

DISTRICT ATTORNEY  
SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff-Respondent,

vs.

CHARLES MANSON, SUSAN ATKINS, LESLIE  
VAN HOUTEN AND PATRICIA KRENWINKEL,

Defendants-Appellants.

NO. 3011

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HON. CHARLES H. OLDER, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

APPEARANCES

For Plaintiff-Respondent:	THE STATE ATTORNEY GENERAL 600 State Building Los Angeles, California 90012
For Defendant-Appellant Charles Manson:	IRVING KANAREK, Esq.
For Defendant-Appellant Susan Atkins:	DAYE SHINN, Esq.
For Defendant-Appellant Leslie Van Houten:	LESLIE VAN HOUTEN In Propria Persona
For Defendant-Appellant Patricia Krenwinkel:	PATRICIA KRENWINKEL In Propria Persona

VOLUME 11

Pages 2001 to 3300

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1 MR. REINER: Then I may not individually ask questions  
2 that I previously asked other jurors?

3 If that is the Court's position, then I will  
4 go on, but I am at a loss to understand why the Court  
5 refuses to be specific.

6 THE COURT: Mr. Reiner, I am going to ask you to sit  
7 down if you are not willing to continue with your voir dire.

8 MR. REINER: I am trying to find out if the Court  
9 is instructing me to discontinue asking questions --

10 THE COURT: No. I am instructing you to proceed.

11 MR. REINER: Thank you, your Honor.

12 Q Mr. Cato, this case, of course, involves certain  
13 killings which are especially grotesque.

14 Would you permit the very grotesqueness of these  
15 crimes to influence your judgment to the extent that you  
16 would allow your emotions to overwhelm your judgment?

17 A No, sir.

18 Q So, notwithstanding <sup>that</sup> these particular crimes  
19 are especially grotesque, will you, nonetheless, take great  
20 care during the course of the deliberations and during the  
21 course of the trial as you receive evidence to try to  
22 determine guilt with respect to the defendants and not  
23 simply to be so influenced by the grotesqueness of the  
24 evidence that you would convict all the defendants, if you  
25 were to believe that even one of them were guilty?

26 A Would you repeat that question?

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Q All right. That was an overly-long question.

A That statement.

Q If you were to -- strike that.

Because of the very grotesqueness of this case, Mr. Cato, would you allow yourself to convict all defendants in the event that the evidence were to be sufficient to establish the guilt of only one or more of the defendants?

A No, sir.

Q Now, perhaps you have observed Miss Van Houten's conduct in this trial so far, and perhaps you have read about it before you came to court, but irrespective of what your view is of her conduct or your interpretation of her conduct, if it should appear to you that Miss Van Houten wishes to be convicted in the event that any defendant in this case is to be convicted, will you, nonetheless, base your judgment solely on the evidence and not upon her wishes in the matter?

A Yes, sir.

Q And do you feel that you can do all of this in good conscience, Mr. Cato?

A Yes.

Q And you say all of this without any reservation whatsoever?

A No, sir.

MR. REINER: Thank you very much.

I have no further questions.

1 THE COURT: Mr. Shinn?

2 MR. SHINN: Yes, your Honor.

3  
4 VOIR DIRE EXAMINATION OF MR. BAER

5 BY MR. SHINN:

6 Q Mr. Baer, I don't know whether or not other  
7 counsel has asked you this question:

8 Do you have any relatives or close friends  
9 with any law enforcement agency, the Police Department,  
10 the District Attorney's office, the Sheriff's office?

11 A No, sir.

12 Q I think counsel has stated that Linda Kasabian  
13 may be a witness for the prosecution.

14 Did you understand that?

15 A Yes.

16 Q Linda Kasabian?

17 A Yes, sir.

18 Q If you find, Mr. Baer, that as a result of her  
19 taking LSD --

20 MR. BUGLIOSI: Oh, your Honor, wait a while.

21 I will object to that question.

22 I don't know what counsel is trying to do, your  
23 Honor.

24 This is totally improper voir dire --

25 MR. SHINN: I said "if".

26 MR. BUGLIOSI: -- asking the juror to prejudge the



1 evidence.

2 THE COURT: The objection is sustained.

3 MR. BUGLIOSI: Besides, it is an inflammatory remark.

4 MR. SHINN: Your Honor, may we approach the bench,  
5 your Honor?

6 THE COURT: Very well.

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(Whereupon all counsel approach the bench and the following proceedings occurred at the bench outside of the hearing of the prospective jurors:)

MR. SHINN: Your Honor, that last remark of counsel, I think, is uncalled for in front of the jury.

THE COURT: What did he say?

MR. SHINN: That remark that he made.

THE COURT: I didn't hear it.

MR. KANAREK: He referred to it as an inflammatory remark.

THE COURT: What are the remarks? I didn't hear them.

MR. KANAREK: Mr. Bugliosi's remark, your Honor.

THE COURT: Let's go back.

Did you take down the remarks of Mr. Bugliosi?

THE REPORTER: Yes, sir.

(Whereupon the record was read by the reporter.)

THE COURT: In the first place, Mr. Bugliosi, just make your objection. If you want to argue, come to the bench, just as other counsel have requested.

There is no necessity for making a gratuitous statement in front of the jury.

You don't want Mr. Shinn to do that.

MR. BUGLIOSI: He already did it.

THE COURT: That doesn't give you a license to make

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1 that kind of a remark.

2 MR. BUGLIOSI: It was inflammatory. It was almost  
3 in the nature of invited error for him to get up in front  
4 of the jury and tell them that.

5 THE COURT: Make your objection, Mr. Bugliosi,  
6 and then you can argue it.

7 MR. SHINN: There is a question as to whether or  
8 not she did take LSD.

9 In fact, your Honor, we have a declaration--

10 THE COURT: It is improper. I have ruled on it.

11 Let's proceed.

12 Mr. Reiner, you went back and did exactly  
13 what I told you not to, and if you do it again I will  
14 have to do something about it.

15 MR. REINER: I am at a loss to understand your  
16 Honor.

17 THE COURT: You know how I feel. There is no point  
18 in your repeating questions to juror after juror after  
19 juror when those questions could be put to them all  
20 at once and they can each be asked individually for their  
21 response.

22 Do you understand what that means?

23 MR. REINER: My response to that was:

24 Does your Honor mean to say that I may put  
25 to the jurors a general question as to whether or not they  
26 have heard and understood and would answer the question the

1 same as other jurors have, and only --

2 THE COURT: No, put the question --

3 MR. REINER: If I may finish?

4 And only in the event that they answer  
5 negatively may I then inquire further?

6 Your Honor refuses to say what your Honor  
7 means.

8 It sounds like that -- is what you mean,  
9 but I am at a loss as to why your Honor is so disinclined  
10 to be specific.

11 THE COURT: How can I be more specific?

12 You insist on being obtuse on this particular  
13 point.

14 You can ask your question and then you can  
15 ask each individual juror his response to it.

16 What is more specific than that?

17 Just don't keep repeating the question to  
18 every juror. You don't need to do that.

19 MR. REINER: How can I ask each individual juror  
20 his response without asking the question other than asking,  
21 "Have you heard all prior questions?"

22 THE COURT: They all hear it at the same time.  
23 I am talking about after each question.

24 MR. REINER: I may ask the question once and then  
25 turn to seven people at a time and ask them their answers,  
26 and then go to the second question, and then turn to them

again and ask them one at a time, all seven?

THE COURT: You can elicit answers from one of them and then ask them whether any of the others have any different answers. It is very simple.

Let's proceed.

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1 MR. KANAREK: Your Honor, may I ask the Court to  
2 admonish the jury that Mr. Bugliosi's comments should not  
3 be considered for any purpose?

4 THE COURT: His comments have no effect whatsoever.

5 Let's proceed.

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

10 THE COURT: Ladies and gentlemen, I will admonish you  
11 to disregard the remarks of counsel, that is, any colloquy  
12 between counsel, or between the Court and counsel,  
13 and confine yourselves solely to the questions that are  
14 being asked of you and the answers being given.

15 Let's proceed, gentlemen.

16 MR. SHINN: Thank you, your Honor.

17 Q If a psychologist testifies that a certain  
18 witness is insane, will you then disregard the witness'  
19 testimony?

20 MR. BUGLIOSI: Oh, your Honor, I object again. This  
21 is asking the juror to prejudge the evidence. I make the  
22 same objection.

23 THE COURT: The objection is sustained.

24 MR. SHINN: I have no further questions.

25 THE COURT: Very well.

26 Mr. Kanarek?

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1 MR. KANAREK: No questions.

2 THE COURT: Mr. Bugliosi?

3 MR. BUGLIOSI: Thank you.

4 Mrs. Evans, Mrs. Lee, Mr. Zamora, Mr. Baer,  
5 Mr. Stringer and Mr. Cato.

6 In the interest of time, ladies and gentlemen,  
7 I am going to ask you, all of you, my questions  
8 collectively with the exception of one that I would like to  
9 get an individual response to, but every other question I  
10 will ask of you collectively.

11 If my question happens to pertain to you  
12 individually, I would beseech you to raise your hand so that  
13 I will be able to address my attention to you alone.

14 I would make a further observation that even  
15 though a particular question of mine lends itself very  
16 easily to a yes or no answer, I would urge you to qualify  
17 or explain the particular yes or no answer if you so  
18 desire.

19 I understand that none of you -- and I am  
20 referring to the six jurors whom I have just mentioned --  
21 none of you are opposed to the death penalty; is that  
22 correct?

23 Now, the individual question which I will ask  
24 of you, and I will try to make it as expeditious as possible,  
25 we will start with you, Mrs. Evans.

26 Mrs. Evans, let me mentally transport you, if

1 you will, to three or four months from now, back into the  
2 jury room.

3 Let's assume hypothetically that these  
4 defendants have been found guilty of first-degree murder.

5 It is going to be your job, along with your  
6 co-jurors, to decide whether they should receive life  
7 imprisonment or death. That is certainly an awesome,  
8 staggering responsibility for any juror.

9 If you felt, Mrs. Evans, after reviewing all of  
10 the evidence and considering all of the circumstances,  
11 that you thought this was a proper case for the imposition  
12 of the death penalty, would you personally have the  
13 courage to come back into this courtroom with a verdict of  
14 death?

15 MR. KANAREK: I object, your Honor, on the grounds of  
16 improper voir dire examination.

17 MR. SHINN: Join.

18 THE COURT: Overruled.

19 MRS. EVANS: Yes, I would.

20 MR. BUGLIOSI: Mrs. Lee, you heard the question?

21 MRS. LEE: Yes.

22 MR. BUGLIOSI: What is your answer to that?

23 MRS. LEE: The same.

24 MR. KANAREK: Your Honor, may my objection stand as  
25 to each juror?

26 THE COURT: Very well.



1 MR. SHINN: Join, your Honor.

2 MR. REINER: Join.

3 MR. FITZGERALD: Join.

4 MR. BUGLIOSI: Your answer is that you could?

5 MRS. LEE: Yes.

6 MR. BUGLIOSI: There is no doubt in your mind about  
7 that?

8 MRS. LEE: No.

9 MR. BUGLIOSI: Mr. Zamora -- will you please pass the  
10 microphone back to him, ma'am.

11 MR. ZAMORA: Yes.

12 MR. BUGLIOSI: All right. Thank you, sir.

13 Will you pass the microphone to Mr. Baer.

14 MR. BAER: Yes, sir.

15 MR. BUGLIOSI: All right.

16 This is going more quickly than even I thought  
17 it would go.

18 Mr. Stringer?

19 MR. STRINGER: Yes, sir.

20 MR. BUGLIOSI: And Mr. Cato?

21 MR. CATO: Yes, sir.

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1 MR. BUGLIOSI: Could all of you -- again referring  
2 just to you six -- vote for the death penalty for a female  
3 defendant?

4 MR. KANAREK: Improper voir dire, your Honor.

5 MR. SHINN: Objection, your Honor.

6 MR. KANAREK: Object on the grounds that we have  
7 already stated, your Honor.

8 MR. REINER: Join.

9 MR. FITZGERALD: Join.

10 THE COURT: Overruled.

11 MR. BUGLIOSI: The answer is yes from all of you  
12 folks?

13 MRS. EVANS: Yes.

14 MRS. LEE: Yes.

15 MR. ZAMORA: Yes.

16 MR. BAER: Yes.

17 MR. STRINGER: Yes.

18 MR. CATO: Yes.

19 MR. BUGLIOSI: Are any of you of such a frame of  
20 mind that if a particular defendant in this case did not  
21 personally kill someone you would never vote for a verdict  
22 of death as to him? Are any of you of that frame of mind?

23 MR. KANAREK: I object on the ground that it is  
24 improper voir dire, your Honor.

25 May I approach the bench?

26 THE COURT: No. We have discussed this before.

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1 MR. SHINN: Yes, your Honor. I object on the  
2 same ground as we discussed in chambers.

3 THE COURT: All right. Overruled.

4 MR. REINER: Join.

5 MR. FITZGERALD: Join.

6 MR. BUGLIOSI: Perhaps I should ask this again.  
7 If I were in your shoes I would have forgotten what  
8 my question was.

9 MR. KANAREK: I will object to that, your Honor,  
10 counsel's gratuitous statement.

11 THE COURT: Overruled. Let's proceed.

12 MR. BUGLIOSI: Are any of you of such a frame of  
13 mind that if a particular defendant in this case did not  
14 himself personally kill anyone that you would never,  
15 under any circumstances, return a verdict of death as  
16 to him?

17 Are you of that frame of mind?

18 MR. KANAREK: Your Honor, may the objection stand  
19 as to that question?

20 MR. FITZGERALD: Join.

21 MR. REINER: Join.

22 MR. SHINN: I join.

23 THE COURT: Overruled.

24 MR. BUGLIOSI: Do you folks recall the question?  
25 And your answer is what, that you are not of that frame  
26 of mind?

1 Do any of you not understand my question?

2 Do you all understand the rule of  
3 conspiracy which makes a conspirator equally guilty  
4 of the crimes committed by his co-conspirators even  
5 though he did not himself commit the crime and even  
6 though he was not even present at the scene of the crime?

7 Do you all understand that?

8 MR. FITZGERALD: Objection as an improper statement  
9 of the law.

10 MR. KANAREK: Object, your Honor. It is an improper  
11 question.

12 MR. SHINN: I object.

13 MR. REINER: Join.

14 THE COURT: Hold your objections until the question  
15 has been completed.

16 The objection will be sustained.

17 MR. BUGLIOSI: Your Honor, I believe this is a  
18 question that I have been asking all the other jurors.

19 THE COURT: I will sustain the objection.

20 MR. BUGLIOSI: Maybe I left out a crucial comma  
21 or word, so I will restate it.

22 MR. KANAREK: Your Honor, I will object to counsel's  
23 sarcastic comments.

24 MR. BUGLIOSI: It is not sarcastic.

25 THE COURT: Let's proceed.

26 MR. BUGLIOSI: Q Do all of you understand the

1 rule of conspiracy which makes a conspirator equally guilty  
2 of the crimes committed by the co-conspirators?

3 MR. KANAREK: Objection, your Honor, improper  
4 voir dire.

5 MR. SHINN: Join.

6 MR. FITZGEALD: I join in that objection.

7 MR. REINER: Join.

8 THE COURT: There is no way that they can understand  
9 that type of question unless they have been trained in  
10 the law.

11 You can ask, as other counsel have and as  
12 you have, whether they will follow whatever instructions  
13 are given by the Court.

14 You are now getting into an improper area.

15 The objection is sustained.

8h fls. 15

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1 MR. BUGLIOSI: May I approach the bench?

2 THE COURT: We have gone over this time and time  
3 again.

4 MR. BUGLIOSI: Your Honor, this question, I think  
5 the record will reflect, has been asked for three weeks.

6 THE COURT: Let's proceed, Mr. Bugliosi; I have ruled  
7 on it.

8 MR. BUGLIOSI: I urgently ask the Court to permit a  
9 discussion on this issue at the bench, your Honor.

10 THE COURT: It will not be necessary. It has been  
11 discussed and now I have ruled on it.

12 Let's proceed.

13 MR. BUGLIOSI: Very well.

14 At the end of this case, ladies and gentlemen,  
15 or at least at the end of the evidence, but before you  
16 retire to the jury room, his Honor is going to instruct you  
17 on the law applicable to this case.

18 Among other things, his Honor will instruct you  
19 to the effect that a conspiracy is an agreement between two  
20 or more persons to commit a crime followed by an overt  
21 act to carry out the object of the conspiracy.

22 His Honor will further instruct you that --

23 MR. SHINN: Objection on the same ground, your Honor.

24 MR. KANAREK: I object, your Honor.

25 MR. BUGLIOSI: These are the exact questions that I  
26 asked --

9H02

1 THE COURT: The questions are objectionable in the  
2 form in which you are putting them, Mr. Bugliosi. I may  
3 or may not instruct on quite a number of points.

4 MR. KANAREK: That's right.

5 THE COURT: What we are trying to elicit from the  
6 prospective jurors is whether or not they will follow the  
7 instructions regardless of what they are.

8 MR. BUGLIOSI: Let me try to rephrase this.

9 If, at the end of this case and before you  
10 retire to the jury room to deliberate, his Honor instructs  
11 you that a conspiracy is an agreement between two or more  
12 persons to commit a crime followed by an overt act to  
13 carry out the object of the conspiracy, will you follow  
14 the Court's instruction?

15 MR. KANAREK: I object, your Honor, on the grounds  
16 that it is improper voir dire examination and an attempt to  
17 preinstruct the jury.

18 MR. SHINN: Join.

19 THE COURT: Overruled.

20 MR. BUGLIOSI: Will you follow the Court's  
21 instruction on that?

22 MRS. EVANS: Yes.

23 MRS. LEE: Yes.

24 MR. ZAMORA: Yes.

25 MR. BAER: Yes.

26 MR. STRINGER: Yes.

1 MR. CATO: Yes.

2 MR. BUGLIOSI: If his Honor further instructs you to  
3 the effect that once a conspiracy is formed each conspirator  
4 is equally guilty of the crimes committed by his co-  
5 conspirators if these crimes were committed to further the  
6 act of the conspiracy, will you follow the Court's  
7 instruction on that?

8 MR. KANAREK: Objection, your Honor, --

9 MR. SHINN: Objection.

10 MR. KANAREK: -- improper voir dire. An attempt to  
11 preinstruct the jurors.

12 THE COURT: Overruled.

13 MR. BUGLIOSI: Will you all follow the Court's  
14 instructions on that?

15 MRS. EVANS: Yes.

16 MRS. LEE: Yes.

17 MR. ZAMORA: Yes.

18 MR. BAER: Yes.

19 MR. STRINGER: Yes.

20 MR. CATO: Yes.

21 MR. BUGLIOSI: Do you all understand that particular  
22 rule as I have indicated the Court will instruct you on?  
23 Do you all understand it?

24 MR. KANAREK: Objection, your Honor. There is no  
25 foundation for this.

26 THE COURT: That objection is sustained.



1 MR. BUGLIOSI: Let me give you an example of what I  
2 am trying to articulate here.

3 Let's assume, ladies and gentlemen, as I assumed  
4 with other jurors in the previous panels, let's assume  
5 hypothetically that parties A, B, and C conspire to commit  
6 a robbery. However, only parties B and C committed the  
7 robbery. A, being a co-conspirator, is equally guilty of  
8 that robbery even though he, himself, did not commit the  
9 robbery and even though he was not even present at the  
10 scene of the robbery.

11 Do you all understand that?

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1 MR. KANAREK: That is objected to as improper voir  
2 dire examination, your Honor.

3 MR. SHINN: I object.

4 THE COURT: It is improper, Mr. Bugliosi. The  
5 objection is sustained.

6 You are doing again what we discussed before.

7 MR. BUGLIOSI: Very well.

8 If the Court instructs you that conspirators  
9 are equally responsible for and equally guilty of the  
10 crimes committed by their co-conspirators even though they  
11 did not themselves commit the crime, will you promise to  
12 unhesitatingly follow the Court's instruction on that if  
13 you find it applicable to the facts in this case?

14 MR. KANAREK: Objection. Improper voir dire  
15 examination, your Honor.

16 MR. SHINN: Objection, your Honor.

17 THE COURT: Overruled.

18 MR. BUGLIOSI: Do you wish to have that read back,  
19 ladies and gentlemen?

20 MRS. LEE: Yes.

21 MR. BUGLIOSI: I believe you do, Mrs. Lee?

22 MRS. LEE: Yes.

23 MR. BUGLIOSI: Would the Court have the reporter  
24 read that question back?

25 THE COURT: Yes. Read the last question.

26 (Whereupon the question was read by the

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1 reporter.)

2 MR. BUGLIOSI: Did you all understand my question?

3 MRS. EVANS: Yes.

4 MRS. LEE: Yes.

5 MR. ZAMORA: Yes.

6 MR. BAER: Yes.

7 MR. STRINGER: Yes.

8 MR. CATO: Yes.

9 THE COURT: The purpose of these questions, ladies  
10 and gentlemen, is not to instruct you on the law. The  
11 Court will do that at the proper time.

12 These questions are being asked only to  
13 determine your state of mind now as to whether or not  
14 you will follow the Court's instructions, whatever they  
15 might be, and to point out to you, in general terms only  
16 for illustration, areas of the law in which instructions  
17 may be given, because some of these concepts may be new  
18 to you, or conceivably you might have some ideas or  
19 opinions about these now.

20 That is the sole purpose of these questions,  
21 ladies and gentlemen. These are not to be taken as  
22 definitive statements of the law.

23 The law will be given to you in the Court's  
24 instructions, as I have indicated, at the proper time.

25 Do you all understand that?

26 MRS. LEE: Yes.

1 MRS. EVANS: Yes.

2 MR. ZAMORA: Yes.

3 MR. BAER: Yes.

4 MR. STRINGER: Yes.

5 MR. CATO: Yes.

6 THE COURT: All right.

7 You may proceed.

8 MR. BUGLIOSI: I would like to reask that question,  
9 your Honor. There has been too much of a hiatus, I think.

10 THE COURT: All right.

11 MR. BUGLIOSI: If the Court instructs you, again,  
12 in this case, ladies and gentlemen, that each conspirator  
13 is criminally responsible for and equally guilty of the  
14 crimes committed by his co-conspirators even though he  
15 himself did not commit the crime and even though he  
16 wasn't even present at the scene, will you all promise  
17 to unhesitatingly follow the Court's instructions on  
18 that rule of law if you find it applicable to the facts  
19 in this case?

20 MR. KANAREK: Your Honor, I must object on the  
21 grounds that it is improper voir dire examination.

22 MR. SHINN: Join.

23 THE COURT: Overruled.

24 MR. BUGLIOSI: Did you all understand my question?

25 Mrs. Lee, did you understand my question?

26 MRS. LEE: Yes.

8j fls.

3J 1 MR. BUGLIOSI: Do you all recall Mr. Reiner stating  
2 that the Court will instruct you to the effect that you  
3 cannot convict any defendant on the uncorroborated testimony  
4 of an accomplice?

5 Do you all recall him saying words to that  
6 effect?

7 Do any of you not recall Mr. Reiner saying  
8 that?

9 MR. KANAREK: That is improper voir dire examination,  
10 your Honor.

11 MR. SHINN: Join.

12 MR. BUGLIOSI: It is foundational, your Honor.

13 THE COURT: Overruled.

14 MR. BUGLIOSI: For those of you who perhaps do not  
15 recall Mr. Reiner saying that, I believe the Court will  
16 instruct you to the effect that you cannot convict a  
17 defendant on the uncorroborated testimony of an accomplice.

18 Linda Kasabian will testify for the prosecution  
19 in this case.

20 Linda Kasabian is already charged with the same  
21 seven murders that these defendants are charged with.

22 If the Court instructs you that the mere fact  
23 that Linda Kasabian is charged with these same seven murders  
24 does not, in and of itself, make her an accomplice, will  
25 you follow the Court's instructions on that?

26 MR. KANAREK: I object, your Honor. Improper voir dire.

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1 This is an attempt to preinstruct the jury.

2 MR. FITZGERALD: Join.

3 MR. REINER: Join.

4 MR. SHINN: I join.

5 THE COURT: Overruled.

6 MR. BUGLIOSI: Will you all follow the Court's  
7 instruction on that? I am again referring just to you six.

8 MRS. EVANS: Yes.

9 MRS. LEE: Yes.

10 MR. ZAMORA: Yes.

11 MR. BAER: Yes.

12 MR. STRINGER: Yes.

13 MR. CATO: Yes.

14 MR. BUGLIOSI: Now, assuming that Linda Kasabian is  
15 deemed to be an accomplice -- and I am not stipulating to  
16 that for one single, solitary moment -- but assuming that she  
17 is deemed to be an accomplice.

18 If the Court instructs you that to constitute  
19 corroboration of her testimony it is not necessary that the  
20 evidence corroborates each fact to which she testifies,  
21 will you follow the Court's instructions on that?

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1 MR. KANAREK: Object, your Honor, improper voir  
2 dire.

3 THE COURT: Overruled.

4 BY MR. BUGLIOSI:

5 Q Will you follow the Court's instruction on  
6 that?

7 MRS. LEE: Yes.

8 MRS. EVANS: Yes.

9 MR. ZAMORA: Yes.

10 MR. BAER: Yes.

11 MR. STRINGER: Yes.

12 MR. CATO: Yes.

13 BY MR. BUGLIOSI:

14 Q I'm getting affirmative nods, for the  
15 record.

16 If the Court further instructs you that  
17 this evidence in corroboration may be circumstantial  
18 evidence, will you follow the Court's instruction on that?

19 MRS. LEE: Yes.

20 MRS. EVANS: Yes.

21 MR. ZAMORA: Yes.

22 MR. BAER: Yes.

23 MR. STRINGER: Yes.

24 MR. CATO: Yes.

25 BY MR. BUGLIOSI:

26 Q You all realize that in a criminal case the

1 prosecution only has the burden of proving a defendant's  
2 guilt to the exclusion of all reasonable doubt, do you  
3 all understand that?

4 MRS. LEE: Yes.

5 MRS. EVANS: Yes.

6 MR. ZAMORA: Yes.

7 MR. BAER: Yes.

8 MR. STRINGER: Yes.

9 MR. CATO: Yes.

10 BY MR. BUGLIOSI:

11 Q You all realize that we do not have the  
12 burden of proving any defendants guilty to an absolute  
13 certainty, you understand that?

14 A Yes.

15 Q Before any of you six jurors will return a  
16 verdict of first degree murder against these defendants  
17 are any of you of such a frame of mind that you would  
18 require the prosecution prove the guilt of these defendants  
19 to an absolute certainty?

20 A No.

21 Q I take it you would only require we prove  
22 their guilt beyond a reasonable doubt, am I correct in  
23 assuming that?

24 A Yes.

25 Q Do you recall the brief little discussion  
26 on circumstantial evidence?



1           A       Yes.

2           Q       I believe the first group of jurors had  
3 the cookie jar and the footprint example.

4                   The last group, I think, were given the  
5 example of the stolen property being in the possession  
6 of the burglar.

7                   Do you recall that?

8           A       Yes.

9           Q       Do you all understand the difference between  
10 direct and circumstantial evidence?

11          A       Yes.

12          Q       Are any of you in such a frame of mind that  
13 you are opposed to sitting as a juror on a case where  
14 the People rely in part on circumstantial evidence?

15                   Then I believe it was Monday afternoon and  
16 Tuesday morning that Mrs. Roseland was on the firing line  
17 for about an hour and a half.

18                   Do you recall I asked Mrs. Roseland countless  
19 questions that I am not asking you folks right now, do  
20 you recall that?

21                   I don't expect you to recall what those  
22 questions were, to be truthful with you, I don't remember  
23 myself, unless I look up my notes.

24                   However, when I was asking Mrs. Roseland all  
25 these other questions were you mentally asking yourselves  
26 the same questions?

1 Looking back do you recall any question that  
2 I asked Mrs. Roseland to which you said to yourself:

3 "If you were to ask me this  
4 question my answer would be different from  
5 the answer being given by Mrs. Roseland"?

6 Was there any question that I asked that  
7 your response would have been different from Mrs. Roseland?

8 A No.

9 Q To give you an example of what I am talking  
10 about, I think I named 12 attorneys and I asked Mrs.  
11 Roseland if she was associated with them, was represented  
12 by them, had spoken to them and her answer was no.

13 That gives you an example of what I am  
14 seeking now.

15 Would any of your answers have been different  
16 from the answers given by Mrs. Roseland?

17 Do you realize that both the prosecution,  
18 that is the People of the State of California, and the  
19 defendants, they are both entitled to a fair and impartial  
20 trial.

21 You understand that?

22 A Yes.

23 Q You have already indicated you can give these  
24 defendants a fair trial and I urge you to give them a fair  
25 trial.

26 On the other hand, are you all positive that

1 Looking back do you recall any question that  
2 I asked Mrs. Roseland to which you said to yourself:

3 "If you were to ask me this  
4 question my answer would be different from  
5 the answer being given by Mrs. Roseland"?

6 Was there any question that I asked that  
7 your response would have been different from Mrs. Roseland?

8 A No.

9 Q To give you an example of what I am talking  
10 about, I think I named 12 attorneys and I asked Mrs.  
11 Roseland if she was associated with them, was represented  
12 by them, had spoken to them and her answer was no.

13 That gives you an example of what I am  
14 seeking now.

15 Would any of your answers have been different  
16 from the answers given by Mrs. Roseland?

17 Do you realize that both the prosecution,  
18 that is, the People of the State of California, and the  
19 defendants, they are both entitled to a fair and impartial  
20 trial.

21 You understand that?

22 A Yes.

23 Q You have already indicated you can give these  
24 defendants a fair trial and I urge you to give them a fair  
25 trial.

26 On the other hand, are you all positive that

1 you can give the People of the State of California a fair  
2 trial?

3 A Yes.

4 Q Is there any doubt in any of your minds  
5 about that?

6 A No.

7 Q Can any of you think of any reason at all  
8 not already touched upon by his Honor or defense counsel  
9 or myself why you feel you should not sit, or would rather  
10 not sit as a juror on this case, any reason whatsoever?

11 A No.

12 Q Again, now is the time to speak out.

13 (Juror No. 4, Mrs. Lee, raises her hand.)

14 Q Yes, ma'am?

15 MRS. LEE: Are you saying not previously touched  
16 upon?

17 MR. BUGLIOSI: Yes, not previously touched upon.

18 MRS. LEE: No.

19 BY MR. BUGLIOSI:

20 Q You cannot think of any?

21 A No.

22 Q Thank you very much.

23 THE COURT: Do the People pass for cause?

24 MR. BUGLIOSI: People pass for cause, your Honor.

25 THE COURT: Do all of the defendants pass for  
26 cause?

1 MR. FITZGERALD: Yes, your Honor.

2 THE COURT: Defendants may exercise a joint  
3 peremptory challenge.

4 MR. FITZGERALD: There is no unanimity of opinion;  
5 there will be no joint challenge, your Honor.

6 Patricia Krenwinkel separately accepts the  
7 jury as now constituted, your Honor.

8 THE COURT: Mr. Reiner?

9 MR. REINER: Your Honor, may I exercise a peremptory  
10 challenge?

11 THE COURT: No, you may not, sir, you have used  
12 yours.

13 MR. REINER: Why did your Honor address me, I don't  
14 understand.

15 THE COURT: I had forgotten it momentarily.

16 Mr. Shinn?

17 MR. SHINN: Accept the jury as presently constituted.

18 THE COURT: Mr. Kanarek?

19 MR. KANAREK: Mr. Manson accepts the jury as  
20 constituted.

21 THE COURT: Mr. Bugliosi?

22 MR. BUGLIOSI: The People thank and excuse Mr.  
23 Cato.

24 THE COURT: Thank you, Mr. Cato, you are excused.  
25  
26

9a fls. 24

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

2 THE COURT: Do you wish to approach the bench at this  
3 time, Mr. Kanarek?

4 MR. KANAREK: May I, your Honor?

5 THE COURT: Very well.

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

8 MR. KANAREK: Your Honor, I would like to state on  
9 behalf of Mr. Manson, your Honor, that it is our position  
10 that we cannot at all ever get a fair jury in this case  
11 because of the prejudicial publicity and other factors which  
12 have occurred in connection with this case.

13 And so, having to make a decision, being in  
14 the trial, we accepted / jury because, relatively speaking,  
15 considering everything, we felt that because of all of these  
16 overpowering matters, we have -- it was incumbent on us  
17 to accept the jury at that point.

18 We would like to have the record reflect that  
19 the person who has been excused is of the black or Negro  
20 race.

21 THE COURT: All right, the record will so reflect.

22 MR. FITZGERALD: I will join in Mr. Kanarek's remarks,  
23 objections and statements.

24 MR. SHINN: Join, too.

25 THE COURT: I did not understand there was an  
26 objection. He was simply noting for the record Mr. Cato

9A2

1 appears to be black.

2 MR. KANAREK: Yes, your Honor, what I'm saying is, it  
3 is our position -- what I am really doing is, what I have  
4 done before, I did not want to belabor the record.

5 What I am really doing is, I am asking for  
6 an evidentiary hearing which we indicated previously.

7 It is our position the People are deliberately  
8 excusing people of the black or Negro race.

9 It is our position this is a State action, a  
10 violation of the equal protection clause of the Fourteenth  
11 Amendment.

12 MR. BUGLIOSI: Just for the record, your Honor, the  
13 case of Swain vs. U.S., a United States Supreme Court case  
14 cited in People vs. Floyd, 1 Cal. 3d, I think, says the  
15 court cannot presume that the prosecution is excluding  
16 jurors from the panel simply because they are Negro.

17 The United States Supreme Court has held that.

18 MR. KANAREK: That may be a presumption, but as coun-  
19 sel well knows, at an evidentiary hearing it may turn out  
20 that presumption is successfully rebutted, that is the  
21 reason we are asking for the hearing, taking counsel's  
22 own statements.

23 A presumption is certainly not to be taken as  
24 absolute. That is why we are asking for the hearing, to  
25 see.

26 THE COURT: Well, the motion will be denied.

9A3  
1 Now, we have time to call one more prospective  
2 juror before lunch, and at least get partway.

3 MR. BUGLIOSI: Will this be back in chambers?

4 THE COURT: Yes, since we have been conducting our  
5 pretrial exposures in chambers.

6 MR. BUGLIOSI: We are going into the first phase back  
7 in chambers.

8 (The following proceedings were had in open  
9 court in the presence and hearing of the prospective  
10 jurors:)

11 THE COURT: I will ask the parties and counsel to  
12 join me in chambers and then we will call the next prospec-  
13 tive juror for seat No. 11.

14 (The following proceedings were had in chambers  
15 of the Court, all defendants and their counsel being  
16 present, the People being represented by Mr. Bugliosi:)



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1 (A prospective juror enters the chambers of  
2 the court:)

3 THE CLERK: The prospective juror's name is Don L.  
4 Sabin, Jr., D-o-n, S-a-b-i-n, Jr.

5  
6 VOIR DIRE EXAMINATION OF DON L. SABIN, JR.  
7 BY THE COURT:

8 Q Now, Mr. Sabin, if you were selected as a  
9 juror in this case would you be able to serve?

10 A No, sir.

11 Q Why is that?

12 A Well, first, among several reasons, I don't  
13 really care to leave my wife alone.

14 We haven't anyone at home any more except  
15 the two of us, and this would require that my wife be  
16 alone for the long sequestering period.

17 We have been married almost 35 years, and we are  
18 not used to being separated for that long a period of  
19 time.

20 In addition to that, my company would and will  
21 pay me for 25 days of jury service, and after that time  
22 I am on my own.

23 Q What company is that?

24 A North American Rockwell.

25 I have determined this yesterday morning by  
26 calling our employee services to be sure how they stand on

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1 that point.

2 I know your Honor brought that out before to  
3 be sure and have an understanding about that.

4 THE COURT: Will there be a stipulation?

5 MR. FITZGERALD: No, your Honor.

6 THE COURT: All right.

7 Q BY THE COURT: Mr. Sabin, I am going to ask you  
8 the same questions regarding the death penalty that I  
9 put to the other prospective jurors.

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

14 A I think that I would, your Honor, simply because  
15 that is my religion.

16 Simply that my religious philosophy might  
17 impair my objectivity.

18 Q Is that a belief that you have held for some  
19 time?

20 A Oh, yes.

21 Q I take it that because of your conscientious  
22 opinions you are opposed to the death penalty, is that  
23 correct?

24 A Yes, sir.

25 Q Now, the question I am asking you is not whether  
26 or not you are in favor of the death penalty, but whether by

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1 reason of those opinions and beliefs you would be unable  
2 to make an impartial decision as to guilt?

3 A Even if I were to determine that guilt was  
4 evident, I might not be able to make such a declaration.

5 Q You are talking in terms of "might."

6 Do you believe that that is a strong likelihood?

7 A Yes, sir, I would not make a decision of guilt.

8 Q Do you think as it now stands that you could  
9 not be impartial in a case where you might have to be  
10 called upon to decide the question of whether the penalty  
11 should be life imprisonment or death?

12 A Yes, sir, I would have trouble with that question.

13 Q Let me ask you the next question, and you will  
14 notice that this question goes to the so-called penalty  
15 phase of the trial.

16 It assumes that there has been a conviction of  
17 murder in the first degree.

18 Do you entertain such conscientious opinions  
19 regarding the death penalty that you would automatically  
20 refuse to impose it without regard to the evidence in the  
21 case?

22 A Yes, sir.

23 Q Is there any question in your mind about that?

24 A No, sir.

25 Q Can you think of any possible circumstances  
26 or facts or any type of case where you would not

1 automatically refuse to impose the death penalty?

2 A No, sir.

3 Q Assuming there was an option that was  
4 available?

5 A I understand, sir.

6 THE COURT: Any questions?

7 MR. FITZGERALD: May I ask a question?

8 THE COURT: Yes.

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## VOIR DIRE EXAMINATION OF MR. SABIN

BY MR. FITZGERALD:

Q Correct me if I am wrong, and I don't want to put any words in your mouth, but it is your position that you could never find anybody guilty if you were later going to have to determine life or death?

A That is what I said before. The question of guilt, even though it was apparent, and I may feel that, it would affect my objectivity to the point that I would not put myself into a position of saying that a person is guilty because of my emotional response to such an answer and how it would affect me in the future.

I know how I react to -- not this particular situation -- but to a situation where a life is involved, even an animal's.

I have one -- may I cite the topic, sir?

THE COURT: In a moment. Let me put the question to you in a different form to make sure we understand what you said so far.

## VOIR DIRE EXAMINATION OF MR. SABIN (Reopened)

BY THE COURT:

Q Are you saying that because of the fact the case might get to where you might have to vote on the question of life imprisonment or death, that would so affect your thinking in the first part of the case that

1 you would either find the person not guilty so he would  
2 never get to the second phase, or there is a strong  
3 likelihood you would do so?

4 Is that what you are saying?

5 A Yes, sir, that is a possibility.

6 Q Don't accept my words if they don't  
7 accurately reflect your state of mind.

8 A I have thought about this very carefully  
9 while I have been sitting here waiting, and I know  
10 that I might go down to the wire, and in my mind I  
11 might think that guilt might be evidence.

12 But in order to not face up to the question  
13 of do I pronounce a death penalty myself, I would probably  
14 not vote guilty.

15 Q Have you ever faced this -- have you ever  
16 been a juror in a death penalty case?

17 A No, sir.

18 THE COURT: Any other questions?

19 MR. FITZGERALD: No.

20  
21 VOIR DIRE EXAMINATION OF MR. SABIN

22 BY MR. BUGLIOSI:

23 Q Sir, your opposition to the death penalty  
24 then is of such a nature that it will automatically  
25 cause you to vote against the death penalty for these  
26 defendants, irrespective of the evidence, is that correct?

1 A Yes, sir.

2 MR. BUGLIOSI: No further questions.

3 THE COURT: You may go back into the courtroom,  
4 Mr. Sabin, thank you very much.

5 MR. SABIN: Thank you.

6 THE COURT: Do not discuss with anyone what has  
7 occurred in here, will you?

8 MR. SABIN: All right.

9 (Mr. Sabin leaves the chambers of the Court.)

10 MR. BUGLIOSI: We move to excuse this jury on  
11 two grounds, your Honor, actual bias under 1073,  
12 Paragraph 2 of the Penal Code and implied bias under  
13 Section 1074 Subdivision 8 of the Penal Code.

14 Also the Supreme Court case of Witherspoon  
15 vs. Illinois.

16 MR. FITZGERALD: We object to the challenge on  
17 due process and equal protection grounds.

18 MR. REINER: Join.

19 MR. SHINN: Join.

20 MR. KANAREK: Join.

21 THE COURT: Very well.

22 I have understood all along that when you  
23 say "we object," that everybody has already joined.

24 MR. FITZGERALD: Yes.

25 MR. KANAREK: That is correct, when Mr. Fitzgerald  
26 speaks, unless indicated otherwise he speaks as far as

1 I am concerned for me and Mr. Manson.

2 THE COURT: The challenge will be allowed.  
3 Mr. Sabin will be excused for cause.

4 It is now four minutes to 12:00.

5 MR. REINER: Is your Honor's ruling on both  
6 grounds put forward by Mr. Bugliosi?

7 THE COURT: Yes.

8 MR. REINER: The challenge for cause/<sup>is</sup>being  
9 allowed as to both grounds?

10 THE COURT: Yes.

11 MR. REINER: Thank you.

12 THE COURT: It is now four minutes to 12:00 so  
13 we won't have an opportunity to call in another prospective  
14 juror.

15 We will adjourn until 1:45 this afternoon.

16 (Noon recess.)  
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1           LOS ANGELES, CALIFORNIA, THURSDAY, JULY 9, 1970

2                           1:47 P.M.

3                           ---o---

4                   (The following proceedings occurred in  
5 chambers:)

6           THE COURT: All counsel and their parties are  
7 present.

8                   Will you call in the next prospective juror?

9           MR. STOVITZ: While that juror is being brought in,  
10 your Honor, I understand, your Honor, that you have  
11 intimated that Mr. Reiner here does not have any more  
12 peremptory challenges.

13                   If that is the ruling of the Court, I would  
14 like to be heard on that.

15                   I have a great many cases that we have  
16 considered. I have read these cases, and I feel that a  
17 reading of 1070.5 is clear, that the first 20 challenges  
18 must be exercised jointly. If they are not exercised  
19 jointly, they are to be considered as joint challenges.

20                   The language is specific. It says a defendant  
21 must or shall have the same number as prescribed in 1070,  
22 which is 20, and then it says if there are more than one  
23 defendant, they have five -- shall have five -- additional  
24 challenges, which may be exercised separately.

25                   And so that your Honor does not cause the  
26 People to exercise -- now, we are up to No. 9 that we have

102 1 used now -- the People would be up to, say, 20, and then  
2 your Honor changes your mind to allow the defendants to start  
3 exercising their challenges, it would cause an imbalance in  
4 the jury.

5 In this way, if the challenges go from defense  
6 to the People and from the People to the defense, et cetera,  
7 it would be a better balanced jury.

8 So, I want to ask your Honor to again read  
9 1070.5 of the Penal Code.

10 I have a list of cases in Cal.Jur.2d on the  
11 subject.  
12  
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11-1

1 THE COURT: Well, what are you trying to tell me,  
2 Mr. Stovitz, I don't quite follow you.

3 MR. STOVITZ: I believe Mr. Reiner is entitled to 20  
4 challenges and then five additional ones.

5 If the co-defendants do not wish to join in  
6 the challenges, the first 20 challenges shall be -- must be  
7 considered joint challenges.

8 That is the way I interpret the cases.

9 THE COURT: Well, I don't think that is the law at  
10 all.

11 Have you read People vs. King and People vs.  
12 Lara?

13 MR. STOVITZ: I read those cases.

14 THE COURT: They say just the opposite.

15 MR. STOVITZ: No, those cases say that the Legislature  
16 can define any number of ways challenges can be exercised;  
17 the Legislature can say they are entitled to five, and  
18 that is constitutional.

19 They are not entitled to any particular number  
20 of challenges except that which is prescribed by statute.

21 But the statute is clear they are entitled to  
22 20 challenges in a case where life or death is an issue.

23 THE COURT: Are you talking now about separately-  
24 tried defendants?

25 MR. STOVITZ: No, I'm talking about 1070.5, when they  
26 are jointly tried, but that the first 20 challenges must be

1 considered -- the first 20 challenges must be considered  
2 joint challenges.

3 THE COURT: That is not what it says.

4 It says they are entitled to 20 challenges to  
5 be exercised jointly, and in addition five individuals per  
6 defendant.

7 MR. STOVITZ: Yes.

8 THE COURT: But the cases hold that if they don't  
9 exercise the challenges jointly then they are left with  
10 their individual challenges.

11 MR. STOVITZ: But the cases also hold, and Cal. Jur.  
12 2d holds that they cannot be deprived of their first 20.

13 THE COURT: That is not what the cases hold,  
14 Mr. Stovitz, that is precisely the point.

15 I am looking now at People vs. King, 240 Cal.  
16 Ap. 2d at Page 389.

17 What happened in King was that they were able  
18 to agree only on five joint challenges, and they each had  
19 five individuals, and their contention was that they had  
20 only 10 peremptory challenges, that is, the five joint plus  
21 the additional five each, individual peremptories, while  
22 any defendant tried individually would be entitled to 20.

23 That is precisely the argument they were raising.

24 MR. STOVITZ: I realize that, your Honor. I merely  
25 state the failure to give the defendant the full number of  
26 peremptory challenges to which he is entitled is reversible

1 error per se, and I say that a plain reading of Section  
2 1070.5 says that a defendant shall be entitled to the number  
3 of challenges prescribed by 1070, and that the challenges  
4 must be exercised jointly, and that in the event once  
5 exercised, he is entitled to five additional challenges,  
6 which may be exercised separately.

7 And that means he is entitled to 25 challenges,  
8 the first 20 being joint challenges.

9 Now, I know the language in the King case.

10 THE COURT: No one is arguing with that. The question  
11 is, what happens if they don't exercise the challenges  
12 jointly, that is the problem.

13 MR. STOVITZ: The point is that the Court orders  
14 that the first 20 challenges exercised by the defendants  
15 are deemed joint challenges.

16 THE COURT: They are not deemed joint challenges.  
17 They are only joint challenges if all the defendants join  
18 in them.

19 MR. STOVITZ: If your Honor would read the history  
20 of the section, 1098, the preceding section before 1070.5,  
21 the judges in the criminal courts before 1949 would just  
22 announced the first challenge is a joint challenge.

23 Now the statute says that they must be  
24 exercised jointly.

25 THE COURT: If at all, that is what that means, if  
26 at all.

How can you force them to exercise them jointly?

MR. STOVITZ: They don't have to. Then the Court just deems them joint challenges.

In other words, Mr. Reiner has exercised five.

Now, Mr. Fitzgerald does not want to exercise any; Mr. Shinn does not want to exercise any.

MR. FITZGERALD: That is a misstatement. I exercised one peremptory challenge on behalf of Patricia Krenwinkel separately.

MR. STOVITZ: I am just assuming a hypothetical.

MR. FITZGERALD: Oh, excuse me.

MR. STOVITZ: Now you go back to Mr. Reiner.

He exercises his challenges, the first 20 challenges Mr. Reiner exercises, assuming that same pattern is followed, are deemed joint challenges because the defendants not agreeing on their challenges waive their right to participate in those challenges.

THE COURT: Cite me some authorities for this.

MR. STOVITZ: I cite you the code section.

THE COURT: The cases hold exactly the opposite.

MR. STOVITZ: I cite you the code section.

I will cite People vs. Aguinaldo, 3 Cal. Ap. 2d 254.

This was a 1934 case.

THE COURT: We don't have to go back to 1934; we have a California Supreme Court case in 1967, People vs. Lara.

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MR. STOVITZ: That is the Lara case.

In the Lara case, there was no request by the defendants as such, your Honor.

THE COURT: Yes, there was. There was a request for additional challenges in Lara.

Here is what it says:

"The trial court properly allowed the prosecutor to challenge for cause those prospective jurors who expressed a conscientious objection against imposing the death penalty. Alvarez objected on the ground that such challenges were not proper as to him because he was not subject to the death penalty in view of his age at the time of the commission of the crime. The court overruled the objection, observing that the challenge was nevertheless proper as to Lara, and this was a joint trial.

"Alvarez had exhausted all his individual peremptory challenges, Lara declined to join in a joint challenge of a certain additional juror. Alvarez then requested the Court to allow him additional peremptory challenges equal in number to the challenges for cause exercised by the prosecutor on the basis of conscientious objection to the death penalty.

1 "Finding no statutory authority  
2 for such additional challenges, the Court was  
3 not in error in denying the request."

4 MR. STOVITZ: But it doesn't <sup>say</sup> how many challenges  
5 he used, your Honor.

6 THE COURT: He used five.

7 Yes, it does show that. He used his five.

8 They were unable to agree on a joint  
9 challenge. Then he requested some more, and the Court  
10 said no.

11 MR. STOVITZ: He requested as many as the prosecu-  
12 tion had used for cause.

13 THE COURT: What difference does it make? The  
14 point is that the Court said he was not entitled to  
15 any more.

16 MR. STOVITZ: I realize that language is there,  
17 but I want to get the trial briefs in that case to see  
18 whether or not he exercised the 20 or whether he exercised  
19 only five, your Honor.

20 THE COURT: It says that he exercised five.  
21 Well, no. I take that back.

22 It says:

23 "After Alvarez had exhausted all  
24 his individual peremptory challenges, Lara  
25 declined to join him in a joint challenge of  
26 a certain additional juror. Alvarez then



1 "requested the Court to allow him additional  
2 peremptory challenges equal in number to the  
3 challenges for cause exercised by the prosecutor  
4 on the basis of conscientious objection to the  
5 death penalty, which the Court declined."

6 MR. STOVITZ: I can get the transcript very easily  
7 because the case is being retried now. So, I will find  
8 that out by tomorrow morning, your Honor.

9 THE COURT: I am still, as I mentioned the other  
10 day, concerned about why you are bringing it up.

11 MR. STOVITZ: I am bringing it up for two reasons.

12 No. 1, assume for the moment that your  
13 Honor is wrong, I think that it would constitute reversible  
14 error per se, because there was a case reversed  
15 where the defendant was given only ten challenges in  
16 a case where life imprisonment was involved.

17 Secondly, if your Honor then later changes  
18 your Honor's mind, the People have now exercised --  
19 assume for the moment, your Honor, the People have  
20 exercised 25 peremptory challenges, and now your Honor  
21 decides that he is wrong -- it would then cause an  
22 imbalance to the jury, and the People would be --

23 THE COURT: An imbalance how?  
24  
25  
26

12a fls.

12A-1

1 MR. STOVITZ: The People would be restricted in  
2 having 15 more challenges to the defendants' 35.

3 THE COURT: That is what happened in these two cases,  
4 only the imbalance was claimed to be the other way.

5 MR. STOVITZ: I don't think there should be an  
6 imbalance either way, your Honor.

7 THE COURT: As the Court pointed out, the defendant  
8 has no constitutional right to any particular number of  
9 challenges other than what the section provides for.

10 MR. STOVITZ: Agreed.

11 THE COURT: What his constitutional right is is a  
12 right to a fair and impartial jury, and that is all he  
13 can ask for, and that is all he is entitled to. It is just  
14 that simple.

15 What is that section number?

16 MR. STOVITZ: 1070.5.

17 May I look at your other Penal Code?

18 THE COURT: Yes.

19 MR. KANAREK: Your Honor, may I use this Penal Code?

20 THE COURT: It is perfectly clear. I can't imagine  
21 how it can drafted any clearer.

22 MR. STOVITZ: I agree with your Honor.

23 THE COURT: I don't always agree with the Code  
24 sections as far as clarity is concerned, but this one  
25 seems to admit of no ambiguity whatever.

26 MR. STOVITZ: And I agree with that, your Honor. The

12A2

1 English language couldn't be any clearer.

2 It says that when two or more defendants are  
3 jointly tried for any public offense, the State and the  
4 defendants shall be entitled to the number of challenges  
5 prescribed by Section 1070 of this Code.

6 Now, going back to 1070 of the Code, it says  
7 20 challenges in a murder or life sentence trial.

8 So, they shall be entitled to 20.

9 "Which challenges on the part of the defendants  
10 must be exercised jointly."

11 Now, your Honor asks what happens if the other  
12 three defendants don't want to join?

13 Well, it doesn't matter. The Code says they  
14 must be exercised jointly. So, the first 20 challenges are  
15 exercised jointly by operation of law.

16 THE COURT: Mr. Stovitz, you don't really believe  
17 that, do you?

18 MR. STOVITZ: Yes, I do.

19 Then it goes on and says, "Each defendant,"  
20 using the term "shall," "shall also be entitled to five  
21 additional challenges."

22 So, the statute contemplates that they are  
23 entitled to the number that they have by 1070, plus five  
24 additional challenges which may be exercised separately.

25 I think, your Honor, if your Honor is certain on  
26 this particular point, then I may be in error in reading the

4A3  
1 English language, but I think it says exactly that,  
2 that they are entitled to 20 which must be exercised  
3 jointly.

4 THE COURT: If at all.

5 MR. STOVITZ: It doesn't say "if at all." It says  
6 "must be exercised jointly,"

7 Anyway, your Honor, I bring this point out.

8 THE COURT: I find it difficult to see how we could  
9 on the basis of that language.

10 MR. STOVITZ: I bring this up merely for preventive  
11 medicine. I am very optimistic in believing that we may  
12 get a conviction someday in this case, and if we do, I  
13 would not like it to be upset on that point.

14 THE COURT: I should not like there to be any error  
15 either, and I am just as concerned as anyone else in seeing  
16 that the defendants and the People both have every right  
17 to which they are entitled.

18 This is one, however, I do not think anyone  
19 is entitled to. That is, additional challenges.

12B

12b-1

1 MR. STOVITZ: I will endeavor to do some research  
2 from other states, your Honor. I realize that each state  
3 has a statute of its own.

4 The California cases that your Honor cited  
5 are the latest ones in the books.

6 I will get the actual facts of the Lara  
7 case and see if it is supported, if the decision supports  
8 the facts.

9 THE COURT: All right.

10 MR. FITZGERALD: Whether the decision supports  
11 those facts or not, the decision is the decision.

12 MR. STOVITZ: Except that if they had exercised  
13 25, and then the decision goes and says that the defendant  
14 wanted more to meet with the prosecution's request for  
15 cause challenges.

16 MR. REINER: May I just add one point?

17 Apart from whether the statutes mandates  
18 that we be given additional challenges, I think it is  
19 clear that if the Court feels, under the circumstances  
20 of this particular case, that additional challenges are  
21 warranted to insure a fair trial, then, of course, the  
22 Court may do so.

23 I would think that because of the circum-  
24 stances of this case, because of the circumstances of  
25 the limitation of challenges to just the individual  
26 challenges, that the Court, in the exercise of its good

1 discretion, should allow counsel for Leslie Van Houten  
2 additional individual challenges.

3 Most especially, when --

4 THE COURT: Why?

5 MR. REINER: This being a capital case, your Honor,  
6 instead of having double the number of challenges, from  
7 ten to twenty, in fact it has been halved down to five,  
8 through no action on the part of Leslie Van Houten or her  
9 counsel.

10 We are being put in a position by the  
11 unilateral action of the prosecution in joining more than  
12 one defendant under Section 954 of the Penal Code.

13 THE COURT: But this begs the question, Mr. Reiner.  
14 This is precisely what these cases dealt with, just  
15 exactly that objection.

16 We have no statutory right to it. That is  
17 what the cases hold.

18 I agree that the Court could grant additional  
19 peremptories, but the basis, if it did so, would not be  
20 your argument, because the cases have already decided  
21 that that is not a legitimate argument. It would have  
22 to be a different argument.

23 I agree that if it appeared to the Court  
24 that there was not a fair and impartial jury, and all  
25 the challenges had been exhausted, that I would have a duty  
26 to do something about it, and I would do it. That would be

1 a legitimate reason. But simply because you don't get  
2 as many challenges as you would if your defendant was  
3 tried individually, is not, according to the cases or  
4 the Code Section a legitimate reason or basis for giving  
5 you more.

6 MR. REINER: According to the cases, your Honor,  
7 that the Court has relied upon, apparently the Code does  
8 not mandate, and I am not arguing, as Mr. Stovitz is  
9 arguing, that the Code mandates that we be permitted to  
10 exercise joint challenges, but I <sup>what</sup> am, in effect, arguing  
11 is that pursuant to the Reardon Report -- which is not  
12 controlling, but at least it is persuasive authority  
13 of the highest sort -- that because of the nature of  
14 this case, with the very high level of pretrial publicity,  
15 that the Court should take extraordinary steps to enable  
16 counsel for the defendants in the case to obtain as  
17 fair a jury as possible under these circumstances.

18 Now, we will have a jury here, no doubt,  
19 made up of 12 persons who have been exposed to pretrial  
20 publicity. We are trying to get 12 people who have been  
21 exposed to perhaps the least amount of publicity, or the  
22 12 people who, notwithstanding their exposure, have the  
23 greatest ability in our judgment to overcome this  
24 pretrial publicity.

13 fls.



1 This requires the use of peremptory challenges,  
2 where the person is not clearly subject to a challenge for  
3 cause.

4 In a case of this sort the defendants' need for  
5 additional peremptory challenges almost rises proportionately  
6 with the amount of pretrial publicity.

7 I think for that reason, in this particular  
8 type of case, the Reardon report surely contemplates that  
9 the Court should take such extraordinary steps as to give  
10 constantly additional peremptory challenges.

11 I would argue that even if Miss Van Houten were  
12 tried separately and had 20 challenges and used all 20,  
13 and 20 is a large number, at that point perhaps the Court  
14 might give counsel unlimited challenges.

15 THE COURT: The Reardon report is not the law of  
16 California yet.

17 I see no reason, at the moment at least, for  
18 granting any additional peremptory challenges.

19 Let's call in the next prospective juror.

20 MR. BUGLIOSI: May I make one statement, your Honor,  
21 if the Court changes its mind I would appreciate it, like  
22 Mr. Stovitz says, if it changes its mind not at the last  
23 moment.

24 THE COURT: Well, I think it would necessarily be at  
25 the last moment, Mr. Bugliosi, because my present feeling  
26 is, I believe the philosophy behind the decision in these



13-2  
1 two cases is sound.

2 I don't think the number of challenges that a  
3 party has is the important consideration.

4 I think whether or not there is in fact a fair  
5 and impartial jury.

6 As long as there are unused peremptory  
7 challenges I am not going to grant additional peremptories,  
8 there would be no point to it.

9 MR. BUGLIOSI: You see, the danger inherent, your  
10 Honor, in changing the Court's mind at one second before  
11 midnight, if we would have exercised the entire 40 peremptory  
12 challenges and then the Court changes its mind, it seems  
13 to me at that point then the defense can have the type of  
14 jury they want, unimpeded by any efforts on the  
15 prosecution's part.

16 THE COURT: I suppose if additional peremptories  
17 were granted to one or more defendants, the People would be  
18 entitled to the same number.

19 That is what the code seems to say -- that is  
20 what it does say in connection with the present statute.

21 MR. BUGLIOSI: Well, let's say hypothetically we have  
22 exercised 40 peremptories, and the defense has exercised a  
23 total of 10.

24 The Court decides to give the defense five  
25 extra separate peremptories.

26 Would the Court then be of a frame of mind to

1 give the prosecution five extra peremptories at that  
2 point? Because if not --

3 THE COURT: Just a minute, I think the situation  
4 you just suggested does not exist.

5 Well, I suppose it turns on the meaning -- I  
6 have found one ambiguity in 1070.5.

7 It says each defendant shall also be entitled  
8 to five additional challenges which may be exercised  
9 separately. The State shall also be entitled to additional  
10 challenges equal to the number of additional separate  
11 challenges allowed the defendants.

12 Now, to me that means if the defendants exercise  
13 five individual peremptories, then the People are allowed  
14 only five individual peremptories additional beyond the 20.

15 It does not mean the People automatically get  
16 five for every defendant, whether or not the defendants  
17 exercise individual peremptory challenges.

18 That does not seem to make good sense, and I  
19 don't think that was intended.

20 So when you say, to follow what you said before,  
21 if the defendants have exercised 10 and the People have 40,  
22 I don't think that condition could exist.

23 You have 20 plus the 10 which would be 30,  
24 if they exercised 10 individuals.

25  
26

13a-1

1 MR. BUGLIOSI: All right, 30 as opposed to 10.

2 THE COURT: As opposed to 40.

3 MR. BUGLIOSI: Right, 30 as opposed to 40.

4 We have exercised 30; we are not entitled to  
5 any more, and they have exercised 10.

6 All of a sudden the Court says "Well, I  
7 don't think this jury represents a fair jury for the  
8 defense, I'm going to give the defense / <sup>through</sup> my discretion  
9 five extra peremptories."

10 My point is, at that point the Court should  
11 give the prosecution five extra peremptories because if  
12 it did not, we say the defense could basically pick their  
13 own jury, and we would not be able to stop them.

14 So my point is that <sup>if</sup> the Court is contemplating  
15 changing its order, we would appreciate if the Court would  
16 change its position relatively early and not wait until  
17 the prosecution has eaten up all of its peremptories,  
18 or come close to using up all of our peremptories, because  
19 then we will be subject to the will of the defense, as  
20 to what type of jury we are going to have.

21 MR. STOVITZ: Your Honor must be aware from the  
22 nature of the jurors we have excused that many times  
23 we used our peremptories to excuse a juror who actually  
24 has expressed a hardship.

25 We do not want to have a juror sitting on  
26 this jury that is concerned with their own personal problems,

1 and have to concentrate upon this case, because if we  
2 take an extra day or two in presentation of our evidence,  
3 or an extra day or two in our argument, we don't want the  
4 juror to concentrate on his own personal family life.

5 We want them to concentrate on this trial.

6 So we have used these peremptories sparingly,  
7 excusing many times jurors who had personal hardship  
8 rather than they were not kindly towards the prosecution.

9 MR. KANAREK: If I might respond to that very  
10 briefly.

11 I hope my prediction is wrong, but I predict  
12 there won't be any black persons on this jury, and the  
13 prosecution will excuse each and everyone.

14 MR. STOVITZ: If we have 12 black jurors, will  
15 you apologize, Mr. Kanarek?

16 MR. KANAREK: I prefaced it with the idea that I  
17 hope I was wrong.

18 MR. STOVITZ: Would you apologize to Mr. Goodwin,  
19 Mr. Kanarek?

20 MR. KANAREK: Your Honor, this inter se --

21 THE COURT: Let's get on, gentlemen.

22 MR. KANAREK: I would ask the Court to ask counsel  
23 not to speak inter se. I am trying to follow the Court's  
24 orders.

25 THE COURT: I appreciate that and I will ask  
26 counsel not to engage in colloquy back and forth.

1                   It only precipitates unpleasantness such as  
2 I would like to avoid.

3                   Let's call our next prospective juror.

4                   (Prospective juror enters the room.)

5           THE COURT: Good afternoon.

6           THE CLERK: The prospective juror's name is Mrs.  
7 Beverly A. Zuver, B-e-v-e-r-l-y, Z-u-v-e-r.

8  
9                   VOIR DIEE EXAMINATION OF MRS. ZUVER

10          BY THE COURT:

11               Q       Mrs. Zuver, if you were selected as a trial  
12 juror in this case would you be able to serve?

13               A       Well, not very well, you see, I have a job.

14               Q       Excuse me, will you keep your voice up  
15 because everyone has to hear you.

16               A       I am employed. When I was called in this  
17 last time for jury service, which makes the fourth time,  
18 and my boss got kind of hot under the collar.

19               Q       Whom do you work for?

20               A       I work for Mobil.

21                       But then, there are two others in the same  
22 department of ten who have jury service this year, so  
23 that is why he kind of objected.

24                       And he was not too happy about my being  
25 here now.

26               Q       Is there any other reason why it might

1 constitute a hardship?

2 A Not a hardship, no, but --

3 Q Well, then, let me go on to some other  
4 questions.

5 You heard me ask the questions regarding  
6 the death penalty of the other prospective jurors?

7 A Yes.

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

10 A Well, I know that I --

11 Q I'm not asking for your opinion now.  
12 I will put the questions to you in a moment, but have  
13 you had a chance to think about the subject?

14 A Yes.

15 Q All right. Do you entertain such conscientious  
16 opinions regarding the death penalty that you would be  
17 unable to make an impartial decision as to any defendant's  
18 guilt regardless of the evidence in the case?

19 A Well, I don't know, I kind of have my doubts  
20 about it. This is a big responsibility, you know.

13b fls.

13B-1

1 Q Yes, it is.

2 A To vote the death penalty, and I don't know what  
3 I would feel at the time I was called upon to do it, whether  
4 I could do it or not. I just don't know.

5 Q When you say "do it," you mean impose it?

6 A Impose.

7 Q You see, this question is not that question.

8 What I am asking you now is a question directed  
9 toward that part of the trial, the first part, when the jury  
10 determines the question of guilt.

11 A Oh, I see what you mean.

12 Q And do you think you could be impartial on the  
13 question of guilt, notwithstanding your feelings about the  
14 death penalty?

15 A Well, my feelings are now that I would have to  
16 overcome the prejudice of their guilt now.

17 I think my feelings --

18 Q Because of the death penalty?

19 A No, I think my feelings are the reverse of  
20 what they should be.

21 I don't know if I can look at them and say they  
22 are innocent.

23 Q We will get to that in a minute. I want to  
24 take up one thing at a time, you see.

25 Because of your opinions regarding the death  
26 penalty do you think that you would not be able to be

13B2

1 impartial on the question of whether a defendant is  
2 guilty or not guilty?

3 A No, I do not.

4 Q You could be impartial?

5 A I could be impartial, yes, I think.

6 Q In other words, your beliefs about the death  
7 penalty would not affect your ability to render --

8 A -- a decision.

9 Q -- a just, fair and impartial decision on guilt  
10 or innocence?

11 A Yes, once I was convinced whether they are or  
12 not, I could give my opinion.

13 Q That's right, and it would be unaffected by  
14 your beliefs about the death penalty, is that right?

15 A Yes, yes.

16 Q Now, the second question goes to whether or not  
17 you could impose the death penalty, and that question is  
18 this -- and of course you understand that it assumes that  
19 there has been a conviction of murder in the first  
20 degree, because if there has not been such a conviction,  
21 you will never be asked to make that decision about the  
22 penalty.

23 Do you understand that?

24 A Yes.

25 Q Do you entertain such conscientious opinions  
26 regarding the death penalty that you would automatically



13B3

1 refuse to impose it without regard to the evidence?

2 A I don't think so, I don't really know.

3 Q Well, let's see if I understand.

4 Now, you correct me if I don't state your  
5 views accurately.

6 A Yes.

7 Q Are you saying that regardless of what you  
8 believe about the death penalty you would be willing to  
9 listen to the evidence in the case and then make up your  
10 mind?

11 A Yes.

12 Q And you are not saying that you have already  
13 made up your mind and it would not make any difference what  
14 the evidence was, you would automatically refuse to impose  
15 it.

16 You are not saying that?

17 A No, no.

18 Q Now, have you formed any opinions about the  
19 innocence or guilt of any of the defendants?

20 A Well, I think I have, yes.

21 Q And what has caused you to form this opinion or  
22 these opinions?

23 A Well, what I have read in the newspapers.

24 Q In other words, the publicity concerning the  
25 trial and the defendants, is that right?

26 A Yes.

13B4

1 Q What is your opinion regarding the defendants?

2 A Well, I lean more toward guilt.

3 It would have to be proved to me they are  
4 innocent.

5 It is the other way.

6 Q You would require proof of innocence?

7 A Rather than guilt.

8 Q Rather than proof of guilt beyond a reasonable  
9 doubt, is that right?

10 A Yes, in reverse of what I should be.

11 Q Well, we appreciate your being honest about it.

12 A Yes.

13 Q We cannot always help our beliefs.

14 A I don't know why I feel that way. I just feel  
15 that way.

16 Q It is important we know exactly what your  
17 beliefs are.

18 A Yes.

19 Q Then I take it from what you say that you  
20 would be unable to give the defendants the benefit of the  
21 presumption of innocence.

22 A Right.

23 Q Because, of course, that presumption starts right  
24 now and continues --

25 A Yes, right.

26 Q -- until such time as the People are able to

13b5

1 prove guilt beyond a reasonable doubt?

2 You understand that?

3 A Yes.

4 Q Are you saying you would not be able to do that?

5 A No, I think I am in reverse of what I should be.

6 Q You would not be able to give the defendants the  
7 benefit of the presumption of innocence?

8 A No, I don't think so.

9 THE COURT: Do you care to inquire, Mr. Fitzgerald?

10 MR. FITZGERALD: No, your Honor.

11 MR. REINER: No questions.

12 MR. SHINN: No questions.

13 MR. KANAREK: No questions.

14 MR. STOVITZ: No questions.

15 THE COURT: All right, thank you, Mrs. Zuver, you  
16 may go back into the courtroom.

17 Will you refrain from discussing with anybody  
18 what has been said in here?

19 MRS. ZUVER: Yes.

20 THE COURT: Thank you.

21 (Mrs. Zuver leaves the chambers of the court.)

22 MR. FITZGERALD: Challenge her for cause.

23 MR. REINER: Join in the challenge.

24 MR. SHINN: Bin.

25 MR. KANAREK: Bin.

26 THE COURT: The challenge will be allowed.

1 I did not mean to cut you off if you had some-  
2 thing to say.

3 MR. STOVITZ: Submit it, your Honor.

4 THE COURT: The challenge will be allowed. Mrs. Zuver  
5 will be excused for cause.

13C

3C-1

1 MR. BUGLIOSI: Before we go back in open court I  
2 have another question to bring up.

3 THE COURT: Do you want to take it up now?

4 MR. BUGLIOSI: After we get the jury.

5 THE COURT: I am going to have the juror brought in  
6 now.

7 MR. BUGLIOSI: Before we go back in open court I have  
8 a legal question. We can discuss it now or after.

9 THE COURT: Why don't we take it up now unless it is  
10 something that should wait.

11 MR. BUGLIOSI: Again, your Honor, I am going to  
12 go back to vicarious liability.

13 The record was clear up until this morning, the  
14 Court has permitted the prosecution to ask the jury whether  
15 they had an understanding of this rule of conspiracy.

16 This morning the Court changed its mind and  
17 said that that question was no longer a proper question.

18 However, the record is abundant here that the  
19 Court overruled objections on this point many times during  
20 the last couple of weeks.

21 THE COURT: I can remember specifically stating to  
22 you at one time that it seemed to me it would be impossible  
23 for anybody to answer that without having had some legal  
24 education.

25 MR. BUGLIOSI: That's right, and then I made an  
26 argument back in chambers, and the Court said it would

1 reconsider its position.

2 The following day I commenced asking those  
3 questions and I have been asking those questions for the  
4 past couple of weeks.

5 The record is clear on that, and I think  
6 defense counsel will agree on that.

7 And the Court permitted the questions.

8 I will draw the Court's attention to People vs.  
9 Love, 53 Cal. 2d 852, a footnote in Love which uses this  
10 language:

11 "Inquiry into a juror's understanding,  
12 the same word of a principle of law may,  
13 however, be a prerequisite to inquiry into  
14 his willingness to apply that principle of  
15 law,

16 "To preclude such inquiry might under  
17 some circumstances constitute a refusal to  
18 permit the reasonable examination of prospective  
19 jurors to which the parties are entitled."

20 I would draw the Court's attention to the fact  
21 that is the only rule of law that I asked the jury if they  
22 understand.

23 It is more difficult than other rules of law.  
24 I don't want to abuse our right, as I feel it, to go into  
25 this area.

26 I don't want to abuse it at all. But on the

1 all-important area of vicarious liability --

2 THE COURT: What was the question you asked again, to  
3 refresh my recollection, which question are you talking  
4 about?

5 MR. BUGLIOSI: Let's say I am asking a particular  
6 juror, "Mr. so-and-so, do you understand the rule of  
7 conspiracy which makes one conspirator criminally  
8 responsible for the crimes committed by his co-conspirators?"

9 THE COURT: The thing that bothers me about it/<sup>is</sup>that  
10 he cannot possibly understand it unless he is one of those  
11 rare individuals who may have gone to law school or had  
12 some special reason to understand it.

13 MR. BUGLIOSI: But I am stating, before I ask this  
14 question I am telling the juror what the conspiracy is and  
15 what the rule is, and I give him an example, A, B, and C,  
16 and after I give the example I ask if he understands.

17 And I know Mrs. Lee did not understand that  
18 particular question, and I kept on going over and over and  
19 over again.

20 Finally she understood.

21 It is not the type of thing a juror will pick  
22 up automatically.

23 THE COURT: I keep getting the feeling that it could  
24 be put in so much simpler terms.

25 MR. BUGLIOSI: If I knew how, I would appreciate it,  
26 so I can tell my law students.

1 THE COURT: I will be willing to swear to almost any-  
2 thing that these jurors are not grasping the subtle intri-  
3 cacies in the law that counsel are propounding in their  
4 questions.

5 MR. BUGLIOSI: What could be more simplified than to  
6 tell the juror what a conspiracy is, an agreement between  
7 two or more persons to commit a crime, and the overt act,  
8 and then say, once the conspiracy is formed each  
9 conspirator is responsible for the crimes of the co-  
10 conspirator.

11 Let me give you an example, A, B, and C, and  
12 then say, "Do you understand this?"

13 THE COURT: I don't think you ever put it that simply  
14 before.

15 MR. BUGLIOSI: I have, I have, I swear I have because  
16 I write out my questions before I ask.

17 With the six jurors this morning I did not go  
18 into that background because I had already gone into it  
19 with Mrs. Roseland, so I was starting out with, "Do you under-  
20 stand it?"

21 But with Mrs. Roseland I did go into the  
22 conspiracy laws and I talked about being responsible, one  
23 conspirator being responsible for the other's acts.

24 I gave the A, B, C example.

25 My question was, "Do you understand what I am  
26 talking about?"



1           If it were not so crucial to this case I  
2 would not overuse what I think is a right. But we are  
3 attempting to bring Mr. Manson into criminal responsibility  
4 for these murders under that theory, that very theory of  
5 vicarious liability.

6           I am not using those terms to the jury, but this  
7 is a very precise theory that we are relying upon against  
8 the main defendant in this case.

9           THE COURT: I understand.

10          MR. BUGLIOSI: And if there is some juror that for  
11 some reason does not understand this, and then five months  
12 from now he says to himself, "Mr. Manson was back on the  
13 Spahn Ranch, I just don't like this business of his  
14 being responsible for these crimes."

15          Now, the Court can say, "Well, the jurors  
16 have promised to follow the Court's instructions."

17          But I can give the Court authority for this,  
18 and I will very shortly. It is human nature, your Honor,  
19 that people are going to be swayed by their beliefs, even  
20 if unconsciously.

21          If some juror does not like that rule of law  
22 he might be swayed in applying it to the facts of this case,  
23 and this is what I am concerned with.

14-1

1 Let me cite one case to the Court where  
2 the Appellate Court had to acknowledge something that  
3 all lawyers and judges know, that simply because a juror  
4 says he will follow the instructions of the Court, it  
5 doesn't necessarily mean that.

6 I cite to the Court --

7 THE COURT: Of course, that is true no matter  
8 what you tell him or no matter what you elicit from  
9 them.

10 MR. BUGLIOSI: Right.

11 I am saying, your Honor, simply because  
12 we are getting that answer, it should not preclude  
13 the attorneys from going into a certain amount of depth  
14 on these individual issues.

15 Now, in People vs. Bennett, 70 Cal. App.  
16 89, the Court said:

17 "A Court may charge a jury accurately  
18 respecting the law pertinent to the case, yet it  
19 does not follow therefrom that the jury will  
20 accept the Court's statement of the law as  
21 correct and follow it in passing upon the issues  
22 to be decided."

23 The Appellate Court is just recognizing  
24 something that everyone knows.

25 In view of the Supreme Court of the State  
26 of California in People vs. Love --

14-2

1 THE COURT: What was the Court talking about  
2 specifically in the Love case? What type of question?  
3 Or was it just philosophizing generally?

4 MR. BUGLIOSI: Let me get that. It is 53 Cal. 2d.

5 MR. SHINN: Your Honor, may I say something in  
6 response to Mr. Bugliosi's statement?

7 THE COURT: You mean on this subject?

8 MR. SHINN: Yes, on the same subject, your Honor.

9 THE COURT: All right.

10 MR. SHINN: He wants to instruct the jury in a  
11 general form.

12 Now, then, as the Court is fully aware of  
13 the fact, there are exceptions to this law: In the event  
14 that the conspirator goes out and does something that they  
15 didn't agree to, then that conspirator would not be  
16 liable.

17 Then the defense counsel would get up and  
18 try to instruct the jury on the law in a different way,  
19 and it gets the jury all confused, your Honor.

20 THE COURT: I know.

21 MR. SHINN: He wants to instruct the jury on the  
22 law to his advantage, the way he wants them to look at it.

23 MR. BUGLIOSI: The Court in Love does say that  
24 any suggestion in People vs. Bennett that the parties must  
25 be permitted -- using the word "must" -- to question  
26 prospective jurors as to their understanding of general

14-3

1 principles of law is inconsistent with the foregoing  
2 cases and is disapproved.

3 In other words, there is no automatic right  
4 to it, your Honor, but then the Court goes on to say  
5 in the footnote:

6 "However, inquiry into a juror's  
7 understanding of a principle of law may, however,  
8 be a prerequisite to inquiry into his willingness  
9 to apply that principle of law. To preclude such  
10 inquiry might, under the circumstances, constitute  
11 a refusal to permit the reasonable examination  
12 of prospective jurors to which the parties are  
13 entitled."

14 And what I am saying is that under the  
15 peculiar circumstances of this case, your Honor, where  
16 the People's case against the main defendant, Mr. Manson,  
17 is predicated solely on this rule of conspiracy, I feel  
18 that it is just absolutely essential that each juror  
19 have some idea of what we are talking about, because he  
20 might go back there and when he really does come to grips  
21 with this particular rule of law, and he doesn't like it,  
22 and he hangs up the jury, we have to try the case all  
23 over again for another four or five months, and I think it  
24 is well worth that extra question that takes ten seconds  
25 to preclude this type of situation.

14a fls.<sup>26</sup>

14a-1

1 MR. STOVITZ: Not to belabor it, your Honor, but  
2 the average intelligence of these jurors, although they  
3 have passed an intelligence test to qualify, as your  
4 Honor noticed in the questioning of the last juror,  
5 they are not overly intelligent, or they appear to be  
6 nervous.

7 I went to trial in People vs. Varnham,  
8 in which one defendant did the shooting and the other  
9 two defendants did not, in which at the end of the trial  
10 the two defendants that didn't do the shooting didn't  
11 understand how they were convicted of murder.

12 They asked the Court the question. The  
13 Court answered the question. They appealed on that  
14 point.

15 The case was reversed on another point.  
16 They came back for a new trial four years later, and  
17 four years wiser. They still didn't understand how they,  
18 who didn't do any shooting of any gun, could be convicted  
19 of first degree murder.

20 And I submit that the average juror doesn't  
21 understand the principle that one person can be convicted  
22 of a murder when another person does the actual killing,  
23 and if they have any prejudices against that rule of law,  
24 now is the time to find out about it, your Honor.

25 MR. BUGLIOSI: I would like to argue very briefly  
26 further, your Honor.

14a-2

1 A juror with a fixed opinion against a  
2 particular rule of law cannot always act in the impartial  
3 manner required by Section 1073 despite his claim that  
4 he will follow the law/<sup>as</sup>given to him by the Court.

5 I submit that it is human nature for a  
6 person to be swayed, even if unconsciously, by his  
7 sentiments.

8 Now, 1073, Paragraph 2, says that particular  
9 causes of challenging for cause are of two kinds. Sub 2,  
10 for the existence of a state of mind on the part of a  
11 juror in reference to a case or to either of the parties  
12 which will prevent him from acting with entire impartiality  
13 and without prejudice to the substantial rights of either  
14 party, which is known in this Code as actual bias.

15 Now, I submit that common sense would dictate,  
16 your Honor, that we cannot ask a juror whether he is  
17 prejudiced against a particular rule of law unless he has  
18 an idea of what that rule of law is.

19 For him to say, I am prejudiced against it,  
20 or not prejudiced against it, and not have any idea what  
21 that rule of law is, by definition, your Honor, is  
22 inconsistent.

23 1073, Sub --

24 THE COURT: I have been permitting both sides to  
25 inquire of the prospective jurors.

26 MR. BUGLIOSI: Whether they will follow the Court's

1 instructions on these rules of law.

2 THE COURT: For example, Mr. Reiner has inquired  
3 at some length on the law of accomplice , and you have  
4 inquired at some length on other aspects, and Mr.  
5 Fitzgerald has gone into some other things.

6 MR. BUGLIOSI: But this question is different,  
7 and it is the only area that we are going into.  
8 "Do you understand?" That is the key word, your Honor.

9 THE COURT: I can tell you --

10 MR. BUGLIOSI: When I say, "Do you understand,"  
11 your Honor, I am not asking if the Court understands.  
12 I mean, I am looking at a juror and saying, "Do you  
13 understand."

14 THE COURT: I have looked at the questions, when  
15 you asked them, the same way the juror would. In other  
16 words, I am trying to anticipate whether the question has  
17 any meaning to the prospective jurors.

18 MR. BUGLIOSI: Thus far, your Honor, the answers  
14b fls 19 have been very good.

4B-1

1 THE COURT: When you are asking, "Do you understand  
2 the law of conspiracy," then --

3 MR. BUGLIOSI: I am not asking that, your Honor.

4 THE COURT: But you have put it in that form.

5 MR. BUGLIOSI: No, I have not.

6 MR. STOVITZ: Maybe we can, on the record, ask it  
7 again, drawing attention to the previous questions that he  
8 asked Miss Roseland, and if the juror says he didn't hear  
9 those questions, then counsel can put it to him.

10 I think when he asks, "Do you understand that  
11 rule of conspiracy," he limits it to that particular point.

12 MR. BUGLIOSI: That rule.

13 Thus far, your Honor, the answers have been  
14 excellent, the jurors have said, "Yes."

15 Then I asked, "Have you thought about it?"  
16 And they say, "Yes."

17 Then I ask, "Do you have any prejudice against  
18 this?" And the answers have been, "No."

19 But let me say this and put this on the record,  
20 your Honor. One juror, thus far, has said that he dis-  
21 agrees with this rule. Parrish.

22 Parrish says that he does not agree with that  
23 rule of law. And I will state, as an officer of this court,  
24 that outside of this court many people have told me that  
25 they don't like that rule of law and that they will not  
26 convict someone unless that person were involved at the



14B2

1 scene of the crime.

2 People have told me this, your Honor, and I  
3 will make this representation to the Court.

4 Thus far, your Honor, Parrish is the only one  
5 of all these jurors, but it only takes one to hang up a jury.  
6 Parrish is the only one who says he does not like that rule  
7 of law.

8 I want to find out if the other jurors don't  
9 like it.

10 My point is, your Honor --

11 THE COURT: I think, Mr. Bugliosi, that our differences  
12 don't stem from the fundamentals but from the form of the  
13 question you have been asking. Not all of them, but some of  
14 them.

15 I have never told you that you can't go into  
16 that subject.

17 MR. STOVITZ: It is a matter of semantics, perhaps.

18 THE COURT: I think some of the questions are objec-  
19 tionable in the form in which they are phrased.

20 MR. BUGLIOSI: But the word "understand" is the  
21 simplest word I can think of, your Honor.

22 THE COURT: It depends on what goes with the rest of  
23 it.

24 MR. BUGLIOSI: I could use "comprehend;" I can use  
25 "apprehend," but the simplest word is "understand."

26 THE COURT: There isn't any ambiguity in the word

1 "understand." It is what the rest of the sentence  
2 consists of.

3 MR. BUGLIOSI: "Do you understand the rule of law,"  
4 or "this rule of conspiracy," and I previously indicated  
5 what that rule is.

6 THE COURT: Well, we will try it again.

7 MR. BUGLIOSI: Okay.

8 MR. KANAREK: May I be heard, your Honor?

9 THE COURT: Yes.

10 MR. KANAREK: Your Honor, because counsel wants to --

11 THE COURT: What point are you talking about now?

12 4C

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1 MR. KANAREK: I am saying, your Honor, that this  
2 emphasis as to this point that Mr. Bugliosi is doing,  
3 is advocating in this voir dire, it is denying Mr. Manson  
4 a fair trial. There is no question about it, because Mr.  
5 Bugliosi has no case, and Mr. Bugliosi has a desire --

6 THE COURT: Mr. Kanarek --

7 MR. KANAREK: It is true, your Honor. He has a  
8 desire --

9 THE COURT: When you make a statement like that,  
10 Mr. Kanarek, it is just wasting time.

11 MR. KANAREK: He just said so. He said there is  
12 no case against Mr. Manson.

13 MR. BUGLIOSI: What? When did I say that?

14 MR. KANAREK: The fair implication of his remarks.

15 THE COURT: What point are you making? Will you get  
16 to it?

17 MR. KANAREK: I am making the point that this constant  
18 emphasis upon Mr. Manson being the "main defendant" and  
19 all of that.

20 THE COURT: I never heard anybody say that.

21 MR. KANAREK: He said it in this record. Not right  
22 now.

23 MR. STOVITZ: Not before any of the jurors has he  
24 ever made that statement.

25 MR. KANAREK: I am not talking about that.

26 The point is that right here, right here

1 in your Honor's chambers, right here in chambers he made  
2 the statement that Mr. Manson is the maindefendant, and  
3 it shows the vendetta in connection with what he is asking  
4 this Court to do.

5 In other words, your Honor, he has a weak  
6 case, he has no case, so, therefore, he is going to this  
7 jury and hammering on voir dire and preinstructing, arguing,  
8 in fact, the case to the jury, and it shows that he is,  
9 to paraphrase or to compare it to the death orientation,  
10 he is conviction-orienting this jury towards Mr. Manson.

11 And that is just illegal, your Honor.

12 THE COURT: Well, that is not true, Mr. Kanarek.

13 In the first place, I haven't heard the  
14 evidence. I have no way of knowing whether he has a weak  
15 case or a strong case, but the principle involved is  
16 precisely the same in either case. That is, he, like  
17 any other party, has a right to reasonable examination of  
18 the jurors to determine their state of mind with respect  
19 to these things, including whether or not they would be  
20 willing to follow the Court's instructions.

21 Now, what we have been talking about pertains  
22 to the form of these questions.

23 MR. KANAREK: But what he is saying is, your Honor,  
24 that there is a particular rule of law. What he is saying  
25 is that there is a particular rule of law that he has  
26 determined through his -- whatever it is -- whatever you

1 want to call it -- that he has determined that this rule of  
2 law is not adopted by a lot of people, and, therefore, he  
3 wants some special kind of privilege to advocate that  
4 particular proposition to the jury.

5 THE COURT: All right, let's bring in the next  
6 prospective juror.

7 THE CLERK: Is this one excused, your Honor?

8 THE COURT: Yes. Mrs. Zuver is excused for cause.

9 MR. KANAREK: I request, your Honor, our motion is  
10 that Mr. Bugliosi, because of what he has just argued to  
11 the Court, that he be ordered not to interrogate in  
12 connection with -- I don't care which way he states it,  
13 whether he puts "if" in front of it or not -- that he not  
14 be allowed to interrogate in connection with the law of  
15 conspiracy, because this is just one principle of law  
16 that he wishes to dwell upon because, admittedly, by his  
17 own statements, he has no case against Mr. Manson.

18 MR. BUGLIOSI: When did I say that, Mr. Kanarek?

19 THE COURT: All right.

14 d fls

14-D

1 MR. FITZGERALD: May I make a remark, your Honor?

2 THE COURT: Yes.

3 MR. FITZGERALD: Your Honor, the law of conspiracy is  
4 difficult, it is intricate, and it is sophisticated, and  
5 I think that Mr. Bugliosi has made an honest attempt to  
6 explain in his questions certain basic premises of the law  
7 of conspiracy, but almost every question he asks assumes a  
8 definition or a knowledge of the term "conspiracy" to begin  
9 with, and frequently he asks questions the form of which  
10 goes something as follows: If two or more people conspire,  
11 do you understand that?

12 Well, that presumes knowledge on the part of  
13 the juror as to conspiracy.

14 I would have no objection if your Honor wants  
15 to instruct the entire jury panel on the law of conspiracy.  
16 That seems to be the only fair way to do it, because to  
17 ask these jurors --

18 THE COURT: I don't think that is necessary.

19 I think the questions can be phrased in a  
20 general way.

21 In other words, you could say, for example,  
22 that there is, in the law, a theory of liability which  
23 runs something like this, and keep it in general terms.

24 MR. BUGLIOSI: Very good.

25 THE COURT: And "If you were instructed in this case,"  
26 I mean, you can expand on it a little more, but I am just

14D2

1 giving you an example of an introduction.

2 MR. BUGLIOSI: The theory --

3 THE COURT: Let's not argue about the specific  
4 question. The point is that with a little thought I think  
5 it can be done and the questions can be tailored so that  
6 they are not ambiguous to elicit whether or not the juror  
7 understands the fundamentals that you are talking about and  
8 whether if, in this case, he is so instructed, and he  
9 finds it is applicable under the facts as he finds them,  
10 he would be willing to follow such an instruction, and then  
11 you get over exactly the same thing without all the intri-  
12 cate, complex details of the law.

13 MR. BUGLIOSI: I am not going into details, your  
14 Honor. There is no other word that I know of.

15 THE COURT: The principle involved is very simple.  
16 Two or more people agree on something and they commit an  
17 overt act, and there may or may not be liability.

18 It is when you get into all the refinements.

19 MR. FITZGERALD: I agree with the Court, but what  
20 Mr. Bugliosi does, your Honor, there are male and female  
21 defendants on trial here, he uses the personal pronoun,  
22 "he," which singles out the male defendant in the case,  
23 and other times he uses the personal pronoun "she," which  
24 singles out the females.

25 If he would use the pronoun "one," or "If a  
26 person conspires," then --

14D3

1 MR. BUGLIOSI: I will try to do that.

2 THE COURT: I have said that on innumerable occasions  
3 in this case. If you will try to keep your questions  
4 regarding specific points of law in general terms, then  
5 you won't run into any problem. It is when you try to get  
6 down into specifics that it becomes instruction and  
7 indoctrination, and I repeat again, that is where the  
8 problem is.

9 MR. BUGLIOSI: There is no way to avoid the use of  
10 the word "understand." That is the most simple word,  
11 your Honor.

12 THE COURT: I don't have any objection to that.

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1 MR. BUGLIOSI: This is what I want to do. I want  
2 to ask them if they understand something. Now, I have  
3 to state to them what, basically, the law --

4 THE COURT: You ask them if they understand the law  
5 of conspiracy.

6 MR. BUGLIOSI: Your Honor, I never asked that  
7 question.

8 THE COURT: Perhaps I misunderstood you then, Mr.  
9 Bugliosi.

10 MR. BUGLIOSI: I asked, "Do you understand this  
11 particular rule of conspiracy which makes one conspirator  
12 responsible for the crimes of his co-conspirator."

13 I know of no more simple way of articulating  
14 that theory of vicarious liability.

15 I will say that that statement is not only  
16 correct, but it is immensely more simple than the instruc-  
17 tion in CALJIG.

18 THE COURT: It may be.

19 MR. BUGLIOSI: That is a very much more simplified  
20 statement.

21 THE COURT: There is more than one instruction  
22 on that.

23 MR. BUGLIOSI: I am talking about this particular  
24 rule of law, vicarious liability.

25 That statement that I make is in much more  
26 simple language than CALJIG.

1 THE COURT: I meant, there is more than one  
2 instruction in CALJIG on conspiracy, if I remember right.

3 MR. BUGLIOSI: There is just one instruction as far  
4 as I know on vicarious liability.

5 THE COURT: All right.

6 I think we understand each other.

7 MR. BUGLIOSI: I don't know if we do.

8 THE COURT: Apparently it is a disagreement on  
9 semantics on a particular point in time.

10 MR. BUGLIOSI: The key word is "understand."

11 We will try again.

12 THE COURT: All right.

13 Let's bring in the next prospective juror.

14 (Whereupon a prospective juror enters the  
15 Court's chambers.)

16 THE COURT: Good afternoon, sir.

17 MR. VITZELIO: Good afternoon.

18 THE CLERK: The prospective juror's name is Walter  
19 Vitzelio; W-a-l-t-e-r, V-i-t-z-e-l-i-o.

20 MR. STOVITZ: "v" like in Victor?

21 THE CLERK: Yes.

22  
23 VOIR DIRE EXAMINATION OF MR. VITZELIO

24 BY THE COURT:

25 Q Mr. Vitzelio, if you were selected as a juror  
26 in this case, would you be able to serve?

1 A Yes, I believe I could.

2 Q You do recall, do you, that I have asked the  
3 other prospective jurors certain questions regarding the  
4 death penalty?

5 A Yes, sir.

6 Q And have you had an opportunity to think about  
7 those questions and to think about your answers to them,  
8 sir?

9 A Yes, sir.

10 Q All right.

11 I am going to ask you those questions now.

12 Do you entertain such conscientious opinions  
13 regarding the death penalty that you would be unable to  
14 make an impartial decision as to any defendant's guilt  
15 regardless of the evidence in the case?

16 A No.

17 Q Do you entertain such conscientious opinions  
18 regarding the death penalty that you would automatically  
19 refuse to impose it without regard to the evidence in  
20 the case?

21 A No, sir.

22 Q Now, I'm going to ask you some questions  
23 about what you may have learned about this case or any  
24 other defendants from reading newspapers, watching television,  
25 listening to the radio, and so forth.

26 A Yes, sir.

1 Q Have you lived in Los Angeles County  
2 continuously since last August?

3 A Yes, sir.

4 Q Do you subscribe to a daily newspaper?

5 A No, sir.

6 Q Do you read a daily newspaper on a regular  
7 basis?

8 A Every Sunday I get the Sunday Times, and I  
9 read the advertising section, that is all.

10 MR. FITZGERALD: I didn't hear the last?

11 MR. VITZELIO: I said that every Sunday I get the  
12 Sunday Times and I read the advertising section. That is  
13 all I read in the paper.

14 THE COURT: Would you keep your voice up as much as  
15 you can, please, Mr. Vitzelio.

16 MR. VITZELIO: Yes, sir.

14f fls

14F 1

1 THE COURT: Q Do you watch television?

2 A I watch Channel 9, What's My Line, occasionally;  
3 and once in a great while the news at 6:00 o'clock, Channel  
4 2.

5 Q The 6:00 o'clock news?

6 A Yes.

7 Q Once in a while, you say?

8 A Yes. Not regularly.

9 MR. STOVITZ: Channel 2?

10 MR. VITZELIO: Channel 2.

11 THE COURT: Q Do you listen to the radio at all?

12 A Yes, sir. In the morning when we eat breakfast,  
13 KFWB.

14 Q This is a news program?

15 A Yes. KFWB.

16 Q Keep your voice up, please.

17 A Generally station KFWB while we are eating  
18 breakfast.

19 Q All right.

20 Now, as a result of whatever you have learned  
21 about this case, have you formed any opinion as to the  
22 guilt or innocence of the defendants?

23 A No, sir.

24 Q Before you came into this case on this jury  
25 panel, did you know the names of any of these defendants?

26 A No.

4F2  
1 I saw Mr. Manson on television. That was, oh,  
2 months ago, when he was first picked up as a suspect. I  
3 think I saw that on the news just partly, and that is the  
4 last time that I ever saw him.

5 Q Did you know the names of any of the female  
6 defendants?

7 A No.

8 Q Do you know the names of any of the victims?

9 A No, sir.

10 Q Did you ever know them?

11 A No, sir.

12 Q Did you ever hear of Sharon Tate?

13 A Yes, I heard of that when it first happened,  
14 when the murder was committed.

15 Q Do you know the names of any of the other  
16 victims?

17 A No, sir.

18 Q Have you ever read or heard anything which  
19 appeared to be a description of what happened in these  
20 killings by someone who is there?

21 A No, sir.

22 Q Now, you know, of course, that the defendants  
23 have been arrested and charged with these offenses?

24 A Yes.

25 Q And that they are before the Court for trial  
26 to determine their guilt or innocence.

14F3

1 Do you understand that?

2 A Yes.

3 Q Now, apart from those facts, have you ever  
4 learned anything which caused you to believe that there  
5 was some connection between the defendants and the  
6 commission of the alleged crime?

7 A No, sir.

8 Q Did you hear me state in court yesterday -- or  
9 perhaps it was the day before, I am not sure -- that in  
10 every criminal case a defendant is entitled to the  
11 presumption of innocence?

12 A Yes, sir.

13 Q If you were selected as a juror, would you give  
14 the benefit of the presumption of innocence to each of these  
15 defendants?

16 A Yes, sir.

17 Q You understand that that presumption of innocence  
18 continues until such time as the People are able to prove  
19 guilt beyond a reasonable doubt?

20 A Yes, sir.

21 Q Do you understand that?

22 A Yes.

23 Q Now, if the People were unable to prove guilt  
24 beyond a reasonable doubt, would you then vote for an  
25 acquittal?

26 A Unable to prove beyond a reasonable doubt? Yes,

14F4

1 sir.

2 Q Yes. If the People were unable to carry their  
3 burden of proving guilt beyond a reasonable doubt.

4 A Yes.

5 Q Would you then be willing and would you vote for  
6 a verdict of acquittal?

7 A Yes.

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1 Q On the other hand, if the People were able to  
2 prove guilt beyond a reasonable doubt, would you be willing  
3 to vote a verdict of guilty?

4 A Yes, sir.

5 Q Do you feel that at this moment you are  
6 entirely impartial as far as the question of the guilt or  
7 the innocence of any of the defendants is concerned?

8 A Yes, sir.

9 Q You don't tend to lean one way or the other?

10 A No, sir, there is one question, though.

11 Q All right.

12 A I have a brother who is a deputy sheriff. He  
13 is in the reserve.

14 Q You have a brother?

15 A Yes, he is in the Sheriff's Department Reserve.

16 Q Would that affect your thinking?

17 A No.

18 Q If you were a juror?

19 A No, I thought you would ask.

20 Q Yes, I am sure the attorneys will be glad to  
21 know that and probably would have asked you that later.

22 Now, if you were selected as a juror would you  
23 be willing to put whatever you heard or learned about this  
24 case, or the defendants, to one side and decide the issues  
25 solely on the basis of the evidence that comes in during  
26 this trial?

15-2

1 A Yes, sir.

2 Q Do you have any question about your ability  
3 to do so?

4 A No, sir.

5 THE COURT: Mr. Fitzgerald.

6  
7 VOIR DIRE EXAMINATION OF MR. VILZELIO

8 BY MR. FITZGERALD:

9 Q Is Mr. Manson famous?

10 A Mr. who?

11 Q Mr. Manson, Charles Manson.

12 A No, not that I know of outside of this case  
13 here. He's got a lot of publicity.

14 Q Did it get a lot of publicity, Mr. Manson and  
15 his case?

16 A I imagine it did.

17 Q Well, I am asking you for your opinion.  
18 Did it get a lot of publicity?

19 A Well, I don't know why not, yes, I imagine it  
20 did.

21 MR. KANAREK: Your Honor, can he speak up?

22 THE COURT: Yes, keep your voice up, sir.

23 Q BY MR. FITZGERALD: You heard Mr. Manson's  
24 name frequently on radio and television?

25 A No, not frequently. I don't listen to radio  
26 that much.

1 Q Where did he get the publicity that you  
2 mentioned?

3 A Well, when he was first picked up.

4 Q Where was that publicity?

5 A Well, Channel 2 is where I saw it on there where  
6 he first was a suspect.

7 Q What was said on television?

8 A Nothing was said.

9 I don't remember now the exact words. I just  
10 saw them taking him down the corridor, I think it was, I  
11 don't know what building it was even.

12 Q Who did you think he was?

13 A What?

14 Q Who did you think Mr. Manson was?

15 A Well, he was a suspect in that murder case, the  
16 Tate murder case, I guess it was.

17 I don't know whether it was or not, I saw him  
18 walking is all I saw.

19 Q Did you know anything else about Mr. Manson?

20 A No, sir, I never heard of him before.

21 Q The only thing you know is what?

22 A That I saw him on television. He was  
23 suspected of a Hollywood killing.

24 Q Do you know anything about his background?

25 A No, sir.

26 Q Have you ever heard anything about his background?

1 A No.

2 Q Do you know where he went to school?

3 A No.

4 Q Do you know where he was born?

5 A No, I don't.

6 Q Did you know the names of any of the female  
7 defendants in this case?

8 A No.

9 Q Have you ever heard the name Atkins, Susan  
10 Atkins?

11 A Yeah, I heard about her when they were taking  
12 him, Mr. Manson --

13 THE COURT: Keep your voice up.

14 THE PROSPECTIVE JUROR: I heard her name mentioned  
15 once, I believe, I don't remember whether it was when they  
16 were taking Mr. Manson in custody or not.

17 Q BY MR. FITZGERALD: Do you know who she is?

18 A Well, she is one of these -- the girl in the  
19 blue, is that her?

20 Q That's right. Had you heard anything about  
21 the girl in blue before you came into court here?

22 A No, sir, I saw her picture once when they had  
23 Mr. Manson there, I think it was her, when they were  
24 walking down the corridor.

25 That is the only thing I ever saw anything  
26 about her.

1 Q Do you know why Miss Atkins is charged with  
2 Mr. Manson?

3 A Why?

4 Q Yes.

5 A No, I don't. I know she is charged with  
6 murder, but I don't know why she is charged with him.

7 Q Did the thought ever occur to you, did you ever  
8 ask yourself why Susan Atkins is in the same case with  
9 Charles Manson?

10 A Well, they were supposed to have a kind of  
11 communal clique, or something, didn't they?

12 Q A communal clique?

13 A Yes.

14 Q Where did you hear that?

15 A Well, I'm aware -- I heard it.

16 Q On radio, television?

17 A I don't remember, possibly on radio, because I  
18 don't watch television enough to see it on television.

19 Q And what about the other two girls, Patricia  
20 Krenwinkel and Leslie Van Houten, have you ever heard of  
21 them before?

22 A No, I didn't even know their names.

23 Q Did it ever occur to you why they were charged  
24 with Mr. Manson?

25 A No.

26 Q No reason at all?

1 A No.

2 Q Do you know who killed Sharon Tate?

3 A No, I don't.

4 Q Do you have an opinion?

5 A No, I do not.

6 Q Did anybody ever discuss it with you?

7 A No, sir.

8 Q Did you and your wife ever talk about it?

9 A No, never talked about it.

10 Q Did you ever talk about the offenses themselves?

11 A No, sir.

12 Q Didn't you say to your wife, "Oh, what a

13 horrible thing this is"?

14 A No, we have not talked about it.

15 My wife don't look at television at all very

16 much. She has a couple of cataracts covering her eyes.

17 She don't watch television -- very seldom.

18 Q Do you have any personal feeling about

19 Mr. Manson?

20 A No, sir.

21 Q Do you have any personal feeling about the

22 female defendants in this case?

23 A No, sir.

24 Q Have you ever heard of Mr. Kanarek?

25 A Kanarek? Yeah, that is a defense lawyer for

26 Mr. Manson, I believe, is that who you are talking about?

1 Q Yes, had you ever heard about Mr. Kanarek  
2 before you ever came to court?

3 A No, not until he was introduced in court here,  
4 Monday, I believe it was.

5 Q You've got a pretty good memory.

6 A Yes.

7 Q You heard Mr. Kanarek's name once?

8 A Well, I don't know if I heard it once. I  
9 know I heard it in court here I think it was Monday when  
10 Judge Older here introduced him.

11 Q Do you know the names of the other defense  
12 attorneys?

13 A Well, let's see, I believe that is Mr. Reiner in  
14 the back here -- no, here is Reiner over here.

15 Q Is that about it?

16 A I don't know which one is Mr. Fitzgerald.

17 You are Mr. She?

18 MR. SHINN: Mr. She?

19 THE PROSPECTIVE JUROR: Shee or someone -- I don't  
20 know.

21 Q BY MR. FITZGERALD: But you did not hear about  
22 Mr. Kanarek on the radio?

23 A No.

24 Q Or seen him on television.

25 A No, only as an attorney on this case.

26 MR. FITZGERALD: Thank you.

1 THE COURT: I think we'd better take our recess at  
2 this time, gentlemen.

3 You may go back into the courtroom, Mr.  
4 Vitzelio.

5 We will take a recess and then come back.

6 Please do not discuss with anyone what you have  
7 heard in chambers.

8 MR. VITZELIO: All right.

9 (Recess.)



15a-1

1 (The following proceedings were had in  
2 the chambers of the Court, all defendants and counsel  
3 being present, Mr. Bugliosi and Mr. Stovitz representing  
4 the People:)

5 THE COURT: All parties and counsel are present.

6 MR. FITZGERALD: I had concluded.

7 THE COURT: Mr. Reiner?

8 MR. REINER: No questions.

9 MR. SHINN: No questions.

10 THE COURT: Mr. Kanarek.

11 MR. KANAREK: No questions.

12 THE COURT: Mr. Stovitz?

13  
14 VOIR DIRE EXAMINATION OF MR. VILZELIO  
15 BY MR. STOVITZ:

16 Q Sir, how old are you?

17 A 67.

18 Q And you are retired, sir?

19 A Yes, sir.

20 Q Assume for the moment that you are out in  
21 this jury box for the next four or five days while we are  
22 back here picking a jury, do you think you could follow  
23 the Court's admonition and not read anything about this  
24 case and keep your voice just as pure as it has been?

25 A Yes, sir.

26 Q You won't be tempted to go to the library and

15a-2

1 read up about all of the things you missed out on?

2 A No, sir.

3 Q All right, and assume that the Court does.  
4 not sequester the jury, that means keep them in a hotel  
5 night after night, do you think you can follow the  
6 Court's admonition and just listen to the evidence  
7 and decide this case solely on the evidence?

8 A Yes, sir.

9 Q Do you know the difference between rumor and  
10 evidence?

11 A Yes, sir.

12 Q And you think you can judge this case solely  
13 on the evidence?

14 A Yes, sir.

15 MR. STOVITZ: I have no further questions.

16 THE COURT: All right, Mr. Vilzelio, would you then  
17 go back in the courtroom and please refrain from talking  
18 about what was discussed in here with everybody?

19 MR. VILZELIO: Yes, sir.

20 THE COURT: Thank you, sir.

21 (Mr. Vilzelio leaves the chambers of the  
22 Court.)

23 MR. FITZGERALD: For the record, your Honor, we  
24 would like to interpose an objection, a challenge for  
25 cause on the basis that this juror was exposed to  
26 prejudicial pretrial publicity.

15a-3

1 MR. REINER: Join.

2 MR. SHINN: Join.

3 MR. KANAREK: Join.

4 MR. STOVITZ: Object to this challenge, your Honor.

5 THE COURT: The challenge will be disallowed.

6 Now, we have 12 persons in the jury box  
7 all of whom have gone through the preliminary voir dire  
8 here in chambers, so at this time we should go into  
9 the courtroom and continue your voir dire on other matters,  
10 if you care to.

11 MR. REINER: Just Mr. Vilzelio.

12 THE COURT: He is the only one that has not already  
13 been examined.

14 MR. STOVITZ: Mr. Baer, your Honor.

15 THE COURT: Mr. Vilzelio came into Seat No. 11,  
16 after the Mr. Cato was challenged by a peremptory challenge  
17 this morning.

18 MR. STOVITZ: I'm sorry, I was looking at an old  
19 sheet, your Honor.

20 THE COURT: All right.

21 MR. KANAREK: I gather then whatever voir dire  
22 Mr. Bugliosi does will be as to Mr. -- how is that?

23 THE COURT: Vilzelio.

24 MR. KANAREK: -- Vilzelio only.

25 THE COURT: Well, I would assume so. He is the  
26 only person that has come into the jury box since the last

15a-4

1 challenge.

2 MR. KANAREK: Right. I just wanted to pinpoint  
3 that, your Honor.

4 THE COURT: Well, I won't foreclose any counsel  
5 if they deem it of some importance, to reopen, go back and  
6 ask a question again of someone else.

7 I hope we can avoid going over things again  
8 unless it is absolutely necessary.

9 MR. KANAREK: Very well, your Honor.

10 MR. REINER: Before we go back into open court,  
11 something has been brought to my attention.

12 Apparently the prospective jurors seated in  
13 the audience have been discussing the case among themselves.

14 Perhaps the prospective jurors as well as  
15 the jurors who have been called into the box might be  
16 admonished that they should not discuss the case or the  
17 voir dire examination.

18 THE COURT: Of course I do admonish them every day  
19 on that.

20 MR. REINER: Does the Court's admonishment take  
21 in other jurors seated in the courtroom?

22 THE COURT: Absolutely, the entire panel.

23 MR. REINER: Perhaps they don't understand it is  
24 not a conversation among themselves, because they are not  
25 very guarded in their conversation.

26 They discuss the case quite freely, apparently,

15a-5

1 while seated in the audience out there while we are in  
2 chambers, not in the jury but in the audience.

3 THE COURT: All right, I will admonish them again  
4 this afternoon when we adjourn, and I will make a point of  
5 it.

6 If I forget, why, remind me, and I will make  
7 a point of saying that the admonition applies to the entire  
8 panel.

9 MR. STOVITZ: I think, your Honor, I have heard  
10 smatterings like "Where are the defendants now?" and  
11 "What are they going to do now?"

12 I don't know whether that is talking about  
13 the case. Most jurors think talking about the case means  
14 talking about the evidence in a case.

15 Jurors are out there doing absolutely  
16 nothing. Some of them don't even bring any reading  
17 material or knitting.

18 So maybe they don't understand what talking  
19 about the case means.

20 You should say "don't discuss the case in  
21 any facet, shape, manner or form."

22 Maybe that will be better.

23 MR. BUGLIOSI: I think that would be an unreasonable  
24 abridgement of their constitutional rights to freedom of  
25 speech.

26 THE COURT: I don't really see it is objectionable

15a-6 1

when they wonder where the defendants or counsel are.

15b fls<sub>2</sub>

All right, let's go back in open court.

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15-B-1

(The following proceedings were had in open court in the presence and hearing of the prospective jurors, all defendants and their counsel being present; Mr. Bugliosi and Mr. Stovitz being present.)

THE COURT: All parties and counsel are present.

All of the prospective jurors are in the jury box.

Do you wish to inquire further, Mr. Fitzgerald?

MR. FITZGERALD: Yes.

VOIR DIRE EXAMINATION OF MR. VITZELIO

BY MR. FITZGERALD:

Q Mr. Vitzelio, what is your business or occupation?

A Retired.

Q What did you do for a living?

A Well, I was a guard the last 20 years.

Q You were a guard?

A Yes, sir.

Q Whom did you guard for?

A Plant Protection, Goodyear Rubber Company.

Q For Goodyear Tire and Rubber Company you were a security agent?

A Yes, sir.

Q You carried a gun?

A Yes, sir.

15B2

1 Q You are familiar with firearms?

2 A Yes, sir.

3 Q Have you ever testified in any legal proceeding?

4 A No, sir..

5 Q Have you ever been the complaining witness  
6 or the prosecuting witness in any kind of criminal  
7 action at all?

8 A No, sir.

9 Q You have never been a witness in a criminal  
10 case, is that right?

11 A No, I have been a witness in a traffic accident.

12 Q In the course of your employment as a security  
13 guard, I take it you never got involved in any kind of  
14 burglary or robbery or anything like that where you had to  
15 testify in court?

16 A No, sir.

17 Q Did you ever have to use your weapon in the line  
18 of duty there at Goodyear?

19 A No, sir.

20 Q You have a brother that is a police officer,  
21 isn't that correct?

22 A Sheriff's Department Reserve.

23 Q What does that mean?

24 A Well, he is in communications with the  
25 Sheriff's Department, Reserve Deputy Sheriff.

26 Q What I mean is, what is a reserve deputy



1       sheriff?

2           A       Well, he works part-time, I guess.

3           Q       Does he have some other business or occupation?

4           A       Yes, he does.

5           Q       What does he do for a living ordinarily?

6           A       Well, he is in the bronzing business.

7           Q       Do you see him often?

8           A       Possibly once a month.

9           Q       I take it he is dedicated to some sort of law  
10 enforcement function, right?

11          A       Well, I don't know, I wouldn't say that.

12          Q       Does he discuss his views of law enforcement  
13 and crime with you?

14          A       No, sir, he is in communications.

15          Q       He is not going to influence you in arriving  
16 at a verdict, is he?

17          A       No, sir.

18          Q       Could you acquit these defendants?

19          A       If the evidence showed they were innocent.

20          Q       Do we have to prove it to you?

21          A       Yes, sir.

22          Q       We would have to prove that we were innocent?

23          A       Yes, sir.

24          Q       What if the prosecution did not prove they  
25 were guilty beyond a reasonable doubt?

26          A       Then I would find them innocent.

1 Q So you would not make us prove that we were  
2 innocent.

3 Maybe we are quibbling over words.

4 You understand that a defendant in a criminal  
5 case is presumed to be innocent?

6 A Yes, sir.

7 Q If you were sworn as a juror and you did not  
8 hear any evidence at all, and you went back in the jury  
9 room, what would you do?

10 A I didn't hear no evidence?

11 Q Yes.

12 A I couldn't do nothing; I couldn't make no  
13 decision.

14 Q You would have to find them not guilty, would  
15 you not?

16 A That's right.

17 Q Because their guilt had not been proven to you?

18 A That's right.

19 Q Who do you think has to prove their guilt?

20 A The prosecution.

21 Q And how do they have to prove it?

22 A Beyond a reasonable doubt.

23 Q Let's say they put <sup>on</sup> some evidence; they  
24 did not prove it beyond a reasonable doubt. What would you  
25 do?

26 A Find them innocent.

1 Q And do you think you have the courage to acquit  
2 these defendants of murder and still face your brother-  
3 in-law and anybody else?

4 A Yes, sir.

5 Q Do you have the courage of your convictions?

6 A Yes, sir.

7 Q Would you give the defendants in this case the  
8 benefit of your own individual opinion in arriving at a  
9 verdict?

10 A Yes, sir.

11 Q Do you understand that the defendants in this  
12 case cannot be convicted without your personal vote?

13 A Yes, sir.

14 MR. FITZGERALD: I have nothing further.

15 THE COURT: Mr. Reiner.

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15c-1

## VOIR DIRE EXAMINATION OF MR. VITZELIO

BY MR. REINER:

Q Mr. Vitzelio?

A Yes, sir.

Q Did you have an opportunity to hear the questions that I have asked from time to time of the prospective jurors?

A Yes, sir.

Q Would you like to hear them again?

A No, sir.

Q Do you recall any questions that I asked of other prospective jurors that you perhaps would have answered differently?

A No, sir.

Q Do you feel you can give Miss Van Houten a fair trial?

A Yes, sir.

Q Do you feel that you could acquit her if the evidence is insufficient, irrespective of whether it is or not sufficient as to any other defendant?

A Repeat that question again.

Q Do you feel you can acquit Miss Van Houten if the evidence as to her is insufficient, even if it is sufficient as to some other defendant?

A Yes, sir.

Q You would not as a group convict them all or

15c-3

1                   you  
2 day, could/think of any answer that you would give that  
3 would be different from the answers Miss Roseland gave?

4           A       No, sir.

5           Q       Now, assume for the moment, sir, that all  
6 of those questions were asked, and your answers were  
7 substantially the same, and you went out to deliberate  
8 on this case and you were convinced beyond any reasonable  
9 doubt as to the guilt of this young lady, Miss Van Houten.

10                   You have seen her now; you were in the  
11 Judge's chambers; you had a good close look at her.

12                   Do you think if that evidence convinced  
13 you of her guilt that you would have the courage of  
14 your convictions to come back and say "Yes, I do find  
15 you, Leslie Van Houten, guilty of murder in the first  
16 degree"?

17           A       Yes, sir.

18           Q       All right, now, this decision, is a  
19 personal one, isn't it, one that you yourself would have  
20 to make in your own mind?

21           A       Yes, sir.

22           Q       Now, we are going to assume that you made  
23 up your own mind, the verdict is guilty of murder in  
24 the first degree, now, there will be a second trial  
25 known as the penalty trial.

26                   You may or may not hear any evidence  
concerning Leslie Van Houten during that penalty trial.

15c-2

1       acquit them all if there is evidence as to one or more?

2           A       No, sir.

3       MR. REINER: Thank you, no further questions.

4       THE COURT: Mr. Shinn?

5       MR. SHINN: No questions.

6       THE COURT: Mr. Kanarek?

7       MR. KANAREK: No questions.

8       THE COURT: Mr. Stovitz?

9  
10                   VOIR DIRE EXAMINATION

11       BY MR. STOVITZ:

12           Q       How do you pronounce your name, sir?

13           A       Vitzelio.

14           Q       Sir, have you ever been a juror before in  
15       any type of criminal case?

16           A       Well, I was with the Municipal Court here,  
17       oh, some seven or eight years ago. I was in a traffic  
18       case.

19           Q       And you understand that the doctrine of  
20       proof beyond a reasonable doubt means exactly what the  
21       Court explained to you the other day?

22                   It does not mean proof to an absolute  
23       certainty. You understand that?

24           A       Yes, sir.

25                   if  
26           Q       Now, /Mr. Bugliosi's questions were read  
      to you as they were asked of Miss Roseland, the other

1 Do you understand that?

2 A Yes, sir.

3 Q Do you think that you could go back and  
4 consider whether or not she should be given the death  
5 penalty for her complicity, if that is proven to you in  
6 this case?

7 A Yes, sir.

8 Q Do you have any reservations in your mind  
9 about voting for the death penalty?

10 A No, sir.

11 Q If the evidence were to be sufficient in  
12 your mind to warrant the imposition of the death penalty  
13 as to anyone of these defendants you could vote accordingly,  
14 is that correct?

15 A Yes, sir.

16 Q Now, sir, thinking about your own background,  
17 thinking about what little you know of this case, do you  
18 think you could give both parties, the People and the  
19 defendants a fair and impartial trial?

20 A Yes, sir.

21 MR. KANAREK: Your Honor, I would object -- I  
15d fls. 22 will withdraw the objection, your Honor, I'm sorry.

23

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15-D-1

1 Q BY MR. STOVITZ: Sir, it may very well be that  
2 throughout this trial you may agree with certain lawyers as  
3 to their points of view.

4 You may say to yourself, "This Mr. Reiner here,  
5 he is a very intelligent, reasonable fellow. He is  
6 reasonable in all his questions, and he is reasonable in  
7 his approaches to the witnesses."

8 And later on at the end of the case he is  
9 going to make an argument to you.

10 Do you understand that the argument is not  
11 evidence; do you understand that?

12 A Yes, sir.

13 Q You understand that you are to be governed  
14 solely by the evidence in the case and not by the appearances  
15 of the attorneys.

16 Do you understand that?

17 A Yes, sir.

18 Q And regardless of how reasonable or unreasonable  
19 an attorney appears to be, it is not the attorney that is  
20 going to be deciding in this case, is that right?

21 A Yes, sir.

22 Q Now again, thinking of your own background, is  
23 there anything you want to tell us before you are selected  
24 as a juror in this case?

25 A No, sir.

26 MR. STOVITZ: Thank you very kindly.



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MR. VITZELIO: You are welcome.

MR. STOVITZ: The People pass for cause, your Honor.

THE COURT: The defendants may exercise a joint peremptory.

MR. FITZGERALD: There is no unanimity of opinion. There will not be a joint peremptory challenge.

Patricia Krenwinkel separately and individually accepts the jury as it is now constituted.

MR. SHINN: Susan Atkins accepts the jury as it is now constituted.

THE COURT: Mr. Kanarek?

MR. KANAREK: Mr. Manson accepts the jury, your Honor, as constituted.

THE COURT: Mr. Stovitz?

MR. STOVITZ: Yes, your Honor. May counsel confer?

(Off-the-record conference between Deputies District Attorney.)

MR. STOVITZ: The People thank and excuse Mr. Stringer.

THE COURT: Thank you, Mr. Stringer, you are excused.

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

MR. FITZGERALD: Can we defer it? We are going to select the name of another prospective juror and then go into chambers.

THE COURT: Yes.

MR. KANAREK: That is agreeable, your Honor.

1 THE COURT: All right, I will ask the parties and  
2 counsel to come into chambers and then we will call the  
3 name of the next prospective juror and resume the  
4 examination in chambers.

5 (Whereupon, at 3:46 p.m. the following  
6 proceedings were had in the chambers of the court, away  
7 from the hearing of the prospective jurors, all defendants  
8 and their counsel being present, Mr. Stovitz and Mr.  
9 Bugliosi representing the People.)

10 THE COURT: All parties and counsel are present.

11 Will you call the next prospective juror.

12 Before they come in, we might just check our  
13 notes. My notes indicate that the People have exercised  
14 12 peremptory challenges.

15 Mr. Reiner; on behalf of Miss Van Houten, has  
16 exercised five individuals, and Mr. Fitzgerald has exercised  
17 on behalf of Miss Krenwinkel one individual.

18 There have been no joint challenges exercised  
19 on behalf of the defendants.

20 Does that conform to your records?

21 MR. FITZGERALD: Correct.

22 MR. STOVITZ: May we, your Honor, in the event we  
23 do arrive at a jury as far as the first 12, may we have  
24 the individual consent of the defendants to the effect  
25 that it is agreeable with them that their counsel --

26 THE COURT: Let's not go out of the way, Mr. Stovitz.

1 MR. STOVITZ: I think it is of vital concern.

2 THE COURT: They are represented by competent counsel  
3 in my opinion.

4 Counsel are obviously consulting with their  
5 clients. They are perfectly capable.

6 MR. STOVITZ: I know they are consulting. I would  
7 like it for the record just to make sure that it is with  
8 the consent of the defendants that the jury is accepted.

9 MR. KANAREK: I just wanted to make a point briefly,  
10 the last juror excused was of the black or Negro race.

11 MR. STOVITZ: May the record show that same juror  
12 expressed hardship, your Honor, and the People are helping  
13 this juror get back to his wife and four children.

14 THE COURT: Very well.

15 MR. KANAREK: The solicitude is noted, your Honor.

16-1

1 THE COURT: Bring in the next prospective juror.

2 (A prospective juror enters.)

3 THE COURT: Good afternoon.

4 MRS. VAN PELT: Good afternoon.

5 THE CLERK: The prospective juror's name is  
6 Katherine A. Van Pelt, K-a-t-h-e-r-i-n-e, V-a-n P-e-l-t.

7  
8 VOIR DIRE EXAMINATION OF MRS. VAN PELT

9 BY THE COURT:

10 Q Mrs. Van Pelt, if you were selected as a juror  
11 in this case, would you be able to serve?

12 A I'd rather not.

13 MR. STOVITZ: I couldn't hear you.

14 (The answer was read by the reporter.)

15 THE COURT: You will have to keep your voice up.

16 MRS. VAN PELT: I am sorry.

17 THE COURT: You are really talking to that man  
18 down the hall about 50 feet, because there are bad  
19 acoustics in this room.

20 So, please keep your voice up.

21 MRS. VAN PELT: All right.

22 BY THE COURT:

23 Q Why would you rather not?

24 A Because I don't think that I am really  
25 impartial. I think I have a definite opinion.

26 Q All right.

16-2

1 I will get to your state of mind --

2 A All right.

3 Q -- as to those questions a little bit later.

4 A Physically, yes.

5 Q Sometimes people have problems --

6 A I do work.

7 Q -- sometimes physically they can't --

8 A I work. I don't know how long they will  
9 pay my salary.

10 Q Where are you employed?

11 A The Ben Franklin Division of City Products.

12 Q Have you been able to find out from your  
13 company what their policy is on jury service over 30 days?

14 A No. That never came up. I could find out.

15 Q Would you?

16 A Yes.

17 Can you hear me?

18 MR. STOVITZ: Yes. Thank you.

19 BY THE COURT:

20 Q I have asked the other prospective jurors  
21 regarding the death penalty. Did you hear those questions?

22 A Yes.

23 Q Have you had a chance to think about them  
24 and your answers to them?

25 A Yes.

26 Q I am going to put the same questions to you

1 now.

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

6 A No.

7 Q Do you entertain such conscientious opinions  
8 regarding the death penalty that you would automatically  
9 refuse to impose it without regard to the evidence in the  
10 case?

11 A No.

12 Q You mentioned something about your state of  
13 mind. Was that on the subject of an opinion one way or  
14 the other as to the defendants' guilt or innocence?

15 A Yes.

16 Q All right.

17 Have you, at this time, an opinion on that  
18 question?

19 A Yes, I do.

20 Q And what is that opinion based on?

21 A Well, publicity, I think; things I have seen  
22 on television that made an impression, and I am not too  
23 sure I/forget them.

24 Q Do you remember that in court, when the panel  
25 came in the courtroom, I instructed them, among other things,  
26 that in every criminal case a defendant is entitled to

1 the presumption of innocence?

2 A Yes.

3 Q Do you understand that that presumption  
4 continues until such time as the People prove their  
5 guilt beyond a reasonable doubt?

6 A Yes.

7 Q If they are able to do this.

8 A Yes, I understand, yes.

9 Q Are you telling me that you would be unable  
10 to give that presumption of innocence to these defendants?

11 A No. I think what I am trying to tell you  
12 is that I really -- well, I don't know whether I could  
13 or not.

14 I couldn't say yes. I could assume this.

15 16a fls. I think your attitudes hold over. I don't know.

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16A-1

1 Q Well, you apparently have read --

2 A You would try, you know.

3 Q -- and heard and seen something regarding this  
4 case and the defendants?

5 A Yes.

6 Q You have seen publicity or heard it?

7 A Yes.

8 Q Now, do you think you can set whatever you  
9 learned about the case to one side, and recognizing that  
10 you have learned certain things through the media, do you  
11 think you can set that to one side and decide the questions  
12 in this case solely on the evidence that comes in in this  
13 case?

14 A Yes, I think I could.

15 May I say something, your Honor?

16 Q Yes, surely.

17 A There was one question that was brought up on  
18 the first day or so -- I don't remember who brought it up --  
19 about somebody in your family being involved in a trial.

20 Q Yes?

21 A My nephew is in prison.

22 Q Your nephew is in prison?

23 A Yes. He wasn't convicted on a murder charge.

24 Excuse me.

25 Q That is all right. Take your time.

26 A The murder charges were dropped against him.



16A2

1                    Attempted murder. He was convicted on armed  
2 robbery.

3                    I don't know if this holds true for this case.

4            Q        Do you think this would affect your ability to  
5 be fair and impartial in this case?

6            A        No.

7            Q        In other words, you wouldn't be more likely to  
8 find the defendants guilty or not guilty because of some-  
9 thing that has happened to your nephew?

10          A        No, because his penalty was fair; I mean, it was  
11 right.

12          Q        That wouldn't have any effect one way or the  
13 other on your decision in this case?

14          A        So far as I am concerned, no.

15          Q        Is that right?

16          A        Yes.

17          Q        Have you learned anything about this case other  
18 than the fact that the defendants have been arrested and  
19 charged with these offenses, which, of course, you know,  
20 because for one reason, I told you when you came into the  
21 case what the charges were, but aside from those facts,  
22 do you know or have you learned anything that causes you  
23 to believe that the defendants are connected with the  
24 commission of the offenses charged against them?

25          A        The facts, no.

26          Q        Well, facts, rumors, anything.

1           A       Well, like I say, what I have seen on television.  
2       It's the impressions, you know.

3           Q       Well, specifically, what do you recall?

4           A       Well, specifically, when I look at them, I don't  
5       think, "Did you or did you not do it?" I think, "Why did  
6       you do it?"

7                   I mean, this is the way I feel.

8           Q       Is that because they have been arrested and  
9       charged with the offenses?

10          A       No. Because I know people aren't always guilty.  
11       But I guess it is, oh, when I read the way they acted some-  
12       time in court.

13                   Facts I can't give you.

14          Q       Do their appearances appear to be somewhat  
15       different, would you say, than the people that you are  
16       familiar with?

17          A       Well, the girls, no, they look like any other  
18       girls. Mr. Manson, yes.

19          Q       Is there something that you may have learned  
20       about their life style or mode of living that causes you  
21       to think that way?

22          A       Well, perhaps this is it. It is basically a way  
23       that I don't approve of. It is very foreign to me.

24          Q       Have you ever read or heard anything which  
25       appeared to be a description by someone of the actual  
26       commission of the offenses?

1           A       No, I don't believe so.

2           Q       Have you ever read or heard anything which you  
3 believe to be was a statement by any of the defendants about  
4 anything?

5           A       Probably at the beginning. I can't give you  
6 any details because after a while I didn't read any of it.  
7 It was when it first started, and when they were first  
8 arrested. But then you get tired with it, you get disgusted,  
9 and you don't read about it any more.

16b-1

1 Q Well, is there something that you have  
2 learned somewhere along the line that causes you to  
3 think that perhaps the defendants are more likely to  
4 be guilty than innocent?

5 A Well, I suppose it is the over-all things  
6 that I have seen on television or read at the beginning,  
7 and probably my disapproval of the way they live that  
8 I would think, well, it's not beyond them, you know,  
9 it is possible.

10 Q Does your feeling go beyond the mere  
11 possibility that they could be guilty?

12 A No. No, I couldn't say to you that they  
13 did it. I mean, like that.

14 Q You think it is probable that they did it  
15 as distinguished from merely possible?

16 A No. Possibly. I would say that would be  
17 my state of mind.

18 Q Would that be the same feeling you might  
19 have about any criminal case?

20 A Yes. You are right.

21 Q The defendant has been arrested and charged.  
22 Now, you know nothing about the case. Would you have  
23 that same feeling because he has been arrested and  
24 charged, it is possible that he is guilty?

25 A I think you are right, your Honor, yes.

26 Q Is there anything more about this case?

16b-2

1 In other words, does this case go beyond that feeling that  
2 you would have in any criminal case?

3 A No, I guess not, it doesn't.

4 Q Do you think you could be fair and impartial  
5 in this case and decide the case solely on the basis of  
6 the evidence?

7 A On the evidence and the instructions?

8 Q Yes.

9 A Yes, your Honor, I think I could.

10 THE COURT: Mr. Fitzgerald?

11 MR. FITZGERALD: Thank you.

12  
13 VOIR DIRE EXAMINATION

14 BY MR. FITZGERALD:

15 Q Do you subscribe to a newspaper?

16 A Yes.

17 Q The Los Angeles Times?

18 A Yes.

19 Q Do you also read the Herald-Examiner from  
20 time to time?

21 A Yes.

22 Q Do you subscribe to it?

23 A Yes.

24 Q Have you read about the defendants and this  
25 case in the Herald-Examiner and the Los Angeles Times?

26 A Well, as I say, I don't read about it any

1 more. At the beginning, yes.

2 Q What do you mean by the beginning?

3 A When the crime was first committed I read  
4 about it. I mean, you know, the headlines and everything.

5 When they were arrested at the beginning,  
6 I read about it. But as it carried on, no, I didn't read  
7 about it.

8 Q And you have also seen things on television  
9 in regards to this case?

10 A This is correct, yes.

11 Q Have you also heard things on the radio  
12 in connection with this case and the defendants?

13 A I don't listen to the radio too much but  
14 probably yes.

15 Q When the defendants were arrested, did you  
16 read, hear or see anything about them?

17 A Yes, I am sure I did.

18 Q Let's take them one at a time.

19 Did you read, see or hear anything about  
20 Mr. Manson when he was arrested?

21 A Yes.

22 Q Aside from the fact that he was arrested,  
23 what did you learn by way of exposure to the newspapers,  
24 television or radio?

25 A Well, the way they live, commune style.  
26 I suppose it was his appearance as much as anything.

1 I can't get down to specifics. It is more  
2 of an over-all impression from everything.

3 Q Did you think it was true that they lived  
4 in a commune?

5 A Yes.

6 Q Why did you think that was true?

7 A Because I read it, I guess.

8 Q I see.

9 You don't need to apologize. We all have  
10 these feelings and opinions.

11 A All right.

12 Q Did you learn anything else about Mr. Manson?

13 A They called them a Family, but it was not  
14 a Family as I would know. It seemed to me immoral.

15 Q You felt that as a result of what you had  
16 learned from the media he was engaged in some kind of  
17 immoral conduct?

16c fls. 18 A Yes, this is the way I felt.

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16C-1

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Q Was that immoral sexual conduct or other kinds of conduct?

A Immoral sexual conduct, as far as I was concerned.

Q Do you know anything about Mr. Manson other than that?

A No.

Q Do you know how old he is?

A No.

Q Do you know anything about his background or history?

A No.

I believe I saw a picture of him one time when he had short hair and no beard; but no, really, I do not.

Q Did you ever read anything about any aspects of good character about Mr. Manson?

A Not that I remember, no.

Q Did you read anything that you would interpret as being bad character?

A No. As I say, just his way of living. I guess this impressed me, I don't know.

Q What about, let's say, Susan Atkins? Have you ever heard of her?

A Yes.

Q What have you heard about her, or read or seen?

A Well, the same life style and the like.



16C2

1 I cannot give you any specifics as to names.  
2 I mean, so-and-so did this, you know, at a certain time, or  
3 anything.

4 It is, as I say, more of an over-all opinion.

5 I guess I am taking them as a group rather than  
6 just individually and, really, I don't remember specific  
7 things. It is more of an over-all impression.

8 Q You lump them altogether in your mind?

9 A This is right, I do.

10 To me, this is loose living. As I say, it is  
11 foreign to my way of living.

12 Q And you don't approve of it?

13 A This is right, yes.

14 Q Do you think that it is morally irresponsible?

15 A I think it is morally wrong, yes.

16 Q Would it be fair to say that you consider their  
17 conduct sinful, or is that a term that is foreign to you?

18 A Well, I say morally wrong. I mean, as far as  
19 I am concerned.

20 Q At sometime in the past you thought to yourself,  
21 "Why did they do it?"

22 A Yes.

23 Q Which assumes, does it not, that they did it?

24 A That's right.

25 Q You got beyond whether they did it or not  
26 and you were simply trying to find a reason?

1           A       Yes. Why?

2           Q       Were you able to find a reason?

3           A       No. I just wondered why, you know, why would  
4 they do something like that.

5           Q       Now, if you were in the defendants' shoes --  
6 just a second -- strike that.

7                   (Mr. Fitzgerald and Mr. Reiner confer.)

8           MR. FITZGERALD: Q   If you were in the defendants'  
9 shoes, would you be satisfied with a juror who thinks the  
10 way you think, if you were on trial for murder?

11          A       I think I could go by the evidence. I don't  
12 think I will use my personal feelings in that light.

13          Q       But if you were in their shoes, would you be  
14 happy with Mrs. Van Pelt as a juror? Somebody with your  
15 frame of mind as a juror?

16          A       I am not too sure, really, if I would.

17                   I think I would try to be fair, as I say.  
18 I don't know if I can separate my personal feelings.

19                   I think you would have to try and you would  
20 work very hard to go the way you are instructed, but I  
21 wonder if maybe there would be certain testimony that maybe  
22 you would have a little bias when you listened, whereas may-  
23 be somebody else wouldn't have that.

24                   I would hope I would not but I don't know.  
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16d-1

1 Q If you had your choice, would you prefer to  
2 sit on a case where you didn't know anything about the  
3 defendants or the crime? Do you think you could be more  
4 fair, if that is a proper term?

5 A That is almost impossible now, to sit on  
6 a case where you didn't know -- well, maybe not, but there  
7 is so much publicity about everything that you almost know  
8 a little bit. But maybe yes, I would prefer it.

9 Q Well, there were 300 murders in the City of  
10 Los Angeles last year and you don't know everything about  
11 every one of those 300, do you?

12 A No, I don't.

13 Q Would you prefer to sit on one of the other  
14 299?

15 A Probably, yes.

16 Q Is your nephew named McGinnis?

17 A No.

18 MR. FITZGERALD: I have nothing further.

19 THE COURT: Mr. Reiner?

20 MR. REINER: I have no questions.

21 MR. SHINN: No questions, your Honor.

22 MR. KANAREK: No questions, your Honor.

23 MR. STOVITZ: Yes, your Honor.  
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16d-2

## VOIR DIRE EXAMINATION OF MRS. VAN PELT

BY MR. STOVITZ:

Q Mrs. Van Pelt, was your nephew convicted here in the County of Los Angeles?

A Yes.

Q And did he have a trial or did he plead guilty?

A I believe he pleaded guilty.

Q Then you have no quarrel with his guilt then, is that right?

A No.

Q You do not have any animosity against our office for prosecuting him?

A Oh, no.

Q Do you have any children of your own?

A I have three sons.

Q How old are they?

A 32, 28 and 23.

Q Now, assume that the 23-year-old son of yours was on trial and charged with the murders in this case, and you know your frame of mind. Would you want a juror in your frame of mind to sit on a case involving your 23-year-old son?

A I have a hard time putting myself in that position.

Q Is it because of the pretrial publicity,

16d-3

1 or is it because it was your son that was on trial?

2 In other words --

3 A If it was my son? Oh, I see what you mean.

4 Q In other words, we are trying to get to  
5 your frame of mind.

6 A Yes, my frame of mind.

7 What I am saying --

8 Q Let's go back to the time when the  
9 defendants were first arrested.

10 A All right.

11 Q Did you read in the papers why they were  
12 arrested?

13 A Somebody confessed or said that they did  
14 it.

15 Q They certainly weren't arrested because  
16 of their way of life; is that right?

17 A This is right, yes. It actually has no  
18 bearing, I know.

19 Q This somebody that confessed or this  
20 somebody that said that the defendants did it, do you  
21 know who that somebody is?

22 A The one that you are going to have come  
23 in and testify.

24 Q Linda Kasabian?

25 A Yes.

26 Q Are you sure it wasn't one of the three

1 girls here now?

2 A Really, I don't remember the specifics.  
3 As I say, it is over-all impressions.

4 Really, I quit reading about it. Like I  
5 say, it disgusted me and I just didn't want to read  
6 about it any more.

7 MR. STOVITZ: No further questions. Thank you.

16e fls.

MR. REINER: May I inquire, your Honor?

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1 THE COURT: I don't think it will be necessary,  
2 Mr. Reiner.

3 MR. REINER: Very well. No questions.

4 THE COURT: You may go back into the courtroom,  
5 Mrs. Van Pelt. Thank you very much.

6 Will you refrain from speaking with anybody  
7 about what has occurred in here?

8 MRS. VAN PELT: Yes, sir.

9 THE COURT: Thank you.

10 MR. REINER: Thank you.

11 MR. FITZGERALD: Challenge the juror for cause because  
12 of her exposure to prejudicial pretrial publicity, and  
13 also pursuant to 1017, Subparagraph 2.

14 MR. KANAREK: Join.

15 MR. SHINN: Join.

16 MR. REINER: Join.

17 MR. STOVITZ: Submit it.

18 THE COURT: Mrs. Van Pelt will be excused for cause.  
19 The challenge is allowed.

20 I think we had better adjourn at this time,  
21 gentlemen.

22 MR. STOVITZ: Tomorrow morning is the matter of  
23 Mr. Kanarek going to be taken up at 8:15, 8:30?

24 MR. FITZGERALD: You are not invited.

25 THE COURT: It is scheduled at 8:15.

26 MR. STOVITZ: All right. 8:15.

1 MR. SHINN: Then will it still be 9:00 o'clock for the  
2 rest of us tomorrow morning?

3 THE COURT: Yes.

4 We will go back into open court and then I  
5 will dismiss the jury for the day.

6 (Whereupon, the following proceedings occurred  
7 in open court, all parties and counsel being present as  
8 well as the prospective jurors.)

9 THE COURT: All parties and counsel are present,  
10 all prospective jurors are in the jury box.

11 Ladies and gentlemen, we will adjourn at this  
12 time until 9:00 o'clock tomorrow morning.

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

17 Additionally, do not read, watch or listen to  
18 any news reports concerning the case while you are  
19 connected with this case in any way.

20 And in case my admonitions may have been mis-  
21 understood as applying only to the 12 people in the jury  
22 box, they should be understood as applying to all of the  
23 prospective jurors in the courtroom, including those of  
24 you who are sitting out in the courtroom.

25 9:00 o'clock tomorrow morning.

26 (Whereupon, at 4:14 p.m. court was adjourned to  
reconvene Friday, July 10, 1970, at 9:00a.m.)



LOS ANGELES, CALIFORNIA, FRIDAY, JULY 10, 1970

9:08 o'clock a.m.

- - -

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

THE COURT: The parties and counsel are present.

Is there anything to take up before we call in the next prospective juror?

MR. KANAREK: Not at this time, no, your Honor.

THE COURT: All right, please call the next prospective juror.

(The prospective juror enters the room.)

THE COURT: Good morning, sir.

THE CLERK: The prospective juror's name is Tomas M. Salas, T-o-m-a-s; S-a-l-a-s.

VOIR DIRE EXAMINATION OF TOMAS M. SALAS

BY THE COURT:

Q Mr. Salas, we asked you to come in here so that the Court and the attorneys could ask you questions out of the <sup>presence of the</sup> other prospective jurors.

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

MR. SALAS: No, your Honor.

1 BY THE COURT:

2 Q What is your situation?

3 A Hardship, for one.

4 Q Well, what is the nature of the hardship?

5 A Financial.

6 Q Are you employed by someone?

7 A Yes, sir.

8 Q Who is your employer?

9 A McDonnell-Douglas Corporation.

10 THE COURT: Keep your voice up as much as you can,  
11 Mr. Salas.

12 Q How long have you been employed by  
13 McDonnell-Douglas?

14 A A little over two years, sir.

15 Q Have you discussed this with your employer,  
16 that is, if your jury service should extend beyond 30  
17 days?

18 A Yes, sir.

19 Q And what have you learned?

20 A They can only pay for 160 hours or about  
21 22 days, I believe, one month.

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2 fls.

2-1  
1 Q You have been told that you will not have any  
2 compensation beyond that period?

3 A Yes, your Honor.

4 Q Are you married, Mr. Salas?

5 A Yes, sir.

6 Q Do you have a family?

7 A Yes, sir.

8 Q How many?

9 A A wife and four kids.

10 Q And do you rely on your compensation from  
11 McDonnell-Douglas to support your family?

12 A Part of it, sir.

13 MR. FITZGERALD: There will not be a stipulation.

14 MR. BUGLIOSI: We would ask the Court on its own.  
15 It is a clear case of hardship, your Honor.

16 The defense seems to be taking a new approach  
17 with respect to these hardship cases.

18 I think it inures to the detriment of the  
19 prosecution to use, you know, a certain type of challenge  
20 to help a juror. Likewise, if we don't use that particular  
21 type of challenge, then it is a tremendous hardship on the  
22 particular juror.

23 MR. SHINN: Your Honor, I think this should be  
24 discussed out of the presence of the juror.

25 THE COURT: Well, I am going to excuse Mr. Salas.

26 MR. KANAREK: Would your Honor set aside that

1 order for just a moment? Just for a half a minute, your  
2 Honor. I just want to make a point.

3 One of our grounds for challenging the jury  
4 panel is the fact that because of economic, alleged economic,  
5 hardship the defendants are denied due process and that we  
6 are denied very fair jurors.

7 If your Honor wishes I could make this argument  
8 outside the presence of the juror.

9 THE COURT: Well, I think you have already made the  
10 argument for the record, Mr. Kanarek.

11 MR. KANAREK: Very well.

12 THE COURT: You just want to renew the objection on  
13 the ground?

14 MR. KANAREK: What I am saying, your Honor, our  
15 challenge to the jury panel, I would just like to make that  
16 point to the Court, that it involves, of course, this, that  
17 our position is that excusing very good jurors because of  
18 economic hardship has this denial of due process aspect to  
19 it.

20 THE COURT: Well, in this particular case I am  
21 going to excuse Mr. Salas for hardship reasons.

22 Thank you, Mr. Salas.

23 MR. SALAS: Thank you, your Honor.

24 THE COURT: Would you refrain from discussing with  
25 anybody what has been said here this morning, sir?

26 MR. SALAS: Yes, sir.

1 THE COURT: All right.

2 (Whereupon, Mr. Salas leaves the court's  
3 chambers.)

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1 MR. BUGLIOSI: Your Honor, before you call the next  
2 juror, may I make one comment?

3 THE COURT: All right.

4 MR. BUGLIOSI: It concerns Mr. Kanarek's repeated  
5 motion ad nauseam and ad infinitum on the same issue.

6 Doing it back in chambers, your Honor, is one  
7 thing, but how in the world should Mr. Kanarek be permitted  
8 to make the identical objection in open court in front of  
9 the jury 20 or 30 or 40 times. The Judge, the Court,  
10 overruled the objection, but he nonetheless makes the same  
11 identical objection.

12 This is gross misconduct.

13 THE COURT: Which objection?

14 MR. BUGLIOSI: To some of the questions that Mr.  
15 Stovitz and I have been asking the jurors.

16 THE COURT: I don't see anything objectionable to  
17 that, Mr. Bugliosi, especially since I told Mr. Kanarek  
18 a long time ago that I wasn't going to permit blanket  
19 objections, because that clutters up the record and makes  
20 it unintelligible.

21 When the question is asked, he has got to  
22 state his objection.

23 MR. BUGLIOSI: I understand that when we pose a  
24 different question, he may make an objection, but where it  
25 is obvious that we are asking the same question and yet  
26 he makes the same objection which the Court has overruled

2a-2

1 many many times, yet he repeats the objection, that is  
2 misconduct.

3 THE COURT: I thought this was on the same subject,  
4 not the identical question.

5 MR. BUGLIOSI: The identical question.

6 The Court has been concerned with the welfare  
7 of the jury, and here the jury is sitting here, Mr. Stovitz  
8 and I ask a question which is perfectly proper, because  
9 the Court has already overruled many objections, the same  
10 objection, Mr. Kanarek objects, and then these people  
11 have to wait for the colloquy at the bench and then the  
12 question has to be reread, or they have forgotten what  
13 the question was.

14 It doesn't bother me because I am aware of  
15 Mr. Kanarek's technique, it doesn't bother me at all,  
16 but in the interests of the jury, why should they have to  
17 tolerate this gross misconduct on his part?

18 THE COURT: I don't consider it to be misconduct.  
19 I think he has to do it.

20 The fact that I disagree with him or that I  
21 overrule the objection doesn't mean that it is misconduct  
22 for him to make it.

23 He has to protect his record just as every  
24 other attorney.

2b fls.

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CB-1

1 MR. BUGLIOSI: My point is this, your Honor: If I  
2 phrase a certain question and he objects and you overrule  
3 it --

4 THE COURT: I am not talking about another juror.  
5 If this occurred with the same prospective juror. Of  
6 course, you don't repeat the same question.

7 MR. BUGLIOSI: Right.

8 THE COURT: So it doesn't occur.

9 But where you are talking about successive  
10 prospective jurors, I think he has to make his objection,  
11 because he wants to make his record. Otherwise, we get into  
12 a situation where you have a so-called blanket objection,  
13 but then if a question is varied in any aspect, you have  
14 the problem of whether or not the objection applies and  
15 whether or not he is protected.

16 MR. BUGLIOSI: Right.

17 THE COURT: That is why I refuse to permit blanket  
18 objections.

19 MR. BUGLIOSI: Right; and I am fully cognizant of  
20 that. But I am saying, your Honor --

21 THE COURT: Or a continuing objection is what I  
22 really mean.

23 MR. BUGLIOSI: Right. I am cognizant of that, your  
24 Honor; but the Court can take judicial notice that these  
25 questions that I am asking are almost identical and there is  
26 no variance, and Mr. Kanarek knows there is no variance,



1 and he still objects on the same ground.

2 For instance, he has objected 10 or 15 times  
3 to the use of the word "proper," and the Court has told him  
4 that this is all right and you overruled the objection,  
5 then I ask the question again and he objects again to the  
6 use of the word "proper."

7 He knows what the Court's ruling is going to be  
8 and he nevertheless makes the objection.

9 And the problem is that the juror then can't  
10 answer the question until an interlude of 30 seconds, some-  
11 times up to three or four minutes.

12 THE COURT: Well, I am not going to tell him that he  
13 can't object because I can't anticipate everything in  
14 advance, so that it is one of those things.

15 I think an element of good sense enters into it,  
16 and I think an attorney has to consider that if he makes  
17 objections which he knows in advance are going to be over-  
18 ruled and continues to make them, that he should consider  
19 what effect that might have on prospective jurors as far  
20 as their view of him as an attorney is concerned.

3-1

1 MR. BUGLIOSI: Very well.

2 THE COURT: I don't know what else I can say.

3 MR. FITZGERALD: I want to bring something up in  
4 connection with these hardship cases.

5 As Mr. Kanarek points out, it is the  
6 defendant's position that the jury fees of \$5 a day paid  
7 to the jurors in Los Angeles County is obviously  
8 economically discriminatory and denies the defendants a  
9 trial by their peers; obviously only wealthy jurors, or  
10 jurors who are employed by firms who can afford to pay  
11 them while on jury duty are able to sit.

12 Now, your Honor pointed out to me that was a  
13 matter I ought to take up with the Legislature.

14 I suggest it is analogous to the problem  
15 of apportionment, and gerrymandering, that the Legislature  
16 haven't done anything about it, and at some point the  
17 Court must intercede, and I am suggesting that your Honor  
18 has the power to intercede and do something about it.

19 The judiciary in San Diego stopped it, and  
20 they stopped it in Alameda County.

21 THE COURT: Stopped what?

22 MR. FITZGERALD: Stopped the practice of paying  
23 an economically discriminatory rate to jurors on criminal  
24 cases.

25 They invalidated the jury system in San  
26 Diego County for that very reason.

1 They did the same thing in Alameda County.

2 In addition I would like to point out to  
3 the Court that I don't believe these hardships. I do not  
4 believe and I think I am a reasonable man, I do not  
5 believe that, for example, McDonnell-Douglas Corporation,  
6 a multi-million dollar corporation, that is extremely  
7 concerned about its public image, will not pay one of  
8 their employees while they are on a notorious case like  
9 this.

10 I think they are misleading the Court.

11 THE COURT: We have had dozens of prospective  
12 jurors, not only in this case -- there haven't been that  
13 many in this case -- but there have been a number in this  
14 case, and over the past several years I have had dozens  
15 in similar cases, who were employees at McDonnell-Douglas  
16 who all said the same thing, 20 days compensation is the  
17 company policy, period.

18 MR. FITZGERALD: If your Honor made a statement  
19 in open court about the McDonnell-Douglas Corporation --

20 THE COURT: I have done that, not in this case but  
21 in other cases.

22 MR. FITZGERALD: If you do it in this case, where  
23 it has, to say the last, the public eye, I will submit  
24 the public relations director of McDonnell-Douglas will  
25 be on the telephone tomorrow morning.

26 There is not a large corporation dependent

1 on the public support in this entire state that will not  
2 pay a juror while they are on jury duty in this case,  
3 because if they don't I think they just sustain  
4 irreparable damage.

5 THE COURT: We had another one from North American  
6 Rockwell, and we have had Lockheed in this case.

7 MR. FITZGERALD: We also had Hughes Aircraft  
8 stated the same thing.

9 Frankly, I think that if these prospective  
10 jurors would go back to somebody sufficiently well  
11 placed in the corporation and point out that they are  
12 being excused, that they are having to point out to the  
13 Court and ask for an excuse satisfactorily based on the  
14 grounds that they won't pay them, that the company will  
15 make an exception.

16 What I am suggesting is the company will  
17 make an exception in this case, not across the board  
18 in all civil cases, but in this case.

19 And it is a number of these things we are  
20 taking into consideration in refusing to stipulate to  
21 these hardships.

22 I concede that it is a problem. I concede  
23 that it is a very sincere, difficult problem for the  
24 Court to handle and for all counsel to handle.

25 But it certainly is not our clients' fault  
26 that this case is going to take however long it takes.

3A-1  
1 THE COURT: Well, I agree with you. I think it is  
2 outrageous for these companies to refuse to pay their  
3 employees for jury service.

4 I can understand it in the case of small owners,  
5 two-man companies, where you take one of the personnel  
6 and in effect they shut off the business.

7 But where you have a company the size of Hughes  
8 Aircraft and they refuse to pay compensation to jurors who  
9 are called for jury service, I think it is outrageous and  
10 I know of no way that they can be compelled to do so other  
11 than simply shaming them into it, perhaps.

12 However, in spite of the fact that I think it  
13 is outrageous, I don't think that in any way deprives the  
14 defendants of a fair and impartial jury because they can  
15 obtain fair and impartial jurors from other sources from  
16 the panel, and that is exactly what we are in the process  
17 of doing.

18 It just makes the process longer. It takes  
19 more time, it costs the County more money.

20 But in the end it really doesn't make any  
21 difference whether the jury is composed of people from  
22 Lockheed and Douglas or from whatever source, so long as  
23 the jury is fair and impartial.

24 All right, let's call in the next prospective  
25 juror.

26 I will say, however, Mr. Fitzgerald, that I

A2  
1 have given this problem a lot of thought over the time  
2 I have been on the bench, and I think something should be  
3 done, and if you have any suggestions as to how to do it I  
4 am certainly happy to listen to it, even though they may not  
5 go into effect on this particular case.

6 The problem, of course, is that you find all  
7 kinds of companies, some that can well afford it and others  
8 than can ill afford it.

9 The other problem is, that if the County or  
10 State were to start paying compensation, it seems to me you  
11 would get into a hopeless quagmire of determining whether  
12 or not a person is entitled to compensation, how much he is  
13 entitled to, whether you were getting jurors who are  
14 applying for compensation that were not entitled to it.

15 In some cases it still would not be enough, no  
16 matter how much you made it, the man might be making twice  
17 that much on the outside.

18 You get into questions of standards of living.

19 The more I think about it, the more hopeless  
20 it seems to attack a problem from that side.

21 On the other hand, you will find such a dis-  
22 parity in the types of companies involved, and you try to  
23 do it from the opposite side, and that seemingly there are  
24 many problems there, so I really don't know what the answer  
25 is.

26 It would seem that the answer should be that

1 every citizen employer should be sufficiently public-minded  
2 and have sufficient civic responsibility that unless it were  
3 an absolute, a real hardship, not just an imagined one, that  
4 he would want to continue the compensation of an employee on  
5 jury service.

6 But we know that is not true from what we have  
7 been hearing.

8 So if anyone has any constructive suggestions  
9 as to how to remedy that problem I am willing to listen to  
10 it.

11 MR. FITZGERALD: Our suggestion is that you invalidate  
12 this panel.

13 THE COURT: I don't think --

14 MR. FITZGERALD: Or dismiss the case.

15 THE COURT: I don't think that is either desirable  
16 or necessary.

17 As I say, I think we can get a fair and  
18 impartial jury even though we don't have a single Douglas,  
19 Lockheed or Hughes Aircraft employee on the jury.

20 I don't think that is the answer. It would  
21 just cost the government more.

22 MR. STOVITZ: I think the facts show that the  
23 defendants in this case were unemployed, therefore we  
24 would get people who are unemployed, and \$5 a day to a  
25 person who is unemployed is more money than they were  
26 making before.

1 THE COURT: Of course that is an answer to the  
2 argument, they are not being tried by their peers.

3 That depends on the definition of peers, I  
4 suppose.

5 MR. REINER: If we were to take Mr. Stovitz's  
6 suggestion to its illogical extreme, then Mr. Manson is  
7 quite correct, he is entitled to a jury of persons who  
8 have served some 20 years in penitentiaries, which I think  
9 is contrary to the position Mr. Stovitz has previously  
10 taken.

11 I might indicate that Supervisor Hahn yesterday  
12 indicated he was going to go before the Board of  
13 Supervisors and see perhaps about raising the fees paid  
14 to the jury members somewhat comparable to Alameda and  
15 San Diego.



3b-1

1 THE COURT: What do they pay?

2 MR. REINER: I think it is twenty-seven fifty in  
3 Alameda per day, and Mr. Fitzgerald informs me he believes  
4 it is \$24 a day in San Diego.

5 THE COURT: That was done how? What were the  
6 mechanics of the increase, where does it come from?

7 MR. REINER: Talking to Supervisor Hahn he said  
8 they have the power to allocate the money; he said he  
9 thinks it should be done.

10 He said it had not been called to his  
11 attention previously, until yesterday for the first time.

12 He said he would get on it immediately.  
13 Immediately was yesterday, and he would see what can be  
14 done about raising the pay of prospective jurors.

15 If they receive \$125 a week that would not  
16 take care of all their problems. It reduces the problem  
17 from an impossible one to one that is merely awkward.

18 THE COURT: It takes \$125 a week for a man to  
19 support his family, and if he is paid \$27 you haven't  
20 solved this problem.

21 MR. REINER: \$27 per day instead of \$5 per day.

22 THE COURT: That's different.

23 MR. REINER: Presently they receive \$25 per week.

24 (A prospective juror enters the chambers  
25 of the Court.)

26 THE COURT: Good morning, sir.

3b-2

1 THE CLERK: The prospective juror's name is  
2 Bernard T. Roszhart, B-e-r-n-a-r-d; R-o-s-z-h-a-r-t.  
3

4 VOIR DIRE EXAMINATION OF BERNARD T. ROSZHART  
5 BY THE COURT:

6 Q Mr. Roszhart, if you were selected as a  
7 juror in this case would you be able to serve, sir?

8 A No, sir.

9 Q What is your situation?

10 A Well, my company will only allow me 30 days  
11 they would pay me for, and I could not afford that.

12 Q Who is your employer?

13 A ITT Cannon, Electric.

14 Q Is that the full name or are you just using  
15 the initials?

16 A International Telephone and Telegraph,  
17 Electric.

18 Q Where is the corporate headquarters of that  
19 company?

20 A The main headquarters are in New York.

21 Q Is that a nationwide company?

22 A It is nationwide. It is very big. They  
23 are everything.

24 Q How many employees are there? Do you have  
25 any idea?

26 A In the ITT organization?

1 Q ITT Cannon?

2 A Cannon -- well, I imagine there is close  
3 to a thousand all together.

4 Q How long have you been with the company?

5 A 19 years.

6 Q And have you discussed this particular  
7 problem with some supervisor or manager in the company?

8 A Yes, just within the last couple of years  
9 they allow us the 30 days through the union, they got  
10 us the 30 days.

11 30 days would be the most they would  
12 compensate us for.

13 Q Do you have a family?

14 A I do, yes, sir, I have a wife and a  
15 teenage boy, 17.

16 Q And do you rely upon your compensation  
17 from ITT Cannon to support your family?

18 A I do, yes, sir.

19 THE COURT: Will there be a stipulation?

20 MR. FITZGERALD: No, your Honor.

21 THE COURT: Are you asking to be excused, Mr.  
22 Roszhart?

23 MR. ROSZHART: Yes.

24 MR. REINER: Excuse me, may I inquire?

25 THE COURT: Yes.  
26

## VOIR DIRE EXAMINATION OF MR. ROSZHART

BY MR. REINER:

Q Sir; how recently was it that ITT first began to compensate its employees for jury service at all?

A Approximately two years ago I think.

Q Prior to that they did not compensate any employee for any jury service whatsoever?

A No.

Q Was this as a result of a bargaining agreement with the union they first began to compensate employees?

A Yes, sir.

Q It is now limited to how many days?

A 30 days.

Q Calendar days?

A One calendar month.

Q One calendar month?

A Yes, sir.

MR. REINER: Thank you very much.

## VOIR DIRE EXAMINATION OF MR. ROSZHART

BY THE COURT:

Q If you were selected as a juror in this case and lost your compensation from your company as a result of going beyond the 30 days, would you have any other

1 source of income?

2 A No, sir.

3 Q Other than the \$5 a day you received as a  
4 juror?

5 A That's right, sir.

6 Q You have nothing else?

7 A Nothing else.

8 THE COURT: All right, the Court will excuse you,  
9 Mr. Roszhart, on the basis of hardship. Thank you, sir.

10 MR. KANAREK: That is over the objection -- may  
11 the record reflect it is over the defendants' objection.

12 THE COURT: The record will reflect Mr. Roszhart  
13 already left the room and I had asked if there was a  
14 stipulation and you said no.

15 MR. KANAREK: No, there is no stipulation, no  
16 stipulation.

17 (A prospective juror enters the room.)

18 THE CLERK: The prospective juror's name is Mrs.  
19 Ethel W. Hoover.

20  
21 VOIR DIRE EXAMINATION OF MRS. ETHEL W. HOOVER  
22 BY THE COURT:

23 Q Mrs. Hoover, if you were selected as a juror  
24 in this case would you be able to serve?

25 A I am afraid not, Judge, my company would  
26 not allow me other than the 30 days.

1 Q What company is that?  
2 A Edison.  
3 Q Southern California Edison Company?  
4 A Yes.  
5 Q Is that right?  
6 A Yes, sir.  
7 Q Have you talked with some supervisor or  
8 manager?  
9 A I talked to my boss.  
10 Q What position does he have?  
11 A He is not the top man, he is third from the  
12 top. He was to talk to Mr. Lester, but he was quite sure  
13 I would not be able to be out six months.  
14 Q Is it still indefinite?  
15 A Well, he suggested I renege on it.  
16 Q Well, I can understand how they would be  
17 reluctant to allow an old and trusted employee to be away  
18 for a number of months.  
19 The question is whether they would continue  
20 your compensation while you were gone?  
21 A We did not discuss that. I really don't  
22 know but I just told him that there was a possibility that  
23 I would be called.  
24  
25  
26

4 fls.

4-1 1 Q Is this something that you can find out, say,  
2 before this afternoon's session?

3 A I could call on the lunch hour.

4 Q All right. Would you do that, please?

5 A Yes, I will.

6 Q And you might point out to your employer that  
7 this is a very serious and important civic responsibility.

8 A Yes.

9 Q That many companies continue to pay their  
10 employees while they are on jury service because they  
11 realize it is important?

12 A Yes.

13 Q And if you want to give your superior my  
14 personal opinion, you can tell him that I believe that  
15 particularly a company of the size and integrity of the  
16 Southern California Edison Company should set an example to  
17 other companies in the community and pay their employees  
18 when they are on jury service.

19 A Yes, sir.

20 Then there is another thing, your Honor.

21 Q Yes?

22 A I am on medication for vertigo, this dizziness  
23 that I have had for a year and a half, and I take two shots  
24 a week.

25 Now, that, to me, would be quite an imposition  
26 to be locked up. I don't know how you --

Q Where do you receive the shots?

A At the Edison Building, the nurse there.

Q This is something that will continue, is it?

A Well, over a period of a year and a half, I have had two specialists, and they finally decided it was just an unbalanced condition of the inner ear, and this medication seems to level it off.

So, I don't know how much longer I will have it, but I have been taking it a year and a half.

Q I see.

It is something that can be taken by pill?

A Hypodermic.

Q A shot?

A Yes. Then the medication by mouth every day.

Of course, that would be no problem, the medication.

Q Has your doctor given you any indication of how long the shots will continue?

A No, he hasn't.

I know I made a trip back home, back to Missouri recently, and he had me take my medicine with me because I was going to be gone two weeks, and he thought it was necessary that I shouldn't miss a shot, and I had to go to a hospital to have it done while I was there.

THE COURT: All right.

Will there be a stipulation?



4-3  
1 MR. FITZGERALD: No, your Honor.

2 THE COURT: The Court will excuse Mrs. Ethel Hoover.

3 Thank you, Mrs. Hoover.

4 MRS. HOOVER: Thank you.

5 MR. FITZGERALD: May we interpose an objection?

6 THE COURT: Yes. Very well.

7 Will you refrain from discussing with anyone  
8 what has gone on here this morning?

9 MRS. HOOVER: Yes, sir.

10 THE COURT: All right.

11 (Whereupon, Mrs. Hoover leaves the Court's  
12 chambers.)

13 MR. REINER: Are there any of the defense industry  
14 contractors that do pay their employees for unlimited ser-  
15 vice, your Honor?

16 THE COURT: I don't know. I can't recall offhand.

17 (Whereupon, another prospective juror enters  
18 chambers.)

19 THE COURT: Good morning.

20 MRS. HINES: Good morning, sir.

21 THE CLERK: The prospective juror's name is  
22 Mrs. Evelyn J. Hines; E-v-e-l-y-n, H-i-n-e-s.

23  
24 VOIR DIRE EXAMINATION OF MRS. EVELYN J. HINES

25 BY THE COURT:

26 Q Mrs. Hines, if you were selected as a juror in

4  
1 this case, would you be able to serve?

2 A Yes, sir.

3 Q You recall that I have asked the other  
4 prospective jurors questions concerning the death penalty?

5 A Yes.  
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4A-1

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

3 A Yes, sir.

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

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

10 A No, sir.

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

15 A No, sir.

16 Q Now, I am going to ask you some questions to  
17 find out what, if anything, you may have learned about  
18 this case or the defendants over the past months.

19 A Yes.

20 Q Have you been living continuously in Los Angeles  
21 County since last August?

22 A Yes.

23 Q Do you subscribe to a daily newspaper?

24 A We did at one time. Now we just buy it, you  
25 know, when we feel like reading it.

26 Q Well, do you read a daily newspaper on a

1 regular basis?

2 A No.

3 Q Do you watch television regularly?

4 A Yes.

5 Q Do you watch the TV news reports?

6 A Usually I do, but I haven't now. I stayed  
7 away from them.

8 Q Are you employed outside the home?

9 A Yes.

10 Q Do you remember when you first learned about the  
11 fact that there had been some killings that were the  
12 subject of this -- that are the subject of this case?

13 A Yes, I think so.

14 Q When was that?

15 A I don't remember now. I can't remember exactly  
16 when it was.

17 Q Was it right around the time when they were  
18 discovered?

19 A It must have been shortly after. Well, when it  
20 first came out in the papers I read about it.

21 Q All right.

22 A Yes.

23 Q Then at some time later, Mrs. Hines, do you  
24 recall learning that the defendants had been arrested?

25 A Yes.

26 Q And do you remember how you learned of that?

1           A     I can't remember if I read it in the paper or  
2 I heard it on the news broadcasts.

3           Q     Now, before you came into this case did you  
4 know the names of any of the defendants?

5           A     Yes, sir.

6           Q     Which names did you know?

7           A     Well, I knew their names, but when I came into  
8 the courtroom the only one I recognized was Mr. Manson.

9           Q     But you knew the names of the female defendants?

10          A     Yes, sir.

11          Q     Did you know one any better than the others,  
12 or about the same?

13          A     No. I think I heard Susan Atkins' name more  
14 than I had the others.

15          Q     Under what circumstances did you hear Susan  
16 Atkins' name?

17          A     I can't recall, sir.

18          Q     Have you heard or read anything which appeared  
19 to be a description by someone of what actually happened on  
20 the night of the killings or the nights of the killings?

21          A     No, sir. I read, I guess, of what was  
22 found, or what was said to have happened.

23          Q     By whom?

24          A     That is about it.

25          Q     Was this something right after it occurred,  
26 when the bodies were found? Is that what you mean?

1 A Yes, sir.

2 Q In other words, whatever the police found and  
3 was reported in the newspaper?

4 A Yes.

5 Q You read about that?

6 A Yes. That is what I am referring to.

7 Q Did you ever read any statement by any  
8 defendant about anything?

9 A If I had I can't recall what it was.

10 Q Well, I am not asking you at the moment what it  
11 was but whether or not you ever read or heard any such  
12 statement.

13 A I don't think so.

14 Q Now, you know, of course, that the defendants  
15 have been arrested and they have been charged with these  
16 offenses?

17 A Yes.

18 Q And they are before the Court to stand trial?

19 A Yes.

20 Q As to whether or not they are guilty or not  
21 guilty.

22 A Yes.

23 Q Now, aside from those facts, Mrs. Hines, have  
24 you ever learned anything which caused you to believe that  
25 there is some connection between the defendants and the  
26 alleged offenses?

1           A       No, to tell you the truth.

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

3           MR. FITZGERALD: Yes, sir.  
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4b-1

## VOIR DIRE EXAMINATION

BY MR. FITZGERALD:

Q Are you nervous?

A A little bit.

Q You are not on trial here. We just want to ask you some questions about your state of mind.

A Yes, sir.

Q Do you know anything about the defendants at all as a result of watching television, listening to the radio or reading the newspaper?

A Oh, a little.

Q Could you tell us what you know?

A Well, that one of them had given birth, that they lived in commune style.

One of the people who is said to have been there is going to be a witness for the prosecution.

Oh, and they are trying to extradite one other gentleman, I think, from Texas.

That is about all I could recall at the moment.

Q When you say that you read, heard or saw that they were living commune style, what did you take that to mean, or what was your impression?

A Just that everybody was living together in one house.

Q And who is everybody, Mrs. Hines?



4b-2

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A Mr. Manson and his friends, the Family.

Q Do you know anything about the background and history of any of these defendants, the girls or Mr. Manson?

A No. That I don't.

Q Do you know where they came from? Where they were born? What schools they attended?

A No, I don't.

Q Did you read anything about the good character of any of these defendants?

A No, sir, I can't recall.

Q Did you read anything about the bad character of any of the defendants?

A No, sir, I haven't read that either.

Q And you are unable to tell us how, in your mind, you associate the name Susan Atkins; is that right?

A Yes.

Q Does she look like one of your relatives or sister or anything?

A No.

Q Did you ever read anything that was written by Susan Atkins or read anything that was said by Susan Atkins or seen anything that Susan Atkins did?

A I must have otherwise her name wouldn't have stood out in my mind, but I can't recall what it was.

4b-3

1 Q And you said, I believe, that one of the  
2 persons who were there was going to be a witness for  
3 the prosecution; is that right?

4 A Yes, sir. I read that in the newspapers.

5 Q Do you know who that is?

6 A Linda Kasabian.

7 Q Do you know, from reading the newspapers,  
8 what Linda Kasabian is likely to testify to, or do you  
9 have an idea what she might testify about?

10 A No, I don't, sir.

11 Q You just read that she was going to testify;  
12 is that right?

13 A Yes, sir. That was a while ago.

14 Q And how did you know that Linda Kasabian  
15 was there at the scene of the crime?

16 A Oh, I personally don't. All I know is, you  
17 know, what I read and heard on the news broadcasts.

18 Q What did you hear or see or read that led  
19 you to believe that she was there at the scene of the  
20 crime?

21 A I can't answer that.

22 Q Well, I don't want to put words in your  
23 mouth, Mrs. Hines, but did you read where Linda Kasabian  
24 said that she was there, or did you read that some  
25 reporter implied that she was there, or that the prosecu-  
26 tion said she was there, or her mother said she was there?

4b-4

1 That is the sort of thing we are asking,  
2 the purported source of the information, even though it  
3 is contained in the paper or on television.

4 A No. I understand what you mean. I am  
5 afraid I j<sub>u</sub>st can't recall.

6 Q Do you approve of the defendants as  
7 persons?

8 A Well, I have nothing to really disapprove.  
9 You mean, as far as their character goes?

10 Q Yes. As a result of what you know.

11 I take it that you don't know any of the  
12 defendants personally; is that right?

13 A No, I don't.

14 Q I take it you don't know anybody who does  
15 know them personally?

16 A No, sir.

17 Q So that all you know about them you have  
18 read, seen or heard on radio, newspaper or TV?

19 A Yes, sir.

20 Q Based on what you have heard, read or seen  
21 on the radio, newspaper and television, do you approve  
22 of the defendants or disapprove of them, Mrs. Hines?

23 A Well, I don't disapprove but I don't  
24 exactly approve either.

4c fls.

4C-1

1 Q You are certainly entitled to that opinion.

2 Can you tell us, though, can you elaborate on  
3 your statement? Can you tell us upon what you base that  
4 opinion, and so on?

5 A Well, the only thing I don't approve of is  
6 the style of dress.

7 Q Of the young ladies or of the denims Mr. Manson  
8 is wearing, or what?

9 A Well, so far as Mr. Manson, well, I don't  
10 mean as far as what he is wearing now.

11 Q Were you familiar with some clothing he wore in  
12 the past?

13 A No, sir.

14 Q Is he all right as he is dressed now?

15 A Well, I am referring to his hair.

16 Q Oh, to his hair?

17 A Yes.

18 Q The length of his hair? You don't think  
19 men should wear long hair?

20 A No, sir, I don't.

21 Q I take it, though, it is all right for women to  
22 have long hair?

23 A I think it does look better on a woman.

24 Q So, it is a matter of taste or aesthetics?

25 A Yes.

26 Q You don't think that Mr. Manson is any less of a

402 1 man because he has long hair, do you?

2 A No. That I don't believe.

3 Q And you don't think it is effeminate, or do you?

4 A Well, that, I think, is built into a person  
5 themselves, because I have met a few people, men, who do  
6 have long hair, and they didn't seem feminine at all.

7 Q Is that going to influence you in arriving at a  
8 verdict in this case?

9 A What?

10 Q Do you think that will have a tendency to  
11 influence your judgment in this case?

12 A No, I don't believe so.

13 MR. FITZGERALD: I have nothing further.

14 THE COURT: Mr. Reiner?

15 MR. REINER: Thank you.

16  
17 VOIR DIRE EXAMINATION OF MRS. HINES

18 BY MR. REINER:

19 Q Mrs. Hines, there are two areas I wish to go  
20 into.

21 one is notwithstanding anything that you may  
22 have seen or heard, that is, read in the newspaper or  
23 seen or heard on radio or television, your ability to be  
24 impartial in this case; and the other area of inquiry, to  
25 go into some depth as to just what it was that you have seen,  
26 read or heard in the newspapers, radio and television.

1 Now, since these crimes occurred last August,  
2 you have watched the television news on a fairly regular  
3 basis, have you not, ma'am?

4 A More or less.

5 Q And you have read the daily newspaper on a  
6 fairly regular basis; is that so?

7 A Again I have to say more or less.

8 Q Now, notwithstanding anything that you have  
9 read in the newspaper or seen or heard on radio or  
10 television, Mrs. Hines, do you feel that you could be  
11 impartial in this case and base your decision solely upon  
12 the evidence that is presented here in court?

13 A Yes, sir.

14 Q Now, going to the information, if we may call  
15 it information, the information that you received that  
16 came to your attention from the newspapers or on radio and  
17 television, Mrs. Hines -- first of all, you do appreciate  
18 that candid answers with respect to what exposure you have  
19 had to such information is essential to the administration  
20 of justice? You appreciate that, do you not?

21 A Yes.

22 Q Now, do you recall one morning picking up the  
23 newspaper or listening to the radio or seeing the television  
24 news and hearing of the crimes that had been committed the  
25 night before, the so-called Sharon Tate killings?

26 Do you remember that, ma'am?

1           A       I can't recall if I heard it on the news for  
2 the first time or read it in the paper the first time.

3           Q       But was it the next morning, that is, the  
4 morning after these killings supposedly took place?

5           A       I honestly can't answer that.

6           Q       I am trying to refresh your memory.

7                    You recall seeing a newspaper with great big  
8 headlines about the so-called Sharon Tate killings?

9           A       Yes, I think I did.

10          Q       And do you think that perhaps this was the  
11 next morning, the next day after the killings supposedly  
12 took place?

13          A       Yes, I think so,  
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1 Q And would it be a fair statement to say that  
2 in the days, and perhaps even weeks, that followed, that  
3 there was a great deal of attention given to these particular  
4 killings in the newspapers, radio and television?

5 A Yes, sir, I believe it was.

6 Q And without reference to these specifics,  
7 Mrs. Hines, you did hear a lot about these particular  
8 killings and read quite a bit about it in the days and  
9 weeks that followed these facts; is that right?

10 A Yes.

11 Q Is it your recollection that the news sort  
12 of died down for a while up until the time that certain  
13 persons were arrested in connection with this crime,  
14 at which time the news began to build up again?

15 Is that your recollection, ma'am?

16 A I think it did.

17 Q Now, do you recall, then, one day seeing in  
18 the newspaper big headlines that the so-called Tate case --  
19 that there had been arrests in the so-called Tate case  
20 in connection with that case?

21 A I can't recall. I didn't always get the  
22 paper. A lot of times I just heard about it on the radio  
23 or television.

24 Q Well, the name of Mr. Manson is presently  
25 familiar to you, is it not, Mrs. Hines?

26 A Yes.



1 Q I mean, it was familiar to you before you  
2 even came to court as a prospective juror?

3 A Yes.

4 Q The name of Susan Atkins was also familiar  
5 to you; is that right?

6 A Yes.

7 Q Did you learn of it presumably for the  
8 first time after the arrests had occurred in connection  
9 with the case?

10 A Yes.

11 Q Before that these names were totally unknown  
12 to you; is that right?

13 A Yes, sir.

14 Q And the likeness of Mr. Manson, that is,  
15 your ability to recognize him, this was something that  
16 you were not familiar with prior to the arrests; is that  
17 also true?

18 A I am sorry, could you repeat that, please?

19 Q Yes.

20 You were able to recognize Mr. Manson when  
21 you came to court; is that right?

22 A Yes.

23 Q And that was from pictures that you had  
24 seen previously of Mr. Manson; is that correct?

25 A Yes.

26 Q And these pictures that you had seen of Mr.

1 Manson you had seen after the arrests had occurred in  
2 this case; is that right?

3 A Yes.

4 Q Now, try to recall as well as you can the  
5 time that the arrests in connection with this case  
6 involving Mr. Manson and any of the other defendants  
7 occurred, when that first occurred.

8 Do you recall seeing a headline in a news-  
9 paper about it, or do you perhaps recall hearing about it  
10 for the first time on the television news or radio,  
11 perhaps?

12 A I can't remember where I heard it first.

13 Q Now, at that time, do you also recall the  
14 name of Susan Atkins coming to your attention for the  
15 first time?

16 A Yes.

17 Q Do you recall the names of any of the other  
18 defendants coming <sup>into</sup> your attention for the first time  
19 right at the time that the arrests occurred?

20 A Yes.

21 Q Can you recall the names now, the names that  
22 were brought up then for the first time?

23 A Yes, sir.

24 Q What were those names?

25 A Well, Patricia Krenwinkel and your client.

26 Q Are you referring to Leslie Van Houten?

1           A       Yes, Leslie Van Houten.

2                   And then there was another gentleman, I  
3 think, whose name was also Charles. I can't remember his  
4 last name. That they were trying to bring back here.

5           Q       Are you referring perhaps to Charles Watson  
6 in Texas?

7           A       Yes.

8           Q       Do you recall whether or not any of the  
9 other defendants were out of the State of California?

10          A       I think one of the girls was.

11          Q       Do you remember which girl it was?

12          A       No, I don't.

13          Q       Do you remember where she was? In which  
14 other state she was?

15          A       No, I don't, sir.

5 fls.

5-1 1 Q How is it that the case against Mr. Manson was  
2 made in the first place, how is it that these arrests  
3 occurred?

4 Do you recall reading that in the newspaper or  
5 hearing about it on television or radio?

6 A I have heard, but I cannot remember.

7 Q Well, do you recall anything in connection with  
8 Susan Atkins, right about the time the arrests involving  
9 Mr. Manson and the others occurred?

10 A No, I can't.

11 Q Do you recall any person testifying before the  
12 Grand Jury, causing these indictments of certain persons  
13 and their arrests?

14 A No, sir, I don't.

15 Q Now, from that time, the time of these arrests  
16 up until the present, you have continued to read the news-  
17 paper, the daily newspaper, and watch the daily news  
18 programs on television on a more or less regular basis.

19 Would that be a fair statement?

20 A Yes, sir.

21 Q And while watching the news and reading the  
22 newspapers, a substantial amount of information has come  
23 to your attention, whether it is accurate or inaccurate is  
24 unimportant at the moment.

25 A Yes.

26 Q But a substantial amount of information has come

5-2

1 to your attention in connection with this case, in  
2 connection with the defendants, even perhaps in connection  
3 with the attorneys?

4 A Yes.

5 Q And if information regarding that would touch  
6 upon this case, if that were to come to your attention now  
7 that you are a prospective juror --

8 A Uh-huh.

9 Q You would discipline yourself not to allow any  
10 suggestions that be contained in that information, of the  
11 relative guilt of the defendants, to influence you, is that  
12 true?

13 A Yes, sir.

14 Q That is because you know you are a prospective  
15 juror in this case, would that be true?

16 A Yes, sir.

17 Q Last December when all of this broke, and  
18 the months that immediately followed, you did not at that  
19 time anticipate that there was even a possibility that you  
20 might some day be a juror in this case, did you?

21 A No, sir.

22 Q It never occurred to you?

23 A It did not.

24 Q So at that time you did not have any reason to  
25 discipline yourself to ignore any of the suggestions that  
26 would appear in the newspaper or on television, would that

1 be a fair statement?

2 A Yes, sir.

3 Q So that if you were to read today that some  
4 reporter says he thinks Charles Manson is guilty, you would  
5 discipline yourself to ignore that information, that  
6 suggestion, on the part of the reporter because you are a  
7 prospective juror?

8 A Yes, sir.

9 Q If you had read such a thing last December you  
10 would not have disciplined yourself to ignore the suggestion  
11 if there was such implicit in such a statement, because  
12 you did not think you were going to be a juror, would that  
13 be a fair statement?

14 A Yes.

15 Q So would it also be a fair statement to say  
16 that because you had no reason to do so, in fact, you did  
17 not discipline yourself to ignore the suggestions that  
18 were contained in the media, by media I mean newspapers,  
19 television and radio, relative to the guilt of the defendants  
20 or any of them, would that be a fair statement?

21 A I am sorry, would you repeat that?

22 Q Yes, perhaps I was overly long.

23 Because you had no reason to discipline  
24 yourself to ignore the suggestions in the media, in fact you  
25 did not discipline yourself to ignore any suggestions that  
26 were contained in the media?

1           A       That's right.

2           Q       And would it also be a fair statement to say  
3       that by and large all of the information that appeared in  
4       the newspapers, on radio and television tended to suggest  
5       or assume that the defendants, or some of them, were guilty  
6       of these crimes?

7           THE COURT: I think that calls for speculation.

8           Q       BY MR. REINER: Well, in your view --

9           THE COURT: You are asking in her view?

10          Q       BY MR. REINER: In other words, when you read  
11       these newspaper articles and saw the headlines and you saw  
12       the television news, and so forth, did it appear to you  
13       that the assumption was implicit in these stories, at  
14       least from the view of the writer, to the effect that the  
15       defendants or some of them were actually guilty of these  
16       crimes?

17          THE COURT: I think that question is so vague,  
18       Mr. Reiner, I don't --

19          MR. REINER: Perhaps I might restate it.

20          THE COURT: "Suggestions implicit" -- that is a  
21       rather vague terminology.

22          MR. REINER: Very well, perhaps I should restate it.

23          Q       BY MR. REINER: Mrs. Hines, in your view was  
24       the brutality of the information that was contained in the  
25       newspapers and other media unfavorable toward Mr. Manson  
26       and the other defendants?

1                   Would that be a fair statement?

2           A        I think I would say it was probably both.

3           Q        Do you recall whether it was unfavorable to  
4 start with?

5           A        Nothing stands out in my mind, sir.

6           Q        What do you recall that was favorable?

7           A        I cannot remember that, either, I'm sorry.

8           Q        Did you think you ever did read or hear any-  
9 thing about Mr. Manson or any of the defendants that you  
10 would characterize as favorable?

11          A        I am afraid I cannot recall.

12          Q        And you are unable to recall reading a  
13 single newspaper article or hearing a single comment on  
14 radio or television that in your view indicated that these  
15 defendants were guilty.

16                   Can you recall a single such statement?

17          A        I know I must have read some statements, to that  
18 effect, but I cannot recall them.

19          Q        Why do you say you know you must have read some  
20 statements to that effect?

21          A        Well, I am pretty sure that I have.

22          Q        Let me ask you why are you pretty sure that  
23 you read statements to that effect?

24          A        I think it is more that I feel I have.

25          Q        Although you have not reached a firm opinion,  
26 before you were called to court as a prospective juror,



1 before you even anticipated that this was a possibility,  
2 did you have an opinion, tentative as it might have been,  
3 that the defendants might be guilty based on what you read  
4 in the paper?

5 A No, sir, I did not.

6 Q Did you have any opinion at all?

7 A You mean as to their guilt or innocence?

8 Q That's correct.

9 A No, sir, I did not.

10 Q Did you wonder in your own mind as to who might  
11 have killed these people if these defendants or any of  
12 them didn't?

13 Did you wonder in your own mind?

14 A Oh, yes.

5A

5a-1

1 Q In wondering, did you reach any tentative  
2 feelings or opinions or conclusions?

3 A No, sir.

4 Q And you feel at this point that you have a  
5 completely open and impartial mind, and your judgment in  
6 this case if you are one of the jurors would be completely  
7 fair and based solely on the evidence here in court and  
8 not upon anything that you have been previously exposed  
9 to?

10 A Yes, sir.

11 MR. REINER: Thank you very much.

12 THE COURT: Mr. Shinn.

13 MR. SHINN: Yes.

14  
15 VOIR DIRE EXAMINATION OF MRS. HINES

16 BY MR. SHINN:

17 Q Mrs. Hines, did you read or hear about Mr.  
18 Kanarek?

19 A I beg your pardon?

20 Q Did you read or hear about Mr. Kanarek?

21 A I am afraid I don't know who he is.

22 Q You don't know Mr. Kanarek?

23 A No, I don't.

24 Q Were you present in court when Mr. Kanarek  
25 was introduced as Mr. Manson's attorney?

26 A Oh!

5a-2

1 Q That is Mr. Kanarek.

2 A I'm sorry. Well, I could not catch all  
3 the names at that time.

4 Q You/ <sup>did</sup> not read or hear nothing about Mr.  
5 Kanarek last week or --

6 A I know something came on the television  
7 last night, but I turned the water on in the kitchen  
8 full force and I could not hear it.

9 Q Something came on, you say Mr. Kanarek's  
10 face came on TV?

11 A I had gone in the living room to see if  
12 Mr. Manson's attorney was still on.

13 Q And you did not recognize him sitting right  
14 before you today?

15 A Oh, I recognized him. I could not have told  
16 you his name.

17 MR. SHINN: Oh, I see. Okay, thank you.

18 THE COURT: Mr. Kanarek, any questions?

19 MR. KANAREK: No, your Honor, thank you.

20  
21 VOIR DIRE EXAMINATION OF MRS. HINES

22 BY MR. STOVITZ:

23 Q Mrs. Hines, is it?

24 A Yes.

25 Q What part of town do you live in?

26 A Highland Park.

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Q That is between downtown Los Angeles and the Pasadena area, is that right?

A Yes.

Q And how long have you lived in the Highland Park area?

A Three years.

Q What does your husband do?

A He is a power engineer.

Q A power engineer?

A Yes.

Q For whom?

A Continental Insurance Company.

Q Have you ever been employed?

A Yes, I am now.

Q What are you employed as?

A Dictaphone and teletype operator.

Q For whom?

A The same company as my husband.

Q And what part of town do you work in?

A East L. A.

Q East Los Angeles?

A Yes, sir.

Q Do you have any children?

A No, sir.

Q How long have you lived in Los Angeles?

A Oh, about eight years.

5a-4

1 Q Now, do you think that if you were  
2 selected as a prospective juror in this case that you  
3 could promise the Court that you will absolutely,  
4 unequivocally put out of your mind anything that you  
5 heard, read or saw about this case, and you will decide  
6 this case solely on the evidence that you hear and see  
7 in the courtroom?

8 A Yes, I believe so.

9 Q Do you have any doubts whatsoever that you  
10 can do that?

11 A No, sir.

12 MR. STOVITZ: We have no further questions.  
13

14 VOIR DIRE EXAMINATION OF MRS. HINES

15 BY THE COURT:

16 Q Mrs. Hines, you heard me tell the panel  
17 when you first came into court that in every criminal  
18 case a defendant is presumed to be innocent, did you hear  
19 that?

20 A Yes, sir.

21 Q And do you understand that that presumption  
22 lasts until such time as the People are able to prove  
23 his guilt beyond a reasonable doubt, if they are able  
24 to do so, do you understand that?

25 A Yes.

26 Q Now, if they are not able to do that, are

45a-5

1       you willing to vote for an acquittal?

2               A       -- if the People are not able to prove  
3       guilt beyond a reasonable doubt?

4               Q       If the People are not able to prove guilt  
5       beyond a reasonable doubt are you willing to vote for  
6       an acquittal?

7               A       Yes, sir.

8               Q       On the other hand, if they are able to  
9       prove guilt beyond a reasonable doubt are you willing to  
10      vote a verdict of guilty?

11              A       Yes, sir.

12              Q       Do you know of any reason why you could not  
13      be fair and impartial in this case?

14              A       No, sir, I don't.

15              THE COURT: All right, I'm going to ask you to  
16      go back into the courtroom at this time, Mrs. Hines.

17                      Thank you very much, and will you refrain  
18      from discussing with anyone, including your husband  
19      and the other prospective jurors, and especially the  
20      press, but everyone, what has gone on here in chambers?

21              MRS. HINES: Yes, sir.

22              THE COURT: All right, thank you.

23                      (Mrs. Hines leaves the chambers of the Court.)

24              MR. FITZGERALD: We will challenge the juror for  
25      bias, and her exposure to prejudicial pretrial publicity,  
26      your Honor.

1 MR. REINER: Join.

2 MR. SHINN: Join.

3 MR. STOVITZ: We will oppose the challenge,  
4 your Honor.

5 MR. KANAREK: Join.

6 THE COURT: Which side are you joining, Mr.  
7 Kanarek?

8 MR. KANAREK: I am with Mr. Fitzgerald.

9 THE COURT: For a moment you had me worried.

10 The challenge will be disallowed.

11 Are you ready then to go back into court  
12 and continue any additional voir dire of Mrs. Hines?

13 MR. STOVITZ: Yes, your Honor.

14 THE COURT: My notes show that after the voir  
15 dire as to her is completed the next peremptory challenge  
16 will be with the defendants.

17 Well, it is time for our recess at this  
18 time, we will then resume in open court.

19 (Recess.)

6 fls.

5B-1

1 (The following proceedings were had in open  
2 court in the presence and hearing of the prospective  
3 jurors, all defendants and all counsel, including the  
4 deputies District Attorney being present.)

5 THE COURT: All parties and counsel are present.

6 MR. FITZGERALD: Could we approach the bench?

7 THE COURT: All right. All parties and counsel are  
8 present; all the prospective jurors are in the jury box.

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

11 MR. KANAREK: Yes, your Honor, I have Mr. Caballero,  
12 Richard Caballero, a member of the Bar, here under  
13 subpoena and I also have subpoenaed Paul Caruso and Jerry  
14 Cohen of the Los Angeles Times.

15 I wonder if your Honor could order them back to  
16 a date certain.

17 They are subpoenaed here in connection with the  
18 proceedings under the 1538.5.

19 THE COURT: What 1538.5?

20 MR. KANAREK: Well, your Honor indicated that your  
21 Honor was denying the motion without prejudice, and for me  
22 to take it up at a future time. Your Honor will probably  
23 recall.

24 THE COURT: I said I would entertain the motion during  
25 the course of the trial.

26 MR. KANAREK: Right.



B2 1 THE COURT: If the People sought to introduce evidence  
2 which was contended had been obtained by means of some  
3 illegal search or seizure.

4 We did not continue the motion for any fixed  
5 date. The motion went off calendar.

6 MR. KANAREK: However, I wish to have continuing  
7 jurisdiction over these people. I believe that they --

8 THE COURT: But there is no time set. How can I  
9 order them back?

10 MR. KANAREK: What I say is this, I am willing, your  
11 Honor, to make the subpoena, let's say, six weeks from now.

12 otherwise, the defendant is going to be denied  
13 -- these people are going to be conveniently, like in  
14 South America or in Europe on vacation -- one of them is  
15 on vacation now conveniently.

16 THE COURT: I am not going to order them back to  
17 something that is not even on the calendar, Mr. Kanarek.

18 MR. KANAREK: Well, your Honor, we are being denied  
19 due process because I believe they will not be available  
20 for subpoena.

21 Now, it will not be inconvenient; it will not  
22 be inconvenient. This is a very serious matter.

23 We have reason to believe, your Honor, that  
24 there has been a conspiracy going on; that it did go on  
25 in connection with Susan Atkins' alleged confession and  
26 the taking of her before the Grand Jury; that the District

1 Attorney's Office participated in it.

2 THE COURT: What does all of this have to do with a  
3 1538.5 motion?

4 MR. KANAREK: It has to do this, if I may have the  
5 statute I will show the Court.

6 THE COURT: Just tell me.

7 MR. KANAREK: Under Subsection 2 -- if I had the  
8 statute --

9 MR. STOVITZ: Would your Honor please ask the witness  
10 be ordered back to, say, July 27th, and counsel can give us  
11 points and authorities.

12 I am completely in the dark. We do have the jury  
13 panel here; we can get on with the prospective jury  
14 selection.

15 Mr. Caballero is the only witness that  
16 responded. He is the only one I see back in court.

17 MR. KANAREK: That is agreeable, your Honor, also  
18 Mr. Caruso called. I don't want to interfere with his  
19 practice of law. He is in West D.

20 If your Honor could order a body attachment --

21 THE COURT: I am not going to take that up at this  
22 time, Mr. Kanarek, there is no motion on the calendar.  
23 You subpoenaed these witnesses in --

24 MR. KANAREK: I subpoenaed them because of the  
25 apprehension I have, your Honor.

26 They will not be available for process; that

1 they will not be available when we need them. That is what  
2 my apprehension is, that there was misconduct, there was  
3 some \$90,000, your Honor, that changed hands in connection  
4 with Susan Atkins' activity.

5 Since your Honor is asking me --

6 THE COURT: Now you are getting off into some subject  
7 I have no idea what you're talking about, you started out  
8 by talking about a 1538.5 motion.

9 MR. KANAREK: That's correct.

10 THE COURT: There is no such motion pending.

11 MR. KANAREK: Your Honor indicated he would entertain  
12 it during the course of the trial.

13 We have all the papers here before the Court;  
14 we can reinstitute it at this point.

15 The point is to maintain jurisdiction over  
16 these particular witnesses so that they don't flee the  
17 jurisdiction.

18 THE COURT: I have no proof of service on Mr. Caruso.  
19 Where is the proof of service?

20 MR. KANAREK: As far as Mr. Caruso is concerned, the  
21 process server has not returned it to me. I represent to  
22 the Court that this is so.

23 If your Honor will let me have the statute for  
24 just a moment I will show your Honor why it is pertinent.

25 MR. SHINN: May I say something, your Honor?

26 THE COURT: Yes.

1 MR. SHINN: I think these witnesses -- if I get my  
2 motion to suppress, which I filed with the Court, and it  
3 was continued to a later date --

4 THE COURT: That is not what I said, Mr. Shinn,  
5 don't misquote me.

6 The motions went off calendar.

7 MR. SHINN: Not the motion to suppress, your Honor.

8 THE COURT: Are you talking about the 1538.5?

9 MR. SHINN: No, I am talking about my motion, and  
10 I think Mr. Kanarek in conjunction with my motion and his  
11 motion with these witnesses, the identical witnesses, your  
12 Honor.

13 THE COURT: What are you saying? I don't understand  
14 what you are saying.

15 MR. SHINN: I have the motion to suppress.

16 THE COURT: What about it?

17 MR. SHINN: Your Honor said to continue it to  
18 a later time.

19 THE COURT: I don't recall what I said. Are you  
20 saying there is now a date set for your motion?

21 MR. SHINN: No.

22 THE COURT: I don't recall any such date either.  
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6-1

1 MR. SHINN: There is no date certain, your Honor,  
2 but I believe I discussed this matter with Mr. Bugliosi  
3 and he wanted to try to get all these motions heard before  
4 the trial starts.

5 THE COURT: Do you have a copy of the subpoena on  
6 Mr. Caballero?

7 MR. KANAREK: No, but he is in court, your Honor,  
8 and he is responding.

9 THE COURT: But I want to know why I'm being asked  
10 to order him back.

11 MR. KANAREK: He is necessary as a witness, a  
12 key witness to the 1538 motion.

13 THE COURT: There is no 1538 motion pending.

14 MR. KANAREK: You said you would entertain it during  
15 the course of the trial.

16 THE COURT: It went off calendar and it has never  
17 been reset.

18 MR. KANAREK: You indicated you would hear it during  
19 the course of the trial.

20 THE COURT: There is nothing pending.

21 MR. KANAREK: If your Honor wishes, I can set it  
22 for a date certain.

23 What I am saying is that the man is here,  
24 and if what we are really interested in, your Honor, is  
25 expediting this case, the man can be told to come back on  
26 a date certain. In the meanwhile, we can do whatever the

6-2

1 Court wishes as far as setting a date.

2 The Court stated, and I accepted the Court's  
3 representation, that it would be heard during the course  
4 of the trial.

5 THE COURT: You had better go back and read exactly  
6 what I said, because that is not precisely what was said.

7 MR. KANAREK: Your Honor said he would entertain  
8 a motion during the course of the trial.

9 THE COURT: You haven't given me the slightest  
10 indication of what connection Mr. Caballero has with any  
11 1538.5 motion.

12 MR. KANAREK: May I have the Penal Code, your Honor?

13 THE COURT: That won't tell me what connection Mr.  
14 Caballero has with the motion.

15 MR. KANAREK: I would be able to delineate it with  
16 particularity if I may see the Code.

17 THE COURT: We are not going to take it up now. We  
18 are in the process of picking a jury.

19 If you want to raise it in chambers where  
20 we can discuss it a little more fully, we will do so, but  
21 I am not going to interrupt our selection of the jury at  
22 this time with something that isn't pending on the calendar.

23 MR. KANAREK: What I am saying, your Honor, is that  
24 I have an apprehension that these people will not be  
25 available.

26 THE COURT: I suggest that you resubpoena him.

6-3

1 Notice it for some date.

2 MR. KANAREK: He is here now. The prosecution is  
3 willing -- Mr. Stovitz is -- he has enunciated that it is  
4 agreeable with him that he come back on the 27th.

5 Let's ask him to come back on the 27th, your  
6 Honor.

7 THE COURT: For what purpose?

8 MR. KANAREK: Then we will maintain jurisdiction  
9 over him.

10 THE COURT: For what purpose?

11 MR. KANAREK: Your Honor is forcing me to say  
12 this: But I believe there has been subornation of  
13 perjury, that this indictment is improper, that it comes  
14 about by subornation.. I think that Mr. Einstoss and  
15 the District Attorney's Office <sup>have</sup> conspired with Mr.  
16 Caballero -- your Honor is forcing me to say this because  
17 your Honor won't order him to be brought back --

18 THE COURT: You should have brought this up before  
19 trial.

20 MR. KANAREK: No. Habeas corpus lies. Even after  
21 a 995 motion one can get habeas corpus.

22 I don't want to belabor it. It is our  
23 belief that Mr. Einstoss and the District Attorney's  
24 Office conspired with Mr. Caballero and Mr. Jerry Cohen,  
25 the conspiracy that involves Mr. Schilling, for money,  
26 for \$90,000, in order to obtain this indictment, in

1 order for certain matters to occur, and I am saying that  
2 these are matters of --  
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1 THE COURT: If you are attempting to attack the  
2 Grand Jury indictment, that should have been done before  
3 trial.

4 MR. SHINN: Your Honor, there is also this: I did  
5 try to attack the Grand Jury indictment with my motion to  
6 suppress, and I believe a 995, your Honor, and Judge Lucas,  
7 on my 995 motion, told me --

8 THE COURT: One moment.

9 Mr. Kanarek, I am not going to order back a  
10 witness who has been subpoenaed in for no proceeding on the  
11 calendar so far as I can see.

12 MR. KANAREK: May I put it this way: He is a  
13 defense witness that we want for the trial, like any defense  
14 witness.

15 May I put it that way, your Honor?

16 THE COURT: Show me your proof of service.

17 MR. KANAREK: Well, your Honor, he is here in court.

18 THE COURT: I have no reason to believe that he  
19 won't be available.

20 MR. FITZGERALD: Just let him sit here.

21 MR. KANAREK: I don't wish to inconvenience him.

22 The process server has not returned the  
23 subpoena to me, your Honor.

24 Now, your Honor, as I say, I wish to cooperate  
25 with him, he is a practicing lawyer; I am more than willing  
26 to have him ordered back on a day certain.

6a2

1 I have an apprehension that he will not be  
2 available when we need him precisely. Then somebody is  
3 going to say that we haven't been diligent in getting him.

4 He is here, your Honor, and I believe that  
5 we have the power --

6 THE COURT: You didn't tell me that you wanted him as  
7 a defense witness in the trial proper. You said something  
8 about a 1538.5 motion.

9 MR. KANAREK: I need him as a defense witness during  
10 the trial proper.

11 THE COURT: What date do you want him ordered back?

12 MR. KANAREK: Whatever date is convenient. July 27th?

13 THE COURT: It is not my convenience. I don't  
14 care whether he comes back or not.

15 MR. KANAREK: Very well.

16 May I ask him, your Honor? May I look at the  
17 calendar just a moment, your Honor? Just a half a minute?

18 THE COURT: All right.

19 We are going to proceed now.

20 MR. KANAREK: Yes, sir.

21 (Mr. Kanarek leaves the bench and then returns.)

22 MR. KANAREK: Your Honor, the prosecution --

23 THE COURT: Just give me a date, Mr. Kanarek. I  
24 don't want to prolong this.

25 MR. KANAREK: All right. July 27th.

26 THE COURT: All right.

1 Will you ask Mr. Caballero to come up here?

2 We don't have to do this in the presence of the jury.

3 MR. KANAREK: Yes, sir. Yes, your Honor, that is why  
4 we are at the bench.

5 (Mr. Caballero approaches the bench.)

6 THE COURT: Good morning, Mr. Caballero.

7 MR. CABALLERO: Good morning, sir.

8 THE COURT: Mr. Kanarek tells me that he has sub-  
9 poenaed you in here for today.

10 MR. CABALLERO: Correct.

11 THE COURT: You will not be required here for today,  
12 and he wants me to order you to come back on July 27th.

13 MR. CABALLERO: I have five matters in Pomona on that  
14 day, your Honor.

15 THE COURT: It apparently doesn't make much difference  
16 to Mr. Kanarek what day it is, so why don't we make it a  
17 date convenient to Mr. Caballero's calendar.

18 MR. KANAREK: Yes. Very well.

19 MR. CABALLERO: Thank you. May I just get my calendar  
20 for a second?

21 THE COURT: All right.

22 (Mr. Caballero leaves the bench and then  
23 returns.)

24 MR. CABALLERO: What about July 30th? No, there is  
25 no July 30th.

26 MR. KANAREK: Yes, there is.

1 MR. CABALLERO: Yes. All right, July 30th?

2 THE COURT: You are ordered to return to this court-  
3 room on July 30th at 9:00 a.m., July 30th, 1970.

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6b-1

1 MR. CABALLERO: Mr. Caruso called on the telephone  
2 and I took the call. He is engaged in Department D in  
3 Santa Monica. He wants to know if it is necessary for  
4 him to come down here? He would like to be excused.

5 He has been subpoenaed. He made himself  
6 available for subpoena, as I did. He has not been  
7 evading any process.

8 THE COURT: Will he be present on July 30th?

9 MR. CABALLERO: I am sure he will, certainly.

10 THE COURT: I am not going to be involved in that  
11 if he hasn't been subpoenaed.

12 MR. KANAREK: He was subpoenaed.

13 MR. CABALLERO: No, he was subpoenaed.

14 MR. KANAREK: Yes.

15 THE COURT: Will you inform him that I will issue  
16 a body attachment and hold it until July 30th at 9:00  
17 a.m. for Paul Caruso.

18 MR. CABALLERO: Yes. Thank you.

19 MR. KANAREK: Thank you very much.

20 Thank you, Mr. Caballero.

21 THE COURT: Are we ready to proceed, gentlemen?

22 MR. FITZGERALD: Ready.

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

6b-2

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

3 MR. FITZGERALD: No, your Honor, I don't have  
4 any questions of the prospective juror.

5 I pass for cause.

6 THE COURT: Mr. Reiner?

7 MR. REINER: Thank you, your Honor.

8  
9 VOIR DIRE EXAMINATION OF MRS. HINES

10 BY MR. REINER:

11 Q Mrs. Hines, I asked you quite a few questions  
12 in chambers so I will not go into many questions at this  
13 time, but there are a number of matters that I just wanted  
14 to cover very briefly here.

15 Now, first of all, irrespective of what you  
16 have viewed here in court with respect to the conduct of  
17 Leslie Van Houten, or what you may have read of the conduct  
18 of Leslie Van Houten, or what you may subsequently see  
19 with respect to the conduct of Leslie Van Houten, will  
20 you, nonetheless, base your judgment solely and entirely  
21 upon the evidence in the case and not allow your inter-  
22 pretation of her conduct here in court to influence your  
23 judgment?

24 A Yes, sir.

25 Q So that if it appears to you that Leslie  
26 Van Houten wishes to be convicted if any member of the

1 family is convicted, you will, nonetheless, acquit her  
2 if the evidence is insufficient?

3 A Yes, sir.

4 Q You do appreciate, do you not, that there  
5 are four defendants, and irrespective of the amount of  
6 evidence that may be presented with respect to one  
7 defendant or more than one defendant, if the evidence  
8 is insufficient as to one defendant, that you have an  
9 obligation to acquit that defendant?

10 A Yes, sir.

11 Q And you understand that I am referring now  
12 to Leslie Van Houten?

13 A Yes.

14 MR. REINER: Thank you very much.

15 I have no further questions.

16 THE COURT: Mr. Shinn, do you have any questions?

17 MR. SHINN: No questions. Pass for cause, your  
18 Honor.

19 THE COURT: Mr. Kanarek?

20 MR. KANAREK: No questions, your Honor.

21 THE COURT: Mr. Stovitz?

22 MR. STOVITZ: Yes, sir.

23  
24 VOIR DIRE EXAMINATION OF MRS. HINES

25 BY MR. STOVITZ:

26 Q Mrs. Hines, you heard the questions that

1 Mr. Bugliosi asked Mrs. Roseland on Monday?

2 A Yes.

3 Q Can you remember most of them?

4 Did you follow them as he was asking  
5 Mrs. Roseland those questions?

6 A Yes.

7 Q Let's start off with any organizations  
8 that you have belonged to.

9 Do you belong to any organizations that  
10 have as one of their beliefs the suppression of the  
11 death penalty?

12 A No, sir.

13 Q Do you belong to any religious groups that  
14 might have that as one of its beliefs?

15 A No, sir.

16 Q As a matter of personal preference, do  
17 the People have any obstacle to overcome in your mind  
18 by way of convincing you that the death penalty should  
19 be invoked in this case if there is a conviction of  
20 first degree murder?

21 A No, sir.

22 Q Going to the question of the guilt of  
23 the defendants, Mrs. Hines, you understand that the  
24 People must prove their case first. Do you understand  
25 that?

26 A Yes, sir.



7-1

1 Q All right, now, assume for the moment that in  
2 our proof for this case we do not produce any confession by  
3 any particular defendant.

4 Do you have any prejudices in your mind that  
5 before you would convict someone of first-degree murder  
6 that you must have a confession introduced?

7 A No, sir.

8 Q All right, assume again on the question of  
9 guilt that we do not produce any eye witness to a particular  
10 murder, do you have any prejudices in your mind that  
11 before you would convict somebody of first-degree murder  
12 you must have at least one eye witness present?

13 A No, sir.

14 Q Do you have any prejudices against circum-  
15 stantial evidence?

16 A No, sir.

17 Q You understand that if the Court tells you  
18 that the jury may consider circumstantial evidence in  
19 arriving at a verdict, that that constitutes legal  
20 evidence just the same as direct evidence.

21 Do you understand that?

22 A Yes, sir.

23 Q You have heard the illustrations of circum-  
24 stantial evidence so far as they go, the cookies and the  
25 footprints in the sand?

26 You heard those explanations?

7-2

1 A Not those two, but I heard the last one.

2 Q Which one was that?

3 A About the TV being stolen.

4 Q Oh, the TV being stolen, all right.

5 Assume for the moment that you saw me write  
6 on the blackboard; that would constitute direct evidence  
7 that I wrote on the blackboard.

8 Q You understand that?

9 A Yes.

10 Q Assume that you did not see me write, but one  
11 moment you saw there was no writing on the blackboard and  
12 the next moment you saw there was writing on the blackboard,  
13 and I had chalk dust on my fingertips.

14 That would be circumstantial evidence that I  
15 wrote on the blackboard, you understand that?

16 A Yes, sir.

17 Q And if they could trace my handwriting to that  
18 blackboard writing, that would be additional circumstantial  
19 evidence; do you understand that?

20 A Yes.

21 Q Of course, in the nature of things, sometimes  
22 some circumstantial evidence is stronger than other types  
23 of circumstantial evidence, you understand that?

24 A Yes.

25 Q In this particular case do you have any  
26 prejudice as far as psychiatric testimony is concerned?

7-3

1 A No, sir.

2 Q You are not going to believe the testimony of  
3 a psychiatrist just because he is a psychiatrist, right?

4 A Right.

5 Q And you are not going to disbelieve him just  
6 because he is a psychiatrist?

7 A That's right.

8 Q Now, Mrs. Hines, with relation to the doctrine  
9 of the rule on criminal conspiracy, you have heard the  
10 explanation that Mr. Bugliosi gave to Mrs. Roseland?

11 A Yes, sir.

12 Q Were you able to follow that explanation?

13 A Yes, sir.

14 Q Do you have any prejudices against convicting  
15 a person of first-degree murder on the doctrine of criminal  
16 conspiracy?

17 A No, sir.

18 Q Now, assume for the moment that you and your  
19 fellow jurors have voted for a verdict of first-degree  
20 murder, and you do hear evidence, say, in the penalty trial,  
21 and then you are going to go back and deliberate, and the  
22 rest of the jurors say to you, "Well, you are a secretary,  
23 you should take notes."

24 You take notes, and then they say, "You are  
25 going to be the foreman of this jury," and you are going to  
26 have to sign the verdict."

1 And you and your fellow jurors vote for the  
2 death penalty. Would you be able to sign that verdict?

3 A Yes, sir.

4 Q Assume for the moment that you are voting on  
5 the death penalty for Leslie Van Houten, this 19 or 20-  
6 year-old young lady over here.

7 You and your fellow jurors vote that you  
8 should invoke the death penalty on Leslie Van Houten.

9 Would you be able to sign the verdict on that?

10 A Yes, sir.

11 Q Let us assume that, considering the question  
12 of the death penalty, you are of the frame of mind that  
13 one of the defendants whom you voted for first-degree  
14 murder did not actually perpetrate the fatal blow in this  
15 case.

16 He, himself, did not, or she, herself, did not  
17 actually kill any person.

18 Can you say to yourself that you could under  
19 certain circumstances vote for the death penalty for that  
20 particular individual?

21 A Under certain circumstances.

22 Q You could?

23 A I believe so.

24 Q All right, now, Mrs. Hines, in weighing all of  
25 the things that you know about this case, everything that  
26 you might have heard or seen and read, weighing your own

1 personal background, if you were on trial in this  
2 particular case would you choose someone in your frame of  
3 mind to serve on this jury?

4 A I think so.

5 Q And bearing in mind that the People are seeking  
6 12 fair-minded jurors, if you were the District Attorney in  
7 this case would you choose someone in your frame of mind?

8 A I think so.

9 Q Is there anything at all, whether counsel has  
10 touched upon it in their questions or not, that you care to  
11 relate to us now that might touch upon your so-called  
12 frame of mind with respect to this case?

13 A I cannot think of anything.

14 Q All right, you understand, then, do you not,  
15 Mrs. Hines, that in the event that you are selected as a  
16 juror in this case you will be with the 12 people or 11  
17 people around you for many, many days and months to come,  
18 you understand that?

19 A Yes, sir.

20 Q If by any chance you had a disagreement  
21 concerning something as immaterial as ordering breakfast or  
22 lunch or dinner, you would not let that in any way  
23 influence your verdict, right?

24 A No, sir.

25 Q You would be able to put aside all sorts of  
26 petty differences you might have. You would not be able

1 to watch the news; perhaps in watching the TV you might  
2 want to watch one station and somebody else may want to  
3 watch something else.

4 You would be able to put those petty differences  
5 aside and concentrate on this case only, is that right?

6 A Yes, sir.

7 Q In the event you do go back to the jury room  
8 and you were of a particular frame of mind, and the rest of  
9 the jurors were of a different frame of mind, you would be  
10 willing to discuss the evidence over again, wouldn't you,  
11 and change your mind if you felt it was wrong. Is that  
12 correct?

13 A Yes, sir.

14 MR. STOVITZ: Mrs. Hines, thank you very much.

15 People pass for cause.  
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1 THE COURT: Will counsel approach the bench, please?

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

4 THE COURT: I just had the Clerk bring in a note  
5 that Mrs. Lee, Juror No. 4, gave him, I want to give you  
6 an opportunity to read it before you exercise another  
7 peremptory.

8 I will read it into the record. Then you can  
9 look at it individually if you want to.

10 It is dated July 10th, 8:05 a.m., addressed  
11 to me here at the court. It starts out:

12 "Your Honor, I feel compelled to  
13 advise you upon reflection of the questions put  
14 to me over the past three days, my response is  
15 altered. I have had increasing doubt of my  
16 ability to render or impose the death penalty  
17 if such a termination becomes necessary."

18 Signed Mary Lee.

19 Now, in view of this if you want to inquire  
20 further before exercising your peremptory, because it may  
21 conceivably turn out that someone will want to interpose  
22 a challenge for cause, and if that should be allowed,  
23 the jury box should be filled out before anybody has to  
24 exercise a peremptory.

25 MR. KANAREK: Your Honor, if I may, may the record  
26 reveal on behalf of Mr. Manson, your Honor, it is our

7a-2

1 position that this is a typical example, this is a  
2 precise example of what has occurred here has denied  
3 Mr. Manson a fair trial, a fair trial in violation of  
4 the due process laws of the 14th Amendment and the  
5 equal protection laws, in that it is my belief that the  
6 real reason this woman is supposedly changing her mind  
7 in that particular purported request is because she  
8 wants to be off the jury because of hardship.

9 Therefore it is my request that we have a  
10 hearing in connection with this matter and that this be  
11 done in chambers outside the presence of the other jurors  
12 because it is my belief there will be a chain reaction,  
13 the domino theory or whatever way you want to denominate  
14 it, that it will go through all of the jurors and we and  
15 Mr. Manson will be deprived of fair jurors.

16 It is a way of death orienting this jury,  
17 getting people on the jury who are visible to the prosecu-  
18 tion, where the juror being a person of intellect recognizes  
19 there is a way to get off this jury, and that is by making  
20 statements similar to the ones she has given to this Court.

21 It is my belief -- I say, my position is  
22 that this is error.

23 I ask for a mistrial.

24 MR. STOVITZ: I will submit the matter, your Honor.  
25 I oppose the motion for a mistrial.

26 THE COURT: Well, the motion for an evidentiary



7a-3

1 hearing, if that is what it was, by Mr. Kanarek, is denied.

2 The motion for mistrial is denied.

3 You are not obligated to do anything as a  
4 result of this note if you don't want to.

5 Let her sit there. I don't see any challenge  
6 for cause that could be sustained as the basis of what she  
7 said in this note, even if one has been made, and none has  
8 been made so far.

9 So I am not going to excuse her.

10 But I just call this to your attention  
11 because I thought you should know about it in case you  
12 did want to inquire further before anyone had to exercise  
13 a peremptory challenge.

14 MR. KANAREK: May we then have it in chambers  
15 so there isn't -- we are having a hard enough time getting  
16 a jury.

17 THE COURT: I have no objection to that. Very  
18 well.

19 If you want to go back in chambers and  
20 inquire of this woman before we go any further --

21 MR. STOVITZ: We oppose that, your Honor. It would  
22 be a complete waste of time.

23 Mr. Bugliosi can ask this juror two or  
24 three questions. We would either exercise our peremptory  
25 or show the Court she is now of a frame of mind where she  
26 could never impose the death penalty under any circumstances.

1 If she is of a frame of mind where she  
2 would impose it under certain circumstances we would then  
3 use our peremptory.

4 It is as simple as that.

5 We do not feel we have to take the time of  
6 the Court to recess and go back into the chambers.

7 MR. KANAREK: It is my position, your Honor, this  
8 is denying Mr. Manson a fair trial because the other  
9 prospective jurors are going to hear what she is going to  
10 say.

11 It doesn't take much to add 1 and 1 and get  
12 2, and they are going to figure out this is a way to get  
13 off the jury.

14 MR. STOVITZ: I submit the other jurors have not  
15 used this excuse.

16 They accentuated their hardship, if anything,  
17 but they never used the death penalty as an excuse to get  
18 off the jury.

19 MR. KANAREK: It is now happening, your Honor.

20 THE COURT: You don't know that, Mr. Kanarek,  
21 any more than I know it, or anybody else.

22 MR. KANAREK: Out of an abundance of caution --  
23 Pearl Harbor did not strike until it struck -- I am  
24 saying why take a chance by creating prejudice and error  
25 in the minds of the other jurors, your Honor.

26 It is my request it be done in chambers.

1 A few minutes is going to save perhaps  
2 much much more time.

3 THE COURT: All of this panel has heard questions  
4 regarding the death penalty. There is nothing new  
5 about that. There is no automatic right to have these  
6 things in chambers.

7 I see no reason for this now.

8 MR. KANAREK: At this particular time --

9 THE COURT: Let us proceed, gentlemen.

7b fls.

7-B-1

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

4 THE COURT: Do any of the defendants' counsel wish  
5 to inquire further?

6 MR. FITZGERALD: No, your Honor.

7 MR. REINER: No, your Honor.

8 MR. SHINN: No, your Honor.

9 THE COURT: Mr. Kanarek?

10 MR. KANAREK: No, thank you, your Honor.

11 THE COURT: Do the People wish to inquire further?

12 MR. STOVITZ: That's right.

13  
14 VOIR DIRE EXAMINATION OF MRS. LEE

15 BY MR. BUGLIOSI:

16 Q Mrs. Lee, I have already questioned you about  
17 this area of the death penalty. With your indulgence I  
18 would like to ask you a few more questions.

19 Is that all right, ma'am?

20 A Yes.

21 Q I am interested in your state of mind as of  
22 this particular moment. You understand that?

23 A Yes.

24 Q Would you say that your particular state of  
25 mind at this moment is that you have a general opposition  
26 to the death penalty?

7B2

1 A Yes.

2 Q Would you say, Mrs. Lee, that your general  
3 opposition to the death penalty is of such a nature that  
4 it would automatically cause you to vote against the death  
5 penalty for these defendants irrespective of the evidence  
6 in this case?

7 MR. KANAREK: Leading and suggestive, your Honor.

8 THE COURT: Overruled. You may answer.

9 MRS. LEE: I think so.

10 However, my objection is not to the death  
11 penalty itself, but rather my involvement in making a  
12 decision in that direction.

13 Q BY MR. BUGLIOSI: Now, you feel that your  
14 opposition is of such a nature that you would be unable to  
15 sign a verdict of death against these defendants?

16 MR. KANAREK: Leading and suggestive, your Honor.

17 MR. FITZGERALD: Improper voir dire examination.

18 MR. KANAREK: Join with Mr. Fitzgerald, your Honor.

19 THE COURT: I think the question is ambiguous,  
20 Mr. Bugliosi.

21 The objection is sustained.

22 MR. BUGLIOSI: Let me elaborate a little on it, your  
23 Honor.

24 Q Do you feel that your opposition to the death  
25 penalty is of such a nature that regardless of what  
26 evidence we offer in this case against these defendants you

3  
1 could not find it within yourself to sign a verdict of  
2 death?

3 MR. KANAREK: Leading and suggestive, your Honor.

4 THE COURT: Overruled, you may answer.

5 MRS. LEE: I think this may be the case. I am  
6 absolutely not positive, but I have that fear.

7 Q BY MR. BUGLIOSI: Let me ask you this, Mrs. Lee,  
8 and I will tell you in advance it will be a long question.  
9 I think it is the type of question that will require some  
10 reflection on your part before you answer it.

11 Now, you understand there might be two trials  
12 here, the guilt or innocence trial, and the penalty trial.

13 You understand that?

14 A Yes.

15 Q If these defendants or one or more of them are  
16 convicted of first-degree murder, there will be a penalty  
17 trial, and only during the penalty trial will you be  
18 permitted to pass on the question of life imprisonment or  
19 death.

20 Did you understand that?

21 A I didn't until now.

22 Q All right, let me take it step by step.

23 The first trial is called the so-called guilt  
24 or innocence trial in which the only issue for the jury to  
25 decide is whether these defendants are guilty or not guilty  
26 of the murder charged against them.

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1 Do you understand that?

2 A Yes.

3 Q During that first trial the jury is not  
4 permitted to consider or discuss the question of the death  
5 penalty because the death penalty is not involved.

6 Do you understand that?

7 A Yes.

8 Q Now, if these defendants or one or more of them  
9 are convicted of first-degree murder, there will follow a  
10 second trial called the penalty trial, and at that trial  
11 it will be up to the jury to decide whether the punishment  
12 should be life imprisonment or death.

13 Do you understand that?

14 A Yes.

15 Q A question I have to ask you is this, and as I  
16 say, I think it will require some thought on your part:

17 Is your general opposition to the death penalty  
18 of such a nature that it might prevent you from being  
19 completely impartial on the separate issue of guilt or  
20 innocence because you realize that if you voted for a  
21 verdict of first-degree murder you would be forced, as it  
22 were, to thereafter consider the question of the death  
23 penalty.

24 Do you think there is any chance of that  
25 happening?

26 Did you understand my question?

1 A Yes, I understood the question.

2 Q You can see it requires some thought.

3 A Yes, it does.

4 Q Do you want to take a few moments? Take your  
5 time.

6 (Pause.)

7 A The answer is yes, I think it would impair my  
8 judgment.

9 Q On the separate issue of guilt or innocence?

10 A Yes, on the first issue.

11 Q The fact that you might later have to consider  
12 the death penalty might prevent you from being totally  
13 impartial on the separate issue of guilt versus innocence?

14 A Yes.

15 MR. BUGLIOSI: Thank you very much for your candor.

16 MR. FITZGERALD: May I ask the prospective juror a  
17 question?

18 THE COURT: Yes, Mr. Fitzgerald.

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## VOIR DIRE EXAMINATION OF MRS. LEE

BY MR. FITZGERALD:

Q If you took an oath to listen to the evidence and to carefully review it, the guilt phase of the trial, would you do that?

A I would make every effort to do so.

Q I take it that you would be able to listen to the evidence that you heard from the witness stand, correct?

A Yes.

Q And I take it that you would be able to discuss that evidence with your fellow jurors in the jury room, would you not?

A Yes.

Q And you are now saying that you feel that you would be unable to convict anybody of first degree murder because of some feelings you have?

A Yes.

Q When did you first discover that you had feelings in this regard?

A Last evening.

Q Now, do you think that that is true in every case you ever heard of where the death penalty was an issue?

A I don't quite understand.

Q As you sit there now, is your frame of mind

7c-2

1 such that in no case whatever that you can imagine could  
2 you impose the death penalty?

3 A I could not.

4 Q In any case?

5 A In any case.

6 Q In any case you can imagine ever, not this  
7 case, any case, if someone were on trial here for 100,000  
8 murders, a million murders, you would not be able to  
9 impose the death penalty?

10 MR. BUGLIOSI: I object to that question. It is  
11 improper voir dire, your Honor.

12 THE COURT: The objection is sustained.

13 MR. FITZGERALD: I have nothing further.

14 THE COURT: Anyone else?

15 MR. REINER: No questions.

16  
17 VOIR DIRE EXAMINATION OF MRS. LEE

18 BY THE COURT:

19 Q Mrs. Lee?

20 A Yes, sir.

21 Q We are not concerned here with bare  
22 possibilities, because many things are possible.

23 They may be highly unlikely, but they are  
24 still possible.

25 I am going to ask you again the two  
26 questions I put to you originally about the death penalty.

1 These things are not based on bare possibilities. They  
2 go to your state of mind now and whether or not you would  
3 be able to do one thing or another.

4 Do you understand?

5 A Yes.

6 Q Now, the first question goes to the so-called  
7 guilt phase of the trial and has nothing to do with the  
8 imposing of the death penalty. It simply goes to the  
9 question of whether or not you can be impartial in making  
10 a determination on the question of guilt?

11 Do you understand that?

12 A Yes, I do.

13 Q All right, the question is this:

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

18 Would you be unable to be impartial?

19 A Yes, sir.

20 Q Do you believe now that you would be unable?

21 A I do.

22 Q Do you have any question about that?

23 A No, I have no question about it.

24 Q Now, let me ask you the second question.

25 Now, this does go to the question of  
26 penalty, and relates to the second phase of the trial, if

1 there is one, and you understand the question by its very  
2 nature assumes necessarily that there has been a conviction  
3 of murder in the first degree; otherwise there would be  
4 no penalty phase, and the question is this:

5 Do you entertain such conscientious opinions  
6 regarding the death penalty that you would automatically  
7 refuse to impose it without regard to the evidence in  
8 the case?

9 Would you automatically refuse to impose it?

10 A Yes, sir.

11 Q Without regard to the evidence in the case?

12 A Yes, sir.

13 Q Is there any question in your mind about  
14 that?

15 A No, sir.

16 Q You have no mental reservations at all about  
17 the answers to these questions you have given me?

18 A No, sir, because there is sufficient doubt  
19 in my mind at this time, and it has not diminished since  
20 I discovered it.

21 Q Well, you don't have to explain to me why  
22 you arrived at these conclusions.

23 All I want to know is whether or not in  
24 fact they are conclusions and you have no doubt about them?

25 A No, sir, I have no doubt.

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1 THE COURT: All right. Do counsel wish to inquire  
2 further?

3 MR. FITZGERALD: No, your Honor.

4 MR. REINER: No, your Honor.

5 MR. SHINN: No.

6 MR. KANAREK: No.

7 THE COURT: Very well.

8 MR. BUGLIOSI: The People move to excuse Mrs. Lee for  
9 cause on two grounds: Actual bias under 1073, Paragraph 2,  
10 of the Penal Code; and also implied bias under 1074,  
11 Subdivision A of the Penal Code; and on the basis of the  
12 Supreme Court case of Witherspoon vs. Illinois.

13 MR. FITZGERALD: We will object to excusing the juror  
14 for cause.

15 We don't feel that she is biased as counsel  
16 points out, and to exclude her would deprive the defendants  
17 of a fair trial under the equal protection and due process  
18 clauses; and with respect to Witherspoon, we don't think  
19 her remarks, taken in toto, are unambiguous and unmis-  
20 takably clear.

21 MR. REINER: Join.

22 MR. SHINN: Join.

23 MR. KANAREK: Join.

24 THE COURT: The challenge is allowed.

25 Mrs. Lee, you are excused.

26 MR. REINER: May I inquire? Is the Court ruling on

3-2 1 both of the grounds put forward by the people?

2 THE COURT: Yes.

3 MR. REINER: Then the Court is allowing the challenge  
4 for cause on the basis of the Witherspoon objection?

5 THE COURT: Yes, on all grounds.

6 I will ask the parties and counsel to come  
7 back in chambers and we will call the next prospective  
8 juror in.

9 (The following proceedings occurred in  
10 chambers, all counsel and defendants being present:)

11 THE COURT: All parties and counsel are present.

12 MR. FITZGERALD: Your Honor, before another juror  
13 comes in, I have an objection that I want to register to  
14 the questions you asked the prospective jurors in terms of  
15 the death penalty.

16 You asked the jurors two questions. The second  
17 question you asked them is: Is your opinion concerning the  
18 death penalty such that you would automatically refuse to  
19 impose it? But you never asked them if their conscientious  
20 opinions concerning the death penalty are such that they  
21 would automatically impose it.

22 THE COURT: Why don't you ask it?

23 MR. FITZGERALD: But the problem is that that is just  
24 as great a constitutional bias as the reverse of that  
25 proposition is an indication of constitutional bias.

26 It seems to me that if the Court is going

8-3  
1 to ask the questions in connection with the death penalty,  
2 that the Court afford the defendants equal protection of the  
3 law and ask the reverse of that question.

4 I don't think that it is incumbent upon counsel  
5 to ask that question.

6 When your Honor asks a question it comes with  
7 the authority of the bench, the authority of the Judge,  
8 and it makes it look as though the Court will only  
9 exclude jurors who are anti-capital punishment but will  
10 accept jurors that are pro-capital punishment.

11 MR. STOVITZ: Without agreeing with counsel's  
12 reasoning, unless the other attorneys object to the  
13 Court asking this question, we will stipulate to the  
14 Court asking the question, to save time.

15 THE COURT: You don't have to stipulate. I can ask  
16 it whether you stipulate or not.

17 MR. BUGLIOSI: I have a question, your Honor.

18 THE COURT: Certainly no counsel is precluded from  
19 asking it.

20 MR. FITZGERALD: I understand that.

21 THE COURT: If you want to find out the answer, ask  
22 the question.

23 MR. FITZGERALD: I understand.  
24  
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1 MR. BUGLIOSI: I have a question that I would like  
2 to ask, and I tried to ask it and there was an objection  
3 and it was sustained, and I think this question, from my  
4 experience in death penalty cases, is the most penetrating  
5 question that I have been able to come up with to ascertain  
6 a juror's state of mind with respect to the death penalty,  
7 and I works both ways, it is not a pro prosecution  
8 question, it is not a pro defense question, it works both  
9 ways.

10 The question is simply this, and it is not  
11 a yes or no situation, it is the type of question that  
12 really has the juror tell everyone what he feels about the  
13 death penalty:

14 Are you in favor of retaining the death  
15 penalty in the State of California or would you rather  
16 see some other form of punishment substituted for it?

17 That question there puts the juror on the  
18 spot and he has to come up and say, "Well, I like the  
19 death penalty."

20 If he says that, then the prosecution might  
21 say, well, that is a juror we want.

22 On the other hand, a juror will frequently  
23 say, "I really am not in favor of the death penalty  
24 but inasmuch as there is no life imprisonment without  
25 the possibility of parole, I would be willing to return  
26 a verdict of death."



1 Now, that is a very illuminating answer  
2 for the defense.

3 It works both ways. It is a beautiful  
4 question, and it requires not just a yes or no answer,  
5 but a narrative, and I think that question and the  
6 answer given thereto would satisfy Mr. Fitzgerald's problem,  
7 because what we really find out is --

8 THE COURT: I don't think he has any problem.  
9 If he wants to know the answer, all he has to do is  
10 ask the question.

11 MR. FITZGERALD: Just so long as the record is  
12 clear that I have requested the Court to ask the question.

13 I think, as I pointed out, that counsel  
14 vis-a-vis the Court there is a significant difference  
15 in the authority with which we respectively ask questions.

16 THE COURT: I am not making an order, Mr.  
17 Fitzgerald, I am asking questions. The juror is sworn  
18 to tell the truth. They are not going to tell any more  
19 truth to me than they are to you.

20 MR. REINER: I would disagree with that.

21 MR. FITZGERALD: But I am an advocate. When I  
22 stand up, these jurors know I am a defense lawyer.  
23 But your Honor is a Referee. Your Honor is supposed to  
24 go straight down the middle and be fair and impartial.  
25 You are supposed to be scrupulously fair and impartial.

26 THE COURT: What has all this to do with it? You

1 are talking about an answer to a question that anyone  
2 can ask.

3 MR. FITZGERALD: I am talking about your position.

4 Certainly when a Referee in a basketball  
5 game says something in respect to the game --

6 THE COURT: I am not saying something. I am asking  
7 them questions.

8 MR. FITZGERALD: I am saying that your obvious  
9 lack of asking a question about their bias in favor of  
10 the death penalty --

11 THE COURT: I don't ask a lot of other questions  
12 that I can ask too. That is not the only question I don't  
13 ask.

14 MR. STOVITZ: I can't see counsel's reasoning  
15 at all. I just thought it would expedite it if the  
8b fs. 16 Court asks the question.

8B-1

1 THE COURT: The simple answer is that if anyone wants  
2 to ask the question, all they have to do is ask it. They  
3 don't need my permission, they don't need anybody's  
4 permission. If they want an answer, all they have to do is  
5 ask the question.

6 MR. FITZGERALD: We would all concede that if your  
7 Honor doesn't ask the question and if counsel doesn't ask  
8 the question, a juror could sit on this case who automatically,  
9 in every case, would impose the death penalty, and that is  
10 obviously massively prejudicial.

11 THE COURT: I don't agree. There are many other  
12 questions that are asked to elicit his state of mind as  
13 to whether he can be a fair and impartial juror, and so  
14 forth.

15 MR. REINER: Notwithstanding the People's position on  
16 this matter, Mr. Bugliosi, on another type of question the  
17 other day also took the same position that Mr. Fitzgerald  
18 takes now and that I take now, and that is that where the  
19 Court questions on one side of a proposition, he must  
20 ask the corollary.

21 My recollection is that Mr. Bugliosi objected  
22 when the Court just asked the question whether a person  
23 would be willing to acquit under certain circumstances,  
24 and that the Court should ask whether they would be willing  
25 to convict under certain circumstances, and that the Court  
26 shouldn't leave it up to Mr. Bugliosi to ask the question.

1 I think that is what Mr. Fitzgerald is saying.  
2 If your Honor asks a question about the ability to inter-  
3 pose the death penalty, your Honor should balance it with  
4 the contrary question rather than requiring counsel to  
5 balance it.

6 THE COURT: Those questions, as you know, are asked  
7 under the rule of Witherspoon.

8 It has been held, since Witherspoon,  
9 repeatedly that those questions and those alone are to be  
10 asked on the part of the Court, and there has never been any  
11 intimation that I know of that the Court is compelled to  
12 go farther than that -- of course, depending on responses  
13 -- that the Court is compelled to go farther than that.

14 The only proviso is that the response be un-  
15 mistakably clear before the juror is excused by virtue of  
16 his answers to those questions.

17 Let's go on, gentlemen.

18 MR. BUGLIOSI: Just a brief statement for the record.

19 I am not reversing my position at all. I am not  
20 opposing Mr. Fitzgerald. I think his position that the  
21 stature of the person asking the question is very relevant.  
22 So, I am not in opposition to what Mr. Fitzgerald is asking  
23 the Court to do.

24 I was simply observing, I think, a substitute  
25 situation which would be very beneficial to both the  
26 prosecution and the defense.

1 I think it is relevant as to whether an attorney  
2 or the Court is asking the question.

3 I have nothing further.

4 THE COURT: In a voir dire examination?

5 MR. BUGLIOSI: As Mr. Fitzgerald says, jurors realize  
6 that the attorneys are representing conflicting interests,  
7 whereas the Court is and should be totally impartial.

8 THE COURT: But these answers aren't given in secret.  
9 Everyone hears the answer, regardless of who asks the  
10 question. They are not writing these out on notes and  
11 secreting them some place. The answers are being given in  
12 open court.

13 What difference does it make who asks the  
14 question?

15 The only relevant inquiry is is the juror  
16 telling the truth, not who asks the question.

17 All right, gentlemen, let's get on. Let's call  
18 in the next prospective juror.

19 (A new prospective juror enters the courtroom.)

20 THE COURT: Good morning, sir.

21 MR. DAWSON: Good morning.

22 THE CLERK: The prospective juror's name is

23 Alva K. Dawson; A-l-v-a, D-a-w-s-o-n.  
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## VOIR DIRE EXAMINATION

BY THE COURT:

Q There used to be a Judge Dawson on our court. Are you related to him?

A No, I am not. I know of him, though. In fact, I was a juror in his court.

Q You were a juror once in his court?

A Yes, in his court. In fact, in the same court that I was bailiff at one time when I was younger.

Q Mr. Dawson, if you were selected as a juror in this case, would you be able to serve?

A My only problem is medical. I have glaucoma, and I have to have an examination at least every three months; and I take prescription eyedrops three times a day.

Q I'm sorry, I didn't hear the last part.

A Eyedrops that I administer three times a day.

Q I don't think that that would pose any problem because if your examination period came during the time you were serving, arrangements could be made to have you transported to your doctor.

A That would be all right then.

Q And of course, Mr. Dawson, if you needed your prescription filled, that could be easily arranged.

A That could be done at the same time, yes.

8c-2

1 Q Other than that, is there anything that would  
2 keep you from serving?

3 A I don't think so, no.

4 Many years ago I had angina. I still carry  
5 nitroglycerine tablets.

6 Q There would be a doctor either in the hotel  
7 or on ready call at all times.

8 A Well, that would take care of that problem.

9 Q All right, sir.

10 I have asked the other prospective jurors the  
11 questions regarding the death penalty. Have you had a  
12 chance to think about those questions and your answers to  
13 them?

14 A Yes, sir.

15 Q All right.

16 I am going to ask you the same questions,  
17 then.

18 Do you entertain such conscientious opinions  
19 regarding the death penalty that you would be unable to  
20 make an impartial decision as to any defendant's guilt  
21 regardless of the evidence in the case?

22 A No, sir.

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

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A No, sir.

Q On the other hand, are you of the opinion or are your beliefs such that you would always impose the death penalty in any first degree murder case?

A Could you repeat that again?

Q Well, have you heard what has been discussed about the fact that in a murder case there may be two phases to a case, that is, the guilt phase --

A Oh, yes.

Q -- and then --

A The sentence.

Q -- if there is a first degree murder conviction, a penalty phase?

A Yes.

Q Are your beliefs such that if there was a conviction of murder in the first degree you would, regardless of the evidence that came out during the trial, always vote for the death penalty, or would you consider the evidence and then make up your mind as to whether you would vote for life imprisonment or the death penalty?

A I would consider the evidence.

Q All right.

A I would.

Q Now, I want to ask you some questions as to what you may have learned about this case over the



8c-4

1 past month.

2 A Yes.

3 Q Have you lived in Los Angeles County  
4 continuously since last August?

5 A Yes, sir.

6 Q Do you subscribe to a daily newspaper?

7 A Yes, sir.

8 Q Do you read it regularly?

9 A Yes, sir.

10 Q What paper is that?

11 A The local Huntington Park paper.

12 Q Do you watch television news reports?

13 A I hardly ever watch TV. I really don't  
14 have time. I have quite a few other things to do.

15 Q Do you listen to the radio?

16 A Yes.

17 Q Do you listen to the news on the radio?

18 A Yes.

19 Q Before you came into this case as a prospec-  
20 tive juror, did you know the names of any of the victims  
21 in these alleged crimes?

22 A Not very well. I don't follow these cases.

23 Q Well, did you know any of them?

24 A No, sir.

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Q Did you ever hear of the name Sharon Tate?

A Oh, yes, I have heard of her, yes.

Q Any of the others?

I am talking now about the victims, not the defendants. The victims.

A Yes, I have heard of her, and Bianca, or something like that. I have heard of them.

Q La Bianca?

A La Bianca, yes; but those are the only ones I remember.

Q Now, before you came into the case, did you know any of the names of any of the defendants in this case?

A Yes.

Q Who did you know?

A Manson, and the girls' names were mentioned in the papers, but I didn't follow it too much.

Q Do any of the female defendants' names stand out more than others to you?

A No, sir.

Q Did you ever read or hear anything about how these killings were accomplished, any of the details about what happened?

A No, I didn't read. I wasn't interested in it. It wasn't my business.

Q Did you ever learn anything that made you

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1 believe that these defendants were connected with the  
2 alleged crime other than the fact that they had been  
3 arrested and brought before the Court to stand trial?

4 A That is all.

5 Q Do you have any opinion at this time, Mr.  
6 Dawson, as to the guilt or innocence of any of the  
7 defendants?

8 A No, sir.

9 Q Do you believe that you would be able to put  
10 aside whatever you know about the case and decide it solely  
11 on the evidence that comes in during the trial?

12 A Absolutely.

13 Q Do you know of any reason why you could not be  
14 fair and impartial to both sides?

15 A No, sir.

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

17 MR. FITZGERALD: Yes, sir.

18  
19 VOIR DIRE EXAMINATION OF MRS. DAWSON

20 BY MR. FITZGERALD:

21 Q Do you have a bias in favor of the death  
22 penalty, Mr. Dawson?

23 A Not necessarily.

24 Q When you were a balliff, sir, did you work in a  
25 criminal department in the Superior Court?

26 A Yes, sir.

1 Q Here in this building?

2 A Yes, sir.

3 Q What department?

4 A 21. The numbers have been changed.

5 Judge Doran was my permanent judge at that  
6 time, William Doran.

7 Q During what period of time were you a bailiff,  
8 sir?

9 A I started to work in 1926 for the County, and  
10 I worked in the civil courts for a while, then I went out  
11 to the subdivisions, and probably in 1928, '29, I came to  
12 work inside the criminal courts as a bailiff, and I worked  
13 about two or three years, and then I went back to the sub-  
14 divisions.

15 I worked in the jail, too, part of the time,  
16 as a turnkey.

17 Q You say you were a bailiff for a total of  
18 three years?

19 A Approximately.

20 Q And you were employed by the Los Angeles County  
21 Sheriff's office?

22 A Yes.

23 Q How long were you employed by the Sheriff's  
24 office, Mr. Dawson?

25 A From '26 to the last day of 1942. August of '26.

26 Q To 1942?

1           A       Yes. I resigned to go back in the service, the  
2 Merchant Marines.

3           Q       During that period of time, Mr. Dawson, I take  
4 it that you had been with a great number of juries, at the  
5 time you were a bailiff?

6           A       Yes.

7           Q       You locked them up?

8           A       Yes.

9           Q       And you would be with them when they would be  
10 sequestered?

11          A       Yes. I spent over a month with one that was  
12 sequestered.

13          Q       And I take it you were a bailiff with jurors in  
14 cases in which death penalty verdicts were returned?

15          A       No, I never was.

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1 Q Because of your connection with law  
2 enforcement, Mr. Dawson, do you feel you kind of are  
3 biased in favor of the prosecution?

4 A No.

5 Q Do you think that in spite of your back-  
6 ground you could acquit somebody charged with a felony  
7 offense?

8 A I certainly would if they didn't produce  
9 the evidence of guilt.

10 Q Do you think this publicity has influenced  
11 you any?

12 A No. I haven't consumed much of it. No,  
13 it hasn't.

14 Q What do you know about this case based  
15 on the publicity you have been exposed to, sir?

16 A Nothing but that they had been arrested for  
17 murder. That is about all.

18 As I said before, I don't read these  
19 cases. I have too many other better things to read.

20 Q How old a man are you, Mr. Dawson?

21 A I am 73. I will be 74 next February.

22 MR. FITZGERALD: I have nothing further.

23 THE COURT: Mr. Reiner?

24 MR. REINER: Yes, sir.  
25  
26

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## VOIR DIRE EXAMINATION OF MR. DAWSON

BY MR. REINER:

Q Mr. Dawson, during the time that you were a bailiff in the criminal courts, did you ever work as a bailiff in a case that called for the death penalty, irrespective of whether the jury actually returned a verdict of death?

A I don't recall one, no.

Q Then you have never worked in a murder case as a bailiff that you can recall; is that right?

A No, I have not.

MR. REINER: I have no further questions.

THE COURT: Mr. Shinn?

MR. SHINN: I have no questions.

THE COURT: Mr. Kanarek, any questions?

MR. KANAREK: No questions, your Honor.

THE COURT: All right, Mr. Stovitz.

MR. STOVITZ: Yes, sir.

## VOIR DIRE EXAMINATION OF MR. DAWSON

BY MR. STOVITZ:

Q Mr. Dawson, do you draw a pension from the Los Angeles County Sheriff's Department?

A No, sir.

Q Or from Los Angeles County?

A No.

8e-3

1 Q Did you know a Clifford Crail who was a  
2 bailiff back in those days and later joined the District  
3 Attorney's Office?

4 A Well, I think he was in the D.A.'s Office  
5 when I was a bailiff.

6 Q Because you did once work for the Sheriff's  
7 Office, Mr. Dawson, do you feel any allegiance to law  
8 enforcement?

9 A Well, I believe in respecting the law and  
10 assisting police and enforcing the law.

11 Q Do you feel it is just as much the enforce-  
12 ment of the law in returning a verdict of not guilty if  
13 the evidence was insufficient?

14 A That's right.

15 Q You have seen police officers make mistakes;  
16 is that right?

17 A Yes. I made them myself.

18 Q They say that is why they put erasers  
19 on pencils; is that right?

20 A Yes.

21 Q Mr. Dawson, bearing in mind everything you  
22 have heard about the case, and bearing in mind everything  
23 that you might think about the case, do you think you  
24 could put aside rumor and decide this case solely on the  
25 facts?

26 A Yes, sir.



8e-4

1           Q       Suppose you were with the other jurors in  
2 the jury room and the jurors started to talk about the  
3 length of the girls' hair and the length of Manson's  
4 hair, and wondering which is longer, Manson's hair or  
5 the girl's hair. Would you be able to remind the jury  
6 that they are supposed to concentrate on the evidence and  
7 not on the hair?

8           A       Oh, I would be able to do that, yes, but  
9 I don't know whether I would or not.

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1 Q Would you try to impose your will on the jurors  
2 and say, "Now, listen, I was once a bailiff and you have got  
3 to do things this way"? Would you do that?

4 A Oh, no.

5 Q You understand that you would be just one of  
6 12 jurors?

7 A That's right.

8 Q And if you were on trial here, Mr. Dawson,  
9 and you knew your frame of mind, would you want somebody in  
10 your frame of mind to sit in judgment on you?

11 A Yes.

12 Q You would?

13 A Yes.

14 MR. STOVITZ: I have no further questions.

15 Pardon me.

16 Do you know anyone presently that is in the  
17 District Attorney's Office?

18 I believe that J. Miller Leavy, or Joe Carr  
19 might be the only ones old enough to still have served  
20 before the War.

21 A No, I don't know anybody.

22 Q Abe Nathanson has just retired, and Mr. Crail  
23 has retired. They are all retired now.

24 A Yes.

25 MR. BUGLIOSI: May we have just a moment?

26 THE COURT: Yes.

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(Mr. Bugliosi and Mr. Stovitz confer.)

MR. STOVITZ: Thank you. No further questions.

THE COURT: Will you refrain, Mr. Dawson, from discussing with anybody what has gone on here in chambers?

MR. DAWSON: Oh, yes.

THE COURT: All right, sir. You may go back into the courtroom.

MR. DAWSON: Yes, sir.

THE COURT: Thank you.

Anything else, gentlemen, before we go back into open court to continue any voir dire with respect to Mr. Dawson?

All right, we will go back in then.

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

THE COURT: All parties and counsel are present, all of the prospective jurors are in the jury box.

Any further questions, Mr. Fitzgerald?

MR. FITZGERALD: Yes, your Honor.

VOIR DIRE EXAMINATION OF ALVA K. DAWSON  
BY MR. FITZGERALD:

Q Mr. Dawson, I believe you indicated to us that for a considerable period of time you were employed by the Los Angeles County Sheriff's Office.

1 A Around about 15 years.

2 Q During that 15-year period with the Sheriff's  
3 Office, you worked as a bailiff in the courtrooms and you  
4 also worked out in the Sheriff's substations; correct?

5 A Yes, sir.

6 Q And when you worked out in those Sheriff's  
7 substations, Mr. Dawson, you were actually a patrol officer,  
8 I take it?

9 A Yes, sir.

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1 Q On a beat in those days?

2 A Yes, sir.

3 Q Now, is your connection, your long  
4 connection with law enforcement going to influence you  
5 in arriving at a verdict in this case?

6 A No, I don't believe so.

7 Q Do you think that if a police officer  
8 should be called to testify in this case that you would  
9 give his testimony greater weight just because he was a  
10 police officer?

11 A No, sir.

12 Q Do you think that if the occasion arose  
13 and if it was necessary to critically analyze a police  
14 officer's testimony you would be able to do that?

15 A Absolutely.

16 Q If the circumstances warranted do you think  
17 you could disregard the testimony of a police officer?

18 A Yes, sir, yes, sir.

19 Q Do you think because these defendants are  
20 charged with something they are more likely to be  
21 guilty than innocent?

22 A No, sir.

23 Q Would you have any problem in applying the  
24 law of presumption of innocence?

25 A No.

26 Q Wouldn't you have any problem at all

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1 requiring the prosecution to prove the defendants' guilt  
2 beyond a reasonable doubt?

3 A No, sir.

4 Q You would not sit there and say "Well, I've got  
5 a suspicion they are guilty, or maybe they are guilty, so  
6 I'm going to convict them"?

7 A No, sir.

8 Q You would actually hold the prosecution to  
9 their burden?

10 A Absolutely.

11 Q I take it you've got the courage to acquit  
12 them?

13 A Yes.

14 Q If you had a reasonable doubt?

15 A I do.

16 MR. FITZGERALD: Thank you, sir.

17 THE COURT: Mr. Reiner.

18 MR. REINER: No questions.

19 THE COURT: Mr. Shinn?

20 MR. SHINN: No questions.

21 THE COURT: Mr. Kanarek?

22 MR. KANAREK: No questions.

23 THE COURT: Mr. Stovitz?

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## VOIR DIRE EXAMINATION OF MR. DAWSON

1  
2 BY MR. STOVITZ:

3 Q Mr. Dawson, in the event that I was to ask  
4 every one of the questions that Mr. Bugliosi asked the  
5 other jurors, especially of Mrs. Roseland, would your  
6 answers be substantially the same?

7 A Yes, sir.

8 Q Do you think, aside from the fact of your  
9 law enforcement background -- do you think where they might  
10 vary in any respect whatsoever?

11 A No, sir.

12 Q All right, now, the so-called \$64 question  
13 is, putting yourself in the position of the defendants,  
14 knowing your frame of mind, putting yourself in the position  
15 of the prosecuting attorneys in this case, knowing your  
16 frame of mind, do you feel that you would be satisfied  
17 with a jury of your frame of mind to sit on this type of  
18 case?

19 A Yes, sir.

20 Q Do you belong to any organization whatsoever  
21 that has as its objective the suppression of the death  
22 penalty in California?

23 A No, sir.

24 MR. STOVITZ: I have no further questions. Pass for  
25 cause, your Honor.

26 THE COURT: The defendants may exercise a joint

1 peremptory challenge.

2 MR. FITZGERALD: There is no unanimity of opinion.  
3 There will not be an exercise of a -- excuse me.

4 MR. REINER: Your Honor, it is my understanding  
5 that the peremptory challenge is with the People at this  
6 time.

7 The last challenge was for cause. It was  
8 not an exercise of a peremptory.

9 THE COURT: I did not understand you, Mr. Reiner.

10 MR. REINER: The last peremptory was with the  
11 People. They did not exercise a peremptory challenge.

12 They exercised a belated challenge for  
13 cause with respect to Mrs. Lee.

14 I believe the peremptory is still with the  
15 People at this time.

16 THE COURT: No, the next peremptory is with the  
17 defendants.

18 MR. FITZGERALD: There is no unanimity of opinion.  
19 There will not be an exercise of a joint peremptory  
20 challenge.

21 Patricia Krenwinkel will accept the jury  
22 as now constituted.

23 THE COURT: Mr. Shinn?

24 MR. SHINN: Miss Atkins accepts the jury as  
25 constituted, your Honor.

26 THE COURT: Mr. Kanarek?



1 MR. KANAREK: I accept the jury as now constituted,  
2 your Honor.

3 MR. BUGLIOSI: May we approach the bench, your  
4 Honor?

5 THE COURT: Very well.

6 MR. STOVITZ: Perhaps, your Honor, it is so close  
7 to the noon hour, I think the discussion will be rather  
8 extensive.

9 Perhaps your Honor would want to take the  
10 noon recess as far as the jury is concerned?

11 THE COURT: Come to the bench, gentlemen, and let's  
12 find out what the subject matter is.

13 Then I will make the determination.

14 (The following proceedings were had at the  
15 bench out of the hearing of the jury:)

16 MR. BUGLIOSI: I want to come up to the bench  
17 for this reason, strictly in fairness to the defendants:

18 There is a good possibility that we might  
19 accept this jury as it is presently constituted.

20 Now, there are two problems: No. 1, Mr.  
21 Reiner's problem on the number of peremptories.

22 THE COURT: What problem?

23 MR. FITZGERALD: May I interrupt? Could we conduct  
24 this in chambers with the defendants present?

25 THE COURT: I think probably it should be done that  
26 way. I wanted to find out first if this is what you

1 wanted to talk about, because we still have ten minutes  
2 to go. I don't like to waste the time by simply  
3 arbitrarily dismissing everybody until I found out what  
4 it was you wanted to talk about.

5 MR. BUGLIOSI: Fine.

6 THE COURT: All right, let's go into chambers.  
7 We will take it up. If we don't finish we will take it  
8 up after lunch.

9 I will recess, however, -- I don't think I  
10 will do that. We will just go to 12:00 and then we will  
11 recess.

12 We will go into chambers.

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

16 THE COURT: I will ask counsel and the parties to  
17 come into chambers.

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1 (The following proceedings were had in the  
2 chambers of the Court out of the hearing of the prospective  
3 jurors, all defendants and their counsel being present,  
4 Mr. Bugliosi and Mr. Stovitz being present:)

5 THE COURT: All counsel and all of the defendants are  
6 present.

7 MR. BUGLIOSI: Yes, your Honor, in requesting this  
8 conference either at the bench or in chambers, I want the  
9 record to reflect that it is activated by only one  
10 consideration on Mr. Stovitz's and my part, that is fairness  
11 to these defendants.

12 There is a distinct possibility that the  
13 prosecution might accept the jury as impaneled.

14 Now, the only problem with that is that  
15 Mr. Reiner still has a point as to whether there should be  
16 more peremptories.

17 I am not saying whether it is right or not,  
18 but I think it has considerable merit.

19 THE COURT: Before we get beyond that point, I have  
20 heard nothing from Mr. Reiner in the way of a request for  
21 additional peremptories.

22 MR. BUGLIOSI: In other words, Mr. Stovitz and I did  
23 not want to announce we will accept the jury as impaneled.  
24 They have already apparently accepted the jury.

25 Then if we accept it, the bell is already rung,  
26 and it is kind of difficult to unring a bell.

9A2  
1 THE COURT: Mr. Reiner has always been capable of  
2 speaking for himself, and I heard no request for additional  
3 challenges.

4 MR. REINER: If I might, Mr. Bugliosi.

5 As I indicated to the Court earlier, my view is  
6 it would not be timely for me to make a motion until both  
7 sides indicated they no longer chose to exercise any more  
8 peremptory challenges, to avoid the Court telling me that  
9 although I might have some challenges, if I were patient and  
10 wait until all the other parties had exercised their  
11 challenges, perhaps that objection to a prospective juror  
12 might be eliminated, and I might not need additional  
13 challenges.

14 So, as I indicated to the Court, when counsel  
15 have all indicated they intend to exercise no more challenges,  
16 then I would request additional challenges, if at that time  
17 I felt there were objectionable jurors in the box.

18 THE COURT: If you have some motion to make, you'd  
19 better make it, because you may not have another chance. ✓

20 MR. REINER: Very well, then, I will make it.

21 I would move for additional peremptory challenges;  
22 I would move for unlimited peremptory challenges because of  
23 the problems we face in this particular case, which I need  
24 not enumerate because we are all familiar with them.

25 I would at least request 15 more peremptory  
26 challenges to bring our position up to where it would be

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1 were we not joined with other defendants.

2 THE COURT: Are you telling me that if I grant you an  
3 additional peremptory challenge that you will now exercise  
4 it? ✓

5 MR. REINER: I can represent to this Court that based  
6 upon my judgment as to the prospective jurors, if I had an ✓  
7 additional peremptory challenge right now, I would certainly  
8 exercise it.

9 I am not satisfied in my mind with the jury as  
10 it is presently constituted.

11 MR. BUGLIOSI: May I insert at this point the second  
12 reason for calling this conference, which is somewhat related  
13 to what Mr. Reiner just said.

14 From my trial experience, I have been confronted  
15 with this type of situation many times, where the defense  
16 will say, "We are satisfied with a jury as impaneled," and  
17 they don't exercise a peremptory challenge.

18 They don't mean what they say; they say that  
19 because they are almost positive that the prosecution is  
20 going to exercise a peremptory, and this will give them,  
21 the defense, an opportunity later on to actually start  
22 excusing jurors.

23 THE COURT: Everyone who ever tried a jury trial  
24 knows there is a certain amount of poker playing that goes  
25 on in the exercise of peremptory challenges, and that is  
26 exactly what is going on here now on behalf of the

9a\$  
1 defendants.

2 MR. BUGLIOSI: Mr. Stovitz and I in our position are  
3 activated by fairness.

4 If the defense is under the assumption we are  
5 not going to accept this jury, and this is why they are  
6 reserving peremptories, and then we do accept the jury,  
7 they might be caught, as it were, with the jury with which  
8 they are really not satisfied.

9 THE COURT: Well, that is too bad. ✓

10 MR. FITZGERALD: I resent the inference. Also, I know  
11 what I am doing. I resent the inference that, first of all,  
12 I would risk somebody's life based on some foolish little  
13 tactic.

14 Secondly, I resent the implication, if it is  
15 there, that I don't know what I am doing.

16 I have been in these courts for a considerable  
17 period of time, your Honor, and --

18 THE COURT: Mr. Fitzgerald, I think you all know  
19 exactly what you are doing.

20 MR. BUGLIOSI: I don't mean to imply -- I think you  
21 are extremely competent, Paul, and you know that.

22 I am just saying, no matter how competent any  
23 attorney is he may have very strong notions about something,  
24 for all I know, I cannot read your minds, you may feel we  
25 are not satisfied with this jury.

26 Now, if we say we are, the bell is rung, one or

9a5  
1 more of you may not be happy with this jury.

2 I want to place you on notice at this point  
3 we might well accept this jury.

4 As you can see, there could be no other  
5 conceivable reason for Mr. Stovitz and I doing this other  
6 than interest for the fairness of the trial for these  
7 defendants.

8 Certainly it is not beneficial to us to tell you  
9 in advance we might accept this jury.

1 MR. FITZGERALD: I assume every time the People have  
2 an opportunity to exercise a challenge, there is a possi-  
3 bility they might accept the jury.

4 THE COURT: I certainly hope you assume that.  
5 I assume that.

6 MR. REINER: Your Honor just a moment ago indicated  
7 the exercise or disinclination to exercise a particular  
8 challenge is a matter of poker playing between counsel.

9 I say it may be. I don't dispute on  
10 occasion it may be.

11 Your Honor indicated that in terms of the  
12 defendants, without indicating which defendants, apparently  
13 assuming all defendants were doing that.

14 I don't know where your Honor would get the  
15 idea I am playing poker. I don't have any chips and I  
16 haven't had any for a long time.

17 THE COURT: Let me put it this way, I have no way  
18 of knowing what goes on in your mind or what has gone on  
19 in your mind, but it would appear to me that there at  
20 least is a possibility, let's put it that way, that the  
21 defendants have by, I don't know whether by agreement or  
22 by what, have elected not to exercise any joint challenges  
23 and to have one defendant exercise all of its peremptories  
24 in order to put the Court into the position of being faced  
25 with what you conceive to be an issue and which I do not  
26 conceive to be an issue at all in the law, so this point



1 can be raised on appeal at the point for denying the  
2 defendants a fair trial.

3 I think that is a very real possibility.

4 I am not accusing anybody of anything. I  
5 am just saying based on what I have seen, based on the  
6 nature of the exercise of the challenges and the failure  
7 to exercise them so far, this is a possibility in my mind.

8 Now, I think it will fail because the law is  
9 clearly against you, and the courts have repeatedly said  
10 what the defendant is entitled to is a fair and impartial  
11 trial, and that is all he is entitled to. ✓

12 The fact that he does not get as many  
13 peremptories in a joint trial as he would in a separate  
14 trial, it is simply not a denial of any constitutional  
15 or statutory right, and he has no cause to complain because  
16 of that. ✓

17 So I merely say that as an expression of  
18 what I see, I am not saying that it has happened here,  
19 but I say it appears to me that it would be rather  
20 coincidental that the way the challenges have not been  
21 exercised, that is, the joint challenges have not been  
22 exercised, and the way that the individuals have been  
23 exercised, it appears to me to be a rather remarkable  
24 coincidence. ✓

25 MR. REINER: Very well, your Honor, your Honor has  
26 completely changed the tenor of his remarks with that

1 last remark.

2 Your Honor indicated earlier that your Honor  
3 wasn't suggesting anything, just indicating a possibility  
4 in a world where anything of course is possible.

5 Then your Honor concluded his remarks by  
6 talking about a remarkable coincidence to clearly indicate  
7 it is his view this is simply a charade going on between  
8 defense counsel.

9 THE COURT: Those are your words. Are you telling  
10 me it isn't?

11 MR. REINER: I most assuredly indicated to the Court  
12 it is nothing of the sort.

13 I suggest your Honor perhaps is the only  
14 person in the courtroom that even suspects it as a  
15 possibility.

16 The prosecution, who are no friends of mine  
17 or of the defense, certainly do not suspect that as a  
18 possibility .

19 What is going on is so clear a blind man  
20 could see it. I am trying to exercise peremptory challenges  
21 as I think they should be exercised professionally, whether  
22 my judgment is good, bad or indifferent, I am faced with a  
23 problem with my client and the other defendants who don't  
24 want to have any exercised, and then I am faced with the  
25 insulting remarks of the Court, that this is a remarkable  
26 coincidence to set up the Judge.

1 It is insulting --

2 THE COURT: That is not what I said. You have a  
3 remarkable capacity for going beyond what is said and  
4 misstating what is said.

5 Now, are you contending that the jury as now  
6 constituted is not fair and impartial?

7 MR. REINER: I am contending that the jury as  
8 presently constituted is unacceptable to me. ✓

9 THE COURT: You did not answer my question.

10 MR. REINER: I will go further. I will say, yes,  
11 in my opinion the jury is not fair and impartial because  
12 your Honor has made incorrect and improper and wrong rulings  
13 on our challenges for cause.

14 Your Honor has seated jurors in this case  
15 who have indicated they cannot be impartial.

16 Your Honor has then gone on and extracted  
17 and I use the word "extracted" advisedly, extracted  
18 promises from them, notwithstanding the particular attitude,  
19 and assumptions with which they came into this case, that  
20 they would put aside all they know and believe and will  
21 follow your Honor's instructions.

22 This is contrary to recommendations of the  
23 Reardon Report which of course is not binding authority,  
24 but which is perhaps the most persuasive authority in the  
25 country today that this is what a trial judge should not  
26 do in matters involving high publicity.

9C-1

1 THE COURT: Well, I have been extremely careful to  
2 eliminate from this jury anyone I thought had any bias  
3 with regard to these defendants or this case, and, as you  
4 very well know, there is no one sitting on that jury now  
5 that has ever heard of any confession or read about it.

6 And I have been very careful to see that all  
7 of those people have been eliminated.

8 I have been very careful to interrogate them  
9 with respect to their views on whether they can be fair  
10 and impartial as a whole, and so have counsel.

11 Now, if you are saying at this moment,  
12 Mr. Reiner, that there is some person on that jury who should  
13 be challenged for cause, I would like to hear who it is and  
14 on what ground.

15 MR. REINER: Well, your Honor, I have challenged  
16 the particular jurors for cause. I have previously stated  
17 the grounds. I have argued them, and your Honor has denied  
18 the challenge. We are talking about renewing them. I can  
19 do that as well and restate the arguments. I am sure your  
20 Honor is not interested in that being done, but when your  
21 Honor talks about the jurors are fair and impartial, it is  
22 simply a matter of value judgments on your part and mine.

23 There are jurors on that case, whether in fact  
24 they are impartial or not, there are jurors on that case  
25 who have said that they believed coming into this case,  
26 and believe at this very moment that the defendants or some

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1 of them are probably guilty, and your Honor has said by his  
2 rulings, your Honor has indicated that that is not a  
3 sufficient basis for a challenge for cause, if they will  
4 promise to follow their duty and base their decision on  
5 the evidence in this case.

6 THE COURT: I think that is a misstatement of the  
7 record, Mr. Reiner.

8 MR. REINER: Is your Honor saying that there are no  
9 jurors seated presently who have not --

10 THE COURT: I am saying that what you said is a  
11 misstatement of the record, and as far as I am concerned,  
12 and as far as I am able to determine that is a fair and  
13 impartial jury as it sits there now.

14 MR. REINER: What is fair is a matter of opinion.

15 THE COURT: All of the defendants except your client  
16 still have peremptory challenges left. If they disagree  
17 with that, they can make an additional challenge for cause,  
18 if they don't agree with that.

19 The fact that you exercised your five individual  
20 peremptories is no ground for giving you any additional  
21 peremptories.

22 MR. REINER: Granted, that what is fair and impartial  
23 is something upon which we may differ.

24 However, I would say this, and I don't believe  
25 I am misstating the record when I put it in one sentence,  
26 presently seated on that jury are a number of jurors who  
have said that they presently have an opinion that the

9C3  
1 defendants are probably guilty, but notwithstanding that  
2 opinion they will try to put it aside and they will base  
3 their judgment on this case solely on the evidence.

4 THE COURT: I think that is an absolute misstatement  
5 of the record, and I ask you to show me any reference in  
6 the record to anybody now sitting on that jury that has  
7 said that.

8 Now, we are going to recess at this time.  
9 You have to 1:45 if you want to point out some reference.

10 My recollection is there isn't anyone who  
11 has made that statement who is now sitting on that jury.

12 MR. REINER: Just off the top of my head I can  
13 recall Mr. Baer yesterday --

14 THE COURT: Don't try to paraphrase what he said.  
15 Get the transcript and show me exactly what he said.

16 MR. BUGLIOSI: Could we recess until 2:00, since we  
17 very well might accept this jury?

18 THE COURT: All right, 2:00 o'clock. We will recess  
19 until 2:00 p.m.

20 MR. STOVITZ: I will be absent this afternoon. Mr.  
21 Bugliosi will be here.

22 MR. FITZGERALD: We have no objection.

23 THE COURT: All right, we will recess until 2:00 p.m.

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

1 LOS ANGELES, CALIFORNIA, FRIDAY, JULY 10, 1970

2 2:05 P.M.

3 ---O---

10 4 (The following proceedings occurred in chambers,  
5 all parties and counsel present:)

6 THE COURT: All parties and counsel are present.

7 Before we resume with the other matters,  
8 Mr. Kanarek, I have here a letter that I just opened about  
9 three minutes ago. It came in the mail from someone named  
10 Cathy Decker, Dayton, Ohio, who says she has to get in  
11 touch with you or Mr. Manson.

12 So, if you want to take her name and address,  
13 you are welcome to the information.

14 MR. KANAREK: Thank you, your Honor.

15 THE COURT: You are welcome to read the letter also.

16 MR. KANAREK: May I read it now? Would it be  
17 imposing? May I read it now with Mr. Manson, just in  
18 case?

19 (The Court hands a document to Mr. Kanarek.)

20 (Pause while Mr. Kanarek reads the document.)

21 THE COURT: Well, let's proceed.

22 Are you through with the letter?

23 MR. KANAREK: I am through for the moment, yes.  
24 Thank you.

25 THE COURT: I will hand it to the clerk and I will  
26 ask the clerk to keep it, and anytime you want to look at

1 it or copy it, you may do so.

2 MR. KANAREK: It is part of the permanent record of  
3 this case; is that correct?

4 THE COURT: No. It is a letter I received from an  
5 unknown person in Ohio addressed to me. Since they requested  
6 the opportunity to contact you or Mr. Manson, I am simply  
7 giving you an opportunity to copy her name<sup>and</sup>/address off the  
8 letter so that if you are interested in communicating with  
9 her, you may do so.

10 I don't know who it is. I have no idea who this  
11 person is.

12 MR. KANAREK: Thank you.

13 I have one other request, and that is that the  
14 letter from Mrs. Lee this morning, may that be a part of  
15 the permanent record in this case? The actual letter which  
16 your Honor read into evidence?

17 THE COURT: Yes.

18 MR. KANAREK: I gather that all of the jurors'  
19 letters are being made a part of the permanent record?

20 THE COURT: Yes. I gave them the clerk and the clerk  
21 retains them.

22 THE CLERK: They are all filed.

23 MR. KANAREK: They are all exhibits?

24 THE CLERK: They are not exhibits. They are filed.

25  
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1 THE COURT: All right, anything further before we  
2 resume?

3 MR. KANAREK: Yes, just a couple of points, your  
4 Honor.

5 one was that the District Attorney represented  
6 that by today we would have the other 26 or 27 of these  
7 District Attorney news releases.

8 I haven't been handed them. It was represented  
9 to me I would be given them today.

10 Another point is, your Honor, I understand  
11 Mr. Bugliosi on television today has stated that some  
12 dramatic event is going to occur.

13 MR. BUGLIOSI: I did not say that.

14 MR. KANAREK: That is what I have been told,  
15 Mr. Bugliosi stated.

16 MR. BUGLIOSI: That is hearsay, sir.

17 THE COURT: All right, let's get on with it,  
18 gentlemen.

19 Does anybody have anything further to add with  
20 respect to the question of peremptory challenges?

21 MR. REINER: Yes, I have one I must make, your Honor.

22 Your Honor asked me to review the transcripts  
23 over the lunch hour, and cite to him the page and line  
24 number, I suppose, of any particular juror where there was  
25 a question of that juror that supported my position, or at  
26 least the position that I took that there are jurors in  
the box at the moment who have indicated that they have

1 formed and presently hold opinions that the defendants, or  
2 some of them, are probably guilty.

3 I, of course, do not have my transcripts  
4 available in the courtroom.

5 We have so far, 17 volumes, and I take my  
6 transcripts home, as do most counsel.

7 I have yesterday's transcript here in the  
8 courtroom.

9 I asked the clerk to inquire of your Honor if  
10 I might use your Honor's transcripts and sit here in the  
11 courtroom to review your transcripts in the courtroom.

12 The clerk informs me your Honor declined to  
13 allow me to read your transcripts.

14 THE COURT: Don't blame it on me, Mr. Reiner. You  
15 were given a copy of the transcripts in this case so you  
16 could use it.

17 Now, if you choose not to bring it with you,  
18 that is your problem.

19 I declined to let you use my transcript for  
20 the simple reason I was using it.

21 MR. REINER: I am sure your Honor cannot be serious  
22 in indicating that he expects counsel --

23 THE COURT: Don't make remarks like that, sir, or  
24 you will find yourself in trouble.

25 MR. REINER: Very well.

26 THE COURT: Because I don't make any remarks in this

1 proceedings that are not serious.

2 MR. REINER: I might indicate then it has not been  
3 my practice to bring every volume every single day.

4 THE COURT: Why didn't you try to borrow some from  
5 the co-defendants or the prosecution?

6 MR. REINER: They were not available, your Honor.  
7 Your Honor's were available. I thought that is why I tried  
8 to borrow your Honor's.

9 The sum and substance of it is that over the  
10 lunch hour I, not having access to the transcript, I did  
11 not get the citations your Honor requested; I do not  
12 presently have them. My position is exactly the same.

13 THE COURT: What is that?

14 MR. REINER: There are presently seated in the box  
15 jurors who have expressed that they have formed an opinion  
16 and presently hold the opinion that the defendants or some  
17 of them are guilty.

18 Nonetheless, the Court has had them promise they  
19 would set aside their views and they would decide the case  
20 on the evidence.

21 My position is a person who takes that  
22 position is not impartial, and therefore, I do not feel we  
23 have an impartial jury.

24 That is separate and apart from my desire to  
25 have peremptory challenges to exercise with regard to  
26 those persons who may technically qualify as impartial

1 jurors, but of whom I have some doubt, and I wish to use  
2 my judgment to have them excused.

3 THE COURT: I disagree with you, and I again state  
4 that in my opinion the 12 people who are in the box are  
5 fair and impartial, have not been exposed to, if at all,  
6 if they have been exposed to pretrial publicity at all,  
7 it has been in a minor way.

8 They have no knowledge of any confession,  
9 either by reading it or hearing about it.

10 They have exhibited after very intense  
11 questioning by the Court and all counsel the ability to be  
12 fair and impartial.

13 I don't think you could find 12 people who are  
14 more qualified to sit.

15 You may find 12 who are just as qualified.  
16 I just find no basis whatever for any challenge for cause  
17 as to any of those 12, notwithstanding your remarks.

18 MR. KANAREK: Your Honor, I would like to state my  
19 position is we are accepting this jury only because we  
20 have, in effect, and I say this legally, I mean in a sense,  
21 we are forced to, in a sense of it is my position that  
22 Mr. Manson has been denied equal protection of the law and  
23 due process of the law; that by the process of attrition --  
24 we are taking this jury not because we don't believe that  
25 they are all, including Mr. Dawson -- we challenge him for  
26 cause and all of them for cause, but we are taking it only

1 because we are only going to get the same carbon copies  
2 by the nature of this process.

3 It is a process of attrition where the  
4 prosecution has the advantage, to the denial of equal  
5 protection and due process with the questioning of these  
6 jurors as to the death penalty.

7 As to Mrs. Lee, for instance, it is noteworthy  
8 that the prosecution accepted the jury, or is going to  
9 accept this jury at a time when Mrs. Lee, the last black  
10 member was eased out.

11 We are not accepting this jury because we  
12 believe that the jurors are fair and impartial; we are  
13 accepting because we have no alternative.

14 We can go ahead and exhaust our five peremptories,  
15 go through the mechanics of it, and we will get the same  
16 result because of the nature of the process that is being  
17 used here, and Mr. Manson is being denied a fair trial.

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1 When your Honor states that these people  
2 haven't read the confession, I submit that they are saying  
3 it to get on the jury.

4 There are people on that jury who are bent  
5 upon conviction, but there is no way of beating the  
6 process because of the procedures that the Court has  
7 followed in this case, has instituted. There is no way of  
8 beating it because, as I say, we call it the domino theory  
9 or the reaction, whichever way you want to denominate it,  
10 the chain reaction, but those jurors who want to be on this  
11 case know what to say.

12 How are you going to prosecute those people  
13 for perjury? The whole thing is meaningless to those people.

14 THE COURT: I don't know what you are talking about,  
15 Mr. Kanarek.

16 MR. KANAREK: Well, when they say they haven't  
17 read the confession or they haven't seen anything, your  
18 Honor, the publicity has been so pervasive, your Honor,  
19 that we can assume --

20 THE COURT: You are saying that you have 12 people  
21 in the box now all of whom are lying? Is that what you  
22 are saying?

23 MR. KANAREK: No.

24 What I am saying is this, your Honor, what  
25 I am saying is that they want to be on this jury, they  
26 want to be on this jury so they know how to make the

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1 answers. They are sophisticated in getting on the jury.

2 The people that are candid, the people that  
3 were candid are off the jury. All we have now is the  
4 self-serving declarations of these prospective jurors,  
5 and there are people on there who, I submit, I believe,  
6 were not candid with the Court, if I may put it that  
7 way, to get on this jury. They want to be on this jury.

8 This has been structured by the prosecution.  
9 We have 28 news releases.

10 Somehow, maybe some of these people think  
11 that there is going to be some kind of benefit to them  
12 by being on this jury.

13 So, we just have ingrained in this whole  
14 procedure nothing but a violation of due process and equal  
15 protection so far as Mr. Manson is concerned, so that no  
16 matter what happens here we are not being given a fair  
17 trial.

18 So, by not exercising our peremptories, it  
19 isn't because we accept this jury as being fair and  
20 impartial.

21 I just want to state that.

22 THE COURT: I can't agree with you, Mr. Kanarek.  
23 I think these people are telling the truth. I don't  
24 believe that any of them have evidenced any unusual desire  
25 to be on the jury.

26 They are leaving their jobs, their families,

1 whatever they are doing. They are aware that they are  
2 making a sacrifice.

3 I have seen nothing to persuade me that they  
4 are anxious to be on this jury. They are simply doing it  
5 because it has to be done. They have been called and they  
6 recognize their duty.

7 That is the way I see it.

8 MR. KANAREK: Well, your Honor, I wish I could  
9 agree with the Court, your Honor. I wish I could agree  
10 but I think that it is --

11 THE COURT: A number of them have expressed the  
12 opinion that they would rather not serve but are not asking  
13 to be excused.

14 MR. KANAREK: May I ask your Honor which ones?

15 THE COURT: I don't remember.

16 MR. KANAREK: I don't recall that.

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1 THE COURT: I don't remember by name, Mr. Kanarek,  
2 but this has been said. As to which particular one said it,  
3 I have no record of it.

4 You have a transcript as well as I do.

5 MR. KANAREK: Very well, your Honor.

6 THE COURT: Anything further, gentlemen?

7 Well, as it now stands, just before noon,  
8 before we came in here, the defendants had passed for  
9 cause. It was the People's next peremptory.

10 At that point, the People asked to have a  
11 conference, and that is what we have been having ever since.

12 Now, are we ready to go back into court?

13 All right.

14 MR. REINER: I don't think your Honor has ruled on  
15 the motion for additional peremptory challenges.

16 THE COURT: The motion will be denied.

17 MR. KANAREK: May I make this legal point?

18 It is my position that because of your Honor's  
19 interpretation in connection with the peremptory challenges,  
20 there is a denial of equal protection of the law under the  
21 14th Amendment because, your Honor, let us say that we had  
22 a hundred --

23 THE COURT: You haven't asked for any additional  
24 peremptories.

25 MR. KANAREK: No. I am not asking for any  
26 additional peremptories, your Honor.

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THE COURT: What are you talking about?

MR. KANAREK: I am making a legal argument because after five we would be -- as I say, it is six of one or half a dozen of the other -- and --

MR. REINER: Through the Court, perhaps I might request of Mr. Kanarek that he exercise some of his challenges.

THE COURT: State your objection, Mr. Kanarek.

MR. KANAREK: I have stated it.

MR. BUGLIOSI: Could the Court take the bench perhaps five minutes from now?

THE COURT: Five minutes from now?

MR. BUGLIOSI: Yes.

THE COURT: All right.

MR. KANAREK: I have another request.

THE COURT: Are you planning to leave?

MR. BUGLIOSI: I have to make a phone call.

THE COURT: Let the clerk know when you are ready.

MR. BUGLIOSI: Thank you.

MR. KANAREK: As your Honor knows, so far as the challenge to the jury panel is concerned, I have here the papers for the challenge to the jury panel, which would be deemed to occur before any jury is sworn.

MR. FITZGERALD: Yes, that is correct.  
It is relevant in this portion of the proceedings.

We don't want the jury sworn unless we can

1 extract a stipulation from the other side that the panel may  
2 be challenged after they are sworn because the law provides  
3 that the challenge must be heard before the jury is sworn.

4 MR. REINER: And may we further indicate that before  
5 the jury is sworn I intend to renew a motion for a change of  
6 venue.

7 Perhaps we can do that by approaching the  
8 bench. I don't intend to go into lengthy argument because  
9 I don't anticipate it will be granted, but at the con-  
10 clusion of the examination of the jurors, and prior to the  
11 time that they are sworn, it is appropriate, and I think  
12 mandatory, that the motion be made.

13 MR. SHINN: I have various other motions on, your  
14 Honor, that were filed, before the jury is sworn in,  
15 written motions.

16 THE COURT: You mean that you would file?  
17 What is keeping you?

18 MR. SHINN: I will file them, your Honor, before the  
19 jury is sworn, for a change of venue, a motion for  
20 continuance.

21 MR. KANAREK: Your Honor, if I may, for your Honor,  
22 perhaps, to consider on the equal protection argument,  
23 in connection with the peremptories, there is a case, an  
24 old case which I am sure your Honor has read many years  
25 past, called the Sleepy Lagoon case, where there were 23  
26 defendants --

1 MR. BUGLIOSI: 22.

2 MR. KANAREK: 22. Thank you.

3 Does that mean that we would have two  
4 challenges in that case, and that the greater the number  
5 of the defendants the less peremptories that someone would  
6 be entitled to?

7 The law, I hope, is not that ridiculous,  
8 your Honor.

9 THE COURT: The law is perfectly clear.

10 MR. KANAREK: It denies equal protection because  
11 there is a premium on being a lone defendant.

12 THE COURT: You have made your argument.

13 MR. KANAREK: Thank you.

14 THE COURT: What about your challenge to the panel,  
15 gentlemen? You have had weeks now.

16 MR. KANAREK: Yes. I have it all here. I have the  
17 papers.

18 THE COURT: You have what here?

19 MR. KANAREK: The papers.

20 THE COURT: I haven't seen anything.

21 If you are referring something to me, I  
22 haven't seen whatever it is you are talking about.

23 MR. KANAREK: I have here, your Honor, the papers.

24 Does your Honor prefer that I give them to  
25 you at this point, right now?

26 THE COURT: I don't even know what you are talking

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1 about.

2 MR. KANAREK: These are the grounds constituting  
3 the challenge to the petit jury, your Honor, which your  
4 Honor indicated that he would like to have previously.

5 THE COURT: Yes, I would certainly want to see them.

6 MR. KANAREK: There were just a couple of words,  
7 a few words, of interlineation that I wish to make. So,  
8 if I may give that to the Court perhaps at the recess,  
9 the afternoon recess?

10 THE COURT: But the point I am concerned with now  
11 is what about your challenge to the panel?

12 What are you going to offer in support of  
13 that challenge, so I can rule on it?

14 MR. KANAREK: Very well. I have it here, your  
15 Honor.

16 I offer the transcripts in the case of  
17 People vs. Powell and Smith, the transcript of June the  
18 28th of '68, and also the transcripts --

19 THE COURT: Do you have these transcripts?

20 I don't have them.

21 MR. KANAREK: The District Attorney previously  
22 indicated they have them here in court, and as a  
23 mechanical proposition, I thought that they had them  
24 here in good faith, and I don't care whose copy your  
25 Honor reads, but the transcripts of August 7th of '68  
26 to January 31st of '69 before Judge Peracca in the case

1 of People vs. Powell and Smith.

2 Those transcripts, your Honor.

3 THE COURT: How many transcripts does that consist  
4 of?

5 How many pages?

6 MR. BUGLIOSI: The transcript itself, your Honor,  
7 due in great part to Mr. Kanarek's effort, is 36,000.

8 THE COURT: I have no intention of reading 36,000  
9 pages.

10 Now, if you want to extract portions of that  
11 transcript?

12 MR. KANAREK: I am referring just to the challenge  
13 to the jury panel, your Honor.

14 Judge Peracca received --

15 THE COURT: Never mind about Judge Peracca.

16 I understood that you and the prosecution  
17 were going to agree on certain portions of these transcripts  
18 which are relevant to any challenge to the panel.

19 I have no intention of wading through 36,000  
20 pages of transcript, Mr. Kanarek.

21 MR. KANAREK: There is not 36,000 pages, your Honor.  
22 There is from August the 7th of '68, basically, with that  
23 one other transcript of June the 28th of '68, through  
24 January 21st of '69.

25 That is not 36,000 pages of transcript.

2C-1  
1 THE COURT: Do you mean to tell me that four or  
2 five months every day were devoted solely to this?

3 MR. KANAREK: Essentially, yes, your Honor.

4 May I point this out? You see, that is one of  
5 the mechanical problems we have in courts of law. This  
6 involved a statistical analysis, a detailed study.

7 We may, at first blush, think that that is an  
8 inordinate amount of time. However, at those proceedings,  
9 there was Judge Peracca, there was Charles Maple of the  
10 Public Defender's Office, there was myself, and there  
11 were representatives of the District Attorney's office.

12 We went into in-depth analysis of the  
13 procedures in the Jury Commissioner's office. And when you  
14 consider that the Court is in session maybe three and a  
15 half to four hours a day, and you consider also that there  
16 were periods of time here when we did analyze, as a result  
17 of print-outs that were done in connection with machines,  
18 computing equipment, and when you consider that --

19 THE COURT: You are going to have to submit a brief  
20 in which you set forth clearly what you have been able to  
21 stipulate to with the prosecution.

22 I am not about to embark on an exploration  
23 through the transcript in that other case without knowing  
24 what, if any, stipulations have been arrived at with  
25 respect to that transcript and what portions pertain to  
26 the issues that you are attempting to raise by means of