

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

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

COPY

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

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

115

No. A253156

REPORTERS' DAILY TRANSCRIPT
Tuesday, October 6, 1970
A. M. SESSION

APPEARANCES:

For the People:

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

For Deft. Manson:

I. A. KANAREK, Esq.

For Deft. Atkins:

DAYE SHINN, Esq.

For Deft. Van Houten:

[REDACTED]
RONALD HUGHES, Esq.

For Deft. Krenwinkel:

PAUL FITZGERALD, Esq.

VOLUME 115

PAGES 12890 to 12975

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

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I N D E X

PEOPLE'S WITNESSES: DIRECT CROSS REDIRECT RECROSS D

WOLFER, DeWayne A. 12890
(Cont'd)

12905 12901H
 12920W
 12926S
 12931K

E X H I B I T S

DEFENDANTS': FOR IDENTIFICATION IN EVIDENCE

AX - Report dated 9/23/69 12969

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1 LOS ANGELES, CALIFORNIA, TUESDAY, OCTOBER 6, 1970

2 9:50 A.M.

3 ---O---

4 (The following proceedings were had in open
5 court, all counsel being present, the jury and all defendants
6 absent:)

7 THE COURT: All counsel are present. The jury is not
8 present in the courtroom.

9 MR. HUGHES: May I make a motion, your Honor?

10 THE COURT: Have the defendants indicated to their
11 respective counsel their willingness to return to the court-
12 room and conduct themselves in a proper manner?

13 MR. FITZGERALD: They have not, your Honor.

14 MR. HUGHES: My defendant has not indicated either
15 way, your Honor.

16 May I make a motion, your Honor?

17 THE COURT: Mr. Kanarek,

18 MR. KANAREK: No, your Honor.

19 THE COURT: Mr. Shinn.

20 MR. SHINN: No, your Honor, no change at all.

21 THE COURT: All right, you may make your motion,
22 Mr. Hughes.

23 MR. HUGHES: I would move, your Honor, that inasmuch as
24 defendant Van Houten is outside of the courtroom, that the
25 testimony of witnesses be supplied to her not only by
26 speaker, but also by closed vide or television circuit so

1 that she can see the expression on the witness' face, on all
2 witnesses.

3 THE COURT: The motion will be denied. You have a
4 daily transcript, of course, which you can show to the
5 defendant whenever you care to do so.

6 She is in close proximity to a speaker so she
7 is able to hear everything that is going on. Those speakers
8 have been checked this morning and they will be checked daily
9 to see if they are in operation.

10 Anything further?

11 MR. HUGHES: I have another motion, your Honor, that
12 there be a closed communication system set up between the
13 Defendant Van Houten and myself so that counsel and defendant
14 may communicate during the proceedings, those portions which
15 she is out of the courtroom.

16 THE COURT: The motion will be denied.

17 Anything further, gentlemen, before we start?

18 MR. SHINN: I have a motion, your Honor.

19 MR. HUGHES: I have one more statement:

20 That is, I don't want to belabor this point,
21 but I feel it is my duty to make it every day.

22 I am not waiving defendant Van Houten's presence.

23 THE COURT: Let's not waste time, Mr. Hughes, you made
24 this statement many times. You don't have to make it again.
25 The record is fully protected.

26 MR. HUGHES: Will it be deemed I have a continuing

objection to her not being present?

THE COURT: It will be.

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2 1 MR. KANAREK: I have a motion to make, your Honor.

2 THE COURT: All right. Proceed.

3 MR. KANAREK: Very brief.

4 It is a motion that your Honor strike and
5 admonish the jury not to consider the testimony by
6 Mr. Gutierrez concerning the cross, the X, on Mr. Manson's
7 head and the alleged three X's on the girls' heads, on the
8 basis that it is remote from the time of the alleged
9 conspiracy.

10 In other words, what relationship there may or
11 may not be at the time of trial, a year and maybe, well,
12 approximately a year later, after these events, is so remote
13 that the relevancy or materiality just doesn't exist, and it
14 has only prejudicial value.

15 Even assuming arguendo that Mr. Bugliosi has any-
16 thing to talk about, it has only relevancy and materiality
17 at or about the time of the events; and to bring this in,
18 whatever these relationships may be, the pressures of trial
19 and all of that, I think, your Honor, that it just doesn't
20 prove anything.

21 You put on evidence to prove the case. This
22 doesn't prove anything, even in connection with the
23 prosecution's theory, and I believe that it is just sheer
24 prejudice. It has no evidentiary value that we look for in
25 a court of law, and I ask your Honor to strike it.

26 THE COURT: The motion will be denied.

1 Anything further?

2 MR. SHINN: Yes, your Honor. I would like to make a
3 motion for a continuance on behalf of Susan Atkins, your
4 Honor, until the time that she decides to come to court,
5 your Honor.

6 THE COURT: The motion will be denied.

7 Anything further?

8 MR. HUGHES: I would join the motion, Mr. Shinn's
9 motion, on behalf of defendant Van Houten; and I would also
10 like to join Mr. Kanarek's motion.

11 THE COURT: The motions are denied.

12 MR. KANAREK: May the record show that I join in
13 Mr. Shinn's motion also?

14 THE COURT: Let's proceed, Mr. Bugliosi.

15 MR. BUGLIOSI: I have no further questions of
16 Mr. Wolfer, your Honor.

17 THE COURT: Anything further?

18 MR. KANAREK: Yes, your Honor.

19 THE COURT: Just a moment, sir. You have completed
20 your cross-examination.

21 MR. KANAREK: Yes, sir, that is correct. That was
22 before we got these.

23 Q Before you received what?

24 MR. KANAREK: Before we received what we received
25 today as to the purported original test.

26 THE COURT: All right. You can examine on that only.

1 MR. KANAREK: May I have a half a minute, your Honor?

2 THE COURT: Haven't you read them?

3 MR. KANAREK: We got these a few minutes ago, your
4 Honor.

5 THE COURT: All right.

6 MR. FITZGERALD: If the Court please, I have a witness
7 here outside in the hallway. He is under subpoena. He has
8 been a very reluctant witness.

9 I would like to bring him into the courtroom
10 and have him ordered to return, your Honor, in approximately
11 two weeks.

12 THE COURT: Very well.

13 (A gentleman enters the courtroom and comes
14 within the railing.)

15 MR. FITZGERALD: Your Honor, this is the witness
16 under subpoena for the defense, one Emmett Steele.

17 I just had a conversation with Mr. Bugliosi
18 and he anticipates that the prosecution's presentation of
19 their case in chief is likely to take another three weeks.

20 I would therefore ask that this witness be
21 ordered to return without further notice or subpoena on
22 Friday, November the 13th.

23 THE COURT: Mr. Steele, is that your name, sir?

24 MR. STEELE: Yes, sir.

25 THE COURT: You are ordered to return to this court-
26 room at 9:45.

1 What was the date you suggested?

2 MR. FITZGERALD: I suggested the date of Friday,
3 November the 13th, your Honor.

4 THE COURT: You are ordered to return to this court-
5 room on November the 13th at 9:45 a.m.

6 MR. STEELE: Your Honor, could I talk with you in
7 chambers or something?

8 THE COURT: No, you may not.

9 MR. STEELE: My attorney is not here yet. I am a
10 hostile witness.

11 THE COURT: I am sorry, sir.

12 I am not interested in whether you are hostile
13 or friendly. You have been served with a subpoena. You
14 are now being ordered to return to this court on that date.

15 You will have to discuss this matter with
16 Mr. Fitzgerald if you want to change the date.

17 All right, gentlemen. Let's proceed.
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1 THE COURT: Are you ready to proceed, Mr. Kanarek?

2 MR. KANAREK: Yes, your Honor.

3 THE COURT: The only issue before the Court now is
4 the question whether or not the People willfully failed to
5 make discovery, so limit your examination to that issue.

6 MR. KANAREK: Yes, your Honor.

7
8 DE WAYNE A. WOLFER,
9 having been previously duly sworn, resumed the stand and
10 testified further as follows:

11
12 VOIR DIRE EXAMINATION

13 BY MR. KANAREK:

14 Q Mr. Wolfer, while you were on vacation -- let's
15 see, what was your vacation in 1969?

16 A Counsel, I don't recall what my vacation was.

17 Q Well, you say you came back on August 18th?

18 A Well, I came back -- I would not have come back
19 on August the 18th.

20 I don't even know if it was a Monday, but I
21 came back shortly before August 18th.

22 Q Was that your normal time for coming back from
23 your vacation?

24 A Shortly before that? Yes.

25 Q And how long had you been on vacation?

26 A Well, I would estimate -- I don't recall now,

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1 I would estimate a month.

2 Q All right. Now, were you contacted at or about
3 August the 9th or 8th in that period of time, were you
4 contacted by the Los Angeles Police Department?

5 A Counsel, I cannot tell you. I don't know.
6 It's long gone. I just don't know.

7 Q In other words, you don't remember whether you
8 were contacted on your vacation concerning the taking of
9 these tests or not, is that a fair statement?

10 A That's correct, yes.

11 Q And at the time -- and who was the person in
12 the Los Angeles Police Department that asked you -- that
13 asked you to make these tests?

14 A Well, again the time is past, I don't recall
15 it.

16 My captain would be the person that I would
17 respond to, yes, it would be Captain Martin.

18 Q And would you tell us what was your state of
19 mind as to why you were making these tests? What was the
20 purpose of these tests?

21 A Counsel, I really don't know.

22 I was asked to go out and do many things, and
23 this was just one.

24 I really don't know why I made the tests other
25 than the fact that supposedly Mr. Garretson, who lived in
26 the back house, supposedly heard things, I guess.

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I mean, I read this in the newspaper.

MR. BUGLIOSI: Motion to strike that on the grounds of hearsay; also it is conclusionary.

THE COURT: The answer is stricken.

BY MR. KANAREK:

Q Are you telling us, Officer, that as far as you know the only reason, or your reason for taking this test, as far as you know, is something that you read in the newspapers?

A No, Counsel, I did not mean that.

I meant that at the time I took the test it was my belief, today -- that there was a reason, that Mr. Garretson had heard something in the back room, and they wanted to find out if he had or had not heard the noise.

MR. BUGLIOSI: Move to strike on the grounds of hearsay.

MR. KANAREK: This goes to intent, your Honor.

THE COURT: The answer will be stricken, let's get on with it, Mr. Kanarek.

All we are concerned with is, was there a willful failure to make discovery.

I don't want to hear anything further on that. Ask the next question, stay on the point.

MR. KANAREK: I submit it is on the point.

THE COURT: You have not asked the question yet.

MR. KANAREK: I'm asking the reason the test was

1 taken.

2 THE COURT: It is immaterial.

3 MR. KANAREK: It is, your Honor --

4 THE COURT: The objection is sustained. Ask your
5 next question.

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3a 1 Q BY MR. KANARE: Well, then, Officer, you don't
2 know of your own knowledge as to whether or not there were
3 any other tests taken, do you, prior to that?

4 A That's correct.

5 Q And is it a fair statement that the reason for
6 taking these tests, your state of mind, your purpose
7 involved Mr. Garretson.

8 A Well, my state of mind was that I was ordered
9 out to do a job, and I did the job.

10 Q What was the job you were ordered to do?

11 A To find out if weapons fired in the three
12 positions could be heard in the rear house, in and around
13 the vicinity of the hi-fi set.

14 Q That was your purpose, right?

15 A Yes.

16 MR. KANAREK: Thank you, Officer.

17
18 CROSS-EXAMINATION

19 BY MR. HUGHES:

20 Q Officer, what other tests, or what other jobs
21 were assigned to you in regard to the date --

22 THE COURT: Just a moment, Mr. Hughes.

23 MR. BUGLIOSI: This is not coming in against your
24 client, right?

25 THE COURT: Wasn't there a stipulation?

26 MR. HUGHES: That's right, excuse me, your Honor, I

1 will withdraw the question.

2 THE COURT: Do you have anything further, Mr. Shinn,
3 or Mr. Fitzgerald?

4 MR. SHINN: Nothing further, your Honor.

5 MR. FITZGERALD: Nothing further.

6 THE COURT: Anything further, Mr. Bugliosi?

7 MR. BUGLIOSI: No.

8 THE COURT: You may step down.

9 MR. HUGHES: Your Honor, I have present in the court-
10 room this morning --

11 THE COURT: Just a moment, sir, we are going to
12 continue with this proceeding now.

13 Anything further, Mr. Bugliosi, on this question?

14 MR. BUGLIOSI: No, your Honor.

15 THE COURT: All right.

16 MR. FITZGERALD: Nothing further, your Honor.

17 THE COURT: Both sides rest?

18 (All counsel indicate in the affirmative.)

19 THE COURT: Do you wish to argue?

20 MR. BUGLIOSI: Just one statement, your Honor, there is
21 absolutely no evidence that there has been any suppression by
22 the Los Angeles Police Department of this report.

23 It was lost; then it was found. This is common,
24 and there is no evidence of suppression.

25 I will submit the matter.

26 MR. FITZGERALD: I think they failed to meet their

1 burden. They introduced only a hearsay statement of
2 DeWayne Wolfer that his captain, and presumably some people
3 under his control, lost the statements.

4 We don't have any prima facie evidence that the
5 statements were in fact lost.

6 I think the state of the evidence is equivocal.

7 THE COURT: Anything further?

8 MR. FITZGERALD: Nothing further.

9 MR. KANAREK: Yes, your Honor, I do have a couple of
10 points.

11 I join with Mr. Fitzgerald in his comment.

12 I would also like to point out to the Court that
13 as far as this evidence reveals, it is clear that
14 Mr. Garretson was released prior to the time that Mr. Wolfer
15 made the tests.

16 He will be released -- because he did not hear
17 the shots -- this is one of the factors of releasing him,
18 so we can assume that some tests were made prior to the
19 time that Mr. Wolfer made his test, because otherwise why
20 would the Los Angeles Police Department release the prime
21 suspect in the crime of the century, as Mr. Bugliosi has
22 told us?

23 MR. BUGLIOSI: I never said that, Kanarek!

24 THE COURT: There is no evidence before the Court of
25 any wilful failure to make discovery on the part of the
26 People.

1 The motion to suppress the evidence will be
2 denied.

3 Is there any reason why we should not bring the
4 jury in at this time?

5 MR. BUGLIOSI: No, your Honor.

6 THE COURT: Bring in the jury.

7 MR. HUGHES: Your Honor, I have in the courtroom this
8 morning Mr. George Potash, who has agreed to act as my
9 investigator. He is an attorney, and I would ask that he be
10 allowed to sit up here at the counsel table with me.

11 THE COURT: I don't think there's room at counsel
12 table. He may sit inside the bar so long as the defendants
13 are out of the courtroom. When they return he will have to
14 sit out in the courtroom behind the bar.

15 There are now seven persons seated at counsel
16 table and I think that is enough.

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1 (The following proceedings were had in open
2 court. All counsel and jurors present. Defendants
3 absent.)

4 THE COURT: All counsel and jurors are present.

5 You may proceed.

6 MR. BUGLIOSI: People call DeWayne Wolfer.

7
8 DE WAYNE A. WOLFER,
9 having been previously duly sworn, resumed the stand and
10 testified further as follows:

11
12 DIRECT EXAMINATION

13 BY MR. BUGLIOSI:

14 Q Yes, Officer.

15 Going back again now.

16 On August the 18th, 1969, you proceeded to
17 the Tate residence at 10050 Cielo Drive in Los Angeles;
18 is that correct?

19 A That is correct.

20 Q And you went there with an Officer Butler?

21 A That is correct.

22 Q And he is also a member of the same unit at
23 the LAPD, the Scientific Investigation Division?

24 A That is correct.

25 Q And what was the purpose of your going to that
26 address at that date?

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1 A The purpose of my going to the address was to
2 conduct sound tests to determine if a person firing a
3 weapon could be heard in the back or rear portion of that
4 residence.

5 In other words, there are two houses on that
6 location, and I was going to the back house and around
7 the Hi-Fi and conduct some tests by firing the .22 in
8 three positions in the outer house.

9 Q You took a revolver with you, of course?

10 A Yes.

11 Q What type of a revolver did you take?

12 A I took a High Standard revolver with us. It
13 had a nine and a half-inch barrel, and we used Remington
14 golden .22 Long-Rifle bullets.

15 Q Are you sure you took a High Standard?

16 You took a Colt, didn't you?

17 A I am sorry.

18 MR. KANAREK: That is leading and suggestive, your
19 Honor.

20 THE COURT: Overruled.

21 BY MR. BUGLIOSI:

22 Q You took a Colt revolver with you?

23 A I am sorry, that is correct. We took a Colt,
24 nine and a half-inch revolver, and Remington golden bullets.

25 Q You say a nine and half-inch revolver? Are
26 you referring to the length of the barrel when you say

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1 nine and a half inches?

2 A Yes.

3 Q And this was a .22 caliber revolver?

4 A Yes.

5 Q I show you People's 40 for identification.
6 What type of a revolver is that?

7 A This is a High Standard .22 caliber Long-Rifle
8 revolver with a nine and a half-inch barrel.

9 Q Have you measured to determine whether it is
10 nine and a half inches?

11 A I did some time ago.

12 Q And you think it is nine and a half inches?

13 A I am sure.

14 Q In any event, it is a long barrel; is that
15 correct?

16 A Yes.

17 Q And the Colt revolver that you took to the
18 Tate residence on August the 18th, you say, had a barrel
19 of nine and a half inches?

20 A That is correct.

21 Q But it was not a High Standard Revolver?

22 A No. It was a Colt revolver.

23 Q And you fired -- did you fire the Colt or did
24 Butler fire it?

25 A Officer Butler fired the Colt revolver on
26 my commands.

4a fls. 26

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1 Q What type of cartridges did Butler fire in the
2 .22 Colt revolver?

3 A I gave Officer Butler Remington .22 caliber
4 golden bullets made by Remington.

5 Q You gave him bullets or cartridges?

6 A Live rounds of ammunition.

7 Q A bullet is part of the cartridge?

8 A That is correct.

9 Q I have removed seven shell casings, Officer,
10 and two cartridges from an envelope that is marked People's
11 249 for identification, and I direct your attention to two
12 unspent cartridges.

13 What type of cartridges are those?

14 A These are Remington golden .22 caliber long
15 rifle bullets.

16 Q Are these the same type, then, of cartridges
17 that Butler fired in the Colt revolver on August the 18th,
18 1969?

19 A That is correct.

20 Q Now, from your background and training in the field
21 of firearms, if one were to fire this High Standard revolver
22 I have in front of you right now, would it have the same
23 or approximately the same sound as when one would fire a
24 Colt .22 revolver, the type that --

25 MR. KANAREK: Improper foundation, your Honor. Calling
26 for expertise in the field of acoustics that this witness has

1 not shown in the record. Hearsay. Conclusion.

2 THE COURT: Sustained.

3 MR. BUGLIOSI: Q Does your background and
4 training in the field of firearms include the report or
5 intensity of a revolver or firearm when it is fired?

6 A It does.

7 Q Tell the Judge and the jury what training you
8 have had in that regard.

9 A I have, for the last 20 years, off and on,
10 testified in Federal Court involving sound tests conducted
11 with revolvers where I have made a series of tests with all
12 different length barrels involved while I recorded on
13 sound level meters the change in reports or sound levels.

14 I have continually researched the problem,
15 testified as an expert in Federal Courts, Superior Courts
16 in this State as well as other states, involving sound
17 levels produced by revolvers similar to the one in front of
18 me.

19 Q Similar to the one in front of you? You mean
20 this High Standard .22 caliber revolver, People's 40?

21 A Yes. It would be High Standard revolvers,
22 Colt revolvers, as well as many others.

23 Q I am going to ask you that question again.

24 If one were to fire a revolver like this, this
25 .22 caliber High Standard revolver, would it have
26 approximately the same sound as firing the .22 Colt revolver

1 that Butler fired on August 18th.

2 MR. KANAREK: Improper foundation.

3 May I inquire on voir dire, your Honor?

4 THE COURT: No. The motion is denied.

5 The objection is sustained.

6 Under what conditions, Mr. Bugliosi? The same.
7 conditions?

8 MR. BUGLIOSI: The same conditions.

9 THE COURT: Different conditions?

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1 BY MR. BUGLIOSI:

2 Q Under the same conditions, would it have approxi-
3 mately the same sound?

4 A Yes, it would.

5 MR. KANAREK: Your Honor, I don't wish to interrupt,
6 your Honor, but --

7 THE COURT: If you have an objection, Mr. Kanarek,
8 state it.

9 MR. KANAREK: Yes.

10 On the basis, your Honor, when you say "The
11 same conditions," it is ambiguous.

12 You have to lay the foundation as to what are
13 the same conditions, your Honor. We don't even know -- we
14 are not communicating. It could be the same time of day.
15 There has to be something shown as to what the conditions
16 are.

17 THE COURT: The objection is overruled.

18 BY MR. BUGLIOSI:

19 Q So, if this .22 caliber revolver here, this
20 High Standard, were fired under the same conditions as the
21 .22 Colt revolver that Butler fired on August the 18th,
22 1969, you say the report would be approximately the same?

23 A That is correct.

24 Q The same sound intensity?

25 A That is correct.

26 Q About what time of day was it that you conducted

4b-2

1 these experiments?

2 A Approximately 12:00 noon.

3 Q And did you bring any instruments or devices
4 out there with you?

5 A I did, yes.

6 Q What did you bring out there with you?

7 A I brought a General Sound Level meter with me.

8 Q A sound level meter with you?

9 A The brand name is General Sound Level meter.

10 Q Would you explain the function of this instru-
11 ment?

12 A Yes.

13 The instrument is designed to measure sound
14 pressures in decibels of sound. It runs from zero decibels
15 up to 140 decibels level.

16 Q What do you mean by the word decibels?

17 A Well, decibels, it is a measurement of sound.
18 More specifically, it is the amount of sound lost in the
19 transmission of a one-mile cable of 860 cycles. But it
20 is actually, a decibel is a level of sound measurement.

21 MR. BUGLIOSI: Would you step down off the witness
22 stand, Officer, and approach the diagram over here,
23 People's 8 for identification.

24 (The witness leaves the stand and approaches
25 the board, People's 8 for identification.)

26 MR. KANAREK: Your Honor, may I have a continuing

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1 objection on the basis of lack of foundation as to the
2 expertise in this field of this witness, your Honor?

3 THE COURT: Very well.

4 MR. KANAREK: Thank you.

5 BY MR. BUGLIOSI:

6 Q Please relate to the Judge and the jury the
7 experiment you conducted; where you were, where Butler
8 was; how many shots were fired, and how the report came
9 out on this sound level instrument that you have referred
10 to.

11 A Yes.

12 The first series of tests were conducted with
13 the instructions that Officer Butler would fire one round
14 of ammunition on each of my commands.

15 We had communications by radio.

16 Officer Butler was first stationed at a position
17 on the map here that I am now pointing to on People's No.
18 8.

4c fls. 18

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1 Q. Which says, "Parent's two-door Rambler"?

2 A. That is correct.

3 It is the portion marked in this square which
4 says, "Parent's two-door Rambler."

5 It would be that position in the driveway of
6 the residence at 10050 Cielo Drive.

7 Officer Butler was stationed here, while I was
8 stationed in the rear house in an area or position marked
9 "living room" in the rear house, where there is an X for a
10 couch and an X for a stereo.

11 I was approximately between these two X's,
12 at the point I am now pointing to here on People's Exhibit 8.

13 Q. You say a stereo in the living room of the
14 guest house, and also a couch; is that correct?

15 A. Yes.

16 Q. And you were between the couch and the stereo?

17 A. Yes.

18 I was closer to the stereo than I was the couch.
19 In this particular position.

20 I asked Officer Butler to fire the round of
21 ammunition, at which time I listened audibly with my ears to
22 see if I could hear the sound, and I watched the meter for
23 a recording.

24 I could hear the firing of the weapon at this
25 point with the stereo turned off, and I noticed a meter
26 reading of decibels which changed from 31 to 32-1/2 decibels.

1 I could hear it as well as see the meter
2 readings at this particular point.

3 I then turned on the hi-fi set, or the stereo as
4 it is marked here.

5 Q Were there increments of sound volume on that
6 set?

7 A Yes, there were.

8 Q How many were there?

9 A I don't recall the top number, but we checked
10 increments of four and five. I know there was one, two,
11 three, four and five.

12 I checked the positions four and five.

13 At the position five I made a recording or
14 recorded on my decibel level a background of 78 decibels,
15 at which point I had Officer Butler fire a round of
16 ammunition.

17 Now, I might say that I fired five consecutive
18 rounds with it off and five rounds with it on, to get an
19 average reading.

5*

5-1

1 Then I fired five consecutive rounds with the
2 stereo set at 5. I took a reading prior to that at 4.
3 At this position of 5 I could hear no sound of the report
4 of the weapon being fired, nor could I find any indication
5 on the meter in the way of decibel level readings to indi-
6 cate that there were sounds that I could not hear.

7 Q Now, you turned this stereo off, right?

8 A That's right.

9 Q You turned the volume up to 5?

10 A Yes.

11 Q You turned the volume control up to 5 on the
12 stereo, is that correct?

13 A That's correct.

14 Q You had Butler fire five rounds from the
15 vicinity of the vehicle marked here "Parent two-door
16 Rambler," is that correct?

17 A Yes. Now, the five rounds were not consecutive;
18 there were intervals of time between them, so my meter and
19 everything would recycle.

20 Q The stereo was playing then?

21 A Yes.

22 Q And you say you could not hear these five
23 rounds of ammunition being fired?

24 A I could not either hear or see any deflection
25 of the needle.

26 Q Would you explain that now?

5-2

1 A Yes, I could not hear it myself, and looking
2 at the meter on the decibel level meter, I noticed no
3 change in the reading, meaning that the instrument itself
4 was receiving no sounds from this distance over the sound
5 of the Hi-Fi.

6 Q All right, you may continue.

7 A I then conducted the same or a similar series
8 of steps from the living room, and it was in a position on
9 People's No. 8 --

10 Q This area here is marked off living room.

11 A -- in the position of the living room close
12 to that of where the trunks were, where Mr. Butler was
13 stationed by me for this series of tests.

14 Q You see the word "Trunks" here on this dia-
15 gram?

16 A Yes, I would say it would be close to that
17 position marked "Trunks".

18 I then returned to the living room and con-
19 ducted again five shots after that, with the stereo on
20 and with the stereo off.

21 With the stereo off I noticed that I could
22 hear myself, and these shots being fired in the living
23 room, with the stereo set at 5 -- I'm sorry, with the
24 stereo off I noticed also the decibel meter levels from
25 31 decibels, it increased to that of 39. It was stronger
26 than were the readings previous.

1 With the stereo on I was unable again to
2 receive any sound either of my decibel meter or by my
3 own hearing.

4 Q Again at 5?

5 A Yes, set at 5.

6 Q The stereo was at 5?

7 A Right, and this would be basically sound,
8 because I had a background noise with the stereo on of 78,
9 and I was only receiving decibel levels of 39, so I would
10 not expect it.

11 I then went through the same or a like series
12 of tests with Officer Butler stationed just off of the
13 front porch steps, and that would be, well, it would be
14 closely related to the marks off on the steps here where it
15 says "Shoe or heel prints," there is a series of X's.

16 Q Near the front door of the Tate residence, in
17 other words?

18 A Yes, it was near the front porch steps there.

19 Q Butler was outside of the residence at this
20 point?

21 A That's correct, I again had him fire a like
22 series of the shots, five with the stereo on and five with
23 the stereo off.

24 With the stereo off I could both hear and
25 notice the levels on the decimeter change, 31 to 42 decibels,
26 with the background, with the stereo on again I could not

1 hear nor did I notice any deflection of the decibel meter,
2 when Officer Butler fired these shots.

3 Q When he fired the shots outside of the resi-
4 dence was the stereo again at 5?

5 A Yes.

6 Q Was it ever placed at 4?

7 A Yes, when I went to the scene I again checked
8 the stereo levels at 4. We would have had basic readings of
9 60 plus, which would mean, to reconfirm it, even set at 4
10 it would make no differences in hearing back here, because
11 with a decibel level of 60 background, with the stereo on,
12 and a maximum sound of any of the three positions by
13 decibel readings being that of 42, and 42 to 60 would be
14 sufficient to mask out any sound prior to that.

15 I also checked three, which I recall the
16 decibel levels were in the 45's, which would be getting
17 close to an area where you might or might not hear.

18 Q The decibel level of the stereo system you are
19 talking about?

20 A Yes.

21 MR. BUGLIOSI: Thank you, Officer.

22 (The witness resumes his seat at the witness
23 table.)
24
25
26

5a fls.

a-1

1 MR. BUGLIOSI: No further questions, your Honor.

2 THE COURT: Mr. Fitzgerald,

3 CROSS-EXAMINATION

4 BY MR. FITZGERALD:

5 Q Why, Officer Wolfer, did you take a pistol to
6 the location with a 9-1/2 inch barrel as opposed to some
7 other length?

8 A It was the fact that a pair of grips had been
9 found at the scene in the way of physical evidence that
10 belonged to a High Standard longhorn model.

11 Q And has a similar barrel length, is that right?

12 A That's correct.

13 Q So the Los Angeles Police Department, or at
14 least you, knew that, or assumed that a High Standard pistol
15 was used in the perpetration of these offenses, is that
16 correct?

17 A Yes, that's correct.

18 Q And you knew that in August?

19 A That's correct.

20 Q Now, I take it you were not at this Cielo Avenue
21 address on the evening of August 8th or the early morning
22 hours of August the 9th?

23 A No, I was not.

24 Q Do you know the temperature at 11:00 p.m. on
25 August 8th, at 10050 Cielo Drive?
26

1 A No, I do not.

2 Q Do you know the wind velocity at that location
3 at that time?

4 A No, I do not.

5 Q Do you know whether the door, any of the five
6 doors to the rear house at the Cielo Avenue address was
7 open on the evening of August 8th, 1969?

8 A I do not.

9 Q Do you know what windows, if any, were open on
10 the evening of August the 8th, 1969?

11 A No, I do not.

12 Q That would influence, would it not, whether or
13 not sounds could be heard in the back house that occurred in
14 the vicinity of the main house?

15 A It would.

16 Q And of course your test assumes, does it not,
17 that Mr. Garretson was in fact inside this house at the time
18 he allegedly heard or did not hear these sounds?

19 A Counsel, I don't understand the question.

20 My test -- I was ordered to the positions, and
21 that is where I conducted the test.

22 I did not assume anything of Mr. Garretson or
23 anything of that nature.

24 Q I take it, then, that you did take tests whether
25 or not -- to determine whether or not somebody standing out-
26 side the front door of the rear house, the caretaker's house,

1 could hear shots fired at the Parent automobile?

2 A No, I did not take any test standing at the rear
3 house outside, no.

4 Q You only took the tests standing inside next
5 to the stereo?

6 A That's correct.

7 Q And the stereo was set at 5, was it not?

8 A I had the stereo set, I told you, in my previous
9 testimony, at 3, 4 and 5.

10 Q You set that stereo at 3 and conducted some
11 tests?

12 A No, I took readings on my decibel level meter
13 at 3, at 4 and at 5, yes.

14 Q Are you sure?

15 A I am positive.

16 Q You are a man with an obvious scientific
17 orientation, are you not?

18 A I would say yes.

19 Q And I take it that when the stereo was set at
20 3 you wrote down the reading on your decibel meter, correct?

21 A No, I did not.

22 Q Was there some reason for that?

23 A Yes.

24 Q What was the reason?

25 A My major reason was I was sent there to conduct
26 tests at the setting of 5.

1 Q And you did not record the decibel level when
2 the stereo was set at 4 either, did you?

3 A Mentally, yes, but recording it physically, no.

4 Q You are depending on your memory today when you
5 testified as to the decibel level when the stereo was set
6 at 4 and 3?

7 A Yes.

8 Q You have a pretty good memory?

9 A I don't say I have a good nor a bad memory. I
10 have an average memory.

11 Q What was on the stereo -- what was playing on the
12 stereo when you were conducting the examination?

13 A I would have no idea.

14 Q That would influence your test, would it not?

15 A My tests were taken over an average of sound
16 tones that were emitted throughout the entire test.

17 Q How long did the test last?

18 A I would say the entire test lasted for, oh, a
19 good hour.

20 Q Were you playing records? Were you playing tapes?
21 Or were you listening to FM-AM through the stereo, or what?

22 A As I recall we were listening to FM -- or there
23 was a stereo record on. We did play the stereo record, too.

24 Q Was it any different?

25 A Basically, no, it wasn't.

26 Q Do you remember what the stereo record was that

1 you played?

2 A No, I don't recall that I do.

3 Q I take it you are an expert --

4 A May I finish?

5 Q I'm sorry.

6 A I did not know what the record was by name then.

7 I never looked at the name of the record. It was on the
8 turntable when we arrived.

9 Q Did you attempt to ascertain from your superiors,
10 or whoever directed you to conduct the examination, what was
11 playing on the hi-fi or the stereo on the evening of
12 August 8th, or the early morning hours of August 9th?

13 A I did.

14 Q Were you able to find out?

15 A To my knowledge they said they were playing a
16 series of records in the evening of --

5b

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5b-1

1 Q Now, the level of sound emitted from a stereo
2 system is likely to vary, depending upon whether records
3 are played, tapes are played, or whether an AM or an FM
4 signal is being transmitted, isn't that correct?

5 A That's correct.

6 Q Yet on this particular stereo set you did not
7 notice any changes in your decibel readings, is that
8 correct?

9 A I was given -- I had the decibel meter set at
10 a slow reaction, to take an average reading throughout the
11 entire playing of the particular records.

12 Q When you use the term average, are you referring
13 to an arithmetical mean?

14 A I would say that is correct, yes.

15 Q Did you take a reading with the stereo record
16 on?

17 A Yes.

18 Q What was the reading?

19 A I said it was 78.

20 Q What was it with AM radio?

21 A I don't recall -- but it was close to 78.

22 Q What was it on FM radio?

23 A I don't recall it. I was talking about FM.
24 I was not playing AM, I'm sorry, the last answer was to
25 FM radio, not to AM radio. I did not take a reading on
26 AM radio.

5b-2

1 Q Do you remember what kind of a stereo unit
2 this was?

3 A No, I do not.

4 Q A number of 3 or a number of 4 or a number of 5
5 setting is going to vary from manufacturer to manufacturer,
6 is it not?

7 A It is highly possible, yes.

8 MR. FITZGERALD: I have nothing further, thank you.

9 THE COURT: Any questions, Mr. Shinn?

10 MR. SHINN: Yes, your Honor.

11
12 CROSS-EXAMINATION

13 BY MR. SHINN:

14 Q Officer, you talked about this radio sound
15 level meter?

16 A Yes.

17 Q What kind of a meter is this?

18 A It is the brand name of the General Sound Level
19 meter.

20 Q Is it a type of apparatus which records sound?

21 A Yes, it is made to record sound, yes.

22 Q And what is it, a very, very sensitive instru-
23 ment?

24 A Yes.

25 Q And it records very, very quiet sounds, too?

26 A Well, yes.

1 Q In other words, minute sounds?

2 A That is -- the sensitivity of the meter is
3 intended to do this, yes.

4 Q And how is this meter -- how does this meter
5 receive these sounds?

6 A By a speaker.

7 Q By a speaker?

8 A A microphone that is on the instrument, it
9 raises up, it activates the instrument, and through the
10 microphone is recorded the sound levels.

11 Q And whether -- atmosphere would have something
12 to do with this instrument, would it not? It would affect
13 it to a certain extent?

14 A Well, I would not expect atmosphere to affect
15 the meter, no.

16 The meter is a very stabilized meter.

17 Q But the atmosphere -- say you have a thick
18 atmosphere, like fog, and compare it to an atmosphere which
19 is a clear day, it would affect the receiving of the sound,
20 would it not?

21 A That is correct, yes, but it would not affect
22 the meter.

23 The sound transmitting from one point to another
24 because of fog, it would affect it, yes.

25 Q And to get an accurate sound reading from this
26 instrument, would you say that to get a more accurate

1 reading that if you wanted to get a reading of a certain
2 day that you should, say, take the reading at the same
3 time, approximately the same time, would that help?

4 A Counsel, there would be absolutely no way to
5 get an absolute reading of what it was at one time, because
6 of a number of variables.

7 You can only try to accomplish it to the best
8 of your ability.

9 In other words, you may never be able to
10 duplicate sound from one minute to the next.

11 Q My question was, Officer, that the closer to
12 the time of the original sound that you are trying to get
13 would make the reading more close, would it not?

14 A Not necessarily.

15 Q But it would to a certain degree?

16 A Not necessarily, Counsel, because if I went
17 back the next day at the same time and I had a fog barrier,
18 or something counsel just referred to, a ceiling level
19 there, I might have an entirely different reading than
20 the previous night at the same time.

21 Q Everything else being equal, if you took a
22 reading in the afternoon or, say, 12:00 o'clock at night,
23 it would vary, would it not, by this machine?

24 A Not necessarily. That depends on the elements
25 and many factors.

26 Q I said everything else being equal except the

1 weather?

2 A Well, that is what I am talking about.

3 If there is one factor that is not equal, and
4 with the exception of the weather --

5 Q Assume you took a reading, say, 12:00 o'clock at
6 night.

7 A All right.

8 Q And then you took a reading 1:00 o'clock in the
9 afternoon?

10 A All right.

11 Q It would vary, would it not, to a certain
12 degree?

13 A Not necessarily. It could.

14 Q The weather could vary?

15 A If you are asking about the weather varying,
16 it could or it could not; I don't know from the standpoint
17 of humidity, I would expect more in the night hours than
18 in the light hours, yet it could be I might have a barrier
19 in the afternoon and not in the evening.

20 These are all factors, I could not say.

21 Q And you stated that when you were in the back
22 house you were near the Hi-Fi, correct?

23 A Yes.

24
25
26
5c fls.

5c-1

1 Q And how close to the hi-fi were you when the
2 shots were fired?

3 A Well, I would estimate here today about six
4 feet from the hi-fi.

5 Q Six feet from the hi-fi?

6 A Six to ten feet, yes.

7 Q Say you stood 10 feet or close to a window.

8 A No, I said close to the couch as I indicated over
9 there.

10 Q My question is if you stood, say, in the window,
11 the door, you would be able to maybe hear different sounds
12 then, would you not, it is possible?

13 A Well, yes, if I went to an open window I
14 would expect to hear certain sounds. However, the back door
15 of the building was open.

16 Q In other words, Officer, the closer you get to
17 the hi-fi, the less you could hear and the further away you
18 get from the hi-fi the more you could hear.

19 A That's correct.

20 Q Is that correct?

21 A That's correct.

22 Of course, that is with the hi-fi on.

23 Q Yes, I am assuming the hi-fi is on.

24 A Yes.

25 MR. SHINN: I have nothing further, your Honor.

26 THE COURT: Mr. Kanarek.

1 MR. KANAREK: Thank you, your Honor.

2
3 CROSS-EXAMINATION

4 BY MR. KANAREK:

5 Q Officer, could you tell us, does sound travel
6 faster or slower as the temperature goes up and down, of
7 the air?

8 A As the temperature rises or where the humidity
9 rises?

10 Q Right now we are talking about temperature.

11 A As the temperature would rise, sound would
12 consequently travel slower.

13 Q Pardon?

14 A It should travel slower.

15 Q Well, my question is, in other words, you say
16 the higher the temperature the sound goes faster or slower?

17 A Well, the problem is, without raising the
18 temperature we also have the problem of raising of actual
19 moisture.

20 Q Officer, let us assume that the moisture stays
21 the same.

22 I am asking only for the variation with tempera-
23 ture. Does the sound travel faster as temperature goes up,
24 or is the speed of sound lower?

25 A I cannot answer that.

26 Q You don't know that?

1 A It isn't that. It's a limited question. I
2 cannot answer the question as it is worded.

3 Q You say that the question is an incomprehensible
4 question to you?

5 A It isn't incomprehensible at all. I said it
6 is an incomplete statement.

7 Q My question does not ask enough?

8 A It does not have enough elements involved in it.

9 Q All right, let's take a space in which we have
10 evacuated all of the moisture.

11 A Okay.

12 Q That is possible, right?

13 A Right.

14 Q And having evacuated all of the moisture, we
15 now have air in the space, right?

16 A You have not evacuated space. I don't know how
17 you have air, but you evacuated all the moisture from the
18 space.

19 Q Let's say we dried out all of the given air
20 in a given space, is that possible?

21 A No, I don't believe it is.

22 Q Don't they do it in the laboratories all the
23 time?

24 A They evacuate areas of both air and moisture,
25 yes, but do they evacuate just the moisture? No.

26 Q You mean it is not possible to take a furnace,

1 say, and get rid of all of the moisture at ordinary
2 pressure, and you have still got air in there, right?

3 A Counsel, you are confusing me by your question.
4 I don't understand your question because I have a furnace
5 -- are we operating in the flames or are we operating
6 around a cylinder that is in the furnace?

7 I mean, your questions are very ambiguous.

8 MR. KANAREK: I see, very well. Your Honor, may I
9 have a piece of paper?

10 Q BY MR. KANAREK: Mr. Wolfer, what I am saying
11 is this, is it possible in the laboratory setup -- now I am
12 being diagrammatic -- is it possible to put a flame under-
13 neath the container and eliminate all of the moisture from
14 the container and still have air in the container?

15 A No, I question that.

16 Q You say that is impossible?

17 A I did not say it was impossible. I said I
18 questioned that.

19 Q In what way do you question it?

20 A Because by heating the atmosphere it is not
21 going into the air, in that can it is not going to eliminat
22 all moisture. It may reduce moisture but it will not
23 eliminate all moisture.

24 Q Have you ever heard of a desiccant?

25 A Yes.

26 Q Let's say we put something in there that absorbs

1 all of the moisture so that the moisture is completely
2 removed.

3 We put it in a desiccant, and then we move the
4 desiccant at the time we are heating it, so let's say the
5 air is very, very hot in the container.

6 A Well --

7 Q Will you hear me out?

8 A Yes.

9 Q Isn't it true that the air in that container
10 would be devoid of moisture?

11 A No, we have to go right back to the same problem,
12 Counsel, the desiccant is intended not to eliminate all
13 moisture, but to limit moisture.

14 You have a drying agent in there which dries
15 the atmosphere to a high degree, but does not take all
16 of it.

17 Q You mean it is not possible to take -- how high
18 a degree of removal would you say is possible?

19 A Well, I would not want to go into percentage
20 but -- I would not say what the percentage was, but a high
21 percentage.

6-1

1 Q A high percentage; right?

2 A A high percentage.

3 Q All right.

4 Then my question is this: As the temperature
5 in this container goes up, what happens to the speed of
6 sound?

7 Does the speed of sound go up or does the speed
8 of sound go down, or don't you know?

9 A I just don't know.

10 Q You don't know?

11 A No.

12 Q Now, you were saying that you are an expert in
13 acoustics.

14 Isn't the speed of sound --

15 A Counsel --

16 Q May I finish, Officer?

17 A I am sorry.

18 Q Isn't the speed of sound one of the most
19 important parameters in the field of acoustics?

20 A Counsel, may I -- you have two questions there.
21 We will have to answer them individually.

22 Q Surely.

23 A I do not believe that at any time in this
24 courtroom that I have ever said that I was an expert in
25 acoustics.

26 Q Then you don't hold yourself out as an expert

6-2

1 in acoustics?

2 A No.

3 The second question was the fact of the speed
4 of sound, and the speed of sound is of an essence, of a
5 certain degree, the speed of sound in a vacuum is one
6 thing, of which counsel is trying to refer to here, which
7 is 1160 to 1190 feet per second.

8 The consequences of acoustics involved in this
9 experiment could never be duplicated and, for this
10 particular reason, whether they were conducted at 12:00
11 noon or 12:00 midnight or 1:00 p.m., by experimentation of
12 acoustics which I have been involved in, I have never
13 been able to identically reproduce acoustics by atmospheric
14 conditions that were involved in this experiment.

15 This is from first-hand knowledge.

16 Q Then what is the purpose of running the exam,
17 Mr. Wolfer, if you can't duplicate the conditions?

18 We are here in a murder trial. Supposedly what
19 you are testifying to is supposedly going to be used by the
20 prosecution.

21 MR. BUGLIOSI: Argumentative.

22 THE COURT: Yes, it is argumentative, Mr. Kanarek.

23 Ask your next question.

24 MR. KANAREK: Very well.

25 Q Then, Officer, what you are saying is that
26 what you went out to do is useless, it was purposeless;

1 you don't know when you get done whether or not there is
2 any kind of relationship between what you did and what
3 occurred on some occasion when allegedly bullets were
4 fired and people passed away as a result of these bullets
5 being fired; is that right?

6 A That is partially right, yes.

7 However, on the basis of that, if I had gone out
8 and run the experiments and there was an obvious ability to
9 hear over the levels of the Hi-Fi, an obvious one, then I
10 would have proved something.

6a fls.

62-1

1 Q What do you mean by obvious, Officer?

2 A If the situation was such that the shots, the
3 reports, the shot-sound levels were far in excess of the
4 acoustics of the stereo, then that would certainly indicate
5 certain factors.

6 Your question is partially right and it is
7 partially wrong.

8 Q Well, what are these factors that you are referring
9 to?

10 A Well, as I said, if there were obvious
11 differences in sound, then I would certainly have proved
12 something.

13 Q Well, what would you have proved?

14 A I would have certainly proved that you could or
15 could not hear with this stereo on or off.

16 Q Well, where does obviousness begin and non-
17 obviousness end?

18 MR. BUGLIOSI: Ambiguous.

19 MR. KANAREK: He is an expert, your Honor, in some-
20 thing.

21 THE COURT: Overruled.

22 You may answer.

23 THE WITNESS: Where obviousness stops -- I will put it
24 this way -- where the stereo is off, there is an obvious
25 sound level. You could hear that gun. With the stereo off,
26 the person in that back house could certainly hear the

1 shots, and that is an obvious situation. Whereas, with the
2 stereo on, as far as I am concerned, it is obvious that he
3 couldn't hear.

4 However, with the stereo on, as counsel
5 brought forth, there is a lack of questions regarding the
6 position of the gun, weather conditions, many things
7 involved here that aren't obvious.

8 Q You say, you are telling us that you are not an
9 expert in acoustics, Officer?

10 A No. I don't claim to be an expert in acoustics.
11 I am only testifying from first-hand knowledge,
12 from my own experiments.

13 Q Then, in what field are you an expert concerning
14 which you are testifying right now if you are not an expert
15 in acoustics? Would you name the field?

16 A Basically, Counsel, acoustics can include many
17 things. It would include those portions which I have testi-
18 fied to plus many, many more.

19 Acoustics would be such things as room acoustics,
20 materials of insulation, the acoustic tile versus that of
21 plastered walls.

22 This is acoustics.

23 Q My question is: Mr. Bugliosi has asked you
24 certain questions and you have given answers as to your
25 background.

26 Now, would you tell me, in what field of

1 activity are you testifying as an expert here?

2 Would you tell me the field?

3 A I am testifying in the field of sound levels
4 from the report of guns.

5 Q You are an expert in the field of sound levels
6 from the report of -- what is that?

7 A From the report of guns.

8 Q From the report of guns.

9 That is the field that you are an expert in;
10 is that right?

11 A I did not claim to be an expert on that at
12 any time, Counsel. I have done research in this particular
13 field.

14 What is the definition of expert?

15 If you mean by the definition of expert a
16 person that knows slightly more than a layman, I guess I
17 would qualify. If an expert in the field is one who has a
18 Ph.D. in sound level testing and has done this for 20 years,
19 I am not associating myself with this person.

20 Q But this field of expertise you are testifying
21 to here in court right now, you are an expert in sound
22 levels from the report of guns?

23 A No.

24 I think I am testifying to meter readings that
25 I took on a decibel meter in relation to the report of a
26 weapon.

1 Q And is it a fair statement, Officer, that you
2 know of no relationship between what you did and what
3 occurred on Cielo Drive as far as the passing away of
4 Sharon Tate, Abigail Folger, Voltyck Frykowski, and Steven
5 Parent?

6 A Counsel, I was not at that location when it
7 happened, so I would have no idea of their positions or
8 anything of that nature. So, I would not be able to
9 testify as to their positions.

10 That is correct, if that is what counsel means.

6b

6b-1

1 Q Pardon?

2 A I wasn't there the night it happened, no. I
3 cannot testify as to their positions.

4 Q Well, have you, Officer, determined from the
5 Weather Bureau what the humidity was that night?

6 A Counsel, if I obtained that information from
7 the Weather Bureau, it would not give me the humidity
8 factor in and around 10050 Cielo Drive.

9 Q Have you made any attempt, Officer, to determine
10 whether or not what you actually went out there and did has
11 any relationship to anything that we are doing in this case?

12 Have you made any such attempt, Officer?

13 MR. BUGLIOSI: That is ambiguous.

14 MR. KANAREK: Your Honor, counsel has --

15 THE COURT: Sustained.

16 We will take our recess at this time.

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

20 The Court will recess for 15 minutes.

21 (Recess.)

22 THE COURT: All counsel and jurors are present.

23 You may proceed, Mr. Kanarek.

24 MR. KANAREK: May we approach the bench?

25 MR. FITZGERALD: Yes. May we approach the bench,
26 your Honor?

6b-2

1 THE COURT: Very well.

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

5 MR. FITZGERALD: During this recess, your Honor, we
6 discussed among ourselves some matters concerning this
7 witness, DeWayne Wolfer, and we would all move that your
8 Honor strike the testimony of the direct and the entire
9 cross-examination so far of Mr. Wolfer on the grounds that,
10 No. 1, from his own mouth, he has indicated that he is not
11 an expert.

12 Secondly, he has substantially indicated that
13 conditions were not similar. He has no way of knowing
14 whether the conditions were similar.

15 Consequently, we think that the testimony is
16 irrelevant and immaterial, and what probative value there
17 is is far outweighed by the likelihood that it may be
18 confused, and I have in mind a few factors.

19 The record is barren as to the weather conditions
20 on the evening of August the 8th. There might have been a
21 hurricane, there might have been a rainstorm, there might
22 have been a heavy fog bank. And the law in connection with
23 judicial notice prohibits the Court from taking judicial
24 notice of so-called weather conditions.

25 As a matter of fact, this witness himself
26 indicated that a general reading of temperature would not

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1 necessarily be applicable to the Benedict Canyon area in
2 the City of Los Angeles.

3 I think, on all those grounds, that his testimony
4 is immaterial and irrelevant.

5 MR. KANAREK: Furthermore, I think Mr. Witkin makes
6 the point that when you duplicate an experiment condition,
7 you have to really duplicate it; otherwise it is irrational
8 and it is incompetent.

9 I think the state of this record is clear, in
10 order not to belabor it or to have to go into further detail.
11 I think it is clear that even though Mr. Bugliosi may want
12 this evidence in, I think it has to be in on a legal basis,
13 and I don't think that you can make any rational conclusion
14 from his testimony.

6c fls.

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1 THE COURT: Just a moment, gentlemen.

2 What he has said, if I understand his testimony
3 correctly, he tested sound levels with various volume
4 positions of the stereo and with the gun fired in different
5 positions on the premises; and also with the stereo set
6 completely turned off. He recorded these various levels.

7 Now you are cross-examining him on something
8 entirely different, really. You are talking about the speed
9 of sound under various conditions.

10 What difference does it make how fast sound
11 travels? What we are concerned with is volume, aren't we?

12 MR. KANAREK: No, your Honor.

13 The fact is that lack of knowledge indicates
14 that the man is not an expert.

15 THE COURT: That is not the question I am concerned
16 with.

17 MR. FITZGERALD: I think I can answer your contentions,
18 your Honor.

19 It is much like a piece of evidence. There has
20 been a change of custody in a sense. There is no showing
21 that the doors were open or the windows were open, or the
22 windows had been closed, or the premises had been altered
23 or sealed or changed in some material respect.

24 Obviously these are factors that could substan-
25 tially influence an opinion as to whether a person inside
26 could hear the sounds if the doors were open, if the windows

1 were open, that sort of thing; and this officer has no way
2 of knowing, nor, really, did he attempt to duplicate any of
3 the factors that were existent on the evening of the 8th.
4 For that matter, he didn't even attempt to duplicate the
5 factors present on the morning of the 9th when the police
6 arrived.

7 THE COURT: What factors?

8 MR. FITZGERALD: The doors open, the windows open;
9 that sort of thing.

10 And you must bear in mind, your Honor, that this
11 is ten days later. I would assume, in the ordinary course
12 of human events, that the landlord would come in or the
13 premises would be altered in some respect.

14 Absent that kind of a foundation, I don't think
15 that the testimony is admissible.

16 In a sense, it probably is admissible, but
17 its probative value is so very slight and the confusion in
18 the minds of the jury -- I think that the confusion that
19 is liable to result outweighs this minor probative relevance,
20 this minor probative value.

21 THE COURT: I can't agree with you, Mr. Fitzgerald.

22 What he has, in effect, said is that with the
23 volume controls on the stereo set at certain positions,
24 the decibel level was so much; and superimposing upon that
25 decibel level the sound of a gun being fired in various
26 positions produces no result.

1 That is probative.

2 MR. FITZGERALD: That is probative, yes, your Honor.

3 THE COURT: I don't know what other evidence the
4 people may have to put on in the way of weather or what
5 all. I mean, they may or may not put on anything further.
6 But while I agree, it goes to the weight of the evidence,
7 I think it has some probative value and the jury is
8 entitled to consider it.

9 In other words, they are entitled to consider
10 that if, as Mr. Garretson testified -- I forget exactly
11 what his testimony was, but if the stereo was turned up
12 high. --

13 MR. FITZGERALD: 4.

14 THE COURT: Did he say 4?

15 MR. BUGLIOSI: No, he did/^{not}say 4.

16 THE COURT: I don't recall whether he did or didn't.

17 MR. BUGLIOSI: Mr. Whisenhunt arrived the next day,
18 and he said that he recalled it was on 4.

19 6d fls. MR. FITZGERALD: That's right.
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1 THE COURT: I think they are entitled to know that
2 the decibel level of four is a certain level, and that the
3 sound of these shots fired at noon on August the 18th, with-
4 out the stereo, produced sound of a certain level, to help
5 determine, presumably, what happened on the night of the
6 murders, if Mr. Garretson is to be believed, when the sound
7 of shots on the lower decibel levels were superimposed on
8 the sound of the stereo at a higher decibel level.

9 I agree that his testimony may leave a lot to be
10 desired, but that is a matter that goes to the weight rather
11 than the admissibility, and I think there is probative value
12 there and the jury is entitled to consider it.

13 MR. FITZGERALD: Well, would the Court be willing to
14 concede that he is testifying solely as a layman, then,
15 and strike his qualifications from the record as he is now
16 testifying as an expert? He has made this very clear.

17 THE COURT: Are you prepared to stipulate that he is
18 qualified to conduct the tests that he conducted?

19 I suppose any layman could conduct the test if
20 he learns how to operate a sound level meter. It is purely
21 a mechanical act.

22 MR. KANAREK: A layman could go through the test, but
23 whether they would have any value or not, is another matter.

24 THE COURT: All he is saying is that this is what
25 happened, this was what was done at certain times and places.

26 MR. KANAREK: There has to be an equation. It has to be

1 equated with something.

2 MR. FITZGERALD: Does this meter lend anything to the
3 admissibility of the evidence, your Honor?

4 In other words, if Wolfer just got on the witness
5 stand and said that Officer Butler fired the shot, and with
6 the stereo at 4 or 5, I couldn't hear it, would your Honor
7 consider that admissible?

8 Does this decibel meter mean anything?

9 THE COURT: Yes, I think so, because it shows what the
10 level of sound was. It shows in an objective way. It is
11 a recording device. It doesn't just call for a judgment or
12 opinion.

13 MR. KANAREK: I subscribe to most of Mr. Fitzgerald's
14 remarks, your Honor, except it is my position that this
15 witness' testimony is not admissible. It is just not
16 admissible.

17 THE COURT: You have been trying to show that he isn't
18 an expert on matters as to which he hasn't testified.

19 MR. KANAREK: That is why the --

20 THE COURT: He hasn't given any opinion on the speed
21 of sound.

22 MR. KANAREK: But Mr. Bugliosi has put into the record
23 his purported expertise.

24 Your Honor or I or any one of us could go out
25 there and perform this.

26 By allowing this into evidence, from a witness

1 that appears to have a wonderful background of academic
2 training --

3 THE COURT: You can go into that on cross-examination
4 if you want to.

5 MR. KANAREK: He either is an expert or he isn't. If
6 he comes in as a layman, then we don't need to examine --

7 THE COURT: He has been asked things that do require
8 an expert opinion. For example, his opinion on the relative
9 sound of a Buntline High Standard longhorn revolver and a
10 Colt that was, in fact, fired in the test.

11 There have been other things in the field of
12 his expertise which he has been asked and he answered.

13 I am going to overrule the objections and the
14 motions to strike.

15 MR. KANAREK: Very well, your Honor.

16 MR. SHINN: I will join in all the motions and
17 objections at the bench.

18 THE COURT: I didn't hear you.

19 MR. SHINN: I was going to join in all the objections
20 and motions at the bench, your Honor.

21 THE COURT: All right.

22 (Whereupon, all counsel return to their
23 respective place at counsel table and the following
24 proceedings occur at the bench outside of the hearing of
25 the jury:)

26 MR. KANAREK: Q Mr. Wolfer, is it a fair

1 statement, Mr. Wolfer, that outside of being told where
2 you should conduct the tests, that outside of that you
3 attempted no other duplication of some previous situation?

4 Is that correct, Mr. Wolfer? Or is that un-
5 clear, that question?

6 A Well, it does have a little ambiguity there.

7 Q I will be glad to try to state it more precisely.

8 A If you would, please.

9 Q Certainly.

10 Is it a fair statement that the inputs that you
11 were given to duplicate were merely locations?

12 A By "inputs," do you mean were my instructions,
13 when I went there, to go to certain places?

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1 Q Yes.

2 A That's correct, they were.

3 Q Now, and so is it also a fair statement that in
4 going to the scene, or prior to going to the scene you made
5 no determination as to what the conditions of windows and
6 doors -- I am now referring to open-shut -- on these
7 premises --

8 A No, that is not correct.

9 I asked about the windows being open. They
10 said the scene was in its exact condition as it was found,
11 and as I recall the back door to the rear residence was
12 open and there were certain windows open.

13 Q Now, when they say that the condition was
14 exactly as it was found --

15 Who told you that it was exactly as found?

16 A Sergeant -- I'm sorry, is that the end of your
17 question? I'm sorry, I did not mean to interrupt you.

18 Q No, go ahead.

19 A Yes, the situation was that Sergeant Deese
20 also went to the scene with us, who was out there on the
21 night of the incident, and he opened the rear door and
22 the rear windows, I believe, and reconditioned the scene
23 to its original positions.

24 Q You say he was out there on the night that
25 these incidents occurred?

26 A I believe he was. I was not there to see him,

1 but I am more or less informed he was.

2 MR. BUGLIOSI: I move to strike that, your Honor. It
3 is hearsay.

4 MR. KANAREK: This all goes to credibility. There is
5 nothing to strike. I see no purpose in striking anything.

6 MR. FITZGERALD: It is hearsay upon which he based
7 an expert opinion.

8 MR. KANAREK: Correct.

9 MR. BUGLIOSI: It is hearsay, your Honor.

10 THE COURT: The motion to strike is denied.

11 ALTERNATE JUROR DAUT: Your Honor, shouldn't they
12 use the microphone so they can hear in the other room?

13 THE COURT: It is up to counsel.

14 MR. HUGHES: I am unable to control other counsel as
15 to whether they use it, but I am not waiving Defendant Van
16 Houten's ability to hear these proceedings in any manner.

17 BY MR. KANAREK:

18 Q Officer, then when you went to the scene you
19 went with what other officers?

20 A Well, no, this is not true. I took Officer
21 Butler with me for the purpose of conducting my test,
22 in addition to this we met Captain Martin, Sergeant Deese
23 as well as there were several other men there.

24 Q Have you told us all the people that were there?

25 A No, I don't know the names of the other persons.
26 There were other officers there.

1 Q I see, and when you came to the scene, what time
2 of the day or night was it?

3 A On August the 18th it was at approximately
4 12:00 noon, near that, it wasn't quite noon. It was prior
5 to running the test, but it was in the vicinity of 12:00
6 noon.

7 Q All right. Now, you told us, Officer, that
8 about the level --

9 You say the noise level was a certain level
10 when you were there, is that correct?

11 A If I understand your question, if you mean was
12 there a background level of sound, there was, yes.

13 Q Is it a fact that the background level of sound
14 changes with the time of day?

15 A That is correct.

16 Q Now, directing your attention to a time around
17 midnight, do you have an opinion as to the sound level
18 at midnight?

19 A Well, Counsel -- yes.

20 Q May I finish the question?

21 A I'm sorry, I'm extremely sorry.

22 Q Do you have an opinion as to the sound level
23 at midnight compared to the time of day that you were at
24 the Tate residence?

25 That question can be answered yes or no?

26 A Well, yes.

1 Q All right, what would be your opinion as to the
2 probability of the relationship of the sound level at
3 midnight to that at the time of day you were there?

4 A I would have to answer that I don't know and
5 explain it on the basis that although we would expect the
6 sound level at night to decrease because of the lack of
7 traffic and other air sounds, such as airplanes and the like,
8 maybe this night it didn't.

9 Maybe it was louder. I cannot tell you, in
10 other words, what was on this night. I don't know what
11 the background level was.

12 It could be more; it could be less.

13 Q That is why I believe I used the word probable.

14 I am asking you statistically, is the probability
15 greater -- I am not asking for an absolute answer, Officer --
16 is it statistically probable that at night the sound level
17 would be less at the Tate residence around midnight than it
18 would be -- than it would be during, let's say, an hour or
19 so after noon.

20 MR. BUGLIOSI: It calls for a conclusion. Also there
21 is the lack of foundation.

22 MR. KANAREK: He is an expert, your Honor. This is
23 one of the factors to be considered.

24 THE COURT: If he has personal knowledge he may
25 answer. Overruled.

26 THE WITNESS: I would expect, as in the previous --

1 MR. BUGLIOSI: Is the question calling for personal
2 knowledge? If it is, your Honor, I withdraw the objection.

3 If not, it is a conclusion, and there is a lack
4 of foundation.

5 MR. KANAREK: He is holding himself out as an expert,
6 your Honor, this is a statistical answer I am asking for.

7a fls 7 I'm not asking for a precise answer. It is his opinion.
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1 THE COURT: The question is ambiguous, then,
2 Mr. Kanarek.

3 Are you asking him whether he has a knowledge
4 of statistics, or are you asking for his personal knowledge?

5 MR. KANAREK: I will be glad to reframe it, your Honor.

6 THE COURT: Or are you asking for a guess?

7 MR. KANAREK: I will be glad to reframe it.

8 Q BY MR. KANAREK: Now, Officer, do you have an
9 opinion as to the probability of the sound level at midnight
10 being greater than or less than the sound level at 1:30
11 in the afternoon at the Tate residence?

12 MR. BUGLIOSI: Lack of foundation; it calls for a
13 conclusion.

14 MR. KANAREK: I am asking whether he has an opinion,
15 your Honor.

16 MR. BUGLIOSI: An opinion based on what, your Honor?

17 MR. KANAREK: Well, he has purportedly been
18 established as an expert in this somewhat unusual field.

19 MR. BUGLIOSI: He has no personal knowledge as to the
20 sound level on August 9th, 1969; he is not in a position to
21 state an opinion.

22 MR. KANAREK: Your Honor, this has to do --

23 THE COURT: The objection is sustained.

24 Q BY MR. KANAREK: Well, Officer, have you made
25 any studies of the sound levels as a function of time of
26 day in metropolitan areas?

1 A Yes.

2 Q All right, would you tell us as a result of
3 your studies that you have made concerning metropolitan areas,
4 would you tell us whether the sound level is greater or
5 less in an area such as that where the Tate residence is
6 located at midnight, compared with 1:30 in the afternoon?

7 A Yes.

8 MR. BUGLIOSI: I object on the ground there was no
9 test made by this officer concerning the sound level on that
10 particular vicinity, but just metropolitan Los Angeles --
11 then his opinion would not be a valuable one, your Honor.

12 MR. KANAREK: This goes to weight, I would think,
13 rather that admissibility.

14 MR. BUGLIOSI: The sound level varies in different
15 places in metropolitan Los Angeles. We are only concerned
16 with Cielo Drive.

17 MR. KANAREK: This witness is held out as an expert
18 in this activity.

19 THE COURT: Overruled. The witness may answer.

20 Q BY MR. KANAREK: Do you have the question in
21 mind?

22 A I believe I do. The question was asked, do I
23 have an opinion as to the background noise.

24 Now, this is the background sound levels, I
25 believe counsel means, do they increase during the daytime
26 hours and decrease during the night hours, that would be the

1 expectant from tests which I have run.

2 But we are also in a canyon, in canyons, the
3 area of 10050 Cielo Drive, I have not run sound tests to
4 determine noises during the night and day at that place.

5 I would expect them to be less in the early morning hours
6 and greater in the later afternoon hours.

7 Q BY MR. KANAREK: Now, is it a fact that the
8 threshold or the background level determines whether or not
9 intense sounds can be heard?

10 A Well, yes, if the background noise overpowers
11 that of any of the sounds that we are trying to determine,
12 yes.

13 If the background sounds are greater than the
14 sounds we are trying to hear, why, yes, we would not hear
15 them.

16 Q So the tendency would be that in connection with
17 the --

18 If I tell you that shots were fired at Cielo
19 Drive -- let's say as something to consider that shots were
20 fired around midnight, would you say that there is some
21 probability that the actual conclusions of your tests would
22 be different than you have indicated to us here?

23 A No. I have to explain that.

24 As I say, I do not know on the night in question
25 what the background was. It may have been less or more than
26 at the time we took our tests.

1 I had no way of telling. I cannot tell, nor can
2 I answer that question on this basis.

3 I do not know what the background noise was on
4 that evening.

5 Q You say you conducted studies on background
6 noise.

7 A I said, yes, in the City of Los Angeles. That
8 was the question.

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1 Q And it would be possible for you to conduct
2 studies in the area, in this area of Cielo Drive over a
3 period of time, and that way get a pattern or a profile of
4 the sound level as a function of time of day, is that
5 correct?

6 A If all we were concerned about was an average
7 for the time of day for that area, counsel is correct.

8 But if we are concerned for a specific day,
9 then we have another problem.

10 Q Now, you say you have another problem.

11 A Yes.

12 Q And this other problem is a problem because of
13 what factors?

14 A Because, as I say, there are no two things
15 exactly alike in nature, nor would there be two atmospheric
16 conditions, elementary conditions or otherwise, that exist
17 exactly the same each and every hour every day.

18 Q As an expert in this field, could you give us
19 a feel whether something is a 1 percent effect or an 80
20 percent effect, Mr. Wolfer?

21 A Now your question is ambiguous.

22 Q Pardon?

23 A I don't understand the question.

24 Q What I'm saying is, does it have a small effect
25 or does it have a large effect?

26 What are these other factors that have to be

1 considered?

2 A Well, as we previously discussed, the factors
3 of humidity, the factors of ceiling levels, the factors
4 of moisture, the factor of wind, the factors of deflecting
5 surfaces, the fact of even trimming a tree could affect it.

6 Q Now, when you say humidity, you mean moisture,
7 don't you?

8 A Yes.

9 Q It is another way of saying moisture?

10 A Yes.

11 Q Then is it a fact then, Officer, that what
12 studies you conducted have no reliability as far as this
13 case is concerned?

14 A Well, that is absolutely incorrect.

15 Q Well, you tell us, Officer, that these other
16 factors are very very important -- factors that you don't
17 know about.

18 A That's correct.

19 Q And you did not take the trouble to find out
20 what these other factors were?

21 A Counsel, that is absolutely incorrect.

22 Q Tell us what trouble you took, Officer, to find
23 out these other factors.

24 A I took into consideration, and discussed it
25 prior to leaving the laboratory, such things as the time of
26 day, weather conditions, wind conditions and all of the

1 other factors.

2 Having had past experience in this particular
3 field from first-hand knowledge, and as I have tried to
4 indicate here today, I could never reproduce the same
5 conditions that existed on that night, so for this particu-
6 lar reason it was decided I would conduct the experiments
7 on the basis of the existing conditions at that time during
8 the day.

9 Q Well, one factor you could have duplicated
10 without too much effort would have been the time of day,
11 is that right, Officer?

12 A The time of day in this particular instance,
13 Counsel, again is not the major factor.

14 The time of day is by far not the major factor,
15 if I returned on that location on that night, at that same
16 time, I could be far in excess of error, more error than
17 I would be by going there at 12:00 noon possibly.

18 I don't know, by going back the following night
19 at the same time would never, nor could I ever duplicate
20 the same factors that existed on that night, so I can only
21 take an average, which we did.

22 Q You took an average?

23 A Yes.

24 Q What average did you take?

25 A We went back and conducted the test with
26 sound level meters and with my own hearing to see if we

1 could hear possibly the sounds.

2 Q You say average, Officer. Isn't an average
3 where you add up a bunch of figures and then divide by the
4 number of items you have?

5 A Mathematically, that is correct.

6 Q What average did you use in this case?

7 A In this particular case we returned to the
8 scene and conducted the experiments regardless of the time
9 of day with the hope factor that they might be somewhat
10 similar.

11 The time of day is not reproduced, it does not
12 reproduce the sound barriers and interference.

13 Q You just used the word "average" a few minutes
14 ago, Officer.

15 What averaging did you do in this case?

16 A In this particular case we took the same gun,
17 the same ammunition, basically the same positions, the
18 same settings of the stereo, and placed all of these into
19 a position to try to average them out to come up with the
7c fls20 basic of what happened in the way of sound levels.

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1 Q And you call this averaging?

2 A From the factors of the known factors, we cannot
3 average factors that we don't know.

4 Q Well, that is not averaging. That is duplicating,
5 isn't it, Officer?

6 You did not average anything; you duplicated a
7 portion of some event that was related to you.

8 You did not average, did you?

9 A That is not correct, Counsel. Did I not
10 average the fact that the gun in the positions the gun
11 could have an effect? Did I not average such things as the
12 stereo settings -- excuse me, the stereo sounds that were
13 being emitted, and the decibel levels?

14 Did I not average basically each and every one
15 of these known factors? Yes, I did.

16 Q Will you tell me how did you average the
17 decibel levels?

18 A By putting it on the slow response level.

19 Q Well, what averaging process did you go through?

20 A That is the averaging. I was not taking each
21 and every instant reflection, trying to sit there and
22 calculate the averaging of the needle by looking at it.

23 By a slow response I get a needle that moves
24 over an average period at a slow response. That is averaging.

25 Q And that is what you call averaging?

26 A Well, I averaged each of the known factors that

2
1 I knew. I cannot average factors that I don't know.

2 Q I see, and would you tell me, Officer, in
3 connection with what you did, what gun did you use?

4 A I used a Colt 9-1/2 inch barrel.

5 Q Well, I show you a report which purports to be
6 signed by you that stated, "9-23-69," wherein you say you
7 used --

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

9 THE COURT: You may.

10 Q BY MR. KANAREK: I show you a report which
11 purports to be signed by you, and ask you if this does not
12 show that you used on the 23rd of September a .22 caliber
13 High Standard revolver.

14 MR. BUGLIOSI: That is irrelevant, your Honor, that
15 is referring to another test.

16 MR. KANAREK: That's right, Mr. Bugliosi did not
17 interrogate concerning this test, your Honor.

18 MR. BUGLIOSI: A test of a different area.

19 THE COURT: Overruled, you may answer.

20 THE WITNESS: Yes, this was a report, a later report.
21 It has no bearing on the questions counsel has previously
22 asked.

23 This is an entirely different set of experiments,
24 a different time, a different date, completely different.

25 Q BY MR. KANAREK: Well, you injected into these
26 experiments a High Standard revolver, is that true?

1 A That is correct.

2 Q Did you have some reason for not using the same
3 revolver?

4 A Yes.

5 Q For a Colt?

6 A Yes.

7 Q Would you tell us the reason?

8 A It was not available.

9 Q You mean the Los Angeles Police Department did
10 not have available a .22 caliber Colt revolver on the 23rd
11 of September, 1969?

12 A That is correct. They might have had one, but
13 they did not have one available to me in my particular work.

14 Q And as a scientist you were intent on duplicating
15 conditions in a murder case.

16 You did not bother to obtain the same revolver
17 that you had used previously in August, the middle part of
18 August?

19 A Counsel, your question, if I understand it, is
20 a situation where you are taking everything out of context.

21 This is a different set of circumstances. It
22 was a murder case; I did take this into consideration.

23 I used the equivalent revolver and another
24 brand which would do identically the same as the Colt
25 revolver.

26 Everything you are referring to -- you are now

1 going to have to open up cross-examination on an entirely
2 new area.

3 You are trying to impose and inject something
4 that is confusing to me in all the questioning.

5 You are talking of two different tests
6 completely.

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1 Q Isn't it a scientific -- in conducting these
2 types of experiments, isn't it good scientific practice
3 to duplicate as much as possible in order to determine what
4 the effects are?

5 A Counsel, that is correct.

6 THE COURT: Mr. Kanarek, you can return now to your
7 position.

8 MR. KANAREK: Very well.

9 THE WITNESS: And that is what I did in these
10 particular tests.

11 I am sorry, your Honor.

12 MR. KANAREK: Your Honor, may this be marked?

13 I have here this report. I would like to mark
14 it for identification. It is dated 9/23/69.

15 May it be marked next in line, your Honor?

16 THE CLERK: AX, Mr. Kanarek.

17 MR. KANAREK: Thank you.

18 May I mark it, your Honor, AX?

Ds' AX

19 THE COURT: It will be so marked.

20 BY MR. KANAREK:

21 Q Now, Mr. Wolfer, then on September the 23rd,
22 1969, you conducted experiments in connection with this case?

23 A I conducted a completely different set of
24 experiments regarding this case, that is correct.

25 Q Now, Mr. Bugliosi hasn't interrogated you
26 concerning these experiments, has he?

1 A That is correct.

2 Q Would you tell us, Officer, what you did on
3 September the 23rd, 1969, using a .22 caliber High Standard
4 revolver instead of a Colt?

5 A Yes.

6 If I may refer to my report which you have in
7 your hand for addresses, I will be happy to.

8 Q Is it a fact that you don't have an independent
9 recollection?

10 A No, it isn't.

11 I will be glad to recall all that I can here
12 today.

13 Q Would you please, Officer? Tell us what you can
14 recall before I show you the report.

15 A All right.

16 I did, in September, conduct a series of tests,
17 in which I conducted a test between the locations of 10050
18 Cielo Drive and five other residences in the surrounding
19 area.

20 At this particular time, we did take and fire
21 a revolver, which was a High Standard revolver, for the
22 purposes of determining if we could hear shots fired from
23 these locations, and we also yelled, in which case Officer
24 Butler was again involved in the tests and did stand in the
25 front lawn area of the Cielo Drive residence of the main
26 house.

1 Q Now, incidentally, Officer, did the word that
2 Officer Butler yelled, was that "Help"?

3 A Yes, it was.

4 Q And did someone suggest to you that you use the
5 word "Help"?

6 A Yes, they did.

7 Q What police officer suggested to you that you
8 use the word "Help"?

9 A I would not know.

10 I believe that it came to me from the Homicide
11 Division and my captain.

12 Q That is, people who were working on this case?

13 A Yes, that is correct.

14 Q Now, in connection with the previous experiments
15 that you ran, that you have already related to us concerning
16 which Mr. Bugliosi has interrogated you, is it a fact that
17 Officer Butler also used the word "Help" in the experiments?

18 A No.

19 Officer Butler did not holler in the first
20 series of tests, if that is what counsel is referring to.

21 The first series of tests on August the 18th
22 was conducted merely with the firing of the Colt revolver.

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1 Q Now, then, did something occur between
2 August 18th, 1969, and September 22, 1969, that caused you
3 to decide to use the word "Help" in your experiments?

4 A Yes, it did.

5 Q Would you tell us what it was that occurred?

6 A Well, in this interim of time, the witnesses
7 involved in the case were interviewed at these different
8 locations which I went to that supposedly heard or were
9 reported to have heard sounds.

10 Q Something such that it was desirable to use the
11 word "Help" in your experiments?

12 A That is correct.

13 Q Is that right?

14 A That is correct.

15 Q Now, would you tell us, then, directing your
16 attention to the second series of experiments, would you
17 tell us what you actually did?

18 A Yes.

19 As I started to say, on this date, this later
20 date of September the 22nd, we sent Officer Butler up to the
21 front lawn of the 10050 Cielo Drive residence where he fired
22 the High Standard revolver. He then would holler, "Help."

23 Each of the operations was upon my command,
24 in which I was in radio contact with him.

25 I then went to the first residence. It was at
26 9951 and 9955 Beverly Grove, where I then set up my sound

1 meter, again, the General Decibel Level Meter, for the
2 purpose of detecting whether I could hear myself or I
3 could detect by instrumentation the reports of the
4 weapon or the yelling for help.

5 At these locations I could both hear and record
6 the decibel levels of the firing of the weapon and also the
7 yelling for help.

8 There were three other locations which I
9 would need the report for, but one was on Farring Road, and
10 the other was on Sharon Cross, and one was on Summit Ridge.
11 I don't know the exact addresses without the report.

12 At these locations I could neither record nor
13 could I hear any firing or the hollering for help. Neither
14 on my decibel level or by ^{my} own hearing.

15 Q Now, is it a fact, Officer, that these experi-
16 ments which you say you performed on August 18, 1969 and
17 September 22, 1969, were not recorded by you until October
18 the 5th, 1970?

19 A That is absolutely incorrect.

20 Q Did you dictate a report on October the 5th,
21 1970, concerning these two sets of experiments?

22 A I did not dictate any report.

23 Last Sunday, at the request of the District
24 Attorney, I took these reports home with me, sat down in my
25 own kitchen on the evening of -- when was it -- October the
26 4th, at which time I handwrote the report. I took it to the

1 secretary who typed it for me on October the 5th, and
2 brought it directly over and handed it to Mr. Bugliosi.

3 Q Now, directing your attention to your dictation
4 of this report.

5 This dictation did not take place on August the
6 18th, 1969; correct?

7 A No, it did not. It was a few days after
8 that.

9 Q And do you have your notes, Officer, the notes
10 that you took, concerning these experiments?

11 A I do not have any notes, no.

12 Q You didn't retain -- may I withdraw that?

13 Is it a fact that you did not make any notes
14 when you were at the scene?

15 A That is possible. I am not saying that I did
16 or I did not, but that is possible.

17 Q In other words, it is possible that you went to
18 the scene where allegedly there were five murders, five
19 people passed away, you went to the scene and it is
20 possible that you did not put anything down on paper?

21 A Well, it is highly possible, yes.

22 Q I mean, it is --

23 THE COURT: We will take our recess at this time,
24 Mr. Kanarek.

25 Ladies and gentlemen, do not converse with
26 anyone or form or express an opinion regarding the case

1 until it is finally submitted to you.

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

3 (Whereupon, at 12:00 p.m. the court was in
4 recess.)

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