

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

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

113

No. A253156

REPORTERS' DAILY TRANSCRIPT
Monday, October 5, 1970
A. M. SESSION

APPEARANCES:

For the People:

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

For Deft. Manson:

I. A. KANAREK, Esq.

For Deft. Atkins:

DAYE SHINN, Esq.

For Deft. Van Houten:

[REDACTED].
RONALD HUGHES, Esq.
PAUL FITZGERALD, Esq.

For Deft. Krenwinkel:

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PAGES 12730 to 12800

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

COPY

I N D E X

PEOPLE'S WITNESSES: DIRECT CROSS REDIRECT RECROSS

WHITELEY, Paul 12762

GUTIERREZ, Manuel F. 12776 12799F

E X H I B I T S

PEOPLE'S: FOR IDENTIFICATION IN EVIDENCE

261 - Photograph 12778

COURT'S SPECIAL EXHIBIT:

5 - Recorded interview 12739

LOS ANGELES, CALIFORNIA, MONDAY, OCTOBER 5, 1970

9:43 o'clock a.m.

- - - -

(The following proceedings were had in the chambers of the court out of the hearing of the defendants and the jury, all counsel being present:)

THE COURT: The record will show all counsel are present, and also Miss Roni Howard.

MR. HUGHES: For the record, your Honor, I would like to reiterate those objections that I made previously to this.

I am not waiving the appearance at this proceeding of Leslie Van Houten, just so the record is clear.

MR. KANAREK: Your Honor, for the record, may the record reveal it is 9:45. I am only saying this because of the fact that your Honor has found me in contempt for being two minutes late. It is now 9:45.

I am not asking that anyone be found in contempt. Mr. Bugliosi came in ten minutes after 9:00, and it is now 9:45.

I say this with regret, but I think that when things are not put on the record time has a way of confusing them and deluding them, and I do feel, I do feel that your Honor has, as the expression is, leaned on me end quote, unfairly in certain matters in this case.

1 It is incumbent upon me, I think, to put this
2 in the record because I think that it is of some signifi-
3 cance.

4 THE COURT: Well, first of all your statement is
5 inaccurate, Mr. Kanarek, you were seven minutes late on
6 the occasion in which the Court found you in contempt,
7 and that was an occasion after a number of other occasions
8 where you had been warned to be present, and the time was
9 the same time as had been set on the previous days.

10 Today we have a little bit different situation.
11 Apparently not just Mr. Hughes but, I understand, the
12 prosecutors also were late, so apparently there was a
13 misunderstanding.

14 Whatever it was, it was something that both
15 sides apparently misunderstood, at least in part. I under-
16 stand you were here on time, which I commend you for.

17 MR. KANAREK: My purpose, as I say, your Honor, I
18 feel that under ordinary circumstances, as I say, prior
19 to this trial I don't remember ever having put such matters
20 on the record, and as your Honor knows, the difference in
21 the clocks in this building, I would solicit your Honor
22 to look at the clocks, for instance, on each of these
23 floors, and your Honor will see discrepancies as much as
24 five minutes between those clocks.

25 THE COURT: Well, I don't go by the clocks, Mr.
26 Kanarek. I have a watch that keeps good time and I set it

1 frequently.

2 All right, gentlemen, so the record will be
3 absolutely clear, on Friday I did tell you that we would
4 start at 9:00 o'clock this morning rather than 9:45.
5 Apparently this came after a long day, and one or more
6 counsel forgot it. That is the reason for the problem
7 this morning, and that is the reason I am overlooking it.

8 Apparently it was an innocent oversight by
2 fls. 9 not just one counsel but several.

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1 MR. HUGHES: Thank you, Judge.

2 MR. MUSICH: Your Honor, as far as the statement of
3 Roni Howard, I talked to her this Saturday.

4 I have notes here as far as the general substance
5 of the conversation. And in talking to Roni, I tried to
6 put it in the best that she could recall as to a question and
7 answer type situation the conversation that took place when
8 she talked with Sadie.

9 There are references in the statement here where
10 certain items and areas were covered in the transcript of her
11 testimony, or recorded testimony, in the blue-backed
12 transcript here.

13 As the Court can see, I numbered them the first
14 and second conversations in regard to when the conversation
15 first concerned the Tate incident.

16 The notes will indicate there evidently were
17 three or four later conversations, which I did not go into
18 in any detail, because Roni indicated that basically those
19 were in regard to philosophy, and I have some notes here,
20 general notes, they do not specifically go into detail, of
21 statements by Sadie regarding murders that we are not
22 concerned with here.

23 I was going to photocopy these, or I could have
24 the Court look at them, or we could read them into the
25 record.

26 THE COURT: Is this set of notes that you now have,

1 is that in question and answer form?

2 MR. MUSICH: Yes, your Honor, basically.

3 THE COURT: And does this purport to be the entire
4 conversations that Miss Howard had with Susan Atkins?

5 MR. MUSICH: Concerning the issues before this Court,
6 so far as the Tate-La Bianca killings; and, basically, the
7 Tate killings.

8 THE COURT: This is not an edited version of the
9 conversations?

10 MR. MUSICH: No. It is only edited in the sense that
11 I didn't go into any detail or what was covered in the
12 transcript.

13 I failed to re-go into the statements that are
14 part of the tape-recorded conversation with the police.

15 I do have page notations in some instances
16 where there was some conversation that we talked about where
17 there was some reference in the tape-recorded conversation.

18 THE COURT: As I mentioned to you on Friday, what I
19 have to have is the complete statement by this witness, if
20 she is the one that is going to testify, as to what these
21 conversations were. Then, from that, I have to determine
22 whether or not there is a Bruton-Aranda problem and, if so,
23 whether effective deletion can be made.

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1 MR. MUSICH: These are complete, your Honor.

2 Basically, what I am referring to, where they
3 talk about driving up there, or where Sadie talked to the
4 witness about cutting the wires and as far as driving,
5 changing clothes, washing their hands in the yard, and all
6 that.

7 I didn't go into detail as to what, if anything,
8 was actually said by Sadie because that was fairly well
9 covered in this police conversation.

10 THE COURT: Just so the record will be clear, what do
11 I have to look at in order to see all of her conversations?
12 Apparently it isn't all contained in one document.

13 MR. MUSICH: That is correct, your Honor.

14 THE COURT: What documents constitute all of her
15 conversations?

16 MR. MUSICH: I would suggest these notes here and
17 the transcripts.

18 THE COURT: Are you talking about the blue-covered
19 47-page transcript?

20 MR. MUSICH: Yes, your Honor.

21 THE COURT: Then that will have to be marked as a
22 special exhibit along with whatever else constitutes the
23 remainder of the conversation.

24 MR. MUSICH: Yes.

25 MR. SHINN: Your Honor, that note that you have in
26 front of you, your Honor, what is that, your Honor?

(The Court holds up a document.)

MR. SHINN: That is the original tape recording of Roni Howard and the police officers?

MR. BUGLIOSI: Yes. The one with the blue back.

MR. SHINN: I see.

MR. BUGLIOSI: Yes.

THE COURT: On the first page it is entitled "Transcript of Tape 32970. A recorded interview of Roni Howard at Sybil Brand Institute on November 25, 1969. Questioning by Sergeant M. J. McGann and Sergeant F. J. Patchett, Robbery-Homicide Division. Transcribed by Steven P. Taylor, Robbery-Homicide Division."

MR. SHINN: Yes, sir.

Now it has been identified, your Honor, and I am going to object to the method that the District Attorney is using now, your Honor, because I think the Court should only read the original statement by her and a deleted form.

Now, I believe when the District Attorney has talked to Miss Howard -- when was it, Friday?

MR. MUSICH: Saturday.

MR. SHINN: I believe that in between the time she was released from jail to the present time she must have read magazine articles and probably saw things on TV, accounts of this case, and it is very, very difficult for her to separate what she heard from Susan Atkins and what she heard from the news media, and to try to say that, "I heard

1 this from Susan Atkins, and I heard that from the news media,"
2 is very difficult, your Honor.

3 So, I think the only thing the Court has to do
4 is to read the original conversation she had^{with} the police, and
5 then they must present a deleted form, and the Court must
6 compare this with the deleted form, not her recent
7 conversation with the District Attorney.

8 THE COURT: Well, to the extent that the recent
9 conversation, as you characterize it, contains her testimony
10 as to additional conversations with Miss Atkins, I have to
11 know that also.

12 MR. SHINN: No, your Honor. I disagree with the Court,
13 because between the time she left Sybil Brand and the time
14 that she last saw Susan Atkins she has read other articles
15 concerning this case and she cannot separate it, your
16 Honor.

17 THE COURT: That is a matter for cross-examination.

18 MISS HOWARD: May I say something?

19 THE COURT: If she says that there is some additional
20 conversation which is not contained in the original recorded
21 interview, of course, we have to know about it.

22 MR. SHINN: Is the Court saying ... additional
23 conversation with Susan Atkins, or additional conversation
24 that she remembers that Susan Atkins told her?

25 There is a big difference there, your Honor.

26 THE COURT: What is the difference? She is testifying

1 under oath that this is what Susan Atkins told her. That is
2 her recollection of what she told her.

3 MR. SHINN: But I am trying to point out to the
4 Court the dangers of that, your Honor, because of the fact
5 that between the time she left Sybil Brand and the time she
6 is relating now, she may have read and heard many things and
7 she doesn't know whether she read it or heard it on TV or
8 whether Susan Atkins told her.

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1 THE COURT: How do you know she doesn't?

2 MR. SHINN: Well, that is the danger that lurks
3 behind her mind, your Honor.

4 THE COURT: Suppose she had never seen a police
5 officer until this very day, today, and suddenly now after
6 a year approximately, or whatever it is, she relates the
7 conversation that she had with Susan Atkins.

8 MR. SHINN: That would go to the weight, but here
9 we have information which she had fresh in her mind at the
10 time she talked to the police officer.

11 THE COURT: That still goes to the weight.

12 MR. SHINN: May the record indicate I am objecting
13 to the method of doing the proceeding in this way.

14 THE COURT: Let's take it one step at a time.

15 What, beside the recorded interview I just
16 referred to, which will be marked Special Exhibit No. 5,
17 what besides that do you have in the way of documentary
18 notes containing any additional purported conversation
19 between Miss Howard and Susan Atkins?

20 MR. MUSICH: Your Honor, I have six legal size
21 yellow page notes in question and answer type form,
22 except as to the last page, approximately midway in the
23 middle of that last page, which basically there are some
24 notes, some statements, but general conversations,
25 general topics regarding third and fourth conversations
26 and later conversations which we feel --

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1 THE COURT: Are those notes your notes?

2 MR. MUSICH: Yes, your Honor.

3 THE COURT: Prepared from what source?

4 MR. MUSICH: From talking with Miss Howard on Satur-
5 day, and I focused her attention to the particular conver-
6 sation that she had with Sadie at Sybil Brand, working
7 dorm No. 8000, those conversations took place on a bed --
8 in their beds, after dinner; it was after work at approxi-
9 mately 6:00 or 7:00 p.m. in the last week of October,
10 1969.

11 That is the first conversation I went into in
12 detail.

13 The second conversation was one that took place
14 a couple of days later; it was at the same place at
15 approximately the same time.

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1 THE COURT: Well, do your notes contain portions of
2 conversations that are not contained in the original
3 recorded interview?

4 MR. MUSICH: Some of them do, your Honor, I did not
5 go into it in detail.

6 There are page notations with the transcript
7 in regard to the various areas that are covered in the
8 transcript and that are covered in the notes and, for
9 example, there is where Sadie said "I'll tell you," and
10 she talked about "drove up there, and Charlie cut the
11 wires," and so forth. We have the page notations on
12 those.

13 THE COURT: Do you have an edited or deleted version
14 which you propose to use?

15 MR. MUSICH: No, your Honor, we would probably just
16 go into narrow areas.

17 I would indicate, and Mr. Bugliosi has indicated,
18 as to the questions and purported answers, that this would
19 be in areas that we would be going into, and then the
20 Court could look at the statements, and if it was a
21 proper editing, then we would hope we could go into that
22 area.

23 THE COURT: What does the edited statement consist
24 of, the questions, or questions and answers, or what?

25 MR. MUSICH: Just Mr. Bugliosi's questions and his
26 purported expected answers to those questions.

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1 THE COURT: Has this been typed up?

2 MR. MUSICH: No, your Honor.

3 THE COURT: I think we are going to have to have it
4 typed up. This is too important to have it in handwritten
5 notes which may or may not be legible.

6 MR. MUSICH: Well, the court can look at mine --
7 well, and I can have mine even typed up if the Court wish,
8 my handwriting isn't that bad.

9 We can have it photocopied.

10 MR. KANAREK: Just in the interest of completeness,
11 your Honor, may the record reflect Mr. Buglisio left the
12 room some -- I guess some ten or so minutes ago.

13 Mr. Musich is here alone representing the
14 prosecution.

15 Is that a fair statement?

16 THE COURT: What is the significance of that, Mr.
17 Kanarek, that you are taking up our transcript space for
18 that kind of statement.

19 What does it mean?

20 MR. KANAREK: May this lady not be in the room
21 (indicating Miss Howard).

22 THE COURT: Just answer the question.

23 MR. KANAREK: Well, I would like to answer it. I would
24 be very candid if the lady would not be in the room when
25 I speak to the Court, this potential witness.
26

1 THE COURT: You are just wasting time, Mr. Kanarek.

2 MR. KANAREK: Your Honor, it is not so. I think
3 that we are dealing here --

4 THE COURT: All right, I don't want to hear any
5 more.

6 MR. KANAREK: Very well, your Honor.

7 THE COURT: Let me see the proposed edited version.

8 MR. MUSICH: That is the statement that I took
9 there.

10 THE COURT: Well, these are just notes, aren't they?

11 MR. MUSICH: Yes, those are notes in question and
12 answer form.

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1 THE COURT: I must have said it 25 times in the last
2 few days, but it doesn't seem to ring a bell with anybody.

3 MR. MUSICH: Those are not notes, those are actually
4 the statements, the conversation.

5 THE COURT: What we should have is in one place the
6 complete testimony of this witness, by testimony I mean the
7 results of her interviews.

8 Now, do we have that here or do we have some
9 short, new version of it?

10 MR. MUSICH: No, that is the actual conversation as
11 I talked to Roni Saturday, that she had with Sadie, except
12 for the margined notations with reference to what is already
13 contained in that area, or that particular answer in that
14 blue-backed transcript of her taped conversation.

15 If the Court wants the complete conver-
16 sation, I merely have to go into the transcript there and
17 put in her statements that are contained in her transcript.

18 THE COURT: I think what should have been done was
19 that from this, and from the transcript of the original
20 recorded interview, a new statement should have been prepared,
21 either with footnoted references as to which statements
22 came from which document, that is, your notes or the
23 original recorded interview, but containing a complete
24 conversation.

25 MR. MUSICH: Well, I did that basically, but I did not
26 go in the areas, like I said, where they said they went to

1 the house and they washed their hands. Those areas I don't
2 know anybody can go into because they are in the plural.

3 THE COURT: We are not now talking about the edited
4 version. We are talking about what Mr. Howard said
5 Miss Susan Atkins told her, regardless of what she said.

6 MR. MUSICH: That is all there, with reference to what
7 is in the transcript, I just did not bother to repeat or
8 recopy what was in the transcript.

9 I can do that in those areas which I have
10 indicated.

11 THE COURT: All right, may I see the proposed edited
12 version, if that is what that is?

13 MR. MUSICH: Well, these are the original questions
14 of Mr. Bugliosi. Whether or not these will be re-edited I
15 don't know. I did not have a chance to talk to him as to
16 whether or not he was going to go into the same areas in
17 view of your statement.

18 THE COURT: Well, I don't think we have arrived at
19 a point where I can do anything yet, Mr. Musich. I know
20 this is time-consuming, but it is of such tremendous impor-
21 tance to both sides that we are going to have to take the
22 time to do it right, and I think what you are going to have to
23 do is to prepare a new statement which contains, as I say,
24 all of the conversation in one document, and if part of that
25 conversation came from the original recorded interview, that
26 should be either footnoted, or a reference in parentheses

1 following statements should be put in.

2 Then if the next sentence or next paragraph comes
3 from your conversation with Miss Howard in relation to the
4 same conversation that she is relating with Miss Atkins,
5 then you will have to reference that again, being an inter-
6 view with Mr. Musich on such-and-such a date.

7 So that when you get all through you will have a
8 chronological order -- I will state it differently -- you
9 will have the complete conversations that Miss Atkins had
10 with Miss Howard, and as to any given conversation it will
11 all be in the same place in the statement, although it may
12 have come from different sources as far as your preparation
13 is concerned, some from the original, some from a later
14 interview with Miss Howard.

15 But it will be the complete conversations that
16 Miss Atkins had with her.

17 That is the first step.

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1 Then in addition to that, the second step
2 then will be to prepare a proposed edited version, what
3 you propose to put into evidence in this case/^{as}to the
4 testimony of Miss Howard as to these conversations.

5 Then I can compare the two, and counsel can
6 compare the two, and make whatever objections they want
7 to, and I can attempt to determine whether or not the
8 editing, if there is any, is effective.

9 MR. MUSICH: All right.

10 THE COURT: I don't see any other way, and the thing
11 is going to have to be typed up, I mean I don't think we
12 can do it in a shorthand version. I don't think we can
13 do it with handwritten notes. It is much too important
14 for that.

15 It has to be entirely legible to anyone, and
16 it has to be coherent in the sense the conversations Miss
17 Atkins is alleged to have had must all be together in
18 one place, and then if she had another conversation, all
19 of that conversation must be together in one place in the
20 statement, and so on.

21 MR. MUSICH: All right, that should not be very
22 difficult.

23 Then I can just go through that and pick up
24 what is in the transcript, and make the correct references.

25 But as I indicated, I did go into the later
26 conversations --

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1 THE COURT: And the same thing will have to be done
2 with respect to the other witness, Miss Graham, assuming
3 you have some statements of hers, as I understand you do.

4 I have seen just this one transcript with her
5 conversations.

6 Now, I realize this will take some time. In
7 the meantime can we proceed with the trial with some other
8 witnesses?

9 MR. MUSICH: If I might have a moment, your Honor, I
10 have to check. I don't know what witnesses are standing
11 by.

12 THE COURT: All right.

13 MR. SHINN: Your Honor, may I say something for the
14 record in the absence of this witness, your Honor.

15 THE COURT: All right, I will have her go out, but
16 just a moment before she goes, she indicated to me a moment
17 ago, and I did not let her say anything, that she had some-
18 thing to say.

19 What is it?

20 MISS HOWARD: I have been back in Minnesota for the
21 last couple of months, and I tried to make it a special
22 point not to read in the newspapers of what is going on,
23 and I did talk to other police officers before this, that
24 is why that blue transcript does not have quite everything
25 in it, because I talked to two other police officers the
26 night before about it.

1 THE COURT: Who were they?

2 MISS HOWARD: Special investigators.

3 THE COURT: Did they take down any statements?

4 MISS HOWARD: I don't know if they did or not.

5 THE COURT: Do you know their names?

6 MR. SHINN: I have their names.

7 THE COURT: Did they prepare statements?

8 MR. MUSICH: I don't believe so, your Honor. Normally
9 what they do, of course, is talk to the witness and then
10 they decide to bring the tape.

11 We did not have it for some reason.

3d fls.

1 THE COURT: Is there any reason why Miss Howard should
2 not now go back outside?

3 MR. MUSICH: No, your Honor.

4 (Whereupon, Miss Howard leaves the chambers of
5 the court and the following proceedings were had in her
6 absence.)

7 THE COURT: All right, Miss Howard has left the
8 chambers. Now, is there something else?

9 MR. SHINN: Yes, your Honor.

10 I believe, your Honor, that there is information
11 that Miss Roni Howard is one of the persons that helped
12 write the book "Five To Die", your Honor, and I believe
13 that since she had helped write "Five To Die," she must have
14 had conversations with editors and other people that
15 contributed to the book, and she read that book, your Honor,
16 "Five To Die," and I believe, your Honor, that it would be
17 very difficult for her right now to separate what she heard
18 from Susan Atkins and what she read in the book.

19 THE COURT: Why isn't that a matter of cross-
20 examination?

21 MR. SHINN: But your Honor, by that time, your Honor,
22 all this damaging evidence would have been gone into on
23 direct, your Honor.

24 THE COURT: If the witness is testifying under oath to
25 a conversation she had, you cannot exclude it because she
26 might have talked to somebody else if it is otherwise

admissible.

That is a matter for cross-examination.

That goes to the weight.

MR. SHINN: That I understand, your Honor, but then she is going to have a difficult time and we are going to have a difficult time to see, to determine whether or not which was the conversation she had with Susan Atkins and which is the information that she gathered after she was released from Sybil Brand, your Honor.

That is why we have to stick with our original testimony.

MR. BUGLIOSI: Your Honor, I have a solution which I offered, but apparently I am not keeping time to the same drummer as everyone else, but the way I see this, we satisfy Aranda by giving the Court and defense attorneys her statement to the police and her statement to me, then the prosecution has to come forward with what they believe to be an effective deletion.

At that point -- I think right now we are at that point -- it is incumbent upon the defense to come forward and say, "Your Honor, this is not an effective deletion," and point out certain places in her conversation with the police or her conversations with me that should be in the questions and answers.

I think it is their burden right now. We have already come forward with what we believe to be an

1 effective deletion.

2 THE COURT: Unfortunately you were not in here,
3 Mr. Bugliosi, we were just discussing the matter again,
4 I don't believe you have reached that point.

5 I agree with you that is the procedure to be
6 followed, but I don't think you have reached that point,
7 and I am sure Mr. Musich will tell you what we have been
8 talking about.

9 MR. BUGLIOSI: Okay.

10 THE COURT: I told him that what I have to have, and
11 obviously it will take a certain amount of time, it is going
12 to have to be typed up as part of the record. We cannot have
13 handwritten notes.

14 The only question I have now is whether you are
15 able to proceed while he is doing that, or whoever is going
16 to do it is doing it, if we could proceed with the trial and
17 get on with some other witnesses.

18 MR. BUGLIOSI: Well --

19 THE COURT: Bearing in mind, too, that Mr. Shinn still
20 has a motion pending once we get past the Aranda matters,
21 and determine whether or not any of the testimony is
22 admissible, then he still has his motion pending as to the
23 suppression of the testimony.

24 MR. SHINN: That has to do with the Miranda case,
25 whether or not it is admissible in evidence.

26 MR. BUGLIOSI: There are, I think, a couple of witnesses

1 I could scrape up. They would not be long witnesses.

2 THE COURT: The same thing will have to be done with
3 respect to the purported testimony of the purported
4 conversations Virginia Graham had, so you might as well
5 get it all done at the same time and save additional time.

6 Will you be ready to proceed then this morning?

7 MR. BUGLIOSI: I think I can put someone on. I can
8 call Sergeant Gutierrez for certain things, and I can get
9 Sergeant McGann over here for some testimony, and Mr.
10 Friedman who testified to the scale on that map.

11 There won't be any stipulation on that scale?

12 MR. FITZGERALD: No.

13 MR. BUGLIOSI: Mr. Kanarek, you want us to bring over
14 the witnesses on Brunner's incarceration, period of
15 incarceration? We have the actual records.

16 MR. SHINN: I thought we were going to stipulate to
17 that.

18 MR. KANAREK: I am not going to stipulate to the
19 incarceration.

20 THE COURT: To the fact of the incarceration?

21 MR. KANAREK: Pardon?

22 THE COURT: To the fact of the incarceration?

23 MR. BUGLIOSI: No, the inclusive dates. We already
24 put on evidence that they were brought down here on August
25 8.

26 One was released on the 12th, and ^{one} was released

1 I think the next month, I have shown him all the records,
2 the fingerprints and everything, the three defense attorneys
3 are willing to stipulate to those certified records of
4 fact.

5 MR. KANAREK: Your Honor, I believe, ruled at one time
6 that there was no relevancy or materiality to this.

7 MR. BUGLIOSI: I don't want to raise that question
8 now, your Honor, so I will pass on that.

9 MR. KANAREK: I don't think that --
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1 THE COURT: I added at the conclusion of that
2 discussion, whenever it was, Mr. Kanarek, that it was
3 relevant on the question of whether or not it was possible
4 for a particular thing to have occurred.

5 MR. BUGLIOSI: But you want us to call witnesses
6 on that; is that right, Mr. Kanarek?

7 THE COURT: I can't see why a stipulation as to the
8 fact of incarceration for a particular period would present
9 a problem to you, Mr. Kanarek.

10 MR. KANAREK: Well, your Honor, as I say, the prose-
11 cution in this case has done certain things --

12 THE COURT: You don't have to answer what I have
13 said. You are under no obligation to stipulate to any-
14 thing.

15 MR. KANAREK: I want to answer the court. I feel
16 I have an obligation to the court.

17 THE COURT: I don't want to clutter up the record
18 now with a long discussion about something else.

19 MR. KANAREK: But I feel an obligation. Your Honor
20 is the duly constituted judge, and I feel an obligation
21 to your Honor.

22 THE COURT: You don't have any obligation to stipu-
23 late to anything.

24 MR. KANAREK: Pardon?

25 THE COURT: I say, you don't have any obligation to
26 stipulate to anything.

4-2

1 MR. KANAREK: But I do have an obligation to respond
2 to the court.

3 THE COURT: I am telling you that no response is
4 necessary.

5 MR. KANAREK: Very well.

6 MR. BUGLIOSI: You will not stipulate; is that
7 correct?

8 MR. KANAREK: No.

9 THE COURT: Now, how long will it take before you
10 are ready to proceed?

11 Had we finished with the sergeant that played
12 the tape on Friday? He was excused, wasn't he?

13 As I recall, he was.

14 MR. MUSICH: Yes.

15 MR. BUGLIOSI: Yes, he was excused.

16 He is testifying today, I think, down in Orange
17 County.

18 Do you want to cross-examine him?

19 MR. FITZGERALD: No.

20 MR. BUGLIOSI: I could put on Sergeant Gutierrez in
21 about ten or fifteen minutes; and then by the time he
22 is through, I should have Sergeant McGann over here for some
23 limited testimony.

24 Maybe after him I could put on Sergeant Patchett.
25 And then I will try to round up these people from the Sheriff's
26 Office.

4-3

Then I will get Friedman over here.

We can put on some supplementary witnesses today.

THE COURT: My question is: How soon can we start?

MR. BUGLIOSI: 15 minutes, your Honor.

THE COURT: All right.

Now, a new subject.

Are you gentlemen able to tell me whether or not your respective clients are willing to come back into the courtroom and conduct themselves properly?

MR. FITZGERALD: There has been no change in position.

THE COURT: What is the position as to which there has been no change?

MR. FITZGERALD: Well, I asked my client if she was willing to return. She replied "Is the Judge willing to return to justice?"

4a fls.

I am not trying to be equivocal, your Honor.

4-4

1 THE COURT: We are not going to keep playing games.
2 As long as we get equivocal answers like that, I am going
3 to bring them back into the courtroom and we will just have
4 to see what develops.

5 If the same thing develops that happened the
6 other day, they will have to be removed, obviously, despite
7 your comments on TV to the contrary, Mr. Fitzgerald, con-
8 cerning the disruption.

9 In that regard, I might ask you --

10 MR. FITZGERALD: I think my comments were very fair.

11 I don't think this was disruptive within the
12 purview of Allen vs. Illinois.

13 As a matter of fact, your Honor, I have the case
14 here.

15 THE COURT: Would you explain to me how the trial can
16 be conducted in a setting in which four defendants are on
17 their feet and either singing or carrying on a monologue?

18 MR. FITZGERALD: I think, as I read Allen, when I see
19 what the defendant in Allen did, threatening the Judge with
20 his life; where, throughout the opinion, they refer to the
21 conduct of the defendants as outrageous, when they refer
22 to the conduct --

23 THE COURT: If it will help any, I will characterize
24 the conduct of these defendants as outrageous. Let there
25 be no mistake about that.

26 MR. FITZGERALD: I think they were about through, your

1 Honor. I mean, if you would just let them finish, we
2 could continue with the trial.

3 I really do feel that way, your Honor.

4 THE COURT: If you look at the record of Friday's
5 proceedings, I let them go on quite a while.

6 MR. FITZGERALD: Yes, you did.

7 THE COURT: I wanted to make sure that they weren't
8 going to just say one thing and then stop. But it was
9 apparent that every time I ordered them to stop and sit
10 down and proceed, they just started all over again.

11 So, after this went on a number of times, as
12 the record will indicate, there was no other choice. That
13 is all.

14 MR. FITZGERALD: You don't need to be worried about
15 being vindicated by the public. You have already been
16 vindicated.

17 THE COURT: It is not a question of vindication, I
18 assure you. I want the trial to get on, and I don't want
19 to jeopardize any defendant's rights. On the other hand,
20 I am not going to let the defendants jeopardize the
21 People's right to a fair trial either.

22 So, we will just have to take it step by step.

23 MR. SHINN: Your Honor, for the record, may I have a
24 continuous objection each time my client, Susan Atkins,
25 is not present in the court proceedings, your Honor, so
26 I don't have to keep making that motion?

1 THE COURT: No, you don't have any continuing objec-
2 tion.

3 If you have any objection, Mr. Shinn, you make
4 it.

5 MR. SHINN: I will object to any further proceedings
6 in open court without Susan Atkins being present in open
7 court.

8 THE COURT: I just told you they are coming back in.

9 MR. SHINN: Very well.

10 THE COURT: Then, Mr. Bugliosi, you need about 15
11 minutes?

12 MR. BUGLIOSI: Yes.

13 THE COURT: Let the Clerk know when you are ready to
14 proceed.

15 MR. BUGLIOSI: Okay.

16 (Recess.)
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4b file.

8-1
1 (The following proceedings occur in open court,
2 all defendants, counsel and jurors present:)

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

5 You may proceed, Mr. Bugliosi.

6 MR. BUGLIOSI: Sergeant Whiteley.

7 THE CLERK: Would you please repeat after me.

8 I do solemnly swear --

9 THE WITNESS: I do solemnly swear --

10 THE CLERK: -- that the testimony I may give --

11 THE WITNESS: -- that the testimony I may give --

12 THE CLERK: -- in the cause now pending --

13 THE WITNESS: -- in the cause now pending --

14 THE CLERK: -- before this Court --

15 THE WITNESS: -- before this Court --

16 THE CLERK: -- shall be the truth --

17 THE WITNESS: -- shall be the truth --

18 THE CLERK: -- the whole truth --

19 THE WITNESS: -- the whole truth --

20 THE CLERK: -- and nothing but the truth --

21 THE WITNESS: -- and nothing but the truth --

22 THE CLERK: -- so help me God.

23 THE WITNESS: -- so help me God.

24 THE CLERK: Be seated, please.

25 Pull the microphone back and will you please
26 state and spell your name.

1 THE WITNESS: Paul Whiteley, W-h-i-t-e-l-e-y.

2
3 PAUL WHITELEY,

4 called as a witness by and on behalf of the People, being
5 first duly sworn, was examined and testified as follows:
6

7 DIRECT EXAMINATION

8 BY MR. BUGLIOSI:

9 Q Sergeant, what is your occupation?

10 A Detective Sergeant, Los Angeles County
11 Sheriff's Office, assigned to Homicide Bureau.

12 Q Do you know a Robert Beausoleil?

13 A Yes, I do.

14 Q Did you ever book Mr. Beausoleil into the
15 Los Angeles County Jail?

16 A Yes, I did.

17 Q On what date?

18 A August the 7th, 1969, at approximately 3:45
19 a.m.

20 Q Was he incarcerated during the month of August,
21 1969?

22 A Yes, he was.

23 Q At the County Jail?

24 A Yes.

25 Q Here in Los Angeles?

26 A Yes.

1 Q And eventually he was transferred out of the
2 County Jail?

3 A Yes.

4 Q To some other place?

5 A Yes.

6 Q That was when?

7 A That was in June, 1970.

8 MR. BUGLIOSI: Thank you. No further questions.

9 MR. FITZGERALD: No questions.

10 MR. SHINN: No questions.

11 MR. KANAREK: Yes, your Honor. May we have an
12 objection to the materiality and relevancy concerning this
13 matter, your Honor?

14 THE COURT: Very well.

15 Mr. Reporter, will you read the last question
16 and answer? I missed it.

17 (The record was read by the reporter.)

18 THE COURT: Any examination?

19 MR. FITZGERALD: No, your Honor.

20 DEFENDANT MANSON: Yes. May I examine him, your
21 Honor?

22 THE COURT: No, you may not.

23 DEFENDANT MANSON: You are going to use this court-
24 room to kill me?

25 THE COURT: You may step down.

26 DEFENDANT MANSON: Are you going to use this courtroom

1 to kill me? Do you want me dead?

2 THE COURT: Mr. Manson!

3 DEFENDANT MANSON: The minute I see you are going to
4 kill me, you know what I am going to do.

5 THE COURT: What are you going to do?

6 DEFENDANT MANSON: You know. You have studied your
7 books. You know who you are talking to?

8 THE COURT: If you don't stop, Mr. Manson -- and I
9 order you to stop now -- I will have to have you removed
10 as I did the other day.

11 DEFENDANT MANSON: Order me to be quiet while you
12 kill me with your courtroom? Does that make much sense?

13 Am I supposed to lay here and just let you
14 kill me?

15 I am a human being. I am going to fight for my
16 life, one way or another. You should let me do it with
17 words.

18 THE COURT: If you don't stop, I will have to have
19 you removed,

20 DEFENDANT MANSON: I will have to have you removed
21 if you don't stop. I have a little system of my own.

22 THE COURT: Call your next witness.
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5-1

1 MR. BUGLIOSI: Sergeant Gutierrez.

2 DEFENDANT MANSON: Do you think I'm kidding?

3 THE COURT: Mr. Manson, I'm going to have you removed
4 if you don't stop it immediately.

5 The record will show that Mr. Manson came over
6 the counsel table in the direction of the bench and was
7 subdued by the bailiff, and I order him removed from the
8 courtroom.

9 DEFENDANT MANSON: Don't let me get the jump on your
10 boys, the jump on your boys.

11 In the name of Christian justice someone should
12 cut your head off.

13 DEFENDANT ATKINS, DEFENDANT KRENWINKEL,

14 DEFENDANT VAN HOUTEN: Noem be oro decaio, Noem be
15 oro decaio, Noem be oro decaio.

16 THE COURT: I order you ladies to stop or I will
17 order you be removed also.

18 DEFENDANT ATKINS, DEFENDANT KRENWINKEL,

19 DEFENDANT VAN HOUTEN: Noem be oro decaio, Noem be
20 oro decaio, Noem be oro decaio, Noem be oro decaio,
21 Noem be oro decaio.

22 THE COURT: I order you ladies to stop or you will
23 be removed.

24 DEFENDANT ATKINS, DEFENDANT KRENWINKEL,

25 DEFENDANT VAN HOUTEN: Noem be oro decaio, Noem be
26 oro decaio, Noem be oro decaio.

1 THE COURT: If you don't stop I'll have you removed.

2 DEFENDANT ATKINS, DEFENDANT KRENWINKEL,

3 DEFENDANT VAN HOUTEN: Noem be oro decao, Noem be
4 oro decao, Noem be oro decao.

5 THE COURT: All right, remove the female defendants
6 from the courtroom.

7 I want the record to reflect that the female
8 defendants repeated over and over again, despite the
9 Court's order for them to stop, some phrase, what it was
10 I did not understand.

11 Did counsel understand what the phrase was?

12 MR. BUGLIOSI: No, your Honor.

13 THE COURT: In any event, they repeated it, chanting
14 it in unison over and over and over again despite the
15 Court's order, and I have ordered them removed from the
16 courtroom.

17 The record will further show there is a speaker
18 in the room in which Mr. Manson will be kept, and he will
19 be able to hear all the court's proceedings.

20 There is also a speaker upstairs in the ante-
21 room of the jury room, and the female defendants will be
22 able to hear all of the proceedings.

23 I personally tested both of the speakers and
24 they are loud and clear.

25 Counsel are welcome to check the speakers them-
26 selves if they care to.

5-a
1 MR. FITZGERALD: I wonder if counsel might approach
2 the bench.

3 THE COURT: Very well.

4 (The following proceedings were had at the bench
5 out of the hearing of the jury.)

6 THE COURT: I want the record to clearly reflect that
7 Mr. Manson came completely over the counsel table and
8 ended up on the floor directly in front of the bench.

9 The bailiffs, in order to get at him, had to
10 take the same route, at least one of them, and there was a
11 violent scuffle when the bailiffs attempted to subdue him,
12 and then he had to be forcibly removed from the courtroom.

13 I also want the record to reflect again,
14 although I stated it many times to counsel, the defendants
15 may come back into the courtroom at any time they are
16 willing to affirm their willingness to conduct themselves
17 properly, and when you gentlemen can advise me that such is
18 the case they will be immediately returned to the courtroom.

19 Do you have something?

20 MR. FITZGERALD: Yes. With all due respect to the
21 Court, and I sincerely mean that, I wonder if I might ask
22 your Honor a question.

23 Is your Honor able to state with any degree of
24 certainty concerning your state of mind as to the intent of
25 Mr. Manson's coming over the counsel table.

26 THE COURT: He looked like he was coming for me.

1 MR. FITZGERALD: That is what I was afraid of, and
2 although --

3 THE COURT: If he had taken one more step I would have
4 done something to defend myself.

5 MR. BUGLIOSI: That's right.

6 MR. FITZGERALD: Well, inasmuch as that is the case,
7 my client, Patricia Krenwinkel, has been removed from the
8 courtroom for engaging in disruptive conduct; I still feel
9 that there is a difference in her conduct vis-a-vis Mr.
10 Manson's, obviously I think you agree to that.

11 THE COURT: A difference in fact, but of course it's
12 quite obvious to me that they take their cue from Mr. Manson;
13 they sit quietly until he does something and then when he is
14 doing something, or finished doing whatever it was that he
15 wanted to do to disrupt the proceedings, then they join in
16 unison, and go on with their little act.

17 MR. FITZGERALD: But inasmuch as it is your state of
18 mind that he was attempting to actually physically attack
19 you, I think it is incumbent upon me on behalf of
20 Patricia Krenwinkel to move for a mistrial.

21 I think it is going to be difficult indeed to
22 receive a fair trial at the hands of the jury who sat,
23 witnessed and might be of the same state of mind as your
24 Honor, and inasmuch as your Honor is of the mind that they
25 are intimately associated with one another, that is, the
26 three girls with Mr. Manson, that what happens to one is

1. likely to happen to all.

2. THE COURT: It isn't going to be that easy,
3. Mr. Fitzgerald.

4. MR. HUGHES: I join in that motion.

5. MR. FITZGERALD: I don't see it being easy. I don't
6. want to try this case over again.

7. THE COURT: I know, but they are not going to profit
8. from their own wrong, and they are just as culpable as he
9. is, the fact they did not come over the counsel table
10. doesn't mean a thing; they were ready, willing and able to
11. engage in disruptive conduct, and that is what they did,
12. all of them.

13. There isn't the slightest difference in their
14. culpability. As far as I am concerned there will be no
15. mistrial.

16. MR. HUGHES: Join in the motion for mistrial.

17. MR. SHINN: Join in the motion.

18. THE COURT: Denied.

19. MR. KANAREK: I join in the request for mistrial.

20. Also I would ask your Honor to voir dire the
21. jury, obviously, regardless --

22. THE COURT: I am not going to voir dire the jury.
23. We are going to proceed with the trial.

24. MR. KANAREK: May I just make my point to the Court?

25. I would make the motion, your Honor, to voir
26. dire the jury.

1 I believe after the incident involving the
2 headlines concerning President Nixon -- I think this is
3 certainly, this is certainly an incident, I'm sure your Honor
4 doesn't wish anyone convicted --

5 THE COURT: I will admonish the jury to disregard
6 what they saw and heard.

7 MR. BUGLIOSI: Your Honor, I would disagree with
8 the Court on that.

9 THE COURT: Well, that isn't evidence.

5b-1

1 MR. BUGLIOSI: Your Honor, if a defendant hypothetically
2 gets up in court, let's say, and confesses, they can consider
3 that.

4 They are percipient witnesses of that.

5 I would ask the Court not to admonish the jury.

6 THE COURT: This is not a confession.

7 MR. BUGLIOSI: There are many things that were said
8 which are very valuable to the prosecution, your Honor,
9 and I don't see any reason why the Court has to strike
10 it from the record.

11 No. 1, the jury saw it already, and, No. 2,
12 I don't see anything to be gained by striking it from
13 the record, and I would ask the Court not to.

14 THE COURT: It is not a question of striking it from
15 the record. The record is the record.

16 MR. BUGLIOSI: Or asking them to disregard it.

17 I don't see any reason why the Court has to
18 do that.

19 MR. FITZGERALD: Well, there is a basic proposition
20 of law that the jury's verdicts are to be based on the
21 evidence and solely on the evidence.

22 THE COURT: I think the question is more of rele-
23 vancy, Mr. Bugliosi.

24 The defendants may do many things for reasons
25 unknown to anyone but themselves. That has nothing to
26 do with the question of guilt or innocence.

5b-2

1 MR. BUGLIOSI: There are several things that he
2 said, your Honor, which I find very relevant from a
3 prosecutorial standpoint.

4 I don't mean the threats on the Court or any-
5 thing like that. I'm not talking about that. I'm talking
6 about certain other words he said which I find extremely
7 relevant.

8 Now, the other way to handle that is to call
9 a witness to the stand to testify that they heard him say
10 these things, and put on evidence of it, but I don't think
11 it is necessary.

12 I think he said it within the earshot of the
13 jury, and there is no reason for the jury to disregard it.

14 THE COURT: I am going to do this, Mr. Bugliosi,
15 I'm going to admonish the jury because I think that is
16 the proper thing to do.

17 However, if you have any authority to the
18 contrary, I am perfectly willing to consider it, and if
19 I am persuaded that the admonishment is not proper, I
20 will so inform the jury that they are not -- they are not
21 going to forget what they saw, that is obvious, but my
22 feeling is it has no relevancy on the question of guilt.

23 MR. KANAREK: Your Honor, of course, I do welcome
24 your Honor to admonish the jury, but my motion for voir
25 dire I think is well taken, your Honor, in this sense:

26 All of us agree -- may I just be heard, your

Honor?

1 THE COURT: Well, you have already said it, Mr.
2 Kanarek. Your motion for a mistrial is denied.

3 MR. KANAREK: I am asking them to be voir dired.

4 THE COURT: That motion is also denied.

5 MR. KANAREK: I think I can convince the Court, your
6 Honor, and appeal to the Court's inherent powers as well
7 as try to appeal to the Court's --

8 THE COURT: No, sir. When the defendants deliberately
9 set out to disrupt the trial they are going to have to
10 suffer the consequences, whatever those consequences might
11 be.

12 Now, I'm going to minimize those consequences
13 to the extent I possibly can by admonishing the jury, and
14 I have no reason to doubt they will follow the instruc-
15 tions and base their verdicts solely on the evidence.

16 But we are not going to have a mistrial.

17 MR. KANAREK: Hypothetically, your Honor, if your
18 Honor will bear with me for a moment, hypothetically let
19 us assume --

20 THE COURT: I am not interested in hypothetical
21 cases. Let's go on with the case.

22 MR. KANAREK: If the jury would say they cannot
23 render a fair decision, would your Honor still want them
24 to be jurors?

25 MR. HUGHES: I join Mr. Kanarek's motion.
26

1 MR. SHINN: I also join.

2 THE COURT: I want it to be perfectly clear, gentle-
3 men, in view of what has happened I am not going to bring
4 the defendants out here after every recess. I'm going to
5 have to rely on you as counsel to tell me when your clients
6 are ready to come back into this courtroom.

7 I simply cannot risk the kind of violent
8 conduct that went on here this morning by having the
9 defendants come back into the courtroom after the recess,
10 by asking them if they are willing to come back and behave
11 properly.

6 fls.

3-1
1 MR. FITZGERALD: I will do that.

2 THE COURT: I am telling you right now, if your
3 client wants to come back, he will have to communicate it
4 through his counsel.

5 All right.

6 MR. FITZGERALD: Sorry, Judge.

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

11 THE COURT: Ladies and gentlemen, I admonish you
12 to disregard what you saw and what you have heard here this
13 morning.

14 You are to base your verdict, when this case
15 is concluded, solely on the evidence introduced during the
16 course of the trial, and in accordance with the Court's
17 instructions to you at that time.

18 We will now proceed with the trial.

19 Is Mr. Bugliosi present? Are you ready to
20 proceed?

21 MR. BUGLIOSI: Yes, your Honor.

22 Sergeant Gutierrez.

23 THE CLERK: Would you repeat after me.

24 I do solemnly swear --

25 THE WITNESS: I do solemnly swear --

26 THE CLERK: -- that the testimony I may give --

5-2
1 THE WITNESS: -- that the testimony I may give --

2 THE CLERK: -- in the cause now pending --

3 THE WITNESS: -- in the cause now pending --

4 THE CLERK: -- before this Court --

5 THE WITNESS: -- before this Court --

6 THE CLERK: -- shall be the truth --

7 THE WITNESS: -- shall be the truth --

8 THE CLERK: -- the whole truth --

9 THE WITNESS: -- the whole truth --

10 THE CLERK: -- and nothing but the truth --

11 THE WITNESS: -- and nothing but the truth --

12 THE CLERK: -- so help me God.

13 THE WITNESS: -- so help me God.

14 THE CLERK: Would you please state and spell your
15 name?

16 THE WITNESS: Sergeant Manuel F. Gutierrez;
17 G-u-t-i-e-r-r-e-z.
18

19 MANUEL F. GUTIERREZ,
20 called as a witness by and on behalf of the People, being
21 first duly sworn, was examined and testified as follows:
22

23 DIRECT EXAMINATION

24 BY MR. BUGLIOSI:

25 Q What is your occupation, sir?

26 A Police officer for the City of Los Angeles,

63 1 currently assigned to the Homicide-Robbery Division.

2 Q On November the 25th, 1969, did you go to
3 Spahn Ranch?

4 A Yes, I did.

5 Q Did you go there with anyone?

6 A Yes, sir.

7 I went with Sergeant Broda of the Los Angeles
8 Police Department and Sergeant Gleason of the Sheriff's
9 Department.

10 MR. BUGLIOSI: Your Honor, I have here a photograph.
11 May it be marked People's next in order?

12 MR. KANAREK: Your Honor --

13 MR. FITZGERALD: May we approach the bench for the
14 purpose of interposing an objection?

15 I think it is very germane and important.

16 THE COURT: He is asking just to mark the photograph.

17 Shouldn't it be marked before you come to the
18 bench?

19 MR. KANAREK: That is agreeable.

20 MR. FITZGERALD: That is agreeable; but it is about
21 the photograph about to be marked, your Honor.

22 THE COURT: Then we should have it marked so it can
23 be referred to.

24 MR. FITZGERALD: We would object to having the
25 officer testify for the purpose of identifying the
26 photograph.

ndx

1 THE COURT: It will be marked People's 261 for
2 identification.

3 You may approach the bench.
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6a

6a-1

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

MR. BUGLIOSI: Your Honor, the offer of proof is that this is a photograph as the police saw it at Spahn Ranch in a trailer. It has got Helter Skelter on it. This was out at Spahn Ranch.

THE COURT: It may be called "Helter" but it isn't "Skelter."

MR. BUGLIOSI: If you look at it closely, your Honor.

THE COURT: I am not referring to the spelling.

MR. BUGLIOSI: It might look like a "Sketer," but there is kind of an "l" in there and there is a "t."

THE COURT: It is conceivable the letters were run together.

MR. BUGLIOSI: "Helter Skelter is coming down fast." This was found out in a trailer at Spahn Ranch.

THE COURT: On November 25th?

MR. BUGLIOSI: Yes.

MR. FITZGERALD: It is our position that this photograph -- it is our understanding that this photograph was taken within the trailer at Spahn Ranch located in Chatsworth, California, by the police officers who entered the trailer without a warrant for the arrest or a warrant for the search of the trailer; nor did they have

6a-2

reasonable and probable cause to enter.

Essentially, we wish to make a motion to suppress on the ground that this evidence has been illegally searched and seized.

Now, this problem came up before the prosecutor informed us that he actually had the door itself and --

MR. BUGLIOSI: Which I do,

MR. FITZGERALD: -- that he was going to attempt to introduce that into evidence, the door itself; and we agreed among ourselves that at the time that he would attempt to take testimony relative to the door, we would object.

I think the same objection is well taken here.

MR. BUGLIOSI: Tentatively, I am not going to offer the door itself. Then we will get away from the removal of the door.

This is a photograph.

MR. FITZGERALD: I understand that.

MR. KANAREK: It is the same thing.

THE COURT: It would be the same thing, wouldn't it, if the officer made an illegal entry into the room and observed what was written on the wall? The problem would be the same.

MR. BUGLIOSI: I can call the officer. He tells me that he got consent from Mr. Spahn again.

THE COURT: I think we are faced with 1538.5, as

1 I understand it.

2 MR. FITZGERALD: We might be able to do it this way.
3 If you want to show him the photograph and ask him if that
4 photograph accurately depicts what it purports to depict,
5 fine. But we are going to object to any testimony
6 relative to what the photograph shows.

7 MR. BUGLIOSI: All right. I am not going to go
8 into that at the moment, but where he observed it.

9 MR. HUGHES: Furthermore, your Honor, there is another
10 copy of this photograph sitting on counsel table in very
11 close proximity to where the jury is.

12 I am afraid the jurors can see it. You have
13 warned Mr. Bugliosi before.

14 THE COURT: I don't see it.

15 MR. HUGHES: It is behind his briefcase there.

16 THE COURT: I seriously question whether anyone
17 can read it from even two feet away.

18 MR. HUGHES: I could read it from where I was
19 sitting.

20 THE COURT: I will ask you to be careful, Mr.
21 Bugliosi.

22 MR. BUGLIOSI: Yes.
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25
26

6b fls.

6b-1

1 MR. SHINN: I think he should lay a foundation as
2 to which of the defendants this is directed to. We don't
3 know who the trailer belonged to. It might belong to an
4 outsider.

5 MR. BUGLIOSI: It is circumstantial evidence.

6 You don't put a gun directly in someone's hand,
7 or a knife. It is circumstantial evidence.

8 MR. FITZGERALD: I think we understand the evidentiary
9 import of the testimony.

10 THE COURT: What do you want to do about the defendant's
11 motion to suppress?

12 MR. BUGLIOSI: We are going to resist the motion,
13 and I would ask that the Court have a hearing outside the
14 presence of the jury.

15 The offer of proof is that this was a consensual
16 search.

17 Furthermore, query whether there was any
18 search. They entered a trailer, but we are not getting
19 into the removal of this, just the observation of it.
20 It was in open sight. It wasn't hidden.

21 MR. KANAREK: It is on private property. In order to
22 go into that trailer, it is like going into a room.

23 MR. BUGLIOSI: I will put on the evidence as to
24 consent.

25 MR. KANAREK: That is the issue.

26 MR. BUGLIOSI: But it is extremely relevant.

1 "Helter Skelter" is on the refrigerator door,
2 and here it is at the Spahn Ranch.

3 MR. FITZGERALD: I concede arguendo it is relevant.
4 We are not concerned with its relevancy.

5 THE COURT: Are you ready to proceed with the motion
6 to suppress at this time?

7 MR. BUGLIOSI: Yes. I will proceed with this officer
8 here.

9 I will ask him and he will say that he asked
10 Mr. Spahn to look around the premises, and that Mr. Spahn
11 gave him consent.

12 THE COURT: All right. I will ask that the jury be
13 taken out for the time being.

14 MR. KANAREK: May I, at this time, enunciate my
15 objection, my continuing objection, on relevancy and
16 materiality, and also that the prejudicial value far out-
17 weighs the probative value.

18 THE COURT: It isn't being offered yet. We have a
19 preliminary problem first, the motion to suppress.

20 MR. KANAREK: Yes. But may I have a continuing
21 objection on the materiality and relevancy?

22 THE COURT: It makes it too confusing. Wait until the
23 question is put to the witness, and then make your
24 objection.

25 MR. FITZGERALD: Can you ask him other questions in
26 the meantime to get you to the noon hour?

1 MR. BUGLIOSI: I have a few other questions.
2 Just very few. It will never get me to the noon hour, no.

3 THE COURT: Why don't you ask whatever you can before
4 we excuse the jury. Then you can indicate when you are
5 ready.

6 MR. HUGHES: I would ask for a continuing objection
7 on the removal of Miss Van Houten.

8 Number one, it doesn't fall within the purview
9 of Allen vs. Illinois; and number two, considering the
10 technological advances we have made -- and I am not waiving
11 the bench conferences and the chambers conferences -- these
12 proceedings should be broadcast to her.

13 Third, I ask that I be given a device so that
14 I can in some fashion communicate with my client, such as
15 a telephone at the table.

16 MR. BUGLIOSI: I think there is some merit on that
17 point.

18 I think the case -- it is the Sleepy Lagoon
19 case -- said that the right to counsel implies the right to
20 communicate.

21 In that case, they reversed where the attorney
22 and client were separated in the courtroom and it was
23 difficult for the defendant to get in touch with the
24 attorney.

25 So, I would think there was merit to that.
26 They should be able to talk to their clients up there.

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1 THE COURT: If you will read Illinois vs. Allen very
2 carefully, you will find that they didn't even have a
3 speaker. We have speakers here, so they can hear everything
4 that is going on.

5 You gentlemen have free access to your clients
6 at any time when they are outside of the courtroom and in the
7 courtroom when the trial is going on. You may, if you deem
8 it necessary, go talk to them.

9 You can certainly see them during every recess
10 and during all adjournments.

11 That goes far beyond Allen vs. Illinois.

12 MR. BUGLIOSI: There is a California case, your Honor,
13 that says that during the proceedings the defendant can
14 communicate with their attorneys. I can get the Court
15 that case.

16 THE COURT: Communicate how?

17 MR. BUGLIOSI: If they want, they can come up and
18 give them a note, or whisper in their ear. It is a
19 California case.

20 THE COURT: While they are out of the courtroom?

21 MR. BUGLIOSI: No.

22 I am saying that in this California case there
23 were 22 defendants, and because there were that many, they
24 were separated from the defense attorneys. The conviction
25 was reversed because it was too difficult during the case
26 to communicate.

1 MR. HUGHES: I think that was Mr. Shibley's case,
2 People vs. Zamora.

3 THE COURT: They have now forfeited their right to be
4 present during the trial.

5 MR. BUGLIOSI: They have forfeited that right but not
6 the right of effective counsel under the Sixth Amendment.

7 THE COURT: That is why they are being provided with
8 speakers, so they can hear everything that is going on,
9 and they will be given free right of access for their
10 attorneys to interview them.

11 MR. HUGHES: So that the record is clear, I do not --
12 would your Honor say this: that if we wanted to, in the
13 middle of the proceedings, we could recess and we could con-
14 fer with our clients?

15 THE COURT: Yes. If you deem it of sufficient
16 importance, I will let you confer with your client at any
17 time.

18 MR. HUGHES: Because at the moment, your Honor, I don't
19 even know where my client is of my own knowledge.

20 THE COURT: That is because you haven't bothered to
21 find out then.

22 I just stated on the record they were upstairs
23 in the jury room, the anteroom.

24 However, I would trust that if counsel would not
25 abuse the privilege of interrupting the trial at any time
26 to go confer with their client, or if you deem it of

1 sufficient importance, you would be permitted to do so.

2 MR. HUGHES: That is why I felt that some sort of
3 telephonic equipment would make it much easier on everyone.

4 MR. FITZGERALD: There is something that I wanted to
5 mention to the Court while I was up here that occurred to
6 me as soon as I went back and sat down. That is, your
7 Honor, that Mr. Murray, who is your bailiff, the Deputy
8 Sheriff assigned to you, is a man that I personally have a
9 great deal of respect for and I like him very much --

10 MR. HUGHES: He is a beautiful person.

11 MR. FITZGERALD: -- he has handled our clients very,
12 very well.

13 Unfortunately, now, I am afraid that he has
14 become somewhat of an adversary.

15 He is the man that had to jump over the counsel
16 table and had to restrain, physically, Mr. Manson.

17 I am only concerned now with his contact with
18 the jury.

19 I wonder if you would consider an order, your
20 Honor. Unfortunately, he is the person that handles the
21 jury every day and sees that they are transported back and
22 forth to the hotel.

23 THE COURT: He is only one of many. They rotate them.
24 There is a schedule of rotation. Some weeks he doesn't have
25 any contact, and when his tour of duty comes up with the
26 jury, he serves that tour of duty, and then he is rotated.

6d-1

1 MR. FITZGERALD: Maybe he can be relieved of that
2 duty. I think it puts him in a terribly compromising
3 position. The least we can say, he might have a
4 tendency to be angry. I certainly hope that he would live
5 up to his oath, and I expect he would, but it may be
6 too much to ask of him now in view of what occurred.

7 THE COURT: I will talk with him and see what his
8 thinking is on the subject.

9 He is extremely aware of his oath and what
10 his duty is, and he has been my bailiff now for three
11 years.

12 MR. FITZGERALD: He is an honorable, ethical man.

13 MR. SHINN: Why don't we give him a medal.

14 THE COURT: I think he just considers this as being
15 in line of duty. I don't think he holds a grudge against
16 anybody. He has had to do it before with other people.

17 MR. FITZGERALD: Does the prosecution intend to call
18 Mr. Murray as a witness in any of these proceedings?

19 MR. BUGLIOSI: No.

20 MR. KANAREK: I join with Mr. Fitzgerald's comment
21 concerning Mr. Murray.

22 I would like to state that I know where Mr.
23 Manson is. He is in the lockup immediately in back of
24 the courtroom. But I join with Mr. Hughes' motion and
25 comments.

26 THE COURT: The motions are denied.

1 We are now going on with the trial. We have
2 wated enough time this morning.

3 MR. KANAREK: I also join with Mr. Bugliosi's
4 comment regarding People vs. Zamora.

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

9 BY MR. BUGLIOSI:

10 Q Sergeant, you recall Linda Kasabian, of
11 course?

12 A Yes, sir.

13 Q Were you present in court during part of her
14 testimony on the witness stand?

15 A Yes, sir.

16 Q Were you present the second day that she
17 testified?

18 A I was, sir.

19 Q Did you make any observations of her and
20 Mr. Manson?

21 A I did, sir.

22 Q Where were you seated in court at the time of
23 the observations?

24 A Directly behind you in the seat nearest the
25 rail.

26 Q Just inside the rail?

1 A Yes, sir.

2 Q Did you see Mr. Manson make any motion in
3 the direction of Mrs. Kasabian?

4 MR. KANAREK: Leading and suggestive, your Honor,
5 and also on the grounds of relevancy and materiality.

6 THE COURT: Overruled.

7 MR. HUGHES: Your Honor, I am concerned that possibly
8 the defendants are not able to hear Mr. Bugliosi since he
9 is not speaking into the microphone.

10 THE COURT: Will you use the microphone, Mr. Bugliosi?

11 MR. BUGLIOSI: Yes, your Honor.

12 Q Do you recall my last question?

13 A Yes, I do.

14 Q Did you see Mr. Manson make any motions?

15 A Yes, sir, I did.

16 Q Towards Mrs. Kasabian?

17 A I did.

18 Q What time of day was it?

19 A It was in the morning session. I don't recall
20 exactly what time.

21 Q Where was Mr. Manson at the time he made the
22 motion?

23 MR. KANAREK: Your Honor, may I further object on
24 the grounds that we made a motion to exclude witnesses.

25 THE COURT: Overruled.

26 You may answer.

6e fls.

THE WITNESS: Mr. Manson was sitting next to the
left of -- where Mr. Kanarek is now.

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1 MR. BUGLIOSI: Q In other words, Mr. Manson was
2 seated at his regular place in the courtroom?

3 A Yes.

4 Q Where was Mrs. Kasabian seated at the time?

5 A On the witness stand.

6 Q Did you observe Mr. Manson look in the direction
7 of Mrs. Kasabian?

8 MR. KANAREK: Calling for a conclusion, your Honor.

9 THE COURT: Overruled.

10 THE WITNESS: I did.

11 MR. BUGLIOSI: Q At the time he looked in her
12 direction, did she appear to be looking in his direction?

13 MR. KANAREK: Calling for a conclusion.

14 THE COURT: Overruled.

15 THE WITNESS: She was.

16 Q BY MR. BUGLIOSI: At the time they appeared to
17 be looking at each other, what, if any, motion did you
18 observe Mr. Manson make?

19 A Mr. Manson took his right index finger from
20 right to left and made a motion across the bottom, or
21 across his chin from right to left.

22 Q Well, I just saw your finger go across your
23 neck.

24 A Left to right. Sorry, sir.

25 Q I am asking you now, was it across the chin or
26 was it across the neck?

1 A At the chin -- the neck.

2 I am sorry, Mr. Bugliosi. It was the neck.

3 Q You are not having any difficulty today now
4 with the chin and the neck?

5 A No, sir. It was the neck.

6 Q Are you absolutely positive it was the neck?

7 A I am positive, sir.

8 Q So, it was with the right index finger, you
9 say, and it was from his left to his right?

10 A Left to right.

11 Q Across his neck?

12 A Yes.

13 Q And he was looking at Mrs. Kasabian when he
14 made the motion?

15 A He was.

16 Q And she was looking at him?

17 A That is correct, sir.

18 Q You have been in court several days during this
19 trial, Sergeant?

20 A I have, sir.

21 Q Did you observe an X on Mr. Manson's forehead?

22 A I did, sir.

23 Q Do you recall the approximate time that you
24 first observed this on Mr. Manson's forehead?

25 MR. KANAREK: Your Honor, if I may, I would object on
26 the ground that -- I gather I have a continuing objection on

1 materiality and relevancy; is that correct, your Honor, as
2 to all this witness' testimony? May I?

3 THE COURT: You have to ask for it.

4 MR. KANAREK: I am asking for it.

5 THE COURT: You have been told to do that about 50
6 times during the course of this trial.

7 MR. KANAREK: I am asking for it, your Honor, yes.

8 THE COURT: All right, you may have it.

9 MR. KANAREK: Thank you.

10 I also object on the ground that the prejudicial
11 value far outweighs the probative value.

12 Also, your Honor, on the grounds of violation
13 of freedom of religion. Seriously. Freedom of religion.

14 THE COURT: You had to add "seriously"?

15 MR. KANAREK: Yes, because I heard someone snicker.

16 THE COURT: Who did you hear snicker?

17 MR. FITZGERALD: I did.

18 THE COURT: It would be a question of relevancy,
19 Mr. Bugliosi.

20 MR. BUGLIOSI: Do you wish to have me approach the
21 bench and discuss the matter?

22 THE COURT: Do you wish to discuss it?

23 MR. BUGLIOSI: Yes.

24
25
26

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

MR. BUGLIOSI: The relevance, again, goes toward domination, specifically of these three girls, not just the Family. Domination of these three girls, your Honor.

The offer of proof is, his testimony will be, that the very next day these three girls also were observed to have X's on their forehead.

They are following, the very next day --
these
specifically/three girls -- this domination over them.

Of course, I am going to ask the jury to infer, during my opening and closing arguments, that he dominated them on these two nights in question; that they were following instructions by him.

MR. KANAREK: There is also the aspect of freedom of speech. I think the defendant not only has a right to freedom of religion, but even though he is a defendant, he has an inherent right to protest procedure, whatever the procedure may be.

THE COURT: Denying him freedom of speech?

MR. KANAREK: It shouldn't be used against him in the trial.

I would say that the first amendment rights are guaranteed even --

THE COURT: Mr. Kanarek, that objection is so

1 frivolous that it is absolutely beyond comprehension.
2 How a responsible attorney in a capital case of this
3 nature can make a statement like that, I am certainly
4 amazed.

5 MR. KANAREK: If I may, your Honor? He can object.
6 It would seem to me that he would have the freedom of
7 speech to object.

8 THE COURT: I don't want to hear any more on that
9 point.

10 MR. BUGLIOSI: The jury has already seen the X's,
11 so we are not bringing in any prejudicial material. They
12 have seen the X's on the four defendants. The only
13 relevance is that Manson did it first and the girls did
14 it second, they did it immediately after Manson, the next
15 day.

16 THE COURT: I think the evidence is relevant for
17 that purpose.

18 MR. BUGLIOSI: That is all I am offering it for.

19 THE COURT: The objections will be overruled.

20 MR. HUGHES: I want it clear that I have joined all
21 of the objections, including relevancy and materiality.

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

26 MR. BUGLIOSI: Q Do you recall the approximate

1 time that you first observed an X on Mr. Manson's forehead?

2 A No, sir, I don't recall the exact date.
3 Several months ago.

4 Q Do you know the approximate date?

5 A No, sir, I don't.

6 Q Do you know what month it was?

7 A I believe it was August, sir. I am not sure.

8 I take it back. September.

9 I am not sure, sir. August or September.

6g fls.

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1 Q August or September, 19--

2 A '70.

3 Q 1970.

4 And you observed Mr. Manson with an X on his
5 forehead here in court; is that correct?

6 A Yes, sir, I did.

7 Q You are familiar with the three female defendants,
8 Susan Atkins, Patricia Krenwinkel, and Leslie Van Houten?

9 A Yes, sir, I am.

10 Q Did you ever observe any X's on their forehead?

11 A Yes.

12 Q When did you observe X's on their forehead with
13 relation to when you observed the X on Mr. Manson?

14 A The following day that they appeared in court.

15 Q Did all three of them have X's on their fore-
16 heads the following day?

17 A Yes.

18 Q So you observed an X on Manson's forehead one
19 day, and the very next day there were X's on all three of
20 the girls' foreheads; is that correct?

21 A That is correct, sir.

22 MR. BUGLIOSI: No further questions at this time,
23 your Honor.

24 THE COURT: Cross-examination?

25 MR. FITZGERALD: Thank you.

26

CROSS-EXAMINATION

1
2 BY MR. FITZGERALD:

3 Q You are sure these girls appeared with X's
4 on their foreheads the very next day?

5 A Yes, sir.

6 Q You are positive?

7 A Yes, sir.

8 MR. FITZGERALD: I have nothing further.

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

10 THE COURT: Mr. Kanarek?

11 MR. KANAREK: No questions, your Honor.

12 Thank you.

13 THE COURT: Mr. Hughes?

14 MR. HUGHES: No questions, your Honor.

15 THE COURT: You may step down, Sergeant.

16 Ladies and gentlemen, we have a matter to be
17 taken up outside of your presence. So, I am going to ask the
18 bailiffs to take you back up to the jury room, and as to
19 the jury we will now recess for the noon hour and we will
20 reconvene at 2:00 p.m. as usual.

21 (Whereupon, the jury leaves the courtroom.)

22 THE COURT: The record will show that the jury has
23 departed from the courtroom.

24 You may continue, Mr. Bugliosi.

25 MR. BUGLIOSI: People recall Sergeant Gutierrez.

26 (Sergeant Gutierrez resumes the stand.)

1 THE COURT: Just a moment.

2 We have a problem, Mr. Bugliosi, because of the
3 fact that the speaker upstairs is immediately adjacent to
4 the room in which the jury is and they may be able to over-
5 hear this testimony.

6 So, I think we will have to hold it up for just
7 a moment until we can check that.

8 (Pause.)

9 THE COURT: It will take a few minutes to arrange
10 matters upstairs. So, I am going to recess at this time
11 until 2:00 p.m.

12 We will resume at 2:00 p.m. this afternoon.

13 (Whereupon, at 2:52 a.m. the court was in
14 recess.)
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