

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.

109

No. A253156

REPORTERS' DAILY TRANSCRIPT
Thursday, October 1, 1970
A. M. SESSION

APPEARANCES:

For the People:

DONALD A. MUSICH,
STEPHEN RUSSELL KAY,
~~ARON H. SEYMOUR~~ and
VINCENT T. BUGLIOSI,
DEPUTY DISTRICT ATTORNEYS

For Deft. Manson:

I. A. KANAREK, Esq.

For Deft. Atkins:

DAYE SHINN, Esq.

For Deft. Van Houten:

~~RAY K. REID~~
RONALD HUGHES, Esq.

For Deft. Krenwinkel:

PAUL FITZGERALD, Esq.

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LOIS R. JOHNSON,

~~LOIS R. JOHNSON~~ CSR.,
MURRAY MEHLMAN, CSR.,
Official Reporters

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I N D E X

PEOPLE'S WITNESSES: DIRECT CROSS REDIRECT RECROSS

FLYNN, Juan	12,383	12,414 F	
		12,421 S	
		12,436 K	

1 LOS ANGELES, CALIFORNIA, THURSDAY, OCTOBER 1, 1970

2 9:49 A.M.

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4 (The following proceedings occur in chambers.

5 All counsel present, defendants absent.)

6 THE COURT: All counsel are present.

7 Do you have some matter you wish to bring up?

8 MR. KANAREK: Yes, your Honor.

9 Obviously, a violation of the security order.

10 In yesterday's Herald Express --

11 THE COURT: The Security Order?

12 MR. KANAREK: The publicity order.

13 Yesterday's Herald Express, dated Wednesday,
14 September 30th, a portion of which I have here. The headline,
15 the article at Page 2, states, "Tate Attorneys Argue Over
16 Atkins' Cellmates' Story."

17 It talks about things that we talked about in
18 chambers, your Honor.

19 THE COURT: What about it, Mr. Kanarek?

20 MR. KANAREK: Well, your Honor, I ask that those
21 statements be suppressed.

22 THE COURT: What statements?

23 MR. KANAREK: Those alleged statements that are
24 referred to in that article.

25 What is the use of having a publicity order?

26 THE COURT: Well, I agree.

1 Apparently somebody discussed what occurred in
2 chambers, but who?

3 MR. KANAREK: I don't know, your Honor.

4 THE COURT: I don't either.

5 MR. KANAREK: I know, but what I am saying is, what is
6 the use, your Honor, of just having it? The idea is to
7 protect the defendants.

8 THE COURT: I assure you, Mr. Kanarek, if I find out
9 who is talking about these things, I will do something about
10 it.

11 MR. KANAREK: Well, Mr. Farr wrote the article. We
12 can have an evidentiary hearing and find out.

13 We are dealing with people's lives in this case.

14 THE COURT: Unfortunately, it isn't that simple.
15 Mr. Farr can simply refuse to divulge the identity of his
16 source, and that is the end of it.

17 MR. FITZGERALD: If I may see the article?

18 (The Court hands the article to Mr. Fitzgerald.)
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1 THE COURT: But I warn all counsel that if I have
2 any evidence of this publicity order being violated, and
3 who is responsible for it, I intend to do something about it.
4 You have all been told enough times so I don't have to go
5 through that again.

6 MR. SHINN: I can assure the Court that I didn't
7 divulge any information about Miss Atkins.

8 MR. FITZGERALD: Nor did I, your Honor.

9 MR. MUSICH: Nor did I.

10 MR. HUGHES: Nor did I.

11 THE COURT: So that leaves you, Mr. Kanarek.

12 MR. KANAREK: I ask to be sworn on it, then, your
13 Honor. I didn't.

14 MR. SHINN: Actually, the article, I don't think --
15 there is no details or nothing, your Honor.

16 MR. FITZGERALD: Right. As I read here, the first
17 paragraph seems to be the only -- first two or three
18 paragraphs seem to be the only material in the story that
19 relates to the in-chambers conference and it says, and I
20 quote, "Testimony in the Sharon Tate-Leno La Bianca murder
21 trial was delayed today by an hour-long conference between
22 defense and prosecution attorneys in Superior Court Judge
23 Charles H. Older's chambers. The chambers session was
24 devoted to legal arguments on the upcoming testimony by
25 Virginia Graham and Roni Howard, former cellmates of
26 defendant Susan Atkins. Mrs. Graham and Mrs. Howard are

1 expected to testify later in the week about Miss Atkins
2 telling them of her part in the Tate slayings," end of
3 quote. Then --

4 Then the article goes on to refer to Juan Flynn.

5 MR. KANAREK: That's a confession, your Honor.

6 MR. FITZGERALD: Well, I think that the press, when
7 I walked out into the hall, as I came back from the rest-
8 room at the latter part of the morning recess, knew the
9 subject matter of the conference in chambers. And it has
10 been known to the press that this is one of the legal issues
11 in the case.

12 THE COURT: Well, all right. In any event, I don't
13 know who divulged the information so there is nothing I can
14 do about it. I don't consider this to be particularly
15 prejudicial to anyone.

16 It is technically a violation of the publicity
17 order, that is true. If you have any information on the
18 subject, Mr. Kanarek, I'm certainly willing to consider it.

19 MR. KANAREK: I have no -- even if I had information,
20 my purpose is not to be punitive to counsel. My purpose
21 here --

22 THE COURT: Well, I can't do anything about it unless
23 I know who is responsible, can I?

24 MR. KANAREK: Well, I think your Honor could conduct
25 an evidentiary hearing and if there is some sort of a
26 privilege, the privilege could be -- would be waived if these

1 conversations occurred in the presence of people who were
2 not privileged.

3 In other words, it's the same way as the attorney-
4 client privilege is waived.

5 THE COURT: All right. Anything else, gentlemen?

6 MR. KANAREK: I move for an evidentiary hearing, your
7 Honor.

8 THE COURT: Motion is denied.

9 MR. BUGLIOSI: I have a couple of matters.

10 I believe there is going to be a stipulation
11 that on Page 9396 of the transcript, Lines --

12 MR. SHINN: What volume?

13 MR. BUGLIOSI: Volume 74, Line 7, should read,
14 "and a blade with a 13/16 of an inch at its widest point,"
15 as opposed to "3/16 of an inch," as it presently reads.

16 MR. FITZGERALD: So stipulated.

17 MR. KANAREK: So stipulated, your Honor.

18 MR. HUGHES: So stipulated.

19 MR. FITZGERALD: We previously discussed this, your
20 Honor.

21 MR. SHINN: So stipulated.

22 THE COURT: You are stipulating to a change in the
23 transcript; is that right?

24 MR. BUGLIOSI: Yes, your Honor. That it read "13/16"
25 as opposed to "3/16."

26 THE COURT: It will be so ordered. The transcript

will be changed to reflect that.

1 MR. BUGLIOSI: Now, your Honor, about the other thing
2 yesterday. I had Murray Mehlman, I forgot how to pronounce
3 his last name, check Page 11,833 of the transcript, Lines
4 20 to 23, and as far as he can tell the transcript is
5 accurate --

6 Well, these are the words that he got down,
7 Lines 20 through 23.

8 MR. SHINN: What volume are you talking about?

9 MR. BUGLIOSI: 103.

10 THE COURT: What page?

11 MR. BUGLIOSI: Page 11,833.

12 THE COURT: Just a second. All right, go ahead.

13 MR. BUGLIOSI: I don't recall his using that exact
14 language. I recall him using more clear words. "The only
15 way I can show the black man," or, "The only way I'm going
16 to show the black man," words to that effect, "is to go
17 down there and kill --" blah, blah, blah.

18 So I would request that I be permitted to ask
19 him again what Manson told him on that day because I don't
20 think the transcript is clear.

21 As far as time is concerned, I think we consume
22 a lot more time discussing this.
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1 MR. FITZGERALD: We discussed it among ourselves,
2 Mr. Kanarek, Mr. Hughes, Mr. Shinn and I, and we are not
3 in agreement as to Mr. Bugliosi's assertion that Mr.
4 Flynn testified as to something other than what is in the
5 transcript.

6 The nature of our discussion was in the area
7 of Mr. Flynn's peculiar grammar and syntax on occasion.
8 It is just as likely that that is what he said as not.

9 I am not attacking your assertion, but we are
10 not willing to stipulate.

11 MR. BUGLIOSI: I don't want a stipulation. I am
12 not asking for a stipulation.

13 THE COURT: What was the context in which this
14 occurred?

15 MR. BUGLIOSI: There was a conversation with Mr.
16 Manson, Clem Tufts and Bruce Davis in July of '69 on the
17 boardwalk.

18 THE COURT: What is the relevancy of the conversation?

19 MR. BUGLIOSI: Oh, the relevancy, your Honor, is
20 Mr. Manson talking about showing the black man and the
21 pigs by going down there and killing a whole bunch of
22 pigs.

23 The relevancy is basically the motive for
24 these murders, as alleged by the prosecution, by showing
25 the black man by killing a bunch of pigs. That, essen-
26 tially, is the motive that the People are alleging for

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1 these murders, that Manson was going to show the black man
2 how to start Helter Skelter by killing a bunch of pigs.

3 THE COURT: Well, he answered the question.

4 You asked him: What did Mr. Manson say, Juan?
5 And he gave an answer.

6 MR. BUGLIOSI: Right.

7 My position is that the transcript is in error,
8 and I want to ask him again.

9 As I indicated to the Court yesterday, out of
10 these 12,000 pages, there are probably 500 examples where
11 a witness was asked the same question twice on peripheral
12 issues which were totally inconsequential.

13 Also, in addition to that, not only were the
14 issues totally inconsequential, but there was no quarrel
15 among the prosecution and the defense as to what the
16 witness said.

17 It is part of the trial. You can ask the
18 witness the same question twice.

19 Now, your Honor, here there is a dispute as
20 to the correct language, and I am certainly not going to
21 buy what the court reporter says. And not only that, but
22 it is not inconsequential, it is very important.

23 To me, your Honor, it is just standard operating
24 procedure: If there is a question about it, just ask the
25 person over again.

26 I agree with Mr. Fitzgerald, they don't have

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1 to stipulate and agree to change it, as they did with
2 thirteen sixteenths. I am not asking that. I am simply
3 going to ask the question over again.

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4 I don't agree with the court reporter.
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1 MR. KANAREK: Let him make the noticed motion and
2 put in a declaration, your Honor, and we can have an
3 evidentiary hearing with the court reporter.

4 That is the way your Honor has indicated in the
5 past --

6 MR. BUGLIOSI: Is that your position, Mr. Kanarek,
7 that henceforth you can never ask the witness the same
8 thing twice?

9 You have been asking Flynn the same thing --

10 THE COURT: Gentlemen, we are not going to spend an
11 hour in here with colloquy back and forth.

12 MR. SHINN: May I ask Mr. Bugliosi one question,
13 very fast, a simple question?

14 MR. BUGLIOSI: Yes.

15 MR. SHINN: In what manner do you think it is a
16 different answer? How did you come to that conclusion?

17 MR. BUGLIOSI: I heard what he told me several times
18 personally and also on the stand.

19 MR. SHINN: You mean there are a couple of words
20 missing there?

21 MR. BUGLIOSI: He got the wrong words here.

22 The only way I could show the black man and
23 the pigs. The only way to get going is to show the black
24 man and the ^{pigs} / is to go down there.

25 THE COURT: I don't see any substantial difference
26 with what he intended to say and what he, in fact, said,

1 according to the transcript.

2 MR. BUGLIOSI: My point is that I don't see what
3 problem we are having here. If I have a desire to ask
4 the witness the same question again -- and it is being
5 done every day, 25, 30 times, on inconsequential matters --
6 I think it is just standard operating procedure. If I am
7 questioning the court reporter, I can ask that same ques-
8 tion twice.

9 I don't want to confuse what I am doing,
10 your Honor, with asking for a stipulation. That is a
11 totally different matter. This is not asking for a
12 stipulation.

13 I don't see why either party, the defense or
14 the prosecution, should be bound by what the court reporter
15 takes down. They make errors.

16 THE COURT: It is true, they make errors, but his
17 notes apparently reflect what the transcript said.

18 MR. BUGLIOSI: But their notes are in error very
19 frequently.

20 THE COURT: That is what you say.

21 MR. BUGLIOSI: That is what any attorney would say
22 or any judge would say, that the court reporter makes
23 errors.

24 THE COURT: We are not talking about generally.
25 We are talking about this specific question.

26 MR. BUGLIOSI: I agree.

1 They wouldn't be human, you know, if they
2 didn't make errors.

3 I think the court reporting in this case has
4 been very excellent, and I'd like to say that, it has been
5 excellent, but there is just no way to avoid error by the
6 court reporters. It is just an impossibility.

7 THE COURT: I am not going to allow it. I think it
8 is unduly prejudicial.

9 The answer is in. I think it is responsive.
10 I am not going to allow it.

3b fls.

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1 Now, there is another matter I want to take up,
2 and that is this conversation yesterday that Mr. Flynn
3 testified to on the day that he and Mr. Manson started for
4 the ice cream parlor.

5 I have gone back and reviewed the transcript
6 of the earlier conversation, to which Mr. Fitzgerald elicited
7 some statements from Mr. Flynn on cross-examination, and
8 I have concluded that this part of the conversation,
9 the witness' testimony yesterday, should not have gone in,
10 and I am going to admonish the jury to disregard it.

11 MR. BUGLIOSI: Will the Court reserve its ruling
12 just for a brief second just for me to argue on it?

13 THE COURT: All right.

14 MR. BUGLIOSI: This is MO, your Honor.

15 THE COURT: I know. We discussed this at some
16 length yesterday at the bench, so I am not unmindful of
17 what your position is.

18 MR. BUGLIOSI: Right.

19 I submit, your Honor, that no matter how
20 prejudicial it is, the law is clear, People vs. Pike, and
21 several other cases, Albertson, no matter how prejudicial
22 it is, you can bring in evidence of other conduct of the
23 defendant if it establishes identity, modus operandi.

24 I say that what Manson did on these two nights
25 in question is so unique that it probably is unparalleled
26 in the annals of crime. To select a home for no reason

1 whatsoever and send people in there, tie the victims up
2 and cut them up. I can't think of any other case, there
3 probably have been other cases where this has happened, but
4 I am not aware of it. Telling Juan Flynn to do the same
5 thing, stopping in front of a relative's house, no reason
6 in the world, going in there, tie them up and cut them up.

7 THE COURT: Of course, what we are talking about is
8 not conduct but a conversation.

9 Nothing was done to implement what was said, if
10 it was said.

11 MR. BUGLIOSI: If anything, that is all the more
12 reason why the prosecution should be able to bring it in,
13 because it is not as harmful to the defense as it would
14 have been if Flynn had accepted the proposal and gone in
15 there and actually killed.

16 We are concerned with Manson's state of mind.
17 Asking someone else, before these murders, to go into a
18 home, tie the victims up who he felt were pigs, and cut them
19 up.

20 This is so unique. I mean, it comes under MO.

21 I have had cases where you can bring in
22 evidence of other crimes where there is nowhere near the
23 similarity that we have in this situation here.

24 I defy the defense, your Honor, to come up with
25 another example in any of the cases in California or
26 anywhere in this country where you had a situation like

1 that, where you stop in front of a virtual stranger's
2 home and say, "Let's go in there and tie them up and cut
3 them up."

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1 If they can come up with some other case, then
2 I would say this is not MO. But I can't think of any.

3 To me, this is so unique that the jury is
4 entitled to hear this, to help them decide whether Manson,
5 on these two nights in question, actually commanded these
6 people to go into strangers' homes, tie them up, as they
7 were in both Tate and La Bianca, and cut them up.

8 They are entitled to know about this because
9 when they hear what he did with Flynn, they can draw the
10 inference: Yes, this is the exact, precise type of
11 individual who would have done what the prosecution said
12 he did on August 9th and 10th, because here he did it on
13 another occasion with Juan Flynn.

14 MR. MUSICH: Your Honor, if I might interrupt.

15 I think the same analogy is a solicitation to
16 kill.

17 Definitely, that particular evidence would be
18 admissible, clearly admissible, to show the intent, the
19 MO, or whatever it may be, and I would submit that on this
20 subject this is the same thing. It is definitely
21 admissible.

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1 MR. BUGLIOSI: If we had a situation, your Honor,
2 where he told Mr. Flynn, "Let's go in there and rob these
3 people and if they resist then we'll kill them." But here
4 we do not. "Let's go in there, tie them up and cut them up
5 because they're pigs."

6 THE COURT: Well, of course, that isn't exactly what
7 it said. What it said was, "Well, why don't we?"
8 "Why don't we?"

9 MR. BUGLIOSI: Well, we are not going to be able to
10 get the exact words, your Honor, and the law on modus
11 operandi does not require the exact words. It's obvious
12 to the defense what Manson meant by the "why don't we?"
13 That's why they are trying to keep it out. It's pretty
14 obvious that he was asking Flynn to go in there and Flynn
15 declined.

16 But the point is, your Honor, this is so
17 unbelievable, what happened on August 9th and 10th, that
18 I've got to convince this jury that some human being really
19 would be that satanical that they would do something like
20 this. Because you just don't send people out to strangers'
21 homes in the middle of the night, tie them up and cut them
22 up without a reason.

23 Now, I'm putting on evidence that this is the
24 exact type of person who would do that. He's done it on
25 another occasion. He wanted Flynn to do it.

26 They can say, well, I tend to believe the

1 prosecution now because on another occasion he wanted some-
2 one else to do essentially the same thing.

3 I think it comes in under MO, your Honor.

4 I would ask this of the Court -- it's already
5 in the record, the jury has already heard it -- I would ask
6 the Court to think about it for a couple of days, because
7 it is important to the prosecution, it's important to the
8 defense.

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4a 1 In good faith I do believe that it is admissible
2 under the modus operandi exception. I'm citing the Pike
3 case, Albertson case. I have several other cases where the
4 courts say no matter how prejudicial it is --

5 THE COURT: I'm familiar with that.

6 MR. MUSICH: I believe there is a case, and I'm
7 trying to think of the facts of it; where the one particular
8 person was solicited, or was asked, to participate in some
9 type of conspiracy, robbery or murder, whatever it may have
10 been, refusing, and someone else went into it, or there
11 were other parties in the conspiracy. That testimony was
12 admissible. He did testify.

13 I think the facts are quite similar. I mean,
14 as far as the analogy. I would urge upon the Court the
15 same analogy of soliciting someone to commit an unlawful
16 act.

17 THE COURT: If you want some additional time to give
18 me some authorities on the subject -- but I don't want to
19 delay the decision on this. I want to do something within
20 the next -- no later than tomorrow at the latest.

21 MR. FITZGERALD: The problem is on recross-
22 examination the defense attorneys are going to be faced
23 with a dilemma. If the jury is going to be instructed to
24 disregard it, obviously we will not cross-examine him on
25 the conversation. On the other hand, if your Honor is going
26 to rule that it is admissible, then we are going to cross-

1 examine him on circumstances surrounding the conversation.
2 So we are going to have to know before recross-examination
3 takes place.

4 MR. BUGLIOSI: The other grounds for admissibility,
5 your Honor, actually, the defense is the one that got into
6 this, which just bolsters our right to go into it further.

7 THE COURT: No, no, that isn't so, Mr. Bugliosi.
8 That's not so.

9 MR. BUGLIOSI: Mr. Fitzgerald asked him --

10 THE COURT: Yes, I read the transcript again this
11 morning.

12 MR. BUGLIOSI: -- about directing your attention to
13 this particular occasion. He says, "I want to ask you
14 some questions about it." I think that's what the transcript
15 says.

16 Then Mr. Flynn said, "Yes."

17 Then eventually he was cut off.

18 But Mr. Fitzgerald is the one that went into
19 this occasion that most impressed --

20 THE COURT: He referred to the conversation, correct.

21 MR. BUGLIOSI: -- that most impressed Mr. Flynn. And
22 then Mr. Fitzgerald also said, "I want to ask you some
23 questions about that." That's also in the transcript,

24 THE COURT: That's true.

25 MR. SHINN: But, your Honor --

26 THE COURT: The conversation was not gone into.

1 MR. BUGLIOSI: Well --

2 MR. SHINN: The Court is going to also have to
3 consider, your Honor, the fact that this is going to be
4 limited to only Mr. Manson and it would be highly
5 prejudicial to the other three defendants, too, your
6 Honor.

7 MR. BUGLIOSI: That's the same argument as to --

8 MR. SHINN: It's not the same argument.

9 MR. BUGLIOSI: -- as to confessions or fingerprints
10 or anything.

11 MR. SHINN: That's true. But here we have somewhat
12 of an admission or a confession.

13 THE COURT: How much more redirect do you have?

14 MR. BUGLIOSI: Not very much, your Honor. About 15
15 minutes, 10 minutes.

16 THE COURT: Well, I think Mr. Fitzgerald has a good
17 point. They should know before Mr. Flynn is excused
18 whether or not this conversation is going to be allowed,
19 or the jury is going to be instructed to disregard it.

20 MR. MUSICH: Let me see if I can find that case, your
21 Honor. I know I read it. I don't know -- it might be on
22 my desk.

23 THE COURT: Otherwise Mr. Flynn could be excused
24 just temporarily. We will have the doctors coming in this
25 afternoon, so --

26 But I don't want to delay it. That's the point

1 I'm trying to make to you.

2 MR. BUGLIOSI: I understand.

3 THE COURT: I want to do it while it is still in
4 the jury's mind.

5 MR. HUGHES: May I inquire, your Honor, what technique
6 you anticipated referring the jury back to that statement?
7 Because the statement said again is fairly prejudicial.

8 THE COURT: Well, I'll be guided by what you
9 gentlemen say. I don't want to be ambiguous if I give
10 them an instruction. I want them to be instructed as to
11 the specific conversation so that there is no question about
12 it.

13 MR. BUGLIOSI: I think -- well, go ahead, you are
14 still talking.

15 MR. HUGHES: Yeah. I was thinking perhaps just
16 referring it back to a statement about in front of a house
17 where he asked if there was a dog inside. I am very
18 hesitant about those words, "cut them up."

19 THE COURT: Well, the conversation is contained on
20 Page 12,265 starting on Line 23 and going over to the next
21 page. There's some introductory statements in the answer
22 which I think could be read and then the part about going
23 inside or -- actually, the only part that is objectionable
24 is the part where he quotes or purports to quote what
25 Mr. Manson said, "Well, why don't we go in there and tie
26 them up," and so forth. That comes in the last few

1 sentences.

2 So the first part of it could be read to orient
3 them and then they could simply be admonished to disregard
4 the entirety of the conversation.

5 MR. BUGLIOSI: I would say this again, your Honor,
6 before we go out: I think the People have already put on a
7 prima facie case of modus operandi. This situation is very
8 similar to the Tate-La Bianca situations where Manson
9 thought these people were pigs, the victims were tied, they
10 were cut with knives. I think it's almost incumbent at this
11 point upon the defense to show the Court why there are
12 substantial dissimilarities which would take it outside of
13 the modus operandi.

14 I think as it stands right now, the state of the
15 record, we do have an MO situation.

16 THE COURT: Well, the part that concerns me, Mr.
17 Bugliosi, first of all, it's improper redirect because it
18 wasn't gone into on cross. However, that, of course, could
19 be overcome by permission from the Court to open the
20 direct.

21 But that isn't really the point. The point is
22 that it consists of what could be considered perhaps to be
23 a rhetorical question asked by Mr. Manson if, in fact, it
24 was said. And because of its nature and the fact that
25 it, according to Mr. Flynn, occurred some two months before
26 the murders in this case, I just think it's too remote,

1 MR. BUGLIOSI: Well, your Honor, we can give you
2 cases on MO going back three, four, five years earlier.

3 THE COURT: Just all these things depend on the facts.

4 MR. BUGLIOSI: Right.

5 THE COURT: Not just on time. Not just on this, not on
6 that, on the entire totality of everything.

7 MR. BUGLIOSI: That's right. But I'm saying remote,
8 we are talking about two months, which is --

9 THE COURT: Well, that isn't exactly the point,
10 Mr. Bugliosi. I'm sure you can find me a case that went
11 back farther than two months. That's not the point.

12 MR. BUGLIOSI: How is two months remote in this case?
13 On August 8th --

14 THE COURT: It's remote when taken together with what
15 was said and the circumstances of this particular occasion.

16 MR. BUGLIOSI: I don't --

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1 THE COURT: It may very well be that Mr. Manson, if
2 he said this, had precisely in mind to do what was done
3 in the Tate-La Bianca murders, assuming that he had some-
4 thing to do with that. I don't know.

5 MR. BUGLIOSI: I think that's a matter for argument,
6 isn't it?

7 THE COURT: But the statement itself is not sufficiently
8 clear and contains within itself sufficient prejudice, so
9 I think it should be excluded.

10 MR. BUGLIOSI: Well, I can talk to Mr. Flynn about
11 it and go into more detail.

12 THE COURT: He isn't going to be able to answer that
13 question.

14 MR. BUGLIOSI: Well, I deliberately didn't go into
15 too much detail on this because the defense was screaming
16 to keep it out, so I just put on the bare skeleton on it.

17 He did say that Manson wanted him to go in
18 there. Now, that is in the record, that "He wanted me to
19 go in there." Now, he was there. Mr. Flynn was there with
20 Mr. Manson. And the relationship between human beings,
21 they know what the other party intended, even animals know
22 that. And Flynn said, "He wanted me to go in there."
23 That's the word. "He wanted."

24 THE COURT: Well, that's a conclusion.

25 MR. BUGLIOSI: Well, I think this is up to the --
26 they can go into this on cross-examination. It's a matter

4b-2

1 of cross-examination to say, well, Mr. Flynn, isn't it
2 true that Mr. Manson was just joking with you, or something
3 like that. But the state of the record is now that he
4 wanted Flynn to go in there.

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THE COURT: Well, I'll, as I say, give you some additional time to give me any other authorities that you wish to. But, again, I don't want to delay the decision on it beyond tomorrow at the latest.

Anything else before we go back out?

All right. Again, gentlemen, the doctors, so far as I know, will be here at 2:00 o'clock this afternoon in connection with Hendricks, Michael Hendricks. I think the procedure with respect to the doctors will be simply you all have -- or will have by then -- copies of both doctors' reports.

Do you anticipate asking any questions?

MR. BUGLIOSI: Very few, if any, your Honor. I think, really, this --

THE COURT: Of course, we don't know what Dr. Abe is going to say yet.

MR. BUGLIOSI: -- is basically for the Court to determine. I'm just wondering whether any of us should ask any questions other than the Court. It's up to the Court to decide whether this man --

THE COURT: As I indicated yesterday, I will give counsel an opportunity to inquire within reasonable limits on the reports, but, bear in mind, gentlemen, the issue is Mr. Hendricks' competency. The specific purpose for which the doctors were appointed was to determine his ability to perceive and to comprehend -- when was it? a year ago

4c-2

1 roughly, a little over a year, in the summer of 1969.

2 MR. BUGLIOSI: Actually, over a year.

3 THE COURT: Sometime during 1969. I have forgotten
4 the last date.

5 MR. BUGLIOSI: July, I think.

6 THE COURT: I've already determined from a previous
7 session with Mr. Hendricks that under the strict require-
8 ments of the Evidence Code he is competent -- that is,
9 referring now to the statements --

10 MR. FITZGERALD: 701.

11 THE COURT: 701 of the Evidence Code. The reason
12 the doctors were appointed was because of the question
13 raised by People vs. McCaughan as to whether or not at
14 the time to which his testimony would relate he was able
15 to perceive and comprehend. It's clear to me from his
16 testimony recently on the question of competency that he
17 was capable of expressing himself concerning the matter
18 and that he was capable of understanding his duty as a
19 witness.

20 All right. Let's go back into court and
21 resume --

22 MR. KANAREK: Your Honor, how do we handle it on
23 cross-examination on this?

24 THE COURT: As to what?

25 MR. KANAREK: In connection with these matters as
26 to the statement.

4c-3

1 THE COURT: Well, I would suggest that you stay
2 away from the subject of the conversation at this time
3 with the understanding that if I decide to leave it in
4 you will have the opportunity, if cross-examination finishes
5 this morning, that Mr. Flynn will be recalled tomorrow and
6 you will have an opportunity to complete the cross-examina-
7 tion on any subject that you haven't gone into.

8 MR. KANAREK: Yes, your Honor.

9 I think your Honor's statement that this is
10 not conduct, that it's words, I think that that -- I think
11 that's the most important type of --

12 MR. BUGLIOSI: That's exactly what we're dealing
13 with, with Manson's words in alleging that he murdered any
14 of the Tate-La Bianca victims. We are talking about his
15 words. We are not talking about his conduct.

16 Your Honor, on this programming, Mr. Kanarek
17 went into quite a bit of depth as to what Mr. Flynn
18 meant by programming, so it's completely proper redirect.

19 I have the page where Mr. Kanarek asked him
20 about it, what he meant by it.

21 Furthermore, I would even request to reopen
22 direct, if there is any question in the Court's mind,
23 because this programming is very --

24 THE COURT: I think we are getting off into --

25 MR. BUGLIOSI: It's not tangential, your Honor.

26 THE COURT: Well, I think it's time consuming,

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confusing and misleading.

MR. BUGLIOSI: To me, who understands this case because I've worked very close to it, I'm very familiar with the word "program." I'm very familiar with the word "unprogram." These were words that Manson used frequently with his Family. And they had specific meanings to Mr. Manson.

It will be my problem to articulate these things clearly to the jury. But I know exactly what these words mean. And they go right down to his domination over the Family, to his destroying their concepts of what they have learned in school, what their parents --

THE COURT: That may all be true. What are we talking about? What is the point you are getting at?

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1 MR. BUGLIOSI: I want to ask him what Manson told him
2 about programming. This was gone into by Mr. Kanarek on
3 cross.

4 THE COURT: I think the specific objection was to
5 a question as to what this witness thought the word meant,
6 which seemed to me to be wholly irrelevant.

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

8 MR. BUGLIOSI: This is what you asked him, Mr. Kanarek.

9 MR. KANAREK: Your Honor, Mr. Bugliosi slides off the
10 point. It's the same thing in connection with the
11 conversations. He wants a conviction at any price, your
12 Honor.

13 MR. BUGLIOSI: This is what you asked.

14 MR. KANAREK: What I'm saying --

15 THE COURT: All right, Mr. Kanarek, will you save your
16 argument.

17 MR. BUGLIOSI: Mr. Kanarek asked about programming.

18 MR. KANAREK: Yes, your Honor. The point of the
19 matter is, your Honor has it exactly and he tries to confuse
20 us all by his constant -- he goes on and on for hours and
21 hours, so to speak. After your Honor makes a very good
22 analysis, by just the numbers of words that he uses he
23 somehow or other gets your Honor to change your Honor's
24 position. And the fact is, your Honor, right now he's
25 sliding over the point.

26 MR. BUGLIOSI: You asked him what programming meant.

1 MR. KANAREK: Your Honor has it perfectly. Your Honor
2 has it 100 per cent. It is his state of mind that is in
3 issue, not Mr. Manson's. And it is his state of mind that
4 is not --

5 MR. BUGLIOSI: May I ask you a question? You are the
6 one that asked him what programming meant to him.

7 MR. KANAREK: That's right. And you were asking
8 about Mr. Manson. And the Court has the analysis perfectly.
9 And the sheer weight of your numbers of your words, you
10 keep talking and talking. You are doing it in order to just
11 wear us out.

12 MR. BUGLIOSI: You know what I'm afraid of? That you
13 make so many objections the Court will want to be fair and
14 start granting some. I'm afraid that he will want to be
15 fair and start granting some. He hasn't done it yet. But
16 you object to everything I ask.

17 (Whereupon, the proceedings were resumed before
18 the jury in open court:)

19 THE COURT: All parties, counsel and jurors are
20 present.

21 You may continue, Mr. Bugliosi.

22
23 JUAN FLYNN,
24 the witness on the stand at the time of the adjournment,
25 resumed the stand and testified further as follows:

26 THE CLERK: Will you state your name, please.

1 THE WITNESS: My name is Juan Flynn.

2 THE CLERK: Thank you.

3 FURTHER REDIRECT EXAMINATION

4 BY MR. BUGLIOSI:

5 Q Juan, directing your attention to Volume 108
6 of the transcript, would you read Lines 3 through 13 to
7 yourself. That's Page 12,260.

8 Have you read those lines to yourself, Juan?

9 A Yes.

10 MR. KANAREK: Your Honor, I must object to
11 Mr. Bugliosi merely reading the record at this point. It
12 is, in a sense, making argument. I gather he's just going
13 to read what he just showed the witness. I don't see any --
14 that's not proper.

15 THE COURT: Overruled.

16 Q BY MR. BUGLIOSI: To these questions by
17 Mr. Hughes, Juan, did you give these answers:

18 "Q Mr. Flynn, where were you on
19 the evening of August 8, 1969?

20 "A I can say that I was in a trailer
21 at Spahn's Ranch.

22 "Q How do you know that, Mr. Flynn?

23 "A Because I was.

24 "Q Who was with you?

25 "A Johnny Swartz. And there was
26

1 "some people that came in the trailer, you
2 know, and there was Tanya, you know, the
3 little girl. And I saw Lulu in there and
4 Sadie and Mr. Manson."

5 Do you remember giving those answers to those
6 questions?

7 A. Yes.

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Q Do you remember August the 8th by date?

A No.

Q Did you use to be in the trailer nearly every night after work?

A Yes.

Q Referring to this incident here where Mr. Swartz and Tanya and Lulu and Sadie and Mr. Manson were in the trailer, do you know the exact date that they were in the trailer?

A Not the exact date, but I can link it, though, you know, because I can't say, you know, I don't keep track of calendars and stuff like that.

Q So, you are not positive that it was August the 8th?

A No, I am not positive.

Q Let me ask you this.

Referring to these people, now, who you say were in the trailer one night. Was that the same night that Sadie told you "We are going to get some pigs"?

A No.

MR. KANAREK: leading and suggestive, your Honor.

THE COURT: Overruled.

THE WITNESS: No.

BY MR. BUGLIOSI:

Q It is not the same night?

A No.

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1 Q It is not the same night?

2 A No.

3 Q Was it the same night that you observed these
4 seven people get into Swartz's car and drive off?

5 MR. KANAREK: ~~Leading and suggestive, your Honor.~~

6 THE WITNESS: No.

7 THE COURT: What answer is suggested?

8 MR. KANAREK: He is suggesting, your Honor, the
9 answer that this was.

10 In other words, your Honor, my motion is --

11 THE COURT: The witness answered no.

12 MR. KANAREK: Yes, your Honor.

13 In the context of his having spoken to Mr.
14 Flynn, and all of that, when you look at the entire context,
15 it is leading and suggestive.

16 THE COURT: Overruled.

17 You may answer.

18 BY MR. BUGLIOSI:

19 Q On this particular occasion that you were
20 referring to --

21 THE COURT: Was there an answer to the last question?

22 MR. BUGLIOSI: Was there an answer to that, Mr.
23 Reporter?

24 (The answer was read by the reporter.)

25 BY MR. BUGLIOSI:

26 Q This occasion, ~~with~~ with Johnny Swartz, Tanya,

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1 Lulu, yourself, Sadie and Manson, about what time did they
2 leave that night, referring to Sadie, Mr. Manson and Lulu?

3 A It was dark, dark time.

4 Q Do you have an approximate time?

5 A Oh, I'd say about 9:00 o'clock. Something like
6 that.

7 Q Do you know where they went from there?

8 A No.

9 MR. KANAREK: That is calling for --

10 BY MR. BUGLIOSI:

11 Q Referring again to the night that you saw these
12 seven people get into a car and you said Manson was the
13 driver.

14 Looking back now, Juan, do you feel that the
15 car they entered was a Plymouth or Johnny Swartz's yellow
16 Ford?

17 MR. KANAREK: Ambiguous because of the word "feel,"
18 your Honor, and also calling for a conclusion.

19 THE COURT: Overruled.

20 You may answer.

21 THE WITNESS: It was a yellow Ford.

22 BY MR. BUGLIOSI:

23 Q You are sure about that?

24 A Yes.

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1 Q Incidentally, Juan, when you came out of the
2 cabin at Barker Ranch, the night that you said Manson was
3 creeping up with a knife, were you armed when you came out
4 of the cabin?

5 A Yes. I had a shotgun, yes.

6 Q I believe you testified that you took LSD
7 six, seven or eight times; is that correct?

8 A Yes. Yes.

9 Q Did Manson ever offer you LSD?

10 A Yes.

11 MR. KANAREK; I object, your Honor.

12 Your Honor, would you ask the witness to allow
13 me the courtesy of just the slightest pause? It is an
14 automatic reaction.

15 I understand, I know that he has spoken with
16 Mr. Bugliosi and all of that, but --

17 MR. BUGLIOSI: We have had enough of this, haven't
18 we, Mr. Kanarek?

19 MR. KANAREK: I ask your Honor for that protection,
20 I request that he be told not to answer until there is a
21 chance to object.

22 THE COURT: Delay your answers so that counsel may
23 object to the question.

24 MR. KANAREK: May we approach the bench on this?

25 That subject matter was not gone into on
26 cross-examination, your Honor.

1 THE COURT: The answer will be stricken and the jury
2 is admonished to disregard it.

3 MR. BUGLIOSI: I would ask to reopen direct, your
4 Honor.

5 THE COURT: Let's proceed.

6 MR. BUGLIOSI: Q Did Mr. Manson ever offer you
7 LSD, Juan?

8 A Yes.

9 MR. KANAREK: I object.

10 THE COURT: Sustained.

11 Wait for the ruling.

12 The answer is stricken.

13 The jury is admonished to disregard it.

14 MR. BUGLIOSI: Q You testified on cross-
15 examination, Juan, that silence was among the secret
16 signals of Mr. Manson.

17 Would you explain that, please?

18 A Well, he had all these, you know, things that he
19 did, you know. (Indicating)

20 Q Could you give some examples?

21 A Like this, you know. (Indicating)

22 Q In other words, brushing off his left shoulder
23 with his right hand?

24 A Yes.

25 Q Without saying anything?

26 A Yes.

Q Anything else?

1 A Well, there was some more, but, you know, I
2 didn't understand them.

3 Q You observed him make other types of signals?

4 A Well, occasionally he would say that these
5 signals were, you know, at times, more adequate.

6 Q More adequate?

7 A Yes. To talk to each other, you know.

8 Like going like this, you see. (Indicating)

9 Q Could you explain what you just did right now,
10 Juan?

11 MR. KANAREK: I object, your Honor. Hearsay and
12 conclusion. It is hearsay by conduct.

13 There is no foundation for it, your Honor.
14 It is ambiguous.

15 THE COURT: He is talking about conversation, which I
16 don't understand.

17 Read the question, Mr. Reporter.

18 (The record was read by the reporter.)

19 THE COURT: He may describe what he did, but you
20 will have to lay a foundation for any conversation.

21 MR. BUGLIOSI: All right.

22 Q Would you describe what you just did a little
23 while ago, Juan?

24 A Well, it was something like, you know, "Listen
25 to what is coming, you know." Something to that effect.
26 (Indicating)

1 Q What did you do with your hands?

2 A He would go (indicating).

3 Q You placed your right hand up by your right
4 ear?

5 A Yes.

6 Q And you went in a circle?

7 A Yes.

8 Q And you pointed out with your right index
9 finger straight ahead?

10 A Yes.

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1 Q Did you ever see Manson do that?

2 A Well, he had all these things, you know, that he
3 talked to his people with.

4 Q Talked to what people with?

5 A The Family members.

6 Q Did you understand what all these signals meant?

7 A No. But, you know, I saw him doing them.

8 Q You saw Mr. Manson do this with his Family?

9 A I know one for sure that I know was the one
10 that went like that, (indicating), and then everybody went
11 outside.

12 Q And you saw other signals that Manson made with
13 members of his Family?

14 A Yes.

15 MR. KANAREK: Your Honor, that is assuming facts not
16 in evidence as to the word "signals."

17 All of us, in our human life, in our daily
18 life, talk and make --

19 THE COURT: The objection is sustained.

20 BY MR. BUGLIOSI:

21 Q You saw Mr. Manson make motions like this with
22 his hands in communicating with the Family; is that correct?

23 A Yes.

24 MR. KANAREK: Conclusion, hearsay.

25 MR. BUGLIOSI: He was a percipient witness, your
26 Honor. It is a matter of cross-examination.

5b-2

1 THE COURT: He may describe what he saw.

2 THE WITNESS: Yes, I saw him do these motions.

3 BY MR. BUGLIOSI:

4 Q But you didn't know what he meant by them?

5 A No.

6 The only one I knew was that one.

7 Q The brushing of the shoulder?

8 A Yes.

9 Q When did you first hear the word "program,"
10 Juan?

11 MR. KANAREK: Object, your Honor, on the grounds that
12 it is calling for a conclusion, your Honor.

13 THE COURT: Overruled.

14 You may answer the question.

15 THE WITNESS: When I first got up to the ranch.

16 BY MR. BUGLIOSI:

17 Q Spahn Ranch?

18 A Yes.

19 Q Who did you hear the word "program" from?

20 A From Mr. Manson and members of the Family.

21 Q Did Mr. Manson ever tell you what the word
22 "program" meant?

23 MR. KANAREK: Object, your Honor, on the grounds
24 that it is calling for hearsay and conclusion.

25 It has got nothing to do with this witness's
26 state of mind.

5b-3

1 THE COURT: Overruled.

2 You may answer.

3 THE WITNESS: Well, programmed --

4 BY MR. BUGLIOSI:

5 Q You can answer that yes or no.

6 Did he ever tell you what the word "programmed"
7 meant, Juan?

8 A Yes.

9 Q When did he tell you this?

10 A He told me that a lot of times, you know, since
11 he first got up there.

12 Q Do you remember who was present during these
13 conversations when he discussed the word "program" with
14 you?

15 A Oh, there was members of the Family there.

16 Q Do you remember the specific individuals present?

17 A Most of them, you know. Most of the members
18 of the Family were, you know, at one time or other, you know,
19 when he spoke of these words, of "program."

20 Q What did he say "program" meant?

21 ~~MR. KANAREK: Hearsay, your Honor.~~

22 THE COURT: Overruled.

23 THE WITNESS: Well, it was, you know, what you was
24 taught by society or the system, the upcoming, the upbringing
25 of the children, you see, of a society or a system, you
26 see, you know, like schools and churches and, you know, all

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these things that led to inhibitions, you know, and stuff
like that.

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1 Q What about parents?

2 A Parents, too, you know.

3 Q He mentioned parents?

4 A Yes. Parents have the power to program their
5 children in a very early age to go to school, you see, and
6 this program consisted of, you know, the program to have
7 the children giving their consent or accept a society or a
8 system that was approved by their parents, you see.

9 Q Did Mr. Manson ever mention the word "un-
10 programmed" to you?

11 MR. KANAREK: Object, your Honor. Conclusion,
12 hearsay and no foundation.

13 THE COURT: Overruled.

14 THE WITNESS: Yes.

15 MR. BUGLIOSI: Q What did he tell you
16 "unprogrammed" meant? ↑ ↑

17 MR. KANAREK: Hearsay, your Honor.

18 THE WITNESS: Well --

19 THE COURT: Just a minute.

20 Will counsel approach the bench.

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

24 THE COURT: What is the relevancy of all this,
25 Mr. Bugliosi?

26 MR. BUGLIOSI: The relevance goes towards domination;

1 that Manson is telling him --

2 THE COURT: Well, if there is some conversation that
3 you are trying to get to, there is no point in getting in
4 the definition if it doesn't lead to something.

5 MR. BUGLIOSI: I am telling the Court right now ^{what} it is
6 leading to.

7 It is his domination over the Family, your
8 Honor.

9 THE COURT: Well, let's get to something that is
10 admissible.

11 MR. BUGLIOSI: It relates --

12 THE COURT: I am not interested in a definition.
13 I am trying to find out from you. Are you making an offer
14 now that there is some conversation in which these words
15 were used that is relevant?

16 MR. BUGLIOSI: Yes.

17 THE COURT: What was the conversation?

18 MR. BUGLIOSI: The conversation is telling Flynn that
19 he, Manson, had to unprogram these people in the Family,
20 get rid of all their inhibitions, get rid of all their
21 wants, so they just had nothing left.

22 THE COURT: When did this conversation take place?

23 MR. BUGLIOSI: I will lay a foundation. I think he
24 will say that he told him this many times.

25 THE COURT: You are going to have to lay a specific
26 foundation for the conversation. Then, if it is admissible,

1 you can get into the definition. But you are doing it in
2 reverse. I haveno way of knowing --

3 MR. BUGLIOSI: I am making an offer of proof.

4 THE COURT: -- whether the definition in the context
5 in which you are bringing it in is relevant or not.

6 If there is a conversation to which it relates
7 that is admissible, it may be.

8 MR. BUGLIOSI: The conversation now that he will
9 relate is that Manson told him that he had to unprogram
10 these people in the Family and get rid of all their
11 inhibitions, all of their restraints.

12 THE COURT: Let's get the conversation first, and
13 then you can bring in the definition.

14 MR. BUGLIOSI: All right.

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1 MR. KANAREK: I object to the offer of proof, your
2 Honor, and I submit that all of this as to the counts that
3 are in the indictment, your Honor, the prejudicial value
4 far outweighs any probative value, and it is hearsay.

5 THE COURT: I take it you contend that it is circum-
6 stantial evidence of the conspiracy, the domination of
7 Mr. Manson over the Family; is that right?

8 MR. BUGLIOSI: Yes.

9 And furthermore, the argument is that in
10 unprogramming these people in the Family, he was programming
11 them for himself, under the guise of unprogramming them,
12 releasing their restraints, releasing their inhibitions.

13 MR. SHINN: Your Honor, may this be limited to the
14 declarant?

15 MR. KANAREK: Your Honor, if I may, I'd like to
16 object on the grounds it really is calling for psychological
17 and psychiatric analysis.

18 THE COURT: It is calling for conversation.

19 Let's get on with the trial.

20 (Whereupon all counsel return to their
21 respective places at the counsel table and the following
22 proceedings occur in open court within the presence and
23 hearing of the jury:)

24 BY MR. BUGLIOSI:

25 Q Mr. Flynn, do you remember when Mr. Manson
26 discussed unprogramming with you?

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1 A He discussed that. He brought up the subject
2 a lot of times, you know.

3 Q Well, did he discuss unprogramming around the
4 same time that he spoke of programming?

5 A Well, I would usually bring a point out, you
6 know, and he would bring a point out and talk about it,
7 like --

8 Q Without going into the conversation now, Juan,
9 we are trying to determine when, approximately when, Manson
10 spoke to you about unprogramming.

11 A Well, in the conversations that he brought up
12 programming.

13 Q All right.

14 So the unprogramming talk came up in the same
15 conversations when he was talking about programming?

16 A Yes. Yes.

17 Q And he mentioned unprogramming many times; is
18 that correct?

19 A Yes.

20 Q During the period that you were at Spahn Ranch?

21 A Yes.

22 Q And again, Juan, you don't remember exactly
23 who was present during these conversations?

24 A Yes.

25 Q What did Mr. Manson say about unprogramming?

26 MR. KANAREK: Hearsay, your Honor. Improper foundation.

1 MR. SHINN: Hearsay as to Susan Atkins.

2 MR. KANAREK: Calling for a conclusion.

3 THE COURT: Overruled.

4 You may answer. ↓ ↓

5 THE WITNESS: He said that, you know, to unprogram
6 yourself you have to get rid of all the ego, you know.

7 BY MR. BUGLIOSI:

8 Q Ego?

9 A Ego, you know. All the wants, you know, that
10 you had, and give up your mother and father, you know, and
11 get rid of all the inhibitions, you know, and just blank
12 yourself out. ↑ ↑

13 MR. KANAREK: I ask that that be stricken, your Honor.
14 It appears not to be Mr. Manson's --

15 THE COURT: Motion denied.

16 BY MR. BUGLIOSI:

17 Q Did Mr. Manson say how to accomplish this
18 unprogramming?

19 MR. KANAREK: Calling for a conclusion, leading and
20 suggestive, your Honor.

21 MR. BUGLIOSI: How to accomplish it, your Honor.

22 THE COURT: It doesn't seem to relate to the offer
23 of proof.

24 MR. BUGLIOSI: Pardon?

25 THE COURT: It does not seem to relate to your offer
26 of proof.

1 MR. BUGLIOSI: I was making an offer of proof as to
2 that limited point. Now I am going beyond that.

3 THE COURT: I am going to sustain the objection.
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1 MR. BUGLIOSI: Q Did Mr. Manson say he did
2 anything with the girls in his family to unprogram them?

3 MR. KANAREK: Ambiguous, your Honor. Calling for a
4 conclusion, leading and suggestive.

5 MR. SHINN: Irrelevant and immaterial.

6 THE COURT: Overruled.

7 You may answer.

8 THE WITNESS: Yes.

9 MR. BUGLIOSI: Q When did he say this?

10 A Well, he said that to me a lot of times.

11 Q At Spahn Ranch?

12 A Yes.

13 Q Do you know who was present when he said it
14 to you?

15 A Well, I can't remember the members, you know,
16 but I know that I was there.

17 Q What did he say?

18 MR. KANAREK: Hearsay, your Honor.

19 THE COURT: Overruled.

20 THE WITNESS: Well, he says, you know, to get rid of
21 the inhibitions, you know, you could, you know, just take a
22 couple of girls, and, you know, have them lay down, you
23 know, and have them eat each other, or for me to take a
24 girl up in the hills, you know, and let her suck my dick
25 all day long; something like that, you know, just lie back.

26 Q So, he told you then --

1 MR. KANAREK: Your Honor, may we approach the bench,
2 your Honor?

3 THE COURT: Very well.

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

7 MR. KANAREK: Your Honor, I ask that that last answer
8 be stricken and the jury be requested not to consider it.

9 And mere admonishment not sufficing, I must ask
10 for a mistrial.

11 THE COURT: It doesn't sound responsive. I am going
12 to do this, Mr. Bugliosi.

13 I think we are just wasting time.

14 MR. BUGLIOSI: Wasting time that he had the girls in
15 the Family copulate each other to release their inhibitions,
16 to release their wants?

17 Manson is the one that made this evidence, your
18 Honor, not I. I am presenting it.

19 THE COURT: That isn't what the answer was, though.

20 MR. BUGLIOSI: That is what he was referring to, about
21 the girls in the Family.

22 MR. KANAREK: Your Honor, if you take every criminal
23 defendant and go into his life and the gutter talk he may
24 have used in his life, if you go into anyone's life, all of
25 us, perhaps, on occasions in our lifetime, use language,
26 and if the law allows this kind of garbage to damn a man,

1 then it is a very sad day for all of us.

2 THE COURT: It isn't the fact that it is garbage. I
3 just don't see that the answer was responsive.

4 I am going to strike it and admonish the jury
5 to disregard it.

6 Now, let's get on to something else. We are
7 wasting time.

8 You are creating more problems with your redirect.
9 Mr. Bugliosi.

10 MR. BUGLIOSI: I think it is very relevant, your
11 Honor.

12 MR. HUGHES: I wish to join in the motion.

13 MR. SHINN: Join in all the motions at the bench.

14 MR. KANAREK: May I then make a motion for a mistrial?

15 THE COURT: Denied.
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(Whereupon all counsel return to their respective places at counsel table and the following proceedings occur in open court within the presence and hearing of the jury:)

THE COURT: The last answer is stricken, ladies and gentlemen, and the jury is admonished to disregard it.

MR. BUGLIOSI: What portion of the answer?

THE COURT: The entire answer.

BY MR. BUGLIOSI:

Q Did Mr. Manson discuss with you -- without going into what he said, Juan -- plans that he had to unprogram the people in the Family?

MR. KANAREK: Leading and suggestive.

MR. BUGLIOSI: I am not going into the conversation, your Honor.

THE COURT: You may answer.

THE WITNESS: Yes.

BY MR. BUGLIOSI:

Q Were you aware of any car belonging to Johnny Swartz, Juan, other than the yellow Ford?

A Yes.

Q What car was that?

A There was a red Ford.

Q Do you recall speaking to Sergeant Sartucci on August the 18th, 1970, Juan?

A Yes.

1 Q At the Los Angeles Police Department?

2 A Yes.

3 Q And he asked you some questions?

4 A Yes.

5 Q And you answered his questions?

6 A Yes.

7 Q About how long did you talk to Sergeant Sartucci?

8 MR. KANAREK: That is ambiguous, your Honor.

9 Are we now referring to the time of the colloquy
10 when it was taken down, or previous?

11 MR. BUGLIOSI: Referring to the conversation at the
12 Los Angeles Police Department.

13 Q How long did you talk to him on that occasion?

14 A I'd say ten, fifteen, twenty minutes. Something
15 like that.

16 Q After you spoke to him, Juan, did you then come
17 over and talk to me?

18 A Yes.

19 Q How long did you talk to me?

20 A About an hour, an hour and a half.

21 Q In my office?

22 A Yes.

23 Q When you spoke to me, did you tell me about
24 Manson placing the knife at your throat and telling you
25 that he was the one who was doing all these killings?

26 MR. KANAREK: I object on the grounds of hearsay.

1 MR. BUGLIOSI: This is exactly what they have gone
2 into. They are the ones that raised this issue.

3 THE COURT: Overruled.

4 You may answer.

5 THE WITNESS: Yes.

6 BY MR. BUGLIOSI:

7 Q You told me?

8 A Yes.

9 Q When you told me that, did you tell me that at
10 some previous time you had told some officer up at
11 Shoshone the same thing?

12 MR. KANAREK: Objection, your Honor. Calling for
13 hearsay, conclusion.

14 THE COURT: Sustained.

15 MR. BUGLIOSI: I expect a negative answer to that.

16 THE WITNESS: Yes. Up at Shoshone --

17 THE COURT: Just a moment.

18 Wait until the Court rules before you give
19 your answer.

20 The answer is stricken and the jury is
21 admonished to disregard it.

22 The objection is sustained.

23 BY MR. BUGLIOSI:

24 Q You told some officer up in Shoshone the
25 same thing, Juan?

26 MR. KANAREK: I object on the grounds of hearsay.

1 THE COURT: Sustained,

2 THE WITNESS: Yes.

3 THE COURT: Mr. Flynn, did you hear what I said
4 to you a moment ago?

5 Do not answer when I sustain an objection.

6 The jury is admonished to disregard it.

7 The answer is stricken.

8 Let's get on with it, Mr. Bugliosi.

9 BY MR. BUGLIOSI:

10 Q Earlier in the day, when you were with
11 Sergeant Sartucci, before you had the conversation with
12 him over at the Los Angeles Police Department, what did
13 you and Mr. Sartucci do?

14 A We went around to some houses that Mr. Manson
15 had asked me about, you know.

16 Q This is what you and Mr. Sartucci did earlier
17 in the day?

18 A Yes.

5g fls.

Q You directed him to certain homes?

A Yes.

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

I hate to interrupt.

THE COURT: Are you making an objection?

MR. KANAREK: Yes, your Honor.

THE COURT: Sustained.

MR. KANAREK: Would your Honor request the jury not to consider those questions?

THE COURT: The answer is stricken. The jury is admonished to disregard it.

MR. BUGLIOSI: Your Honor, Mr. Kanarek is the one that brought this all up on cross-examination, what they did earlier in the day.

THE COURT: Ask your next question.

MR. BUGLIOSI: My question was: What did they --

THE COURT: I don't want to hear any argument, Mr. Bugliosi.

MR. BUGLIOSI: May I approach the bench?

THE COURT: Yes. Very well.

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

MR. BUGLIOSI: I'm sorry, your Honor, but if he brings up garbage on cross-examination, I am going to bring up more

garbage on redirect.

1 THE COURT: No, you are not.

2 MR. BUGLIOSI: If it is applicable, your Honor.

3 THE COURT: You are not going to if I am not going to
4 let you.

5 MR. BUGLIOSI: I am going to try to, your Honor.

6 He is the one that brought up the fact that they
7 talk --

8 THE COURT: I have a job not only to see that the
9 defendants have a fair trial but to see that the People have
10 a fair trial, and I am not going to let you sabotage your
11 own case.

12 MR. BUGLIOSI: Your Honor, he brought up this fact
13 that Juan Flynn spent the whole day in conversation with
14 Mr. Sartucci.

15 THE COURT: All right.

16 MR. BUGLIOSI: In conversation with Sartucci.

17 He brought it up.

18 I mean, he said that he had conversation with
19 Sartucci all day.

20 Then he said: Later that night you went over
21 and had a conversation with Sartucci, and he incorporated
22 what you had talked about into this conversation.

23 Now, the inference being that if he and
24 Sartucci spoke the entire day, surely Mr. Flynn would have
25 mentioned to Sartucci the knife incident.
26

1 I am bringing out that they didn't have that
2 type of a conversation; that during the day they didn't
3 have a conversation about what Manson did to him, but they
4 spent their time --

5 THE COURT: You didn't ask him that. You started off
6 on some tangential area that had nothing to do with cross
7 or direct.

8 MR. BUGLIOSI: I was leading up to the fact that they
9 were spending their time driving around looking for homes.

10 THE COURT: I don't want to have constant conferences
11 at the bench. Keep your direct within the bounds of the
12 rules and we won't have any problem.

13 As I said before, you are creating more
14 problems with your redirect.

15 MR. BUGLIOSI: If Mr. Kanarek hadn't made it so
16 obvious, your Honor.

17 THE COURT: I didn't think it was obvious.

18 MR. BUGLIOSI: The context of the cross-examination
19 is: How come, Mr. Flynn, you didn't tell Sartucci about
20 the knife incident.

21 THE COURT: You are not going to get at it this way.
22 Let's get on.

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

Q Juan, you were arrested on August 16th, 1969; is that correct?

A Yes.

Q For grand theft auto?

A Yes.

Q And you were released shortly thereafter, a couple of days later?

A Yes.

Q In addition to that arrest, you have also been arrested for being drunk on one occasion?

A Yes.

Q And also driving without a license?

A Yes.

Q Have you ever been arrested other than that?

A No.

MR. BUGLIOSI: No further questions.

THE COURT: Recross?

MR. FITZGERALD: Yes, your Honor.

5h-2

RE CROSS-EXAMINATION

BY MR. FITZGERALD:

Q Mr. Flynn, you previously testified that you are six foot five inches tall and you weigh 187 pounds and you are 26 years of age; is that correct?

A Yes.

Q What is the state of your general physical condition? Are you in good health? Bad health?

A I could say good health.

Q Were you, at one time, a light-heavyweight boxer in the State of Alaska?

A Well, I did some boxing up there, you know.

Q Do you consider yourself to be a man of rather tremendous strength, physical strength?

A Well, just as capable, you know.

Q Do you consider yourself to be a strong man, Mr. Flynn?

A Well, I have been knocked down before, you know. That is my strength. I just fall like any other human.

Q Directing your attention to the summer months of 1969. Was there a person by the name of Bruce Davis living at the Spahn Ranch?

A When?

Q During the summer months of 1969.

A What is the summer months?

Q May, June, July, August, September.

1 A Was Bruce Davis there?

2 Q Yes.

3 A I am pretty sure I saw him there. I saw him
4 there.

5 Q During the summer months of 1969, did you have
6 occasion to pick Mr. Davis up by one hand and throw him on
7 his back?

8 MR. BUGLIOSI: Irrelevant.

9 THE COURT: Overruled.

10 THE WITNESS: During the summer months?

11 BY MR. FITZGERALD:

12 Q Any time during the year 1969.

13 A I don't say I picked him up by my hand.

14 Q The answer is no, then; correct?

15 A No, yes. No.

16 Q During the course of your military service in
17 Vietnam, did you have occasion to kill people?

18 A Well, I wouldn't want to discuss that with you.

6 fls.

Q No?

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

MR. FITZGERALD: I am not going to ask you any --

THE COURT: Sustained.

MR. FITZGERALD: If I may be heard, I think it's relevant in terms of his state of mind in regard to the threats he's received, your Honor.

THE COURT: Sustained.

Q BY MR. FITZGERALD: Now, without getting into the identity of the persons that came and talked to you while you were chopping wood, let me ask you these questions: Was one person a male person?

A Yes.

Q Was he approximately five feet, six inches tall?

A Well, I wouldn't say how high he was. I know when I looked at that person, you know, how high he is.

Q Are you able to estimate his height in terms of feet or inches?

A If I stand up.

Can I stand up and show you?

Q You may.

A About this tall (indicating).

Q He comes up to just below your shoulder, the top of his head?

A Well, about this tall (indicating).

1 Q About even with your shoulders?

2 A Yes.

3 Q Does he weigh approximately 125 pounds?

4 A I don't know his weight.

5 Q Are you able to estimate the weight of other
6 people?

7 A I'm able to describe him, you know.

8 Q This person had a nickname, did he not?

9 And that question can be answered yes or no?

10 A Is this a male?

11 Q A male.

12 A Yes. Well, I just know one name, you know.

13 Q Was part of his name Little? like Little Joe,
14 Little Ralph, something like that? Was he referred to as
15 Little?

16 A I'm not sure.

17 Q Directing your attention to the female person
18 who was with him, was she approximately five foot one inches
19 tall?

20 A Can I stand up again?

21 Q Yes, you may.

22 A About this tall (indicating).

23 Q Shoulder again?

24 A No, about this tall (indicating).

25 Q Approximately the same height as the male
26 person?

1 A Yes.

2 Q Does she weigh approximately 100 pounds?

3 A I don't know.

4 Q You are unable to determine that?

5 A (No response.)

6 Q How were these people armed, if they were,

7 Mr. Flynn?

8 A With knives.

9 Q They had those knives displayed?

10 A Yes.

11 Q Pointed at you?

12 A Well, one was in the purse, you know, and --
13 you know, they had it displayed, they showed.

14 Q And you previously testified that you were afraid
15 of people because you were living at the ranch; is that
16 right?

17 A Well, because I was living at the ranch?

18 Q Yes.

19 A Well, that's -- you know, I took my precautions.

20 Q Yesterday you testified that your state of
21 mind was such that you were staying at the ranch and you
22 felt threatened?

23 A Yeah.

24 Q Was there anything wrong with your legs during
25 that period of time, Mr. Flynn?

26 A With my legs?

1 Q With your legs.

2 A I don't remember.

3 Q You could have walked away from the ranch,
4 couldn't you?

5 A Yeah.

6 Q Now, do you recall the dates you were given
7 these notes?

8 A No.

9 Q How do you know these notes were washed?

10 A Because I was looking for them, you know, and,
11 you know, the person that washed them told me.

12 Q What did that person say?

13 A Well, that, you know, I was looking for my notes,
14 you see. I was looking for some long pants so I could go
15 out somewhere, you know. And they said that they washed
16 the pants, you know, and found some papers in them, they
17 said.

18 Q Do you have the washed-out notes?

19 A No, I don't think so. I might. I don't know.
20 They were in pretty bad shape, she said, you know.

21 Q How long did you have the notes before you
22 had them washed?

23 A Well, I can say a date, you know, that -- you
24 see, when Mr. -- there was an officer that came down there
25 to talk to Larry Jones, you see. And then I asked about
26 my notes, you know, and that was about the time that they

1 got washed, you see.

2 Q How long a period of time did you have the
3 notes before they were washed in terms of days, weeks,
4 or months?

5 A I just had them a good while.

6 Q Months?

7 A A good -- months, yeah.

8 Q You were arrested by Sergeant Sartucci on
9 August 16th or 17th of 1979, were you not?

10 A This year?

11 Q Yes, this year.

12 A Yeah.

13 Q When Mr. Bugliosi asked you if you were
14 arrested, when you were arrested you didn't say you were
15 arrested by Sergeant Sartucci, did you?

16 A I didn't say that. I said I was arrested.

17 Q Is there some reason you omitted telling us
18 about the arrest by Sergeant Sartucci?

19 A Is there some reason I admit to you?

20 Q Is there some reason you failed to tell us
21 that when you were asked the question by Mr. Bugliosi
22 about your arrests?

23 A Well, I just -- I was just asked if I been
24 arrested.

25 Q Did you forget that arrest?

26 A You never forget when you go in jail, you know,
the many times and long hours that you spend in there.

6a-1

1 Q And that's your most recent arrest, is it not?

2 A Yes.

3 Q Did the fact you were under arrest have anything
4 to do with the statement you gave to Sergeant Sartucci?

5 A To tell you the truth --

6 Q Please do.

7 A -- I was -- I told them to arrest me and I
8 showed them the ticket that I had and I wanted to be
9 arrested. Because I felt, you know, very much, you know,
10 in need of protection, you see, I felt very much in need
11 of protection, so I asked, you know, to be arrested. And
12 I showed them and I says, "Look up my warrant, you know,
13 and look up whatever books," big stack that big, you know.
14 "But I want to be arrested because, you know, I need it,
15 you know."

16 MR. FITZGERALD: Nothing --

17 THE WITNESS: That's why.

18 MR. FITZGERALD: Nothing further. Thank you.

19 THE COURT: Mr. Shinn, any questions?

20 MR. SHINN: Yes, your Honor.

21
22 RECROSS-EXAMINATION

23 BY MR. SHINN:

24 Q Mr. Bugliosi asked you about your service.
25 You stated that you were in the Service for three and a
26 half years, three years?

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A Three years.

Q Was that the Infantry?

A Yes.

Q And I believe you stated that you went overseas?

A Yes.

Q And when did you go overseas?

A Well, I went overseas from Alaska, I guess it was in '66.

Q And from '66 to what date were you overseas?

A Until I got back.

Q When was that? approximately three years, two years?

A 11 months and 29 days.

Q You were overseas for 11 months approximately, now; is that correct?

A And 29 days.

Q And 29 days, pardon me.

Now, were you in Vietnam at this time, all the time?

A 11 months and 29 days. And I spent seven or eight days in China and Teipei.

Q And were you in the Infantry?

A Yes.

Q In other words, you were in actual combat?

A Yes.

Q Do you know whether or not you killed any

6a-3

1 Viet Cong or --

2 A I wouldn't want to discuss that with you.

3 MR. BUGLIOSI: Irrelevant, your Honor.

4 MR. SHINN: Your Honor, may I approach the bench
5 on this matter, your Honor?

6 THE COURT: Sustained.

7 MR. SHINN: Goes to impeachment, your Honor.

8 THE COURT: Ask your next question.

9 BY MR. SHINN:

10 Q Now, does the fact that you have been overseas
11 in combat have anything to do with you testifying in court
12 today?

13 A (No response.)

14 Q Do you understand the question?

15 A No.

16 Q You went overseas?

17 A Yes.

18 Q Combat, correct?

19 A I went overseas.

20 Q Yes, combat. Combat duty.

21 Now, does that fact have anything to do with
22 you testifying in this case?

23 A I don't see any link between --

24 Q There is no connection?

25 A I don't see any connection between me being
26 there and then coming back and being in this trial answering

6a-4

1 you, you see. I don't understand you, Mr. Shinn.

2 Would you repeat the question?

3 Q You don't understand the question, in other
4 words, correct?

5 A No. No. Would you repeat it?

6 Q Okay.

7 Now, you went overseas in combat?

8 A Yes.

9 Q And you came back and you felt sorry.

10 Did you feel sorry that you went to combat?

11 MR. BUGLIOSI: It's irrelevant.

12 MR. SHINN: Goes to state of mind, your Honor, as
13 to what he's testifying.

14 THE COURT: Sustained.

15 BY MR. SHINN:

16 Q The fact that you went overseas in combat,
17 I asked you whether or not that had anything to do with
18 you testifying against Mr. Manson and the defendants in
19 this case?

20 A Well, I can't link Vietnam with these -- you
21 know.

22 Q In other words, your answer is no?

23 A Would you repeat the question?

24 MR. SHINN: May the question be read back, your Honor?

25 THE WITNESS: See, it just doesn't make sense to me,
26 you know, see.

6a-5.

1 MR. SHINN: Well, maybe I can clear this up, then.

2 Q Do you recall the time that you and I and a
3 couple of girls went to visit Mr. Manson in jail? Do you
4 recall that?

5 A Yes.

6 Q Well, that was approximately about, what,
7 August 16th or the 17th, 1970?

8 A By those girls, you mean Pearl?

9 Q No. Those other girls. We went up -- I think it
10 was Lynne Fromme or Sandy Good, you and I, went to visit
11 Charlie.

12 A (No response.)

13 Q Maybe I can pinpoint this a little closer.
14 You were arrested by Sergeant -- what is his
15 name? -- Sartucci.

16 A Would you repeat that last question that you
17 asked me?

6b fls.

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1 MR. SHINN: Well, may I withdraw those other
2 questions and try to pinpoint the time for him, your Honor?

3 THE COURT: Go ahead.

4 Q BY MR. SHINN: Now, do you recall when you were
5 arrested by Sergeant -- that was August 16th you were
6 arrested, correct? 1970, now, not 1969. This year.

7 A Yeah.

8 Q You were arrested by the sergeant --

9 A Yes.

10 Q -- that you talked to for a long time?

11 A Yes.

12 Q Was it August 18th or the 16th, do you know,
13 when you were arrested by Sergeant --

14 A Well, it was, you know -- I just got arrested.

15 Q Sometime in August?

16 A Yes.

17 Q Now, was this before you talked to Mr. Manson,
18 or after? Was it very close to that date?

19 A It was close.

20 Q Very close. I believe it was after we talked
21 to Mr. Manson.

22 A That I got arrested?

23 Q Yes.

24 A Could have been, yes.

25 Q Do you recall the conversation you had with
26 Mr. Manson in the County Jail when you visited him about the

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1 Viet-Nam war and why you had to testify?

2 A Why I had to testify?

3 Q Yes. Do you recall that conversation you had
4 with Mr. Manson when I was present?

5 A No. No.

6 Do you recall it?

7 Q You don't recall telling Mr. Manson that you felt
8 remorseful or sorry because you had to go to war and kill
9 people?

10 MR. BUGLIOSI: It's irrelevant, your Honor. This is
11 not impeachment of anything.

12 MR. SHINN: Yes, it is, your Honor.

13 MR. BUGLIOSI: Impeachment of what?

14 MR. SHINN: This goes to --

15 MR. BUGLIOSI: It's not impeachment.

16 THE COURT: Objection is sustained.

17 Q BY MR. SHINN: Do you recall any of the
18 conversation you had with Mr. Manson?

19 A Well, talking with Mr. Manson, you know, in most
20 of the conversations, you know, maybe it's that I didn't
21 have an opportunity to understand him.

22 THE COURT: Now, you are not answering the question,
23 Mr. Flynn.

24 MR. SHINN: I asked him --

25 MR. KANAREK: Your Honor, may that last statement --
26 may the jury be admonished to disregard it?

1 THE COURT: Matter is stricken. The jury is
2 admonished to disregard it.

3 Listen to the question. You can answer that
4 you remember the conversation or you don't.

5 Q BY MR. SHINN: Do you recall some or all of the
6 conversation you had with Mr. Manson on or about August --
7 I believe it's 16th or 17th in New County Jail while I was
8 present?

9 A This is the building that you are speaking of,
10 huh?

11 Q Yes. We went up to the tenth floor. It was
12 around 7:00 o'clock at night.

13 Do you recall you, me, and another girl
14 visiting Mr. Manson? Do you remember that time?

15 A I remember one time that I came down here with
16 Ruby Pearl and Miss Kwan.

17 Q Who?

18 A Well, some -- just some other woman. Another
19 woman, you know. Two women and I came down here at the
20 request of Mr. Manson; you see, to have Pearl come down here
21 and see him, you see. And I wasn't going to go up, you
22 see, then, because I didn't have enough proof of I.D.
23 And so Mr. Kanarek, you know, asked me to go, you know, and
24 he could furnish the proper I.D. for me to go up and see
25 Mr. Manson.

26 Q Well, you did go up, didn't you?

1 A Yes.

2 Q And I was there, too, do you remember?

3 A Yes.

4 Q And you talked with Mr. Manson for about
5 approximately one hour, correct?

6 A I'd say about 20 minutes, something like that.

7 Q You say 20 minutes?

8 A Yeah, 20 minutes, 30 minutes, something like
9 that.

10 Q Okay. Now, my question is do you recall a
11 conversation you had with Mr. Manson, any part of it, or
12 all of the conversation?

13 A Well, yes, yes.

14 Q Would you relate some of the conversation
15 you had?

16 MR. BUGLIOSI: Well, if he can relate the whole
17 conversation, your Honor. "Some" is ambiguous.

18 MR. SHINN: Of what he can remember, your Honor. I'm
19 not asking him to relate word for word what he said.

20 MR. BUGLIOSI: Do you want the whole conversation?

21 MR. SHINN: What he remembers, yes.

22 MR. BUGLIOSI: Actually, your Honor, I have no
23 objection to the entire conversation coming in. But it
24 would seem to be hearsay.

25 THE COURT: Well --

26 MR. BUGLIOSI: And also irrelevant.

1 THE COURT: Objection sustained.

2 You may ask him about specific portions of the
3 conversation.

4 Q BY MR. SHINN: Do you recall the part of the
5 conversation you had about the Viet-Nam war?

6 MR. BUGLIOSI: That's irrelevant.

7 MR. SHINN: I'm asking if he remembers.

8 THE COURT: Overruled. You may answer.

9 THE WITNESS: Yes.. I could have mentioned something,
10 you know, but I don't remember, you know.

11 Q BY MR. SHINN: You could have mentioned some-
12 thing about the war; is that correct?

13 A Yes.

14 Q And did you also talk about a crossbow?
15 Do you know what a crossbow is?

16 A Yes.

17 Q What is a crossbow?

18 A Well, a crossbow is something like this, you
19 see (indicating). You see, it has two ends, like that
20 (indicating), you know. And it's something like a bow,
21 you know. Only it's got an extra piece of stick like this,
22 you know. And it's got a trigger, you know.

23 Q What do you use it for? to kill people or
24 animals or what?

25 A It's a very primitive weapon, you know. They
26 find all kinds of uses for it, you know.

1 Q And during this conversation you had with
2 Mr. Manson, there was no discussion about these threats on
3 your life, was there?

4 A Well, one -- I think there was something, you
5 know, about the treatment. There was a conversation.

6 Q But you visited Mr. Manson after you received
7 these threatening letters and phone calls, correct?

8 A Well, let's see. There was one threat, you know,
9 about two weeks ago, something like that.

10 Q Well, my question is, when you visited
11 Mr. Manson in August --

12 A Yes.

13 Q -- on or about August 16th, 1970 --

14 A Yes.

15 Q -- that's about a couple of months ago, month
16 and a half ago --

17 A Yes.

18 Q -- you made no mention about the threats to
19 Mr. Manson; is that correct?

20 A Well, I didn't, you know. But certain points
21 were brought out, you see, on the Spahn's incidents.

22 Q And you didn't tell me about these threats
23 either, did you?

24 A I mentioned to you and Mr. Kanarek as you was
25 leaving, you know.

26 Q As who was leaving?

1 A As you was leaving and Mr. Kanarek, at the
2 bottom of the elevator, you see. Because Mr. Kanarek said
3 that I was his friend and I says, "If you want me to be
4 your friend ask Mr. Manson about the incident up at the
5 Barker Ranch." You see.

6 You remember that, don't you, Mr. Shinn?

7 MR. KANAREK: Your Honor, I ask that that be stricken
8 on the ground that it has nothing to do with threats, your
9 Honor. The Barker Ranch has nothing to do with what these
10 threats are. But obviously -- that goes back to --

11 DEFENDANT MANSON: See, your Honor, I'm no better
12 than this man's emotions.

13 THE COURT: All right. That will be enough,
14 Mr. Manson.

15 The motion is denied.

16 THE WITNESS: And -- can I?

17 MR. SHINN: There is no question pending.

18 MR. BUGLIOSI: Wait a while. He says "and." He's
19 going into a new clause.

20 MR. SHINN: Well, your Honor --

21 MR. BUGLIOSI: He should be permitted to finish his
22 sentence.

23 MR. SHINN: He hesitated about 30 seconds.

24 THE COURT: Had you completed your answer?

25 THE WITNESS: No, sir.

26 THE COURT: Do you know what the question is?

1 THE WITNESS: Yes, sir.

2 After going to see Mr. Manson -- would you read
3 the answer, please?

4 MR. SHINN: The question, not the answer.

5 THE WITNESS: The question.

6 THE COURT: Go to your next question.

7 MR. SHINN: Yes, your Honor.

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6b-1

BY MR. SHINN:

Q While visiting Mr. Manson, you were very friendly with Mr. Manson, were you not?

A Well, I don't hate the man.

Q Well, you had a friendly good conversation, did you not?

A Well, we talked.

Q Yes.

A Yes.

Q You were laughing and Mr. Manson was laughing?

A Yes. I like to smile, yes.

Q Now, you stated that you never heard the word "program" until you met Mr. Manson; is that correct?

A Well, the effect --

Q My question is, did you hear the word "program" before you met Mr. Manson?

A Yes.

Q Do you know how to spell "program"?

A P-r-o-g-a-m (sic). And programmed, e-d. Something like that.

Q Well, I believe that when Mr. Bugliosi asked you if you knew the meaning of the word "program," or heard of the word "program," before, you said no.

A Well, the effect that Mr. Manson -- you see -- you see, if you say "program," you know, then you have program, you see. If you say "program," and you show

6c-1

1 what you want, you see, on program, then you have program
2 to what you want, the effect that it serves.

3 Q In other words, you knew the meaning of
4 "program," and you heard the word "program," before you met
5 Mr. Manson, then; is that correct?

6 MR. BUGLIOSI: It's ambiguous. There are many words
7 that have 18 definitions, your Honor. And what definition
8 is he talking about?

9 THE COURT: Overruled.

10 THE WITNESS: May I answer?

11 THE COURT: You may answer.

12 THE WITNESS: Well, I've heard of television
13 programs.

14 BY MR. SHINN:

15 Q And how about when you were in the Service?
16 did they ever say to you the program for the day is so and
17 so?

18 A I don't know if they used that word in the
19 Service.

20 Q You never heard the word "program" in the
21 Service?

22 A Well, I could have. You see, I've heard the
23 word in the English vocabulary, you see, the spoken
24 English, you know. I've heard the word "program."

25 MR. SHINN: No further cross.

26 THE COURT: Mr. Kanarek, any questions?

6c-2

1 MR. KANAREK: Yes, your Honor.

2
3 RECROSS-EXAMINATION

4 BY MR. KANAREK:

5 Q Mr. Flynn, you speak English well enough. You
6 can spell these words like "program" and so forth, right?

7 A Well, I'm not as capable of -- to do a very
8 good job of it, but I understand English as well as I do.

9 Q Well, then, Mr. Flynn, will you tell me, when
10 Mr. Shinn just a couple of minutes ago asked you about
11 threats at the time you went to visit Mr. Manson in the
12 jail, why did you mention the Barker Ranch, Mr. Flynn?
13 That has nothing to do -- we are talking about threats
14 in connection with this trial and you know it.

15 A Because we discussed that, me and Mr. Manson,
16 when we -- when I was up there at jail. And I mentioned
17 to him that I had -- you see, this is the conversation that
18 Mr. Shinn was asking me, if I had any type of conversation
19 with Mr. Manson. And I discussed, you know, the time of
20 the Barker Ranch with Mr. Manson.

21 Q But, Mr. Flynn, you know very well, sitting
22 there in that witness stand, that the threats that we're
23 talking about have to do with threats since Mr. Manson's
24 been arrested and have nothing to do whatsoever with the
25 Barker Ranch. You know that.

26 MR. BUGLIOSI: It's a compound question, argumentative;

6c-3

1 also a misstatement, your Honor.

2 THE COURT: Sustained.

3 BY MR. KANAREK:

4 Q Now, Mr. Shinn asked you -- now, I'll withdraw
5 that. I'll ask you.

6 At the time you visited Mr. Manson in the jail,
7 that was later than the time that you say you got these
8 threats, right?

9 A Some of the threats, yes.

10 Q Well, I'm talking about -- all right. Let me
11 ask you:

12 After this case, after Mr. Manson was arrested,
13 between the time that Mr. Manson was arrested and the time
14 that you visited him in the jail, you say you got threats,
15 right?

16 A Right.

17 Q And when you visited him in the jail you walked
18 into jail on your own two feet, right?

19 A Well, I --

20 Q Did you walk --

21 A Yes, yes.

22 Q All right. Did you sign a piece of paper
23 wherein you became a visitor in the County Jail?

24 A Yes.

25 Q And you knew you were coming down there to
26 talk to Mr. Manson, right?

6c-4

1 A Yes, yes.

2 Q And that was after the date that you say you
3 got these threats, right?

4 A Would you repeat that last question?

5 Q Be glad to, Mr. Flynn.

6 You don't understand the last question?

7 A Would you repeat it? I didn't hear you too well.

8 Q All right. Do you have a problem with your ears?

9 A No.

10 Q Pardon?

11 A No. I just didn't hear you too well, you see.

12 Q I see.

13 Now, Mr. Flynn, is it a fair statement that you
14 consider yourself to be an actor? Right?

15 MR. BUGLIOSI: Asked and answered, your Honor.

16 THE COURT: Overruled.

17 MR. BUGLIOSI: Beyond the scope of redirect, also.

18 THE WITNESS: May I answer?

19 THE COURT: Sustained on that ground.

20 BY MR. KANAREK:

21 Q Mr. Flynn, when you sit there on the witness
22 stand, is your state of mind such that some part of what
23 you are telling us here has to do with your desire to act
24 as you are sitting on that witness stand? Is that right?

25 MR. BUGLIOSI: Same objection.

26 THE COURT: Overruled.

6c-5

1 Do you understand the question?

2 THE WITNESS: No, sir.

3 BY MR. KANAREK:

4 Q You don't understand that question?

5 A Would you repeat it?

6 Q Mr. Flynn, when a question is asked of you that
7 you think may not help the prosecution in this case --

8 MR. BUGLIOSI: Oh, stop arguing.

9 MR. KANAREK: Your Honor, he's interrupting.

10 MR. BUGLIOSI: Be quiet.

11 THE COURT: Mr. Bugliosi, now, I'm not going to warn
12 you again, sir.

13 MR. BUGLIOSI: What's he doing, your Honor? He's
14 accusing me of something and I don't like it.

15 THE COURT: Approach the bench.

16 MR. BUGLIOSI: I am not going to take it. I've had it
17 up to here.

18 (The following proceedings were had at the bench
19 outside the hearing of the jury:)

20 MR. BUGLIOSI: I'm not going to be accused of a capital
21 offense by this guy day in and day out.

22 THE COURT: That's absurd. You interrupted Mr.
23 Kanarek. You made outrageous statements in front of the
24 jury after I've warned you time and time again.

25 I find you in direct contempt of court and I
26 fine you \$50.

1 MR. BUGLIOSI: Would the Court read what he said that
2 caused me to make that remark? Would the Court have the
3 reporter read back what he said in front of the jury?

4 THE COURT: That will be enough.

5 MR. BUGLIOSI: Can I ask the Court to have the
6 reporter --

7 THE COURT: \$50, Mr. Bugliosi, or one night in the
8 County Jail.

9 MR. BUGLIOSI: Your Honor, may I ask the Court to
10 have the reporter read back what he said that prompted that
11 remark? Would the Court grant me that? Just to have the
12 reporter read back what Mr. Kanarek said?

13 THE COURT: I don't care what he said. It doesn't
14 justify what you did.

15 MR. BUGLIOSI: If he accuses me of things in front
16 of this jury --

17 THE COURT: He didn't accuse you of anything.

18 MR. BUGLIOSI: May I have that read back? Would the
19 Court grant me that courtesy?

20 THE COURT: You will have a transcript, Mr. Bugliosi,
21 of the entire proceeding.

22 MR. BUGLIOSI: Yes, your Honor. But at this particu-
23 lar moment right here, would the Court have the reporter
24 read back that particular remark?

25 THE COURT: It isn't necessary. I know what he said.

26 MR. BUGLIOSI: Your Honor --

1 THE COURT: Doesn't have anything whatever to do with
2 what you said.

3 MR. BUGLIOSI: If he makes a statement like that --

4 THE COURT: Mr. Bugliosi, I don't want to hear any
5 more. Do you understand me?

6 MR. BUGLIOSI: What about his making these remarks in
7 front of the jury? What am I supposed to do? let him
8 accuse me of things?

9 THE COURT: If you don't stop this, Mr. Bugliosi, I
10 am going to have to find you in contempt again. I mean it,
11 now. Let's get on with this trial.

12 MR. BUGLIOSI: I want to do it, but he gets up in
13 front of the jury day in and day out and accuses me of
14 stuff and I've got to sit there and listen.

15 THE COURT: \$50 is to be paid before 2:00 p.m. this
16 afternoon.

17 (Whereupon the proceedings were resumed before
18 the jury in open court.)

19 THE COURT: The jury is admonished to disregard the
20 colloquy between counsel.

21 Let's proceed.

22 BY MR. KANAREK:

23 Q Mr. Flynn, have you stated, Mr. Flynn, that
24 because of the incidents of the killing that you participated
25 in in the Vietnam War, that this has affected your mind so
26 that you can think you don't really have any ability to

1 carry on your mental processes? Have you made those
2 statements, Mr. Flynn?

3 MR. BUGLIOSI: Absurd lecture on Mr. Kanarek's part,
4 your Honor.

5 THE COURT: Overruled.

6 MR. KANAREK: It goes to his --

7 MR. BUGLIOSI: It's just --

8 THE COURT: Mr. Bugliosi --

9 MR. BUGLIOSI: That's an improper question. It's
10 compound. It's argumentative.

11 THE COURT: If you have an objection, sir, you stand
12 up and make it in the usual legal form.

13 I don't want any more colloquy from you or
14 comments.

15 Now, I mean that, sir.

16 The jury is admonished to disregard Mr. Bugliosi's
17 comments.

18 Do you have the question in mind, Mr. Flynn?

7 fls.

7-1

1 THE WITNESS: He didn't finish it, sir.

2 THE COURT: Read the question.

3 (The question was read by the reporter.)

4 THE COURT: You may answer.

5 Have you made these statements, sir, or haven't
6 you?

7 THE WITNESS: I don't recall making a statement like
8 that, but I could have, you see, at one time or other.

9 MR. KANAREK: Q You could have?

10 Would you tell us the statement that you could
11 have made, Mr. Flynn?

12 MR. BUGLIOSI: That is speculative, your Honor, and
13 ambiguous.

14 THE COURT: Sustained.

15 THE WITNESS: What does that mean, sir?

16 MR. KANAREK: Your Honor, while the reporter
17 was reading, I believe Mr. Dowd had his hand up, the
18 alternate juror.

19 MR. DOWD: I just wanted her to re-read it. I couldn't
20 hear when she re-read the question.

21 THE COURT: When you had your hand up, she was reading
22 the question.

23 Did you hear the witness' answer?

24 MR. DOWD: Yes.

25 THE COURT: All right.

26 MR. KANAREK: Q Directing your attention to

1 your state of mind and your thinking, Mr. Flynn.

2 Have the events that you participated in in
3 the Viet-Nam war affected your state of mind, your thinking?

4 MR. BUGLIOSI: Ambiguous. State of mind as to what?

5 It is too broad a question, your Honor.

6 THE COURT: Sustained.

7 MR. KANAREK: Q Have you, Mr. Flynn, directing
8 your attention now to the time you have been at the Spahn
9 Ranch, have you stated, Mr. Flynn, that because of your
10 experiences, the killing that you did in the Viet-Nam war,
11 because of those experiences, you don't know what is going
12 on around you?

13 Have you made statements to that effect?

14 A Well, I don't know how to answer you.

15 I don't understand the question.

16 Q You don't understand that question?

17 A No.

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

19 Maybe if the reporter reads it, he will under-
20 stand it.

21 THE COURT: Read the question.

22 (The question was read by the reporter.)

23 THE WITNESS: Well, I could have made statements to
24 that effect, you see. But to the length of time, you see,
25 in the length of time, you see -- can I talk?

26 When I came back from Viet-Nam, I felt -- I
questioned myself a lot, you know. I felt that I entered

7-3

1 another face, you know. But I don't know if I made those
2 statements to someone at the ranch or something like that,
3 you know.

4 I don't want to discuss Viet-Nam with you,
5 really.

6 THE COURT: Ask your next question, Mr. Kanarek.

7 MR. KANAREK: Q Have you finished, Mr. Flynn?

8 A Yes.

9 Q Now, when you say you entered another world,
10 Mr. Flynn, what do you mean by that?

11 A I mean that you spend 11 months and 29 days
12 in a swamp where everybody is dressed green, paints their
13 face green, lives in a green world; and then when you come
14 back here to the States, you get off the plane and you see
15 all these lights and all these people, you know, with
16 blonde hair, you know. It is just hard to cope with, you
17 know. It just hits you hard, you know. It is just totally
18 different from what you are or have been through.

19 It is just like that, you know. It is hard to
20 accept when you come back, you know. It is hard to accept
21 when you come back.

7a

1 Q Mr. Flynn, is it a fair statement -- now, I
2 am referring to your use of the words "cope with" --
3 when you say "cope with," what do you mean by that, Mr.
4 Flynn?

5 A Well, to accept it, you know, and adapt yourself,
6 you know.

7 It is like to accept it and to adapt yourself.
8 Like going from here to China, you know, and sitting down,
9 and everybody is talking Chinese. You see, it is a different
10 world. It is two different worlds, you know.

11 There is no relation, Viet-Nam and these parts
12 of the world. There is no relation, no relation between
13 the two, you know.

14 Q Have you finished?

15 A Yes.

16 Q And you have stated, Mr. Flynn, you saw people
17 with long hair when you came back. You saw people with
18 long hair.

19 MR. BUGLIOSI: Blonde hair.

20 THE WITNESS: I said blonde hair.

21 You know, all this. When you are over there,
22 all you see is people running around with black uniforms,
23 you know, and people wearing green and black uniforms,
24 you see. You see this, you know, and then when you come
25 back, you know, all these people, you know, they wear
26 different colors of pants and different colors of shirts,

1 and different colors of lights up there.

2 There you don't see no lights except if some-
3 body blows up a mine, you know, or something like that.

4 The people, they smile and everything, you know.

5 Q Have you finished, Mr. Flynn?

6 A Yes.

7 Q Since you have been back, is it a fair statement,
8 Mr. Flynn, that you have been nervous and upset -- is that a
9 fair statement -- because of your experience in the Viet-Nam
10 war?

11 A Well, if I think about it, you know, I can say
12 that I can think about it, you know, knowing that it is
13 going to be the same, you know, if I keep thinking about
14 it.

15 So, I stay active, you know. That is why I
16 like to stay active, you know, and do hard work, you know.
17 It keeps me away from thinking about it.

18 Q Have you finished that answer, Mr. Flynn?

19 A Yes.

20 Q Now, Mr. Flynn, directing your attention to
21 the time that you were at the Spahn Ranch.

22 A Yes.

23 Q In this period of time, Mr. Flynn, is it a
24 fair statement that a lot of what went on around you was
25 like it was being done in Chinese?

26 Is that a fair statement?

1 A It was a new place when I got to Spahn's Ranch,
2 you know, the environment was more suitable than the city,
3 you know, so I choosed Spahn's Ranch, you know. It was more
4 of a western, you know, western people, good country people.
5 Nice people in Chatsworth.

6 Q Nice people at the Spahn Ranch?

7 A Yes.

7b

7b-1

1 Q And is it a fair statement that during this
2 period of time while you were at the Spahn Ranch, a lot
3 of what went on about -- that is, the words that were
4 stated and the things you heard -- were like Chinese to
5 you? Is that a fair statement?

6 THE COURT: That is ambiguous.

7 MR. KANAREK: Pardon?

8 THE COURT: It is ambiguous. Sustained.

9 BY MR. KANAREK:

10 Q When you used the word "Chinese" -- you know,
11 you used it a few moments ago, Mr. Flynn --

12 A Yes.

13 Q -- what did you mean when you used the word
14 "Chinese"?

15 A When I used the word Chinese, I used the word
16 Chinese for coping, you know, you see, used it with
17 coping, you know. Admitting, you know.

18 We used it in relation with the conversation
19 about Vietnam. When you come back from a place like that,
20 well, you just have to cope, you know, and you adapt
21 yourself to the different world, the part of the world that
22 you come to, you see. You have to adapt yourself to
23 the different part of the world that you come to, you see.

24 THE COURT: You have answered the question.

25 Ask your next question.
26

7b-2

BY MR. KANAREK:

Q Mr. Flynn, is it a fair statement that as far as your thinking process, the things that go on in your mind, that you have had difficulty in adapting yourself since you have been back from Vietnam?

THE WITNESS: Your Honor, I can answer that question in a lot of ways.

THE COURT: You don't understand the question?

THE WITNESS: No.

THE COURT: All right.

It is ambiguous to the witness, Mr. Kanarek. Reframe your question.

MR. KANAREK: Certainly, your Honor.

Q May I ask you this, Mr. Flynn: When did you come back from Vietnam?

A I got out of the Service in '67.

Q And from '67 to the present time, is it a fair statement that you have had difficulty in adapting yourself to your surroundings here in the United States?

A In a way I have, you see. I have found difficulties, you know, accepting, you see, and trying to reset my values. I just stay active, you know. I stay active. I stay active.

Q Have you finished, Mr. Flynn?

A Yes.

Q Now, your purpose in staying active, Mr. Flynn,

7b-3

1 is so that you can be occupied physically so you don't
2 have to do any thinking; you don't want to do any thinking
3 about what you experienced in Vietnam and all the killing
4 that you did; is that correct?

5 MR. BUGLIOSI: Assumes a fact not in evidence.

6 THE COURT: Sustained.

7 BY MR. KANAREK:

8 Q Is it a fact, Mr. Flynn, that your staying
9 active, physically active, keeping your body moving and
10 your arms moving and your legs moving, and twisting your
11 body and doing the various things physically that you do,
12 so that you won't have to do any thinking?

13 Is that a fair statement?

14 A Well, I do thinking when I am active, you see,
15 but what I give my thoughts to, you know, you see, to
16 whatever has value, you see, to accept, you know. So,
17 if I produce, you see, if I stay active, to produce, you
18 see, to do something for me like working, you work, let's
19 say, and you get paid, you know, so that is why I stay
20 active. I am not, you know, thinking about things that I
21 don't want to think about, but the things that I am doing
22 while I am active, you see. I concentrate on the work that
23 I do, you see.

8 fls.

1 Q And while you have been active you have been
2 concentrating on the physical activity, like the bailing
3 of hay and all of that, is that a fair statement? Your
4 thinking is directed to these physical activities you have
5 been engaged in?

6 A Yes.

7 Q And is it a fair statement, Mr. Flynn, that you
8 have a feeling of guilt because of the killing that you did
9 in the Viet-Nam war?

10 MR. BUGLIOSI: Assumes a fact not in evidence; also
11 irrelevant.

12 THE COURT: Sustained.

13 Q BY MR. KANAREK: Well, Mr. Flynn, thinking now,
14 Mr. Flynn, of before, before you learned that Mr. Manson
15 was arrested -- I'm not now talking about August the 16th,
16 1969, but sometime in the latter part of 1969 -- thinking
17 of that time, at some time you heard Mr. Manson was arrested,
18 right?

19 A Yeah, I heard he was arrested.

20 Q Now, between the time that you first saw
21 Mr. Manson until the time that you heard he was arrested,
22 like, maybe, in November or December of 1969, you had no
23 reason whatsoever, Mr. Flynn, to remember -- you had no
24 reason to put in your mind any memory of the things that
25 you have testified to from this witness stand; is that
26 correct?

MR. KANAREK: Too broad a question. Too broad a

question.

1 THE COURT: Ambiguous. Sustained.

2 Q BY MR. KANAREK: You have told us, Mr. Flynn,
3 that from the time, certainly, that you first saw
4 Mr. Manson, until even the present time, you are engaging in
5 physical activities to keep your mind away from other
6 thoughts; is that right?

7 A From other thoughts than what?

8 Q From thoughts concerning the Viet-Nam war.

9 A Well, could you tell me -- the only time that
10 I think about these things, you know, is when they are
11 brought up to me, you see. Like, you bring it up to me
12 and I think about it, you see. And if I was to give it any
13 thought, you know, you know, outside of this court, you
14 know, then, you know, I'd give it thought out of this
15 court and I accept, you know, whatever thought I give it.
16 You see? So --

17 THE COURT: We will recess at this time.

18 Have you completed your answer?

19 THE WITNESS: Yes, sir.

20 THE COURT: All right. We will recess at this time.

21 Ladies and gentlemen, do not converse with
22 anyone or form or express any opinion regarding the case
23 until it is finally submitted to you.

24 The Court will recess until 2:00 p.m.

25 (Whereupon, a recess was taken to reconvene at
26 2:00 p.m., same day.)