the tape recorded
6 conversations?

7 THE COURT: Yes.

8 What I need is the complete statement of
9 these witnesses, including whatever statements they made
10 to you, because these defense counsel have a right to cross-
11 examine, and I have to anticipate what problems may arise
12 from not only your direct examination but from the cross-
13 examination.

14 MR. BUGLIOSI: When I interviewed them, I interviewed
15 Virginia Graham at Corona about -- I don't recall how long
16 ago -- I guess it was quite a while ago -- about four
17 months ago, and I interviewed Roni Howard here in town.

18 I only concerned myself with what Susan
19 Atkins did, nothing else. I will give the Court my word
20 on that. Because I wasn't concerned about anything else.
21 It was valueless to me.

22 THE COURT: Did you write down what the witness said?

23 It is quite obvious --

24 MR. BUGLIOSI: It is in there.

25 THE COURT: -- that the cross-examination may get
26 directly into "What did you say to Mr. Bugliosi in the

1 interview."

2 MR. SHINN: Furthermore, we don't have that copy,
3 your Honor, of Mr. Bugliosi's interview with Roni Howard
4 and Virginia Graham. We don't have that.

5 MR. BUGLIOSI: As I say, I used the police report
6 as a basis, and a few additional things came out as to
2b fls. 7 what Susan Atkins told her that she, Susan Atkins, did.

B-1

1 MR. SHINN: Do you have a copy of those notes?
2 We don't have a copy.

3 MR. BUGLIOSI: I will see if I can find them; but
4 there is very little additional information, and it only
5 concerns Susan Atkins.

6 THE COURT: The point that I am making, Mr. Bugliosi,
7 so it will be clear, if she is going to testify to state-
8 ments made by Susan Atkins -- by "she," I mean either
9 Roni Howard or Virginia Graham -- statements made by
10 Susan Atkins at the County Jail, as related to the police
11 and to you, we must know what the total conversation was.

12 MR. BUGLIOSI: I agree with the Court.

13 THE COURT: In other words, there is no way of
14 knowing what Susan Atkins said to this witness unless we
15 know what the witness related.

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

17 All I can say is that in a couple of minutes,
18 if the Court would want, I can go out and get the tape-
19 recorded conversations that Roni Howard and Virginia
20 Graham had with the police and give them to the Court.

21 That is just about everything. In addition to
22 that, I spoke to both of these people, and anything extra
23 that Susan Atkins said she did is what I have right there in
24 front of you.

25 Now, if you want my original notes when I spoke
26 to them, I will see if I can find them.

B-2

1 They were brief, and the reason they were
2 brief is because I didn't concern myself with 90 per cent
3 of the statement, because I knew it was totally inadmissible.

4 So, I went right down the police report and
5 asked these two girls if there was anything else that
6 Susan Atkins told them that she did, and there were a few
7 extra things, and those are in that statement right there.

8 But I will see if I can find my original notes
9 when I spoke to them.

10 THE COURT: Well, this 90 per cent you say you didn't

11 MR. BUGLIOSI: I didn't even concern myself with it.

12 THE COURT: -- you didn't concern yourself with --

13 MR. BUGLIOSI: I didn't even talk to her about it.

14 THE COURT: -- is that portion in the police report?

15 MR. BUGLIOSI: Yes.

16 THE COURT: ^{There} Isn't something in addition to that?

17 MR. BUGLIOSI: No. I just skipped over page after page
18 after page because I could tell by looking at it that much
19 of it concerned the Hinman murder, others concerned other
20 murders, they talked about Charlie and Tex and Katie, and
21 I just skipped over these pages and just zeroed in on what
22 Susan Atkins said she did.

23 That is a relatively small portion of the over-
24 all statement.

25 THE COURT: With respect to the statement of Roni
26 Howard, the typed copy which you handed me, I have a question

1 about one of the statements in the second paragraph from the
2 bottom.

3 This is the one-page statement.

4 The statement I am referring to is this one in
5 the second sentence that reads as follows:

6 "Sadie also mentioned that she liked the
7 blood squirting out, and in regard to seeing
8 the look on a man's face when he was about to
9 die, Sadie said it is really something, and
10 that she, Roni, should see it sometime."

3-1

1 Now, the thought that occurred to me when I
2 first read that was that there is an implication of someone
3 else being present and participating in the murders other
4 than Susan Atkins.

5 MR. BUGLIOSI: You mean that she could not handle a
6 man herself?

7 THE COURT: Yes, whether the words imply it or
8 whether I just somehow feel it, I think that that reference
9 suggests, although it doesn't actually say so, the presence
10 of someone else.

11 MR. KAY: That is kind of stretching it a little bit,
12 though. It doesn't mention any other people.

13 It doesn't mention girls, men. It just says
14 the look in a man's face when he is dying.

15 I mean, she could have snuck up behind the man
16 and slit his throat.

17 She could have handled him that way or stabbed
18 him from behind or stabbed him on the top of the head or
19 something.

20 THE COURT: Well, all right, that is true. Never-
21 theless, I am telling you what my reaction was when I
22 read it.

23 Now, in the statement of Virginia Graham on
24 the second page, first paragraph, this statement I wanted
25 to call to your attention also.

26 This is about the middle of the first paragraph

1 of page 2, and it reads as follows:

2 "The witness thinks that Sadie" -- I'm
3 sorry, the next sentence, starting as follows:

4 "Sadie told her that the other man (the man
5 other than the man sitting on Sharon's bed) got
6 loose from a rope and ran past Sadie,

7 "Sadie said she stabbed the man four or five
8 times," et cetera, et cetera, et cetera.

9 Now, that again suggests to me that --

10 MR. KAY: But you see, that sentence would kind of
11 explain your problem with the statement in the first part
12 that she could handle a man, because evidently she did
13 handle a man by stabbing him four times.

14 THE COURT: Well --

15 MR. SHINN: Your Honor, may I say something in that
16 regard, your Honor.

17 Reading the police report and these condensed
18 forms which Mr. Bugliosi has typed out, I think that if we
19 read the Aranda case and the other cases that came
20 subsequent to Aranda, not before the Aranda case, and I
21 think in all those cases the language implied that it
22 cannot change the meaning of the whole confession, or
23 distort it.

24 I think here, your Honor, I think reading the
25 police report, Susan Atkins refers to "they," "we," and
26 all that.

1 Now, Mr. Bugliosi has just picked out certain
2 sections where he feels that she alone was involved in
3 this, and I don't think that the Bruton and Aranda cases
4 hold that you can change the confession to satisfy the
5 prosecution.

6 Most of the cases I read, like the Hill case,
7 the Sears case and the Floyd case, and --

8 MR. BUGLIOSI: That was my case.

9 MR. SHINN: Yes, and the latest, Terry.

10 People vs. Terry up in Alameda, all of those
11 cases seem to indicate that you must, if the prosecution is
12 going to introduce the confession, must delete, a minimum
13 deletion from the confession itself.

14 It doesn't mean that the prosecution could
15 distort the whole confession to satisfy his case.

16 MR. BUGLIOSI: To show you how meticulous I have
17 been, your Honor, there are several places there where
18 she said "We did this."

19 I think by definition "we" includes the word
20 "I."

21 I think if she stated "we did this," I think
22 properly we can offer evidence that Sadie told Virginia
23 that "I did this."

24 But wherever there is a "we" I don't even go
25 into that area.

26 The only area I go into is where she actually

1 told Virginia Graham "I did this," or "I observed that."

2 The we's and the "we" and the "us" which I
3 think properly could be reduced to an "I," I haven't even
4 gone into.

5 So I eliminated that problem. I am not even
6 dealing with anything that "we" or "us" did -- unless you
7 would rather have us do that.

3a fls.

3-a-1
1 MR. SHINN: But then the danger there is that the
2 witness now will be coached by the District Attorney to say
3 certain things only for the benefit of the prosecution,
4 your Honor.

5 THE COURT: Well, Aranda requires that.

6 MR. SHINN: No, it doesn't, your Honor, if you read
7 Aranda, your Honor, once the defendant is identified, I
8 think your Honor quoted that footnote yourself, footnote 10,
9 once the defendant is identified, your Honor, any statements,
10 it said, it doesn't say only statements prejudicial to the
11 declarant, that any statements that are prejudicial, that
12 can be employed against the other defendants, should be
13 omitted.

14 Aranda does not give a license to the prosecution
15 to put in the type of testimony that he wants, your Honor.

16 MR. BUGLIOSI: Massie explains footnote 10.

17 MR. SHINN: I read Massie, too.

18 THE COURT: It is true the statement cannot be
19 distorted to the prejudice of any party.

20 MR. SHINN: That is correct, any party.

21 THE COURT: But Aranda necessarily requires if there
22 is going to be a deletion, that there is going to be a
23 certain amount of editing of the statement.

24 MR. SHINN: But the cases after the Aranda case state
25 that within the original confession you may delete -- not a
26 completely different confession to the satisfaction of the

1 prosecution, your Honor. That is what deletion means, not a
2 whole new distorted confession.

3 THE COURT: I don't know what you're talking about.
4 How do you relate it to this case?

5 MR. SHINN: What he handed you.

6 THE COURT: Where is the distortion?

7 MR. MUSICH: I think what he may be referring to are
8 the paragraphs where she made statements about "we."

9 Mr. Bugliosi indicated he feels it is possible to edit
10 that to say "I," and maybe that is what Mr. Shinn is
11 referring to.

12 Mr. Bugliosi said he hadn't bothered to go into
13 any of those type of statements.

14 MR. SHINN: What I'm saying, this is a whole new type
15 of statement by the witness now, it's not really a confession,
16 your Honor.

17 THE COURT: How do you know that?

18 MR. SHINN: I compared them with the police report
19 and with Mr. Bugliosi's statement there.

20 THE COURT: That, of course, is why I want to have the
21 complete statement to compare this proposed testimony with.

22 MR. KANAREK: May I be heard very briefly, your Honor?

23 THE COURT: Yes.

24 MR. KANAREK: I think we have a more fundamental
25 problem there.

26 First of all, of course Mr. Bugliosi called me

1 a liar in open court. I am not going to call him a liar --

2 THE COURT: Let's stay on this point.

3 MR. KANAREK: I think your Honor will hear me out.

4 He is an advocate --

5 THE COURT: Don't make a statement like that, Mr.
6 Kanarek, or I will just cut you off and that is the end of
7 it.

8 MR. KANAREK: I'm saying he is an advocate here. I
9 cannot accept --

10 THE COURT: I am not interested in what you will
11 accept. If you have a point, get to it.

12 MR. KANAREK: There is a fundamental denial of due
13 process, and the Fourteenth Amendment, and California law
14 for this man, Mr Bugliosi, who is an advocate at the very
15 least, to go ahead and interview witnesses like this with-
16 out tape recordings, without taking down the exact
17 conversation, because it is lost forever.

18 The programming --

19 THE COURT: We are not on that subject.

20 MR. KANAREK: I want to make a record of that.

21 THE COURT: You don't have to make a record on that
22 point. Nothing is being offered.

23 MR. KANAREK: I have another point I would like to
24 get across to the Court and that is:

25 I make a motion to strike all of Mr. Bugliosi's
26 statements. They are not under oath. They are

1 extrajudicial as to what he did with Roni Howard, and so
2 forth.

3 THE COURT: This is not evidence. We are having a
4 conference in chambers.

5 MR. KANAREK: He is trying to convince the Court.
6 with factual allegations that are not under oath.

7 THE COURT: Mr. Kanarek, I am going to compare the
8 statements myself.

9 MR. KANAREK: But your Honor does not have all the
10 words that were uttered.

11 THE COURT: Well, I will have all the words. That is
12 why we are having this meeting, Mr. Kanarek.

13 MR. KANAREK: Then I ask, your Honor, that we have at
14 the very minimum an evidentiary hearing where we have this
15 girl here.

16 We have Mr. Bugliosi -- where witnesses are
17 sworn -- because we have here an advocate at the very least
18 who has a point --

19 MR. SHINN: I agree with Mr. Kanarek.

20 THE COURT: After we see the statements we will see
21 what develops.

22 MR. FITZGERALD: I would like to make just a couple of
23 observations.

24 I went back and read these cases again, and in
25 none of these cases, Aranda, Sears and Terry, were there --
26 did they involve multiple homicides where there were

1 multiple victims.

2 Of course this case obviously does.

3 I think that is important because I think a
4 legitimate argument can be made, it would be inherently
5 improbable for Susan Atkins acting alone, not acting in
6 concert with some other people, to have been responsible
7 for all of these deaths.

8 I think additionally when we couple that fact,
9 if it is a fact, with the testimony that we have had from
10 Linda Kasabian, that multiple persons went to the Cielo
11 Drive address, and we have the testimony of Juan Flynn that
12 multiple people left the ranch, and we have the testimony
13 of John Swartz that multiple people left the ranch, when we
14 have the testimony of Rudolph Weber that shortly after the
15 alleged time in the homicides multiple persons were seen
16 together, we may really be engaged in almost a sophistry.

17 We may really be deluding ourselves if we think
18 that the jury is going to be able to consider this confession
19 against Susan Atkins and Susan Atkins only, when we consider
20 the fact that all of the testimony has been so far that
21 multiple defendants committed the offense and the fact that
22 it would be unlikely that a girl of her stature and size
23 and age would unassisted be able to kill all these persons.

24 I would ask the Court to think about it. I
25 think that your Honor has the inherent power to keep this
26 statement from coming in front of the jury, not on the

1 limited grounds of Aranda.

2 I think it is well within your discretion to
3 decide that to admit her statement in a multiple, in a
4 joint trial, could be error, and under the circumstances
5 I would ask your Honor to think about the detriment I feel
6 is obviously going to inure to the other defendants.

5a

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

3b-1

1 THE COURT: I have thought about it, Mr. Fitzgerald,
2 and I think of the situation for example, as I think the
3 Aranda case involved, robbery, let's assume that a case
4 involved a robbery with two defendants, two people
5 participating in the robbery.

6 They go into a pawn shop and they hold up a
7 pawn shop, and there is an independent witness across the
8 street who, although he cannot identify either of the men,
9 said he saw them go in and come out, and one of them was
10 armed, and he saw them go down the street.

11 MR. FITZGERALD: He saw two men go in.

12 THE COURT: So there is independent evidence of two
13 people involved in the crime, and one of the co-defendants
14 confesses, and all he says was "I was there," without saying
15 "we" or anything else.

16 Now, there the jury knows there were two people
17 involved in the robbery, and they have the confession of
18 one of the defendants; now, why is that any different in
19 principle from what you have just mentioned?

20 MR. FITZGERALD: I don't think it is a great deal
21 different in terms of principle, and I'm not suggesting
22 perhaps that this case is different in kind.

23 I am certainly suggesting there is a substantial
24 difference in degree, because, I think, coupled with the
25 fact that you have a number of witnesses saying that there
26 were multiple perpetrators, you have coupled with that

3b-2

1 this inherent improbability.

2 It would be almost physically impossible for
3 a girl to kill all these people.

4 I am not suggesting it is totally impossible,
5 your Honor, but I mean in the light of human behavior --

6 THE COURT: Yes, I think there is something to that.

7 But if the confession or admission of the
8 co-defendant does no more than place her at the scene,
9 then I think the evidence is perfectly admissible.

10 The prosecution has the burden of proving every-
11 thing else, and if they are able to do that by independent
12 evidence, that does not, as I read these cases, in any way
13 invalidate the confession or admission.

14 MR. FITZGERALD: I agree. It is my understanding from
15 reading the cases as well.

16 Linda Kasabian went a little further, though,
17 than placing the defendant at the scene.

18 She testified Patricia Krenwinkel was chasing
19 Abigail Folger down the lawn with an upraised knife.

20 She testified she looked in the eyes of Frykowski
21 and then confronted Susan Atkins.

22 She then testified to Tex Watson shooting
23 Parent.

24 THE COURT: All of this is independent evidence,
25 independent of Susan Atkins, as I understand it, what
26 her statement was to these witnesses that we are talking

sb-3
1 about here now, the proposed testimony of Roni Howard and
2 Virginia Graham.

3 What I am concerned with is that the testimony
4 of these witnesses does not contain any statement by Susan
5 Atkins which implicates anybody other than herself.

6 MR. FITZGERALD: True.

7 THE COURT: The fact that Linda Kasabian implicated
8 everybody certainly is damaging and prejudicial, but if
9 believed by the jury, they have a right to believe it.

10 MR. FITZGERALD: Well, that is correct.

11 THE COURT: And it has nothing to do with Susan
12 Atkins statement.

13 MR. FITZGERALD: What I was suggesting though was
14 the position you have taken for the purposes of argument.

15 THE COURT: I am playing the Devil's Advocate because
16 it is an important problem. I want to hear all of your
17 views.

18 MR. FITZGERALD: I understand that. I am not suggesting
19 that you have some iron-clad position and that you won't
20 change or anything.

21 But I think your arguendo position would be a
22 little stronger if Linda Kasabian merely placed them at
23 the scene.

24 But when she went substantially beyond that,
25 I think cumulatively the jury is going -- it's going to
26 be very difficult for lay people to say to themselves,

1 "Well" -- I ask myself if they believe these witnesses,
2 Roni Howard and Virginia Graham, would it be possible for
3 them to acquit Patricia Krenwinkel and Charles Manson.

4 THE COURT: Well, don't forget also that unlike
5 many cases here we have a case where the principal witness
6 apparently is going to be -- the defendants will contend,
7 and I will have to make a decision at one point -- an
8 accomplice.

9 MR. FITZGERALD: Correct.

10 THE COURT: So you have to, in addition to the bare
11 statement of Linda Kasabian, and entirely apart from Susan
12 Atkins' statement, the other defendants can only be
13 convicted if there is corroborating evidence.

14 MR. FITZGERALD: That's correct.

15 THE COURT: Now, what I am concerned about is that
16 Susan Atkins will not supply that corroborating evidence
17 through her statements to these witnesses, Virginia Graham
18 and Roni Howard, except as to herself.

19 MR. FITZGERALD: Correct.

20 THE COURT: This is what Bruton and Aranda are all
21 about.

22 MR. FITZGERALD: Correct.

23 THE COURT: The jury still has to believe Linda
24 Kasabian in order to convict the other defendants.

25 MR. KANAREK: Correct.

26 THE COURT: Plus they must believe some other

1 corroborating evidence.

2 MR. FITZGERALD: Correct.

3 THE COURT: Well, if they believe that, then Susan
4 Atkins' statements have no bearing upon it providing they
5 are effectively deleted.

6 MR. FITZGERALD: And providing they follow your
7 Honor's instructions and consider them only as to Susan
8 Atkins.

9 And I assume you would presume they would
10 follow your instructions.

11 MR. SHINN: That is the biggest point right there,
12 your Honor.

13 THE COURT: Of course that is always an argument,
14 they are not going to follow instructions.

15 MR. SHINN: Jackson is right on point with the Bruton
16 case. These two cases are cited in People vs. Terry, a
17 1970 case, your Honor. I think the Court should read these
18 three cases.

19 THE COURT: I have read all of them.

20 MR. SHINN: People vs. Terry is a 1970 case, your
21 Honor, I don't have the California citation.

22 THE COURT: I am familiar with it. It might be right
23 on top of my desk here.

24 MR. SHINN: It goes right to the issue of whether
25 or not the jury could follow the Court's instructions,
26 and erase from their minds the testimony that is only

1 supposed to concern Susan Atkins.

2 THE COURT: That is precisely the point, Mr. Shinn,
3 I want to make sure there is nothing in that statement they
4 have to erase from their minds.

5 MR. SHINN: They talk about the substantial risks --

6 THE COURT: What you are saying is that they are
7 going to read something into the statement that is not
8 there.

9 Of course, that is possible as to any witness.

10 MR. BUGLIOSI: To show again how meticulous we are,
11 your Honor, when Susan spoke to Virginia Graham and Roni
12 Howard she mentioned Tex Watson quite a bit. She mentioned
13 Charlie, but she explained who Charlie was, a tall guy,
14 Charlie Watson.

15 We are not using that. I think under Aranda,
16 we could. He is not a defendant.

17 THE COURT: He is a named defendant.

18 MR. BUGLIOSI: He is not a named defendant, no, no,
19 he is not named defendant. He is named as a co-conspirator.

20 THE COURT: Who?

21 MR. BUGLIOSI: Tex Watson.

22 MR. FITZGERALD: He is a named defendant in the
23 indictment.

24 THE COURT: He is named in the indictment.

25 MR. BUGLIOSI: But he has been severed by operation
26 of law. He is not a named defendant in this trial right

1 here.

2 He has been severed by operation of law. He
3 is no longer named a defendant in this trial.

4 He is named as a co-conspirator in No. 8 of
5 the indictment.

6 I think under Aranda if Susan says "Tex told
7 me to do this," and "Tex told me to do that," I think that
8 is admissible.

9 As I am saying we deleted that, too. We are
10 not trying to get that in. What I'm saying, technically he
11 is not a co-defendant in this trial. I just mention that
12 to the Court to show we are taking every precaution, and
13 giving the benefit of the doubt to the defense so as not
14 to violate Aranda.

15 MR. SHINN: The way Mr. Bugliosi wants to bring this
16 confession in, in a distorted manner, your Honor, then we
17 are going to have -- we will never have to use the Aranda
4 fls. 18 rule if you take the premise of Mr. Bugliosi.

4-1

1 THE COURT: I don't understand what you mean by
2 distorted. It has to be deleted, obviously, because of
3 references to co-defendants.

4 MR. SHINN: Yes. The original, not a condensed form
5 like this. That is my point, your Honor.

6 THE COURT: It can be condensed.

7 MR. SHINN: No, it cannot be condensed, your Honor.

8 THE COURT: Yes, it can be condensed as long as it is
9 not distorting.

10 MR. SHINN: The cases that I have read, your Honor,
11 say --

12 THE COURT: It can be condensed to the point of
13 placing her at the scene, as she apparently related to these
14 people.

15 MR. SHINN: There is a big difference between deleted
16 and condensed, your Honor. That is the point that I am
17 trying to get across.

18 MR. KANAREK: Your Honor, I have another point.

19 I would like to move for a mistrial because of
20 Mr. Bugliosi's allegation that I was lying in the presence of
21 the jury.

22 I don't believe your Honor would allow me to
23 approach the bench at that time.

24 I make a motion for a mistrial. It is clear,
25 absolute prejudice.

26 I was asking a question. It had nothing to do

1 with lying, in any event, and this statement in the presence
2 of the jury is prejudicial to the extent that I ask for a
3 mistrial.

4 MR. SHINN: I will join that motion.

5 MR. HUGHES: Join in the motion.

6 MR. BUGLIOSI: Let me say this: Number one, I
7 apologize to Mr. Kanarek for making the statement.

8 Number two, he asked me who I meant, so, in a
9 fashion, I am not trying to squeeze out of what I said. I
10 accept full blame for it, and I apologize. But in a fashion,
11 he invited it because he asked me who I referred to.

12 Number three, I want it to be abundantly clear
13 that throughout this trial Mr. Kanarek has been accusing me
14 of what amounts to a capital offense, subornation of
15 perjury. He has consistently accused me of subornation of
16 perjury with every witness on the stand.

17 He implied, in fact, he stated to Mr. Flynn that
18 I programmed Mr. Flynn.

19 Now, that is subornation of perjury, which is a
20 capital offense.

21 Now, my statement to you about being a liar
22 about a particular statement pales into unbelievable
23 insignificance vis-a-vis your accusation of subornation of
24 perjury.

25 But I apologize to you for that, and to the
26 Court. I shouldn't have said it. Sometimes you say things

you don't mean in the heat of battle.

1 MR. KANAREK: Your Honor, he is sliding off the point.
2 The point is --

3 THE COURT: I am aware of what the point is.

4 The jury was immediately admonished to disregard
5 it.

6 It was perfectly apparent from the context that
7 it was an impetuous statement.

8 It was also apparent from the context that you
9 were
10 / not stating anything but that you were asking questions,
11 and I so indicated on the record.

4a

4a-1

1 MR. KANAREK: Your Honor, I would like to make this
2 point. The point is this. When he says "subornation of
3 perjury," your Honor, Susan Atkins made a statement which
4 ended up, partially at least, if not all, in the presence
5 of the Grand Jury. Susan Atkins has related that statement.
6 Now, I am here advocating this position: If she retracted
7 it, then there is perjury. Either Susan Atkins is
8 committing perjury, or the District Attorney's Office,
9 knowingly, with Gerald Cohen and Ronald Einstoss --

10 THE COURT: What does this have to do with it?

11 MR. KANAREK: Because he injected the subornation of
12 perjury. It is in the record.

13 Somebody is lying. Either Susan Atkins or the
14 District Attorney's Office deliberately put on --

15 THE COURT: What is in the record?

16 MR. KANAREK: In the Grand Jury transcript.

17 Either Susan Atkins is telling the truth now,
18 or she told the truth then -- she told the truth falsely
19 at the Grand Jury.

20 THE COURT: What does that have to do with the
21 District Attorney?

22 MR. KANAREK: It has this to do with the District
23 Attorney. If they knew that Susan Atkins was lying --

24 THE COURT: If. If.

25 MR. KANAREK: That is subornation of perjury.

26 We have asked for an evidentiary hearing on this,

1 your Honor.

2 THE COURT: Let's get on, Mr. Kanarek.

3 MR. KANAREK: I have one other request of the Court,
4 and that is this: I would ask your Honor to consider,
5 I think it is 1204.5, or 1203.5, the New Evidence Code
6 section -- is your Honor familiar with that code section of
7 the Penal Code?

8 MR. FITZGERALD: It is the one about reading reports,
9 police reports, of witnesses.

10 MR. KANAREK: That is correct.

11 I have asked your Honor to consider that code
12 section.

13 MR. FITZGERALD: I think Mr. Kanarek is suggesting
14 that you can't read the original and the edited portions
15 of the statements of Roni Howard and Virginia Graham.

16 MR. BUGLIOSI: There is a code section on that, right.

17 MR. FITZGERALD: I know there is.

18 THE COURT: 1204?

19 MR. FITZGERALD: I think it is 1203.5. I'm not sure.

20 MR. BUGLIOSI: It concerns a trial, too.

21 It came out of a probation and sentence hearing.
22 Then they applied it to a trial.

23 MR. FITZGERALD: Right.

24 It was designed to cure the problem of police
25 reports in court files.

26 MR. BUGLIOSI: Right.

1 MR. FITZGERALD: Attached to complaints, and that
2 sort of thing.

3 MR. MUSICH: Usually at misdemeanor trials.

4 MR. BUGLIOSI: Of course, this is not a police
5 report.

6 Well, it is a police report in a sense, yes.

7 MR. KAY: It is not the statement of the witness.

8 THE COURT: It is 1204.5.

9 After stating what the Judge may not do, it
10 says, "Except as provided in the rules of evidence
11 applicable at the trial or with the consent of the accused
12 given in open court."

13 Well, obviously, we are talking about rules of
14 evidence applicable in the trial, applying the Bruton and
15 Aranda principles.

4b

4b-1

1 MR. KANAREK: Well, your Honor, I cite this point
2 to the Court -- I cite that Code Section to the Court,
3 and ask the Court to consider it in connection with --

4 THE COURT: All you have to do is read the cases
5 and you can see this is what trial courts do in the
6 Bruton and Aranda situation.

7 Sometimes they aren't successful in editing,
8 but this is what they do.

9 MR. KANAREK: Right. And that is why we have a
10 beautiful way of taking care of it, by way of sworn testi-
11 mony under oath, rather than take the protestations and
12 advocacy of lawyers.

13 THE COURT: Sworn testimony of whom?

14 MR. KANAREK: Of Mr. Bugliosi and the people. Because
15 your Honor will never know, because, remember, he is a
16 lawyer trying, supposedly, to do a job, and when he comes
17 to your Honor with extrajudicial material like this, and
18 says --

19 THE COURT: There is a simpler way of doing it. You
20 can have the witness testify under oath out of the presence
21 of the jury.

22 MR. KANAREK: But, call it programming, or whatever,
23 you have the subtle effect of a lawyer, of a man who is
24 the District Attorney, imposing his personality on this
25 lady who has a criminal record, and so forth.

26 Considering all of that, your Honor, I think --

4b-2

1 THE COURT: Are you suggesting that he doesn't have
2 a right to interview his witnesses?

3 MR. KANAREK: I am saying that with all the scientific
4 knowledge available today, he has a duty to record, word
5 for word, every word uttered, so that your Honor will know,
6 in fact, what was said.

7 THE COURT: I told you how that can be solved.

8 MR. KANAREK: Testimony will not bring about the
9 words uttered when they were alone.

10 THE COURT: We are not interested in that conversation.
11 We are interested in the conversation about Susan Atkins.

12 MR. KANAREK: She might make statements like "I
13 don't remember."

14 MR. SHINN: Your Honor, we had a pretrial motion to
15 suppress which we filed a long time ago. I filed a pretrial
16 motion to suppress this. We were to have it out of the
17 presence of the jury, to determine whether or not they were
18 admissible.

19 THE COURT: Wasn't your pretrial motion with respect
20 to her alleged confession?

21 MR. SHINN: No. All statements.

22 Mr. Bugliosi is well aware of that fact.

23 MR. KAY: I think Mr. Shinn is trying to contend that
24 maybe Virginia Graham and Roni Howard were police agents.

25 I heard his interview on KNX over the weekend.
26 He said that he was going to contend --

4b-3

1 THE COURT: I hope you didn't make such statements,
2 Mr. Shinn, because that would be a direct violation of the
3 publicity order.

4 MR. SHINN: I don't think so, your Honor.

5 THE COURT: Well, I do.

6 I suggest you get it out and read it again.

7 MR. SHINN: I didn't discuss the testimony or anything
8 like that, your Honor.

9 THE COURT: You were commenting on the effect.

10 MR. SHINN: No. On the defense.

11 THE COURT: Well, I don't know what you said.

12 MR. SHINN: I don't know what I said either.

13 Thanks a lot, Mr. Kay.

14 I do have a pretrial motion to determine whe-
15 ther it is admissible, and it should be determined out of
16 the presence of the jury.

4c fls.

1 THE COURT: You can make it at the proper time.

2 When do you expect to have the witnesses
3 testify?

4 MR. BUGLIOSI: Your Honor, I am going to have at least
5 15 or 20 minutes with redirect on Juan Flynn. They have
6 been chopping away at him, and I am going to have to go into
7 redirect for 15 or 20 minutes.

8 Then we are going to put on a man by the name of
9 Dave Steuber.

10 Mr. Kanarek implied that Mr. Flynn told me the story
11 for the first time. We are going to put on evidence that he
12 did make this statement to the police on a prior occasion,
13 I think in early summer of 1970.

14 He is coming down from Fresno. He should be here
15 today.

16 I hadn't intended to call Mr. Steuber, but
17 Mr. Kanarek has raised this issue in front of the jury and
18 I think it is incumbent upon the prosecution to clarify this
19 point.

20 Then we are going to call Virginia Graham as the
21 next witness, and then Roni Howard.

22 THE COURT: We are not going to call them until we get
23 this matter settled.

24 MR. BUGLIOSI: I realize that.

25 THE COURT: Again, I tell you that I want the complete
26 statements of these witnesses as to what the conversation

1 with Susan Atkins was.

2 MR. HUGHES: Your Honor, I would move that the
3 statements of these witnesses be suppressed or excluded on a
4 completely different ground, and that is that these witnesses
5 testimony, their testimonies, or whatever they are saying as
6 to Susan Atkins' conversation, was discussed by the District
7 Attorney -- at that time Mr. Stovitz -- in an interview
8 with the Rolling Stone, of which we have offered, in the
9 Order to Show Cause In Re Contempt of Mr. Stovitz, at that
10 time, offered to show that this took place and was tape
11 recorded, took place in front of the Los Angeles Times
12 writer Ron Einstoss, at that time also, and I make this
13 motion on this basis, your Honor, with this argument:
14 that exclusion would appear to be the only remedy which
15 would give any effect or any forceful effect to this Court's
16 publicity order.

17 MR. BUGLIOSI: May I interrupt you for just one moment,
18 Ron?

19 MR. HUGHES: Sure.

20 MR. BUGLIOSI: This is premature at this point.
21 We still have Juan Flynn on the stand.

22 MR. HUGHES: Yes, but we were discussing it.

23 MR. BUGLIOSI: I am wondering if we shouldn't get back
24 into court, and when we get to Roni Howard and Virginia
25 Graham, I am afraid if we discuss it now, when we get to
26 their testimony we are going to have to discuss it all over

again.

I am not trying to cut you off, but I am wondering if we are accomplishing anything discussing it now, when we have to discuss it again when we get to it.

MR. HUGHES: Well, I am about through.

MR. BUGLIOSI: All right.

MR. HUGHES: I ask the Court to consider that.

I don't think there is any historical basis for it, because, historically, we have never had publicity orders, but I think we are moving into an area where it is going to be necessary to have publicity orders in this country because of the growth of the news media, and I think that we are going to have to think, in terms of being lawyers and judges and courts and giving justice to people, we are going to have to think in terms of how do we enforce publicity orders like that.

I think that the only way that we can effectively enforce a publicity order is to say: We have excluded evidence which is publicized, say, by the District Attorney, or by the defense for that matter, that appears to be a violation of the publicity order.

I would suggest that these statements, and other items of evidence that have come to the attention of the press through the hands of the District Attorney, and --

4d-1

1 THE COURT: Suppose you look at it from the other
2 standpoint? Suppose a defense counsel went out and stated
3 to the press something highly favorable in the way of
4 evidence on behalf of his client. Do you think the Court
5 would be justified in excluding that evidence?

6 MR. HUGHES: I foresee that there are problems,
7 and I foresee that one of the problems that your Honor
8 might have at this time is the idea that five people -- or
9 four people -- who are being accused of capital offenses
10 might walk free, but I suggest that this is a remedy that
11 your Honor should consider.

12 THE COURT: Well, I don't think that suggestion takes
13 into account the effect of the violation.

14 I agree that if any lawful order is violated,
15 the violator should receive something ranging from an
16 admonition to more severe punishment, perhaps; but to
17 exclude otherwise relevant evidence without regard to what
18 the effect of the violation of the order has been would
19 be unwarranted, in my opinion.

20 MR. HUGHES: Your Honor --

21 THE COURT: And furthermore, would obviously be
22 unconstitutional in the case of a defendant. Perhaps even
23 in the case of evidence for the prosecution.

24 MR. HUGHES: Your Honor, at least with the prosecution,
25 they do have much more power than the defendants have,
26 generally; and I think it is clear in this case that they

4d-2

1 have controlled the media, at least in the initial stages
2 of the case.

3 THE COURT: I think that is open to a great deal of
4 question.

5 MR. BUGLIOSI: We have so much power, Mr. Hughes,
6 that we have no idea what your defense is going to be.
7 That is how much power we have.

8 You have copies of everything we have. You
9 are free to come down at noontime and look through my
10 drawers and check everything we have.

11 MR. KANAREK: Your Honor, I have one motion.

12 I move to exclude the alleged confession con-
13 cerning the knife and the language uttered by Mr. Flynn
14 on the basis of the failure of the prosecution to make
15 discovery.

16 We requested discovery. That was never given
17 to us.

18 MR. BUGLIOSI: Yes, it has.

19 MR. KANAREK: I am talking about the knife and what
20 was said in the kitchen.

21 MR. BUGLIOSI: It wasn't? All right. Do you have
22 a copy of the statement?

23 MR. HUGHES: I don't have it here.

24 MR. BUGLIOSI: It was in there.

25 MR. FITZGERALD: I think I have a copy of the
26 statement.

4d-3

1 MR. BUGLIOSI: Is it in there?

2 MR. FITZGERALD: I don't know. I will check.

3 MR. BUGLIOSI: I think we should know right now.

4 Do you have it, Mr. Kanarek?

5 MR. KANAREK: Yes.

6 MR. BUGLIOSI: May I see it?

7 (Mr. Kanarek shows the document to Mr. Bugliosi.)

8 MR. BUGLIOSI: The only thing I deleted, Mr. Kanarek,
9 is the fact that Mr. Manson said he murdered 35 people
10 about a day after the Tate-La Bianca murders. Juan said
11 that Manson came up to me and placed a knife to his throat
12 and said "You SOB, I am the one that did all the killings."

13 MR. KANAREK: There is no mention of this being in
14 the kitchen.

15 Wait a minute. The location is very important.
16
17
18
19
20
21
22
23
24
25
26

48 fls.
4e fls.

4DE1

1 THE COURT: One more thing, gentlemen.

2 Let me have your thoughts, in connection with
3 Roni Howard and Virginia Graham, of having a proceeding out
4 of the presence of the jury where they state what the
5 conversation was with Susan Atkins, as a basis for them going
6 ahead and seeing if effective deletions can be made for the
7 purpose of their testifying in front of the jury.

8 MR. FITZGERALD: That is an excellent idea.

9 MR. SHINN: A very good idea.

10 THE COURT: I don't know that it has ever been done
11 before. I haven't seen it in any of the opinions, but I
12 don't see any objection to it.

13 In fact, it commends itself to me because it is
14 a direct way of finding out, rather than a second-hand way
15 of finding out, exactly what the testimony is.

16 MR. BUGLIOSI: Does the Court want this in front of
17 the press? There is a problem if the press picks it up,
18 and it is to the prejudice of the defense if it is going to
19 be in the headlines about several other things that Susan
20 Atkins told these people.

21 MR. FITZGERALD: I think what the Judge has in mind is
22 a preview of the testimony that she intends to present in
23 front of the jury.

24 MR. SHINN: Your Honor, I believe that since the jury
25 is sequestered, your Honor, there is no danger of that.
26 At least, I have always been informed that the jury doesn't

1 read the newspapers.

2 MR. HUGHES: I don't know, your Honor.

3 Yesterday I had occasion to be standing on the
4 corner of Broadway and Temple and I saw the jury bus come
5 by. The windows were no longer soaped down, and I doubt if
6 it has been for some time. It went by the newsstand very,
7 very slowly, and I did see the individual jurors turn their
8 heads in that direction.

9 I would be very scared that some headline may
10 come out.

11 THE COURT: Would you gentlemen be willing to have the
12 matter heard in chambers out of the presence of the press
13 and the jury?

14 MR. MUSICH: I think the Court is still concerned, or
15 seems to be concerned, with whether or not there is any
16 exculpatory or self-serving type of statements being made,
17 and it is the same problem that we had with the other
18 statement, and it is the argument of the People that that
19 is the entire statement, and the facts and the statements
20 that are deleted are in no way beneficial to the defendant,
21 they just inculcate all the more with other co-suspects and
22 co-defendants.

23 THE COURT: That may be true, but what I am suggesting,
24 since we don't have the direct statements here, the best way
25 of finding out directly what the witness knows is to have her
26 testimony in the presence of counsel.

1 MR. SHINN: I would agree.

2 MR. FITZGERALD: I will agree to have it heard in
3 chambers.

4f
4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

4f-1

1 THE COURT: Then we don't have to worry about
2 whether the transcript of her statement to the police
3 is correct.

4 Of course, you can use that in cross-examina-
5 tion.

6 MR. FITZGERALD: I would like the defendants present
7 in chambers, though, your Honor.

8 THE COURT: Absolutely.

9 MR. SHINN: We are concerned now about the statements
10 made in jail to Roni Howard, correct, and not what Mr.
11 Bugliosi --

12 THE COURT: Absolutely.

13 MR. SHINN: I want that clear.

14 THE COURT: What I am concerned about is the actual
15 testimony of the witness with respect to her conversation
16 with Susan Atkins.

17 MR. SHINN: Very good.

18 THE COURT: What about you, Mr. Kanarek?

19 MR. KANAREK: Yes. I want the publicity to be as
20 close to zero as possible.

21 THE COURT: Would that procedure be agreeable with
22 you?

23 MR. KANAREK: Certainly. It is agreeable with me.

24 THE COURT: It is simply a preliminary procedure
25 with respect to this Bruton-Aranda problem in determining
26 whether or not effective deletion is possible and what,

42-2

1 if any, editing is required; and as a basis for that, we
2 would have the complete statement of the witnesses of
3 what the conversation was.

4 MR. KANAREK: Yes.

5 MR. KAY: May I inquire about this? How does your
6 Honor intend to run the procedure? Would it be questioning
7 by Mr. Bugliosi and then cross-examination, or would it
8 be questioning by the Court?

9 The only thing that I would be concerned about
10 is that I don't want Mr. Kanarek to wear down the witness
11 in chambers before she gets on the stand.

12 THE COURT: No, I don't think this is a matter for cross-
13 examination.

14 MR. BUGLIOSI: No, it is not.

15 THE COURT: We want to know what the statement is.

16 You can cross-examine to your heart's content
17 as to whatever testimony she gives to the jury.

18 MR. KANAREK: I would object to being the heavy on
19 this. The prosecution has kept this case going for some
20 number of weeks, and all of that, and this idea is utterly
21 ridiculous.

22 THE COURT: You are not the heavy, Mr. Kanarek. Just
23 ignore that remark.

24 MR. SHINN: I think a better idea would be to have
25 your Honor read the statements and then have that statement
26 read into the record, your Honor. I think that is much

4f-3

1 better.

2 MR. FITZGERALD: No. Let's bring her in here and
3 ask her what she knows.

4 THE COURT: That is indirect, Mr. Shinn. I would
5 prefer the direct method of having the witness actually
6 state what she knows, which, of course, would be on the
7 record.

8 MR. SHINN: The danger there might be that she may
9 change some of the answers which she has given.

10 THE COURT: Cross-examine her on it if she changes
11 anything.

12 MR. SHINN: Okay.

13 MR. KANAREK: For the record, your Honor, it is my
14 position, under 1204.5 of the Penal Code, that this cannot
15 be done. I am doing this, your Honor, because I feel I
16 have an obligation to state that. I think this would be
17 violative of 1204.5.

18 THE COURT: I don't think you have an obligation at
19 any time to make what I consider to be a frivolous objection.

20 MR. FITZGERALD: Will we take a recess, your Honor?
21 I would like to go to the rest-room.

22 THE COURT: We will take a ten-minute recess.

23 The jury is still upstairs?

24 MR. KAY: No. They have been in the box all morning.

25 THE COURT: I thought you left them upstairs?

26 THE CLERK: I didn't estimate that the conference would

4f-4

1 be this long.

2 THE COURT: All right. We will take a 15-minute
3 recess.

5 fls.

4 (Recess.)
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

5-1

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

4 THE COURT: All parties, counsel and jurors are
5 present.

6 Do you have any more questions, Mr. Kanarek?

7 MR. KANAREK: Yes, your Honor, thank you.

8 THE COURT: You may proceed.

9 JUAN FLYNN,

10 having been previously duly sworn, resumed the stand and
11 testified further as follows:

12 CROSS-EXAMINATION (Continued)

13 BY MR. KANAREK:

14 Q Your Honor, may we have the stipulation that
15 in the 16-page statement --

16 (Off the record discussion between Mr. Bugliosi
17 and Mr. Kanarek.)

18 MR. KANAREK: -- in the 16-page statement, Mr.
19 Bugliosi and I agree there is no reference to any knife
20 in connection with Mr. Manson and the statements that
21 Mr. Manson allegedly made.

22 Is that a stipulation, Mr. Bugliosi?

23 MR. FITZGERALD: So the record may be clear, may we
24 have a date and time and persons present, and the subject
25
26

1 matter of the conversation?

2 MR. BUGLIOSI: I will offer the stipulation:

3 On August 18th, 1970, Mr. Flynn spoke to
4 Sergeant Sartucci over at the Los Angeles Police Department,
5 and the conversation comprised 16 pages, and there is no
6 reference in these 16 pages to the knife incident.

7 MR. KANAREK: So stipulated, your Honor.

8 THE COURT: Very well.

9 MR. KANAREK: Would your Honor state to the jury
10 that when there is a stipulation that that means --

11 I will leave it to your Honor so that I will
12 not be accused of misstating it.

13 THE COURT: Well, the jury may consider any stipula-
14 tion between counsel as having proved the existence of the
15 fact or facts stipulated to.

16 MR. BUGLIOSI: May I have just a moment, your Honor?

17 THE COURT: Yes.

18 BY MR. KANAREK:

19 Q Mr. Flynn, there was some question last night--
20 did you call me a codfish or a catfish?

21 A Would you get closer?

22 Q Pardon?

23 A Would you get closer?

24 Q Is there some reason for that? I'll be glad
25 to, Mr. Flynn.

26 How close do you want me to get?

1 A Just over here, like that.

2 Q Right here?

3 A Yes, thank you. I'm just asking you if you
4 could.

5 Q Sure.

6 A Thank you.

7 MR. KANAREK: I don't know if it is agreeable with
8 the Court.

9 THE COURT: No, conduct your examination from the
10 usual place, Mr. Kanarek.

11 MR. KANAREK: Yes, your Honor.

12 Q Mr. Flynn, could you tell us as to whether
13 yesterday you called me a codfish or a catfish. There is
14 a difference of opinion.

15 A A catfish.

16 Q Thank you.

17 Now, Mr. Flynn, would you listen to this ques-
18 tion, please.

19 A Yes.

20 Q Directing your attention to your state of mind
21 towards your movie career, is your state of mind such that
22 you feel that the publicity that you would get by coming
23 to this courtroom and testifying in this case is publicity
24 that would help you in your career -- if you understand
25 that question.

26 A Would you repeat it again?

1 MR. KANAREK: May it be read, your Honor?

2 THE COURT: Read the question.

3 (Whereupon the reporter reads the question
4 as follows:

5 "Q Directing your attention to your
6 state of mind towards your movie career, is your
7 state of mind such that you feel that the publicity
8 that you would get by coming to this courtroom
9 and testifying in this case is publicity that
10 would help you in your career -- if you understand
11 that question.")

12 THE WITNESS: Well, for the things that I do I don't
13 need no publicity, you see.

14 And for the very little acting that I have done,
15 you know, I don't think that I need any publicity, you
16 know.

17 Does that answer your question, Mr. Kanarek?

18 BY MR. KANAREK:

19 Q Well -- well, my question is, Mr. Flynn --
20 Do you think you have answered the question?

21 A Yes.

22 Q Pardon?

23 A Yes.

24 I am asking you if I answered it.

25 Q It is not for me to decide, Mr. Flynn.

26 You have told us that you are interested in an

1 acting career, is that correct?

2 A Yes.

3 Q All right, now, is your state of mind such that
4 you recognize that actors in order for the world to know
5 about them must have publicity, is that correct?

6 A Well, I don't know if they must have, you know.
7 I wouldn't say that.

8 Q Well, would you say that your state of mind is
9 such that you recognize that actors -- that it is desirable
10 for actors to be known by the people who may come to the
11 theater and pay money to listen to them act?

12 A Yes.

13 Q Your state of mind is such that you recognize
14 that actors have publicity agents, right?

15 A Yes.

16 Q Your state of mind is such that you recognize
17 that actors have public relations people who try to get
18 their name before the public?

19 A Yes.

20 Q Now, my question is, is your state of mind such
21 that you think that by coming to this courtroom your name
22 will somehow or other go out into the world, go out into
23 Los Angeles County and elsewhere, because of your testifying
24 in this case?

25 A I don't feel that I need that type of publicity.

26 Q But, Mr. Flynn, would you answer the question.

1 My question is not now whether you need it or
2 not.

3 A Yes.

4 Q My question is, is your state of mind such
5 that you feel that by coming to this courtroom and testifying
6 in this case and stating the things that you have stated
7 concerning Mr. Manson, that this will get your name in front
8 of a lot of people?

9 A No.

10 Q Your answer is no, you don't think that what
11 you are doing here will get your name in front of a lot of
12 people?

13 A You're right. It won't get me nowhere.

5 a fls.

1 Q My question is, will it get your name in front
2 of a lot of people, Mr. Flynn, that is my question; not
3 whether it is going to get you somewhere or not.

4 MR. BUGLIOSI: Calls for a conclusion.

5 THE COURT: Also it is irrelevant.

6 MR. KANAREK: It calls for his state of mind.

7 THE COURT: The objection is sustained.

8 Q BY MR. KANAREK: Well, when you say, Mr. Flynn,
9 you just said it will get you nowhere. Do you mean by that
10 that you think that by coming here and stating the things
11 you have said concerning Mr. Manson, is your state of mind
12 such that this will not get your name in front of a lot of
13 people?

14 A Well, it will get it in front of you, you know,
15 the things that I stated about Mr. Manson, and to the
16 Court.

17 That is my state of mind, and I think it will
18 get it there, you see, you see, to the people present in the
19 courtroom. I feel that it will get to them, you see.

20 Q Have you finished?

21 A Yes.

22 Q You feel it will get to people who are not in this
23 courtroom?

24 MR. BUGLIOSI: Calls for a conclusion; also it's
25 irrelevant.

26 MR. KANAREK: That is his state of mind, your Honor.

1 THE COURT: Sustained.

2 Q BY MR. KANAREK: Now, do you remember speaking
3 with a man named Mr. Davis, Ivar Davis?

4 A Yes.

5 Q And do you remember speaking with another man
6 that was with Mr. Davis?

7 A Yes.

8 Q Now, directing --

9 A What man was that?

10 Q My question is, Mr. Flynn -- would you just
11 answer the question?

12 A Well, I can remember a lot of occasions I talked
13 to men, you know, with Mr. Davis.

14 Q You talked to Mr. Davis on many occasions, right?

15 A Yes.

16 Q And you talked to Mr. Ivar Davis on many
17 occasions, is that right, Mr. Flynn?

18 A Yes.

19 Q You spoke to Mr. Davis when he was in the
20 presence of other people?

21 A Yes.

22 Q Now, have you discussed with Mr. Davis matters
23 pertaining to --

24 Let me withdraw that.

25 In your discussions with Mr. Davis, did you ever
26 mention the knife incident that you have told us about

1 concerning Mr. Manson?

2 A I don't remember.

3 Q You don't remember, or is it no, Mr. Flynn?

4 A I don't remember.

5 Q Well, you are telling us that a knife was at your
6 throat, Mr. Flynn?

7 A Uh-huh.

8 Q And you don't remember as to whether or not you
9 told Mr. Davis about it, who was discussing with you --

10 A Well, the subject of the conversations, and the
11 way they were led, you see, that might not have come up,
12 you see, you see.

13 Don't that make sense to you?

14 Q My question, Mr. Flynn, is did you mention this
15 knife incident --

16 A I don't remember.

17 Q You don't remember whether you did or not?

18 A I don't remember.

19 Q Well, would you say it was an incident that
20 sort of was so strong that you just never could forget it,
21 isn't that right, Mr. Flynn?

22 A Well, it was something that stayed in my head,
23 yes.

24 Q I see.

25 A Yes.

26 Q And did you ever, Mr. Flynn, forgetting the knife

1 incident, did you ever tell Mr. Davis that Mr. Manson told
2 you what you told us Mr. Manson told you in the kitchen?

3 Did you ever tell those things to Mr. Davis?

4 MR. BUGLIOSI: Repetitious, your Honor.

5 MR. KANAREK: That is not --

6 MR. BUGLIOSI: Also it is ambiguous. He already asked
7 him this several times and he said he did not remember.

8 THE COURT: Overruled, you may answer.

9 THE WITNESS: Well, I cannot answer that.

10 I can answer that question in a lot of ways, you
11 know.

12 THE COURT: If you don't understand the question, sir,
13 just say so and we will have it reframed.

14 THE WITNESS: Okay.

15 Q BY MR. KANAREK: 'You don't understand it?

16 A I don't understand it.

17 THE COURT: Reframe the question.

18 Q BY MR. KANAREK: Mr. Flynn, I am now asking you
19 not --

20 I am asking you about the words that came out
21 of your mouth, the words that were uttered by you.

22 Do you understand?

23 A Yes.

24 Q Do you understand what I mean by talking?

25 A Yes.

26 Q Now, in talking to Mr. Davis or while talking

1 to Mr. Davis in the presence of any other person did you
2 talk -- did you say out of your mouth any words that
3 related what you told us concerning Mr. Manson in the
4 kitchen?

5 Did you at any time state words like you told us
6 in court, what happened in the kitchen, did you ever tell it
7 to Mr. Davis or anyone in his presence?

8 A Or anyone in this presence?

9 Q You don't understand that?

10 A In this presence, in the courtroom, right?

11 Q No, Mr. Flynn, anyone in his presence.

12 A Oh, in his presence.

13 Q In the presence of Mr. Davis.

14 A Oh.

15 Q At a time we are not talking about now.

16 A I don't remember.

17 Q You don't remember whether you did, right?

18 A Right.

19 Q You don't remember whether you did or not?

20 MR. BUGLIOSI: Repetitious.

21 THE COURT: Sustained.

22 Q BY MR. KANAREK: Now, you remember

23 Mr. Fitzgerald was speaking to you, and your state of mind
24 is such that you recognize that some money changed hands
25 because of what you told Mr. Davis, is that correct?

26 A Would you repeat that question?

1 MR. KANAREK: Certainly, Mr. Flynn.

2 Q Do you remember when Mr. Fitzgerald was
3 talking to you?

4 A Yes.

5b

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1 Q And you testified concerning -- you talked
2 concerning money that you knew had changed hands because of
3 what you told Mr. Davis?

4 A Uh-huh.

5 Q Right? Is that correct?

6 A Uh, not from what I told them, you see, you see,
7 but the money that was gotten by another party, you see,
8 which has the power of attorney, you know.

9 Q Have you finished, Mr. Flynn?

10 A Yes.

11 Q Now, and your state of mind when you were
12 talking to Mr. Davis was that you were discussing, you
13 were discussing the Sharon Tate-La Bianca murders with
14 Mr. Davis and the people that were with Mr. Davis, is that
15 correct?

16 A Well, I don't remember if I discussed the
17 Sharon Tate -La Bianca murders, but it was, you know, we
18 talked.

19 Q You/ ^{knew} when you were talking to Mr. Davis that
20 you were talking to Mr. Davis because of the fact
21 that Mr. Manson was accused of matters that are now before
22 this Court?

23 MR. BUGLIOSI: Calls for a conclusion, your Honor.

24 MR. KANAREK: I am asking him about his state of
25 mind, your Honor.

26 THE COURT: Overruled.

1 THE WITNESS: Would you repeat the question.

2 MR. KANAREK: May it be read, your Honor?

3 THE COURT: Read the question.

4 (Whereupon, the reporter reads the pending
5 question as follows:

6 "Q You knew when you were talking
7 to Mr. Davis that you were talking to Mr. Davis
8 because of the fact that Mr. Manson was accused
9 of matters that are now before this Court?"

10 THE WITNESS: In relation to it, yes, in relation
11 to it, yes.

12 Q Now, Mr. Flynn --

13 A Uh-huh.

14 Q -- is it a fair statement that in your
15 discussing -- referring to black people, you refer to black
16 people as Niggers.

17 A That is what my father taught me.

18 Q Pardon?

19 A Yes, I refer to them like that. My father
20 taught me like that so I do.

21 Q And you -- this is the word that you use for
22 black people, right?

23 A Black people, too.

24 Q Right.

25 A Black people, you know.

26 Q My question right now is, do you use that word

1 A Yes.

2 Q In referring to black people?

3 A Yes.

4 Q You, yourself?

5 A Yes.

6 Q Now, Mr. Flynn, would you stand up, please,
7 Mr. Flynn.

8 MR. KANAREK: Your Honor, I wonder if Mr. Flynn could
9 just step down.

10 I know that the jury has seen Mr. Manson many
11 times. I wonder if he could just stepdown and stay there
12 for a half minute so the jury can look at him, if that
13 would be possible.

14 THE COURT: Very well.

15 (Mr. Flynn steps down before the jury.)

16 Q BY MR. KANAREK: Now, would you say, Mr. Flynn,
17 that in August of '69 that your physical appearance and
18 physical condition was about the same as it is right now?

19 A Yes.

20 Q And, in other words, your appearance and
21 everything about you is exactly the same for all purposes,
22 is that correct, Mr. Flynn?

23 A Yes.

24 MR. KANAREK: Thank you, your Honor. May I
25 approach the bench a moment?

26 THE COURT: Very well.

1 (The following proceedings were had at the
2 bench out of the hearing of the jury:)

3 MR. KANAREK: Your Honor -- your Honor, I would
4 make the motion -- I do make the motion that Mr. Manson be
5 allowed to ask a few questions of Mr. Flynn.

6 THE COURT: For what purpose?

7 MR. KANAREK: Well, I think effective right to
8 counsel includes his right to ask a few questions.

9 THE COURT: Why can't you ask them?

10 MR. KANAREK: Well, -- well, your Honor, that is my
11 request of the Court.

12 THE COURT: The motion will be denied.

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

15 Q BY MR. KANAREK: Mr. Flynn, is it a fair
16 statement, Mr. Flynn, that on occasion you have made
17 statements that you did not like Americans?

18 MR. BUGLIOSI: It's irrelevant, your Honor.

19 MR. KANAREK: It goes to the very issues, your Honor.
20 Mr. Bugliosi has raised this. He has put these political
21 matters --

22 THE COURT: The objection is sustained.

23 MR. KANAREK: May I make an offer of proof at the
24 bench, your Honor?

25 THE COURT: It is not necessary. This is cross-
26 examination. Let's proceed.

MR. KANAREK: Thank you, Mr. Flynn.

Thank you, your Honor.

THE COURT: Any questions, Mr. Hughes?

MR. HUGHES: Yes.

Your Honor, I have a photograph which depicts several people in a group. May it be marked -- I have three photographs actually, may they be marked Defendants' next in order, individually?

THE COURT: AU, AV and AW.

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

THE COURT: You may.

AU
AV
AW

5c

5c-1

CROSS-EXAMINATION

1 BY MR. HUGHES:

2 Q Good morning, Mr. Flynn.

3 A Good morning.

4 Q Mr. Flynn, I show you Defendants' AU for
5 identification, would you describe what is in that photo-
6 graph and if you recognize it?

7 A Spahn's Ranch.

8 Q And was that picture, or does it appear to be
9 taken during the raid of August 16th, 1969?

10 A Yes, yes.

11 Q And you recognize certain individuals in that
12 picture?

13 A Yes.

14 Q Do you recognize yourself in that picture?

15 A I see the hat here.

16 Q Were you wearing a hat that morning?

17 A Yes.

18 Q And do you recognize an individual in what
19 appears to be a motorcycle jacket in that picture?

20 A Yes.

21 Q And would you tell us who that individual is,
22 please.

23 A This is a Straight Satan.

24 Q He is a member of the Straight Satan?

25 A Yes.
26

5c-2

1 Q And he was up there on that ranch on various
2 occasions, was he?

3 A Yes.

4 Q I show you Defendants' next in order, marked
5 AV, I show you AV on the back, would you look at that
6 picture and tell us if you can what it depicts.

7 A What it depicts?

8 Q What is shown in that photograph?

9 A It shows a Straight Satan, a whole bunch of
10 people sitting down on the ground.

11 Q And what is he wearing?

12 A He is wearing a Straight Satan jacket,
13 colors.

14 Q I see, would you tell us what it says on the
15 back of the jacket.

16 A Straight Satans, One Percent Motorcycle Club,
17 Venice.

18 Q I show you now Defendants' AW marked for
19 identification, AW, and ask you does that appear to be the
20 motorcycle jacket depicted in the other two photographs?

21 A Yes, they tore it off of him that morning.

22 Q Did you see them tear it off of him that
23 morning?

24 A Yes.

25 Q Does that appear to show the motorcycle jacket
26 laying on the hood of a car?

5c-3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

A Yes.

Q And did you see them put the motorcycle jacket on the hood of that car, Mr. Flynn?

A I just saw them tear it off.

Q Now, Mr. Flynn, directing your attention to this motorcycle jacket, it appears that the jacket is in several pieces, is that correct?

A Yes.

Q And it would appear that the jacket is laced up the side, holding the various pieces together, is that correct?

A Yes.

Q And it would appear that that lacing is made from what material, Mr. Flynn?

A Leather.

Q Is it made from leather thongs, Mr. Flynn?

MR. BUGLIOSI: Calls for a conclusion, your Honor.

THE COURT: Sustained.

BY MR. HUGHES:

Q Did you ever see that motorcycle jacket, Mr. Flynn?

A I saw it -- I saw several of them. I saw this one that morning.

Q Did you ever observe what material the stitching was made from?

A Well, the stitching -- you mean the lace?

5c-4

1 Q Yes.

2 A From leather.

3 Q And are you familiar with what is referred
4 to as leather thongs?

5 A Yes.

6 Q Did it appear to be made from -- to be laced
7 with leather thongs?

8 MR. BUGLIOSI: Improper foundation, your Honor.

9 THE COURT: In what respect?

10 MR. BUGLIOSI: Did he personally observe that
11 leather himself, I don't believe he has testified to that.
12 He observed the jacket.

13 THE COURT: I understood him to testify he did.

14 MR. BUGLIOSI: He observed the jacket.

15 THE COURT: Are you testifying of your own knowledge,
16 sir? Did you see the jacket?

17 THE WITNESS: Yes, I saw the jacket.

18 THE COURT: All right, you may answer.

19 Overruled.

20 BY MR. HUGHES:

21 Q Do you recall the question?

22 A I saw the jacket.

23 MR. HUGHES: May the previous question be read back,
24 your Honor?

25 THE COURT: I think there might be a question as
26 to which previous question.

5c-5

1 Reframe the question, Mr. Hughes.

2 BY MR. HUGHES:

3 Q You are familiar with leather thongs, is that
4 correct?

5 A Yes.

6 Q And you saw that motorcycle jacket on that day,
7 is that correct?

8 A Yes.

9 Q And you, of your own knowledge, know that the
10 stitching or the lacing is made from leather thongs, is
11 that correct?

12 A It appears in this picture to be.

13 Q But you have seen that jacket and you have seen
14 the lacing yourself, haven't you?

15 A Well, I never inspected it that close.

16 It just appears to me in this picture, to be
17 leather thongs, you see.

18 I know I have seen the jackets, or the jacket,
19 this one, I saw this one that morning.

20 Q Now, Mr. Flynn, directing your attention to
21 the left side of the jacket, does it appear that the leather
22 thongs are missing?

23 MR. BUGLIOSI: It assumes a fact not in evidence,
24 your Honor.

25 THE COURT: Sustained.
26

5c-5

1 BY MR. HUGHES:

2 Q Does it appear, Mr. Flynn --

3 A Yes.

4 Q -- that there are leather thongs --

5 THE COURT: Just a moment. That answer of the
6 witness, whatever it was, will be stricken. The jury is
7 admonished to disregard it.

8 Go ahead.

9 BY MR. HUGHES:

10 Q Does it appear that there is some leather thong
11 on the top of the vest, on the left side?

12 MR. HUGHES: May I approach the witness, your Honor?

13 MR. BUGLIOSI: Your Honor, the photograph speaks for
14 itself so I will object on that ground. It calls for a
15 conclusion.

16 THE COURT: The objection will be sustained.

17 BY MR. HUGHES:

18 Q Does it appear, Mr. Flynn, that there are
19 eyelets through which lacing could go?

20 MR. BUGLIOSI: Calls for a conclusion, also irrelevant.

21 THE COURT: Sustained.

22 BY MR. HUGHES:

23 Q Mr. Flynn, do you see eyelets on the picture?

24 MR. BUGLIOSI: It's irrelevant, your Honor.

25 THE COURT: Sustained.

26 THE WITNESS: Does that mean I answer?

5c-7

1 BY MR. HUGHES:

2 Q Are there eyelets on the picture that do not
3 have leather thongs through them?

4 MR. BUGLIOSI: It's irrelevant.

5 THE COURT: Sustained.

6 BY MR. HUGHES:

7 Q Mr. Flynn, I show you what has been marked
8 Defendants' OO for identification, would you tell us when
9 and where that picture was taken, if you know?

10 A It reminds me of the raid.

11 At the barn.

5d fls.

5d-1

1 Q Did you see officers there that day with rifles
2 similar to the officer -- similar to the rifle that this
3 officer is carrying, the officer on the right?

4 A Yes.

5 Q This picture does depict a number of officers
6 at Spahn Ranch, some of them armed with rifles?

7 A Yes.

8 Q And does the officer on the right appear to have
9 a rifle which has a bayonet attached?

10 A Yes.

11 MR. BUGLIOSI: I move to strike that, your Honor, on
12 the grounds it is a conclusion of the witness.

13 The photograph speaks for itself.

14 THE COURT: That portion of the answer will be
15 stricken. The jury is admonished to disregard it.

16 BY MR. HUGHES:

17 Q I show you now, Mr. Flynn, Defendants' KK for
18 identification, do you know who is depicted in that
19 photograph?

20 A Yes.

21 Q Is that a photograph of Mr. Manson?

22 A Yes.

23 Q Is that a photograph of Mr. Manson with his arms
24 behind his back, handcuffed, being led by two deputy
25 sheriffs?

26 MR. BUGLIOSI: Compound, also it calls for a conclusion,

5d-2

1 also the photograph speaks for itself.

2 THE COURT: Sustained.

3 BY MR. HUGHES:

4 Q I show you now Defendants' MM for identification,
5 do you recognize that photograph, sir?

6 A Yes.

7 Q Does that appear to be a picture of Mr. Manson
8 seated on the ground with a deputy sheriff behind him?

9 A Yes.

10 Q I show you now defendants' for identification
11 JJ, does that appear to be another photograph of Mr. Manson
12 with some deputies?

13 A Yes.

14 Q I show you LL for identification, what appears
15 in that photograph, Mr. Flynn?

16 A Well, Mr. Manson.

17 Q And would you tell us, was that picture taken
18 on August 16, 1969, during the raid at Spahn Ranch?

19 MR. BUGLIOSI: Calls for a conclusion.

20 THE COURT: Sustained.

21 BY MR. HUGHES:

22 Q Did you see that picture taken?

23 MR. BUGLIOSI: Calls for a conclusion.

24 THE COURT: Sustained.

25 BY MR. HUGHES:

26 Q Can you tell us, Mr. Flynn, referring to

5d-3

1 Defendants' LL, what, if anything, Mr. Manson is wearing
2 around his neck?

3 THE COURT: I will sustain my own objection, sir.
4 This is an improper way to introduce the photograph.

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

6 THE COURT: No need to.

7 MR. HUGHES: May I have a moment?

8 Q Mr. Flynn, was Mr. Manson wearing a leather
9 thong around his neck on the 16th?

10 A I don't remember if he was, you know. I know
11 when I went to the police station I was wearing one.

12 Q You were wearing one?

13 A Yeah, when I got in the police station. I
14 don't remember if he was.

15 Q Referring you now to Defendants' MM, does this
16 refresh your recollection as to whether Mr. Manson was
17 wearing a leather thong?

18 A Well, I can't say yes and I cannot say no.

19 Q Does he appear to have something around his
20 neck, Mr. Flynn?

21 A Yes.

22 Q Does it appear that that something is made of
23 leather?

24 A It appears there is something around his neck.

25 MR. HUGHES: Your Honor, the District Attorney has
26 offered to stipulate that that is a leather thong around

1 Mr. Manson's neck.

2 MR. BUGLIOSI: So stipulated.

3 MR. HUGHES: So stipulated.

4 THE COURT: Very well.

5 If you are going to stipulate to that fact,
6 the stipulation should include the time, place and date.

7 MR. HUGHES: August 16th, 1969, early morning hours
8 at Spahn Ranch, Chatsworth, California, as depicted in
9 photographs LL and MM.

10 MR. BUGLIOSI: Let me see that.

11 (Exhibits handed to Mr. Bugliosi.)

12 THE COURT: So stipulated, Mr. Bugliosi?

13 MR. BUGLIOSI: So stipulated.

14 MR. KANAREK: So stipulated, your Honor.

15 BY MR. HUGHES:

16 Q Mr. Flynn, you stated that you wore --

17 THE COURT: Just a moment. Do all counsel join in
18 the stipulation?

19 MR. FITZGERALD: I will join on behalf of Patricia
20 Krenwinkel, your Honor.

21 MR. SHINN: So stipulated, your Honor.

22 MR. KANAREK: So stipulated, your Honor.

23 BY MR. HUGHES:

24 Q You stated, Mr. Flynn, that you were wearing
25 a leather thong that day.

26 A Well, I remember when I went in the -- the last

1 place they put me at I had a leather thong, you see.

2 I don't know where it came from but I remember
3 that I had one.

4 Q Did you frequently wear leather thongs, Mr.
5 Flynn?

6 A I used to, yes.

7 Q About this time at the ranch, August 16th,
8 1969?

9 A I could not say that.

10 Q Now, last summer at the ranch there were a lot
11 of horses out there, is that correct?

12 A Horses?

13 Q Horses.

14 A Yes.

15 Q And you were employed by Mr. Spahn to care for
16 those horses, is that correct?

17 A Yes, yes.

18 Q And your day at the ranch would begin about
19 what time in the morning?

20 A During the weekends, maybe 7:00 o'clock in
21 the morning, and during the weekdays, maybe 8:00, you know,
22 just early.

23
24
25
26
6* fls.

6-1

1 Q Somebody would come and get you up before that,
2 though; is that correct?

3 A Well, we have George that would get up and
4 ring the bell, something like that, you know, or somebody
5 would get up, you know. Somebody got up and fed the horses.

6 Q Well, you often got up and fed the horses, didn't
7 you?

8 A Yes.

9 Q And you often got up and had to clean out the
10 barns, didn't you?

11 A Yes.

12 Q As a matter of fact, you worked pretty hard
13 around the ranch, didn't you?

14 A Yes.

15 Q You had to move a lot of hay around the ranch,
16 didn't you?

17 By the way, what do you call that? Working
18 the hay?

19 A Transporting it from one place to another.

20 Q And sometimes you would go and get fresh
21 corn for the horses; is that correct?

22 A Yes.

23 Q And somebody had to load that corn onto the
24 trucks, didn't they?

25 A Yes.

26 Q And this was pretty much an every day

1 occurrence at the Spahn Ranch, that you would feed the
2 horses either hay or corn, wasn't it, during the summer?

3 A Yes.

4 Q And then someone had to drive the hay there
5 and unload it?

6 A Well ---

7 Q Is that correct? That can be answered yes or
8 no, Mr. Flynn.

9 A Yes.

10 Q Did you often unload that hay or corn?

11 A Yes.

12 Q And oftentimes you would work till 11:00 or
13 12:00 at night; isn't that correct?

14 A Well, if there was corn, you know ---

15 Q You can answer that yes or no, Mr. Flynn.
16 Sometimes you would work, or oftentimes you
17 would work, until 11:00 o'clock at night; is that correct?

18 A I wouldn't say that.

19 Q You would say that?

20 A Well, yes, I would say that.

21 Q Okay.

22 You would get pretty tired, wouldn't you?

23 A Yes.

24 Q You would work all day?

25 MR. BUGLIOSI: I object to this line of questioning.
26 It seems to be going nowhere, your Honor. It is irrelevant.

1 THE COURT: Sustained.

2 MR. HUGHES: Q Did you ever have time to watch
3 TV, Mr. Flynn?

4 A Sometimes I did, yes.

5 Q Not very often, though, did you?

6 A I did watch television.

7 MR. HUGHES: May I have a moment, your Honor?

8 (Mr. Hughes and Mr. Fitzgerald confer.)

9 MR. HUGHES: Q Did you mention, in your previous
10 testimony, Mr. Flynn, something about ego death?

11 MR. BUGLIOSI: The record speaks for itself. I
12 will object on that ground.

13 THE COURT: Are you referring to his testimony in
14 this case?

15 MR. HUGHES: Yes, your Honor.

16 THE COURT: Overruled.

17 You may answer.

18 THE WITNESS: I don't think I have.

19 MR. HUGHES: Q Are you familiar with the term
20 "ego death"?

21 A Yes.

22 Q What does the term ego death mean, Mr. Flynn?

23 A It means ego death. It just means no want.

24 Q No want?

25 A No want.

26 Q Did Mr. Manson say that he was responsible

1 for the ego deaths at the ranch?

2 MR. BUGLIOSI: On what occasion?

3 I will object on that ground. Improper
4 foundation, your Honor.

5 MR. HUGHES: During the summer of 1969.

6 MR. BUGLIOSI: At any time?

7 MR. HUGHES: Any time during the summer.

8 THE WITNESS: Would you repeat the question?

9 THE COURT: Read the question.

10 (The record was read by the reporter.)

11 THE WITNESS: Well, he didn't say that he was
12 responsible, but he encouraged most, you see, most. He
13 encouraged it most.
14
15
16
17
18
19
20
21
22
23
24
25
26

6A-1

1 MR. HUGHES: Q Did he discuss ego death with you?

2 A Yes.

3 Q Did Mr. Manson say that he was responsible
4 for all the killing in Viet-Nam?

5 A I never heard him say that.

6 Q Did he say he was responsible for the killing
7 of the Indians?

8 A He didn't say he was, but he said that the
9 white man committed, you see.

10 Q Did he say that he accepted that responsibility
11 as a white man?

12 A That he accepted that responsibility as a
13 white man?

14 Q Yes.

15 A Well, he didn't live in guilt, you know.

16 MR. KANAREK: Your Honor, I ask that that be stricken
17 as not responsive. He can answer yes or no.

18 THE COURT: Read the answer.

19 (The answer was read by the reporter.)

20 THE COURT: The answer is stricken.

21 The jury is admonished to disregard it.

22 MR. HUGHES: Q Did he say that he accepted the
23 responsibility for the death of the American Indians?

24 A Them Indians were killed 500 years ago.
25 Something like that.

26 THE COURT: Answer the question, sir.

1 Did he say it or didn't he say it?

2 THE WITNESS: He didn't accept no responsibility for
3 killing no Indian.

4 MR. HUGHES: Q Did he say, Mr. Flynn, that he
5 accepted the responsibility, as a white man, for the
6 deaths of the Indians?

7 MR. BUGLIOSI: Asked and answered.

8 THE COURT: Sustained.

9 The question was just answered.

10 MR. HUGHES: Q In your previous testimony,
11 Mr. Flynn, you referred, on occasion, to the media, and
12 on occasion you have said, "On more than one occasion."

13 Do you recognize those as lawyer words?

14 MR. BUGLIOSI: It is irrelevant.

15 It doesn't even sound like a question from
16 Mr. Hughes, your Honor. I don't know where it came from.

17 THE COURT: Sustained.

18 MR. HUGHES: Q Were those terms, "the media" and
19 "on more than one occasion" in your vocabulary prior to
20 your being interviewed by Mr. Bugliosi?

21 A I picked it up when I picked up English.

22 Q Now, you testified that Mr. Manson, upon
23 coming in the kitchen, made some motion on his shoulder;
24 is that correct; a brushing motion?

25 A Yes.

26 Q You are shaking your head?

A Yes.

1 Q Was that some sort of secret signal?

2 A I don't feel like answering that question,
3 unless you let me tell all of it.

4 THE COURT: Answer the question.

5 MR. HUGHES: You can answer the question yes or no.

6 THE COURT: He doesn't have to answer it yes or no.
7 All he has to do is answer it, Mr. Hughes.

8 You may answer the question.

9 MR. HUGHES: But it is capable, however, of being
10 answered yes or no, your Honor.

11 THE WITNESS: Well, it was secret.

12 MR. HUGHES: Q Does Mr. Manson have a lot of
13 secret signals?

14 A Well, he had a lot of things that I didn't
15 understood, you know.

6b-1

1 Q If this was a secret signal, Mr. Flynn, how
2 did you know about it?

3 A I said he had a lot of things I didn't under-
4 stood, you see.

5 Q What were some of the other secret signals?

6 A I guess silence.

7 Q Did you ever have a conversation with Officer
8 Gutierrez, the gentleman sitting to my right?

9 A I talked to a lot of officers, yes.

10 Q And did Officer Gutierrez threaten if you
11 remained silent that you would go to the gas chamber?

12 A I don't think he did.

13 Q You don't remember?

14 A I didn't hear him say that.

15 Q How many times did you talk to Officer Gutierrez?

16 A Several times.

17 Q Do you remember the dates?

18 A No.

19 Q Now, you remember a Mr. Randy Starr at the
20 ranch, don't you?

21 A Yes.

22 Q And he was ranch manager, correct?

23 A He was the foreman.

24 Q The foreman at Spahn Ranch?

25 A Yes.

26 Q And he was also a movie actor; isn't that

6b-2

correct?

A Yes.

Q He was a stunt man, wasn't he?

A He was a movie actor, too.

Q But he did stunts in the movies?

A Yes.

Q And was one of his stunts hanging himself with a rope?

MR. BUGLIOSI: Irrelevant.

THE COURT: Sustained.

BY MR. HUGHES:

Q Was Mr. Starr the man you said owned the gun that you identified here in court?

A Yes.

Q And did he have a rope at the ranch?

A Just lead ropes.

Q Have you ever seen him use rope at the ranch?

A Who?

Q Have you ever seen Mr. Starr use rope at the ranch?

A Just lead ropes.

Q Did you ever see any guns at Spahn Ranch that had one or more of the pistol grips -- with the grips, the wooden grips, missing?

A Well, I saw plastic guns that belonged to Randy; and I saw rifles, you know, and I saw a gun up at

6b-3

1 the desert, too.

2 Q Did you ever see a gun at the ranch that had
3 the wooden grip missing?

4 A No.

5 Q Who kept most of the guns at the ranch? Was
6 that Mr. DeCarlo?

7 A I don't know who kept them. I know they were
8 down by the bunkhouse.

9 Q In your mind, did Mr. Manson always tell you
10 the truth up at the ranch?

11 MR. BUGLIOSI: That calls for a conclusion, your
12 Honor.

13 How would he know whether Mr. Manson was
14 telling him the truth?

15 THE COURT: Sustained.

16 BY MR. HUGHES:

17 Q In your opinion, Mr. Flynn, did Mr. Manson
18 always tell you the truth?

19 MR. BUGLIOSI: Calls for a conclusion.

20 MR. HUGHES: Your Honor, 1103 of the Evidence Code.

21 THE COURT: Overruled.

22 You may answer.
23
24
25
26

6c fls.

JC-1

1 THE WITNESS: In my opinion, did I feel that he was
2 telling me the truth?

3 MR. BUGLIOSI: Calls for a conclusion, your Honor.

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

5 MR. BUGLIOSI: Calls for a conclusion.

6 THE COURT: For what purpose?

7 DEFENDANT MANSON: Confusion is the purpose.

8 MR. KANAREK: Never mind, your Honor.

9 THE COURT: Do you have an objection to make?

10 MR. KANAREK: Well, yes. I would just like to
11 approach the bench.

12 THE COURT: Unless it has something to do with his
13 testimony, we can hear it later.

14 It is time to recess now. Do you wish to
15 approach the bench now?

16 MR. KANAREK: Yes, if I may.

17 THE COURT: All right.

18 MR. HUGHES: Your Honor, I haven't gotten an answer
19 to that question.

20 THE COURT: Well, just a moment, then. I don't
21 know whether Mr. Kanarek has an objection or not.

22 (Whereupon, all counsel approach the bench and
23 the following proceedings occur at the bench outside of
24 the hearing of the jury:)

25 MR. KANAREK: Your Honor, I am concerned, as your
26 Honor well knows, the defendant's character cannot be

1 brought into issue unless the defendant raises the issue
2 of good character. Then the prosecution can bring evidence
3 of bad character.

4 Now, I don't wish -- I mean, I just want to
5 make it clear that I am not offering any evidence of good
6 character, much as I believe that Mr. Manson does have good
7 character.

8 The law states, and this is very clear, that
9 you cannot -- if you bring in evidence of good character,
10 then the prosecution, of course, can bring in evidence of
11 bad character.

12 So, I am on the horns of a dilemma because of
13 Mr. Hughes' question.

14 THE COURT: On further reflection, I think the question
15 is too broad.

16 I considered it as going to the credibility of
17 this witness rather than the character of Mr. Manson.
18 In other words, perhaps I viewed the question in an
19 incorrect light, Mr. Hughes. I was thinking that you were
20 trying to bring out, maybe, that this witness was overly
21 gullible, or something like that, rather than having the
22 question go to Mr. Manson's character.

23 However, I think it is perhaps too broad.

24 MR. KANAREK: It really calls for a conclusion, your
25 Honor.

26 THE COURT: Well, it does, but on the question of

1 credibility, I think if it were properly framed, it would
2 be all right.

3 MR. HUGHES: Very well, your Honor.

4 THE COURT: We will take our recess at this time.

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

9 THE COURT: Ladies and gentlemen, do not converse
10 with anyone or form or express any opinion regarding the
11 case until it is finally submitted to you.

12 The court will recess until 2:00 p.m.

13 (Whereupon, at 12:02 p.m. the court was in
14 recess.)

15

16

17

18

19

20

21

22

23

24

25

26