

DISTRICT ATTORNEY
SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff-Respondent,

vs.

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

NO. 3012

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HON. CHARLES H. OLDER, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

APPEARANCES

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

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1 this challenge to the panel.

2 MR. KANAREK: Essentially the same issues, your
3 Honor.

4 THE COURT: Can counsel agree that this may be done
5 after the jury is sworn in this case?

6 MR. KANAREK: I will be more than glad to if the
7 prosecution will agree that this is deemed to be -- the
8 only problem is this, your Honor, that we believe we
9 have not just a theoretical problem, we believe that, in
10 fact, this is a very real problem, that this Court should,
11 in fact -- should in fact -- dismiss this panel. There is
12 no question about it.

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1 THE COURT: I know you are making a challenge.

2 MR. KANAREK: It isn't done just to make a record.

3 THE COURT: I haven't seen what it is that you rely
4 on in support of that challenge, that is the problem,
5 Mr. Kanarek.

6 MR. KANAREK: Right. Well, in the interest of
7 expediting the jury selection in this case, we agree not to
8 proceed by way of calling witnesses.

9 We called Mr. Goodwin --

10 THE COURT: I am still waiting to find out what,
11 if any, stipulation you have entered into with respect to
12 the transcripts in the other proceedings so I can commence
13 to read them.

14 MR. KANAREK: As I say, you see, previously I believe
15 this record will reveal that Mr. Stovitz agreed that
16 certain portions of the Powell and Smith record would be
17 deemed to have been testified to in this court, and then
18 we would give it to the court, and the Court then --

19 THE COURT: That's right. Where is the stipulation?

20 MR. KANAREK: Well, I believe --

21 THE COURT: What have you stipulated to?

22 MR. KANAREK: I don't believe the prosecution is
23 going to renege on that stipulation.

24 We give the transcripts to the Court --

25 THE COURT: The point is, Mr. Kanarek, now, let's
26 get down to cases.

1 I am obviously not going to read through all
2 of the transcripts of that trial, whether they have any
3 pertinence to the issues at hand or not. That is
4 ridiculous.

5 I will read those portions of the transcripts
6 as I have already told you which pertain to the challenge
7 you are attempting to make.

8 Now obviously that is going to require some
9 kind of stipulation between you and the People as to what
10 portions of those transcripts are applicable.

11 That is what I am waiting for. I have not
12 received any stipulation, number one.

13 And I have not received the transcripts, number
14 two.

15 MR. KANAREK: Yes, well, what I'm saying is, I
16 believe that the prosecution will still allow the Court to
17 use their transcripts.

18 MR. FITZGERALD: Mr. Stovitz indicated he would do
19 that. He had them here in court.

20 THE COURT: All right, then we need some kind of
21 stipulation.

22 MR. KANAREK: The stipulation was that your Honor --
23 this occurred in connection with the jury panel challenge,
24 your Honor.

25 THE COURT: How many pages are you suggesting I read
26 in that case?

1 MR. KANAREK: Considering the times that we took off,
2 because we had to go to the computers -- it isn't as long
3 as it sounds.

4 THE COURT: How long is it?

5 MR. KANAREK: I am just guesstimating now,
6 g-u-e-s-t-- I would say, your Honor, probably something on
7 the order of 50 -- I would say something on the order, the
8 order of magnitude, 50 court days.

9 However, they are not all long, complete days,
10 your Honor, I mean in the sense as long as we are going now
11 in this case.

12 That is just a guess.

13 THE COURT: You are going to have to specify what
14 portions of those transcripts you want me to read.

15 I have agreed I will read them. I told you
16 that before.

17 MR. KANAREK: I have them right here.

18 THE COURT: You are holding in your hand a little
19 black notebook, Mr. Kanarek.

20 MR. KANAREK: Yes.

21 THE COURT: I don't know anything about a little black
22 notebook. You put this in the form of a written
23 stipulation with the District Attorney.

24 MR. KANAREK: Very well.

25 THE COURT: File it in the case just as you would
26 any other document in the case, then I will take some

1 action on it.

2 Now, what I want to know is are you agreeable
3 that this may be done after the jury is sworn in this
4 case?

5 You still, of course, have alternates to
6 select, and as I have indicated to you I intend to select
7 six alternates.

8 Now, is that agreeable?

9 MR. BUGLIOSI: There is a problem of double jeopardy
10 if we enter into a stipulation, query, are we -- I don't
11 know.

12 THE COURT: Well, probably to be safe it should not be
13 done, that is, it should be done before the jury is sworn.

14 MR. BUGLIOSI: Oh, yes, yes.

15 THE COURT: But I am not going to hold up the trial,
16 Mr. Kanarek, I can tell you that, while you decide what you
17 want to do.

18 You had weeks now to get this thing in shape,

19 MR. KANAREK: I have decided. It is just a matter of
20 getting the transcripts from the District Attorney's
21 office.

22 THE COURT: You keep saying, "It is just a matter
23 of" this and that, but it has not been done. That is the
24 point.

25 All right, I will go up, if Mr. Bugliosi tells
26 me where they are, I will go to his office, get them and

1 bring them here.

2 MR. BUGLIOSI: I think Mr. Kanarek is talking, your
3 Honor, probably about 10,000 pages.

4 MR. KANAREK: I don't think so.

5 MR. BUGLIOSI: 50 court days, it would figure perhaps
6 to 200 pages a day.

7 MR. FITZGERALD: 100 pages a day, perhaps, 125.

8 MR. BUGLIOSI: How many are we getting -- here is
9 a day here where we have 250 pages.

10 MR. KANAREK: None of them are as thick.

11 MR. BUGLIOSI: Let's say 7,500 pages, which is an
12 enormous number of pages for the Court to read.

13 THE COURT: Obviously it will take some time.

14 MR. FITZGERALD: I prepared a formal written stipulation
15 which was agreeable to all counsel and the prosecution with
16 the exception of Mr. Kanarek, it set out four basic grounds
17 for the challenges and stipulations thereto.

18 Now, it was unacceptable, I understand, to
19 Mr. Kanarek, because, and I might point out Mr. Kanarek is
20 far more sophisticated in this matter than I am, and he has
21 a good deal more knowledge in the manner and means by
22 which the panel itself is selected, and so on and so forth.

23 But I don't want Patricia Krenwinkel prejudiced
24 by foregoing the challenge to the jury because we cannot
25 arrive at a stipulation between and among all counsel.

26 If that is going to be the case I will just get my

1 stipulation out again and have all counsel but Mr. Kanarek
2 sign it so I can protect her.

3 I really don't want to forego the challenge.

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1 THE COURT: I don't understand, forego it how?

2 MR. FITZGERALD: Your Honor has said you are not
3 going to delay the trial.

4 The prosecution indicated they might accept the
5 jury. If they accept the jury this afternoon you are
6 going to say, "Mr. Clerk, swear the jury." There goes the
7 jury challenge, that is why I am interested.

8 If we can delay the getting the stipulation,
9 that can be raised after the jury is sworn.

10 If not, I want to call witnesses or enter a
11 stipulation on behalf of the prosecution and on behalf of
12 my client separately.

13 THE COURT: Are you planning on some challenge other
14 than the one Mr. Kanarek has?

15 MR. FITZGERALD: I prefer to join with Mr. Kanarek.

16 MR. KANAREK: I think his challenge is lesser than
17 mine.

18 MR. FITZGERALD: It is.

19 MR. KANAREK: There are certain issues, Your Honor,
20 that we have, however --

21 THE COURT: Have you prepared a brief of any kind to
22 support this thing, Mr. Kanarek?

23 MR. KANAREK: Yes, I sure do.

24 THE COURT: I don't even know what your grounds are.

25 MR. KANAREK: I have them right here. I have them
26 set out, as I say, except for a couple of interlineations

1 they are right here.

2 THE COURT: Have they been signed and filed in the
3 case?

4 MR. KANAREK: No, it has not.

5 THE COURT: It is not a moment too soon if you want
6 to make this challenge.

7 MR. KANAREK: Those are the grounds, your Honor.

8 (Mr. Kanarek hands the Court a document.)

9 THE COURT: I have now been handed a document
10 entitled "Grounds Constituting Challenge to Petit Jury
11 Panel."

12 Now, is this filed on behalf of all the
13 defendants?

14 MR. SHINN: Yes, your Honor.

15 MR. REINER: I have not seen it, your Honor.

16 MR. FITZGERALD: It is agreeable. It is filed on
17 behalf of Patricia Krenwinkel as well.

18 THE COURT: Do you have an extra copy for Mr. Reiner?

19 MR. KANAREK: Yes, your Honor, I do have.

20 MR. REINER: Thank you.

21 MR. BUGLIOSI: The People request the Court to ask
22 Mr. Kanarek if he has a copy for the prosecution also.

23 THE COURT: That's right, you should have a copy for
24 the other side as a matter of course.

25 MR. KANAREK: Here, except for the interlineation,
26 that is complete, Mr. Bugliosi.

1 MR. REINER: Is there another copy for counsel?

2 MR. KANAREK: Oh, yes, Mr. Reiner.

3 THE COURT: Now, are you prepared to enter into a
4 stipulation at this time, Mr. Kanarek, as to what
5 transcripts you are willing to submit this matter on?

6 MR. KANAREK: Yes, certainly, those that I
7 enunciated.

8 THE COURT: Would you state that again so the
9 record is clear?

10 First, the name of the case and the case
11 number.

12 MR. KANAREK: The name of the case is the People of
13 the State of California vs. Gregory Ulas Powell and Jimmie
14 Lee Smith.

15 The transcripts of August 7th of 1968 to
16 January 31, 1969, and the transcript of June 28, 1968,
17 in that case before Judge Peracca.

18 THE COURT: Would you read that.

19 "The name of the case is the People of
20 the State of California vs. Gregory Ulas Powell
21 and Jimmie Lee Smith.

22 "The transcripts of August 7th of 1968
23 to January 31, 1969, and the transcript of
24 June 28, 1968, in that case before Judge Peracca."

25 MR. KANAREK: I don't know the number right offhand,
26 your Honor.

1 THE COURT: Now, Mr. Bugliosi, Mr. Kanarek/^{is}proposing
2 a stipulation. Did you hear it?

3 MR. BUGLIOSI: Yes, your Honor.

4 THE COURT: Is that agreeable with you?

5 MR. BUGLIOSI: Was he articulating that which is
6 contained within this document?

7 THE COURT: Yes, he is submitting the matter of the
8 challenge to the panel, as I understand it, on the
9 transcripts in People vs. Powell and Smith for the dates
10 of August 7, 1968 through January 31, 1969, and June 28th,
11 1968.

12 MR. KANAREK: Yes, your Honor.

13 MR. BUGLIOSI: Unfortunately, your Honor, we have
14 been dividing up the work somewhat. This is Mr. Stovitz's
15 bailiwick. He is not here this afternoon.

16 May I have just a moment?

17 MR. KANAREK: I have further here a notice of motion,
18 your Honor, which was for June 15th when we first started.

19 THE COURT: I don't understand, what is this supposed
20 to be, Mr. Kanarek?

21 MR. KANAREK: Well, your Honor, this is the fact --
22 you see, in order to do this you need the raw material, so
23 to speak, in the Jury Commissioner's office.

24 You have to take their information and hand it
25 in, and this would be deemed to have occurred as far as
26 this case is concerned.

1 THE COURT: I don't understand what you are talking
2 about. Will you make yourself clear?

3 MR. KANAREK: In order to get the Jury Commissioner to
4 do something, to process their data, the data that they
5 have, you need to have a court order of Mr. Goodwin to do
6 it, and that is what this notice of motion is.

7 You see, in order to do it in depth.

8 THE COURT: I still don't know what you are talking
9 about. Do what?

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1 MR. KANAREK: In order to conduct the challenge
2 it is necessary that you get -- you take individual pieces
3 of information.

4 THE COURT: It is not necessary for me to do it.

5 Now, are you talking about what you want to
6 do?

7 MR. KANAREK: This is a Notice of Motion for the
8 Court to order the jury commissioner to do this.

9 THE COURT: You said you were going to submit it
10 on the stipulation concerning the transcript.

11 MR. KANAREK: Right, right, correct.

12 But in this Notice of Motion will be --

13 We deem that these requests that have been
14 met by the Jury Commissioner's office.

15 In other words, the Jury Commissioner has
16 done the same work, that is, the same fundamental, you
17 might call it, dog work, in extracting pieces of
18 information in a certain prescribed manner so it can be
19 used in statistical analyses.

20 THE COURT: I still don't follow you.

21 Are you stipulating he did the same thing
22 in this case that he did in Smith and Powell?

23 MR. KANAREK: Right, the jury panel numbers are
24 different and that is all.

25 This has been fashioned after what was done
26 in the other case.

13b-2

1 MR. FITZGERALD: Could I be excused for about 30
2 seconds to go out and get my jury challenge file.

3 THE COURT: Yes.

4 I don't understand this so-called Notice
5 of Motion you just handed me, Mr. Kanarek.

6 MR. KANAREK: Your Honor will notice that it is a
7 request that Mr. Goodwin provide the following information
8 from the official books, records and files maintained by
9 the Jury Commissioner of the County of Los Angeles.

10 You cannot just walk --

11 THE COURT: Why do you wait until now to file
12 something like this?

13 MR. KANAREK: Because, your Honor, this is part of
14 the stipulation.

15 We are not going to do it in fact, but we
16 are agreeing this be deemed to have occurred. This is
17 just a Notice of Motion.

18 It is part of the same over-all package.

19 THE COURT: It appears to be in the wrong form if
20 it is supposed to be a stipulation. You put it in the
21 form of a Notice of Motion.

22 MR. KANAREK: And we stipulate the motion was
23 granted as it was in the case of People vs. Powell and
24 Smith, that the motion be deemed granted by the Court.

25 THE COURT: It still is a stipulation.

26 MR. KANAREK: Yes. Mr. Stovitz, as I say --

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1 THE COURT: Are you willing to stipulate what Mr.
2 Kanarek is talking about, Mr. Bugliosi?

3 MR. BUGLIOSI: The People will stipulate that the
4 Court may read and consider those portions of the Smith
5 and Powell transcript that Mr. Kanarek has just referred
6 to in resolving the issue.

7 THE COURT: If I understand what Mr. Kanarek is
8 saying, this does not say that, this Notice of Motion,
9 but apparently what he is saying, you correct me if I am
10 wrong, but no, I'm sorry, I don't understand, Mr. Kanarek.

11 On further reflection, I simply don't under-
12 stand what you are trying to get at in this document.

13 MR. KANAREK: This was prepared on June 15th, 1970.
14 It was a request that the Court order Mr. Goodwin to do
15 exactly as stated, to provide the following information
16 as stated from the books, records and files maintained
17 by the Jury Commissioner of the County of Los Angeles,
18 and he goes to his records and provides us with these
19 pieces of information.

20 All we do is we deem that this has been done;
21 that the Court ordered it, as far as this particular
22 challenge is concerned; that this information has been
23 furnished by the Jury Commissioner.

24 THE COURT: And that the results would be the same
25 as indicated in the transcripts of the Smith-Powell case.

26 MR. KANAREK: The results, yes, your Honor, that

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1 this information was furnished in this case just as it
2 was furnished in the Smith-Powell case.

3 THE COURT: Will you so stipulate, Mr. Bugliosi?

4 MR. BUGLIOSI: Yes, your Honor, with the further
5 proviso that the prosecution may offer further testimony
6 or further transcripts on this.

7 In other words, we will stipulate, but not
8 to the exclusivity of the materials for the Court to
9 consider on this issue.

10 THE COURT: Well, we are not going to drag this
11 out indefinitely.

12 MR. BUGLIOSI: I would say this, your Honor, that
13 no later than -- this is Friday afternoon now, a quarter
14 to 3:00, no later than 10:00 or 11:00 o'clock Monday
15 morning.

16 THE COURT: All right, now, where are the
17 transcripts that have been stipulated to?

18 MR. BUGLIOSI: This is something I really do not
19 know.

20 Mr. Stovitz had them up here. He knows
21 where they are.

22 I will make an effort to find out where they
23 are, but I do not personally know where they are.

24 There were several boxes of them.

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1 THE COURT: Obviously it is going to take some
2 time. I don't know how long it will take until I look
3 at them to read these transcripts.

4 I am going to read them as quickly as I can.
5 I don't want to delay the trial unnecessarily.

6 At the same time I want to read them.

7 Well, I think what you should do now, Mr.
8 Bugliosi, is contact your office and see if you can locate
9 the transcripts so I can have them over the weekend.

10 MR. BUGLIOSI: Very good.

11 THE COURT: I don't want to waste the whole weekend
12 and come back and have to do this next week while we have
13 a jury sitting around.

14 MR. BUGLIOSI: Does the Clerk know where they are?
15 They were brought up here at one point. Do you know
16 whether Mr. Stovitz took them?

17 THE CLERK: No, he took them back.

18 MR. BUGLIOSI: I'm sure we can find them.

19 THE COURT: Why don't we recess for a few minutes
20 while you check on it.

21 MR. BUGLIOSI: All right, I will call down to
22 his secretary right now.

23 I will use the phone out there.

24 MR. FITZGERALD: Meanwhile I have the stipulation,
25 just two pages in length, in regard to the jury panel,
26 it does not purport to be exclusive, but I believe it

1 covers an area that the transcripts do not, and that is,
2 to wit --

3 THE COURT: All right, Mr. Fitzgerald, you have
4 handed me a document entitled "Stipulation Re Petit
5 Jury Challenge."

6 What does this purport to be?

7 MR. FITZGERALD: This purports to set out a stipula-
8 tion by and between and among the parties that this particu-
9 lar panel of jurors and all petit jury panel members are
10 selected from a list of registered voters in Los Angeles
11 County.

12 No. 2, it covers procedure ascertaining
13 the list of registered voters.

14 Three, it covers the amount of remuneration
15 they are paid for their service on jury duty.

16 It is simply a stipulation as to some simple
17 facts.

18 THE COURT: It will be filed and considered in
19 connection with the challenge.

20 MR. FITZGERALD: Thank you.

21 THE COURT: And I will apply all of the documents
22 you have handed me, Mr. Kanarek, entitled "Grounds
23 Constituting Challenge to Petit Jury Panels," also the
24 second document entitled "Notice of Motion; Declaration
25 in Support of Motion and Order," which purports to give
26 the Court notice that on Monday, June 15th, 1970, you will

1 move the Court for an order directing William Goodwin,
2 Jury Commissioner, to provide the Defendant Charles Manson
3 with certain information.

4 I take it you want that filed also in
5 connection with your challenge to the petit jury panel,
6 is that right?

7 MR. KANAREK: Yes, sir, yes.

8 THE COURT: All right, that will be filed also
9 and considered along with everything else in connection
10 with that challenge.

11 MR. KANAREK: Was that Notice of Motion executed?
12 May I see it?

13 THE CLERK: Has there been a stipulation on that
14 Notice of Motion?

15 THE COURT: I understood the People stipulated to
16 that.

17 MR. BUGLIOSI: Yes, your Honor.

18 THE COURT: Do you stipulate to the matters contained
19 in this Notice of Motion regarding William Goodwin, Jury
20 Commissioner?

21 MR. KANAREK: I believe the sense of the stipulation
22 will be that the Court did order that these items be
23 prepared for use. That is the sense of the stipulation.

24 In other words, we ask that the Court --

25 THE COURT: That still leaves me in the dark as
26 to what effect that would have.

1 Assuming that the stipulation is entered
2 into, or that I had ordered William Goodwin to provide
3 this information, then where do we go from there?

4 MR. KANAREK: What it means, your Honor, is that
5 the scientific graph material, so to speak, is there to
6 substantiate our jury panel challenge.

7 MR. BUGLIOSI: I am not stipulating to that.

8 The only thing I will stipulate, the Court
9 may read and consider the pages of the Smith transcript
10 that Mr. Kanarek has indicated.

11 MR. KANAREK: I am filing the document.

12 MR. BUGLIOSI: I don't think there is really any
13 requirement that the People stipulate to the notice of
14 motion.

15 MR. KANAREK: Not the Notice of Motion, but stipulate
16 merely that the Court ordered, in other words, Judge Older
17 is being asked to order exactly what Judge Peracca ordered
18 Mr. Goodwin to do, a certain amount of work, with his
19 records, and prepare his records for inspection so they
20 can be used properly in connection with preparing the
21 information for the Court in connection with the challenge
22 to the jury panel.

14 fls.

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1 MR. BUGLIOSI: Would the Court ask Mr. Kanarek
2 if he has any evidence that that is actually a copy
3 of Mr. Goodwin's report?

4 THE COURT: I don't think it purports to be a copy
5 of his report. He simply is asking -- well, I am still
6 at a loss to understand what you intend to accomplish by
7 this Notice of Motion, Mr. Kanarek.

8 MR. KANAREK: This is the way it works, your Honor.
9 If we actually went through the challenge to the jury
10 panel in detail, an ordinary person cannot go in and
11 shuffle through Mr. Goodwin's records, so this was a
12 motion that the Court order Mr. Goodwin to do certain
13 things and give us certain records so we could use them in
14 the study.

15 That is all this is, your Honor. Just that
16 Mr. Goodwin -- in other words, he goes down and he pulls
17 out a certain number of his records, and we use them.
18 That is all that is.

19 MR. BUGLIOSI: This document that Mr. Kanarek
20 just filed with the Clerk, so far as I can understand,
21 purportedly contains Mr. Goodwin's summary or facts,
22 or whatever it is?

23 THE COURT: It doesn't seem to contain any facts.

24 MR. KANAREK: No. It is a request.

25 Yes, it is a removal order, in a sense,
26 a request that the Jury Commissioner take certain papers

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1 in his records and make them available for the study.

2 That is all.

3 This is only a request that certain documents
4 be made available.

5 MR. BUGLIOSI: I don't know why it is necessary for
6 the People to stipulate to that?

7 MR. KANAREK: Just that you stipulate that the order
8 is made, that Judge Older made the order and that Mr. Goodwin
9 furnished what we asked for.

10 MR. BUGLIOSI: If Judge Older makes an order, he
11 doesn't need the prosecution to stipulate to the fact
12 that he made the order.

13 THE COURT: Isn't what you are trying to say, Mr.
14 Kanarek, that it be deemed that the grounds upon which you
15 make your challenge would be based upon the facts contained
16 in these records if they had been called and offered?

17 MR. KANAREK: Right.

18 And since we are dealing --

19 THE COURT: Is that what you are trying to say?

20 MR. KANAREK: Yes.

21 And since we are dealing with different
22 jury panels, obviously, really, it is a foundational thing
23 as far as this particular stipulation is concerned, because
24 in the challenge in Powell and Smith --

25 THE COURT: In other words, what you are saying is
26 that in the Smith and Powell case the challenge was made to

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1 a particular panel that existed at that time, and you are
2 now making a challenge to the panel that would be shown
3 to have existed by Mr. Goodwin's records during the
4 course of this trial?

5 MR. KANAREK: Right. That is all.

6 In other words, your Honor, it is similar
7 records, only for a later panel or panels, that is all.

8 MR. BUGLIOSI: But the Court is going to make that
9 order?

10 THE COURT: No.

11 Mr. Bugliosi, what Mr. Kanarek is saying is
12 that he made a challenge in the Smith and Powell case,
13 and since the challenge is to the petit jury panel, it
14 necessarily is to the panel that existed at that particular
15 segment of time.

16 MR. BUGLIOSI: Yes.

17 THE COURT: He is now making the same challenge in
18 this case, but it is obviously going to be a different
19 group of people.

20 MR. BUGLIOSI: Yes. It would be to the current
21 people. Right.

22 THE COURT: Exactly.

23 Is that right?

24 MR. KANAREK: Right.

25 MR. BUGLIOSI: Yes.

26 THE COURT: And he is asking you to stipulate to

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1 that.

2 MR. BUGLIOSI: I will stipulate to that.

3 THE COURT: All right.

4 MR. BUGLIOSI: I thought this was a stipulation
5 to the assertions in that document.

6 THE COURT: All right. Then we have a stipulation,
7 Mr. Kanarek.

8 MR. KANAREK: Very well. Very good, your Honor.

9 THE COURT: Now, would you see if you can locate
10 the transcripts, Mr. Bugliosi, and we will recess briefly
11 until you are ready to inform us one way or the other.

12 MR. BUGLIOSI: Okay.

13 (Recess.)

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1 (The following proceedings occurred in chambers,
2 all counsel and defendants present:)

3 MR. BUGLIOSI: Everyone outside, all the reporters,
4 are aware of the fact that there has been an attack on the
5 petit jury system. I don't know how they found out.

6 MR. FITZGERALD: It is very unfortunate.

7 THE COURT: That was done in open court.

8 MR. BUGLIOSI: I mean, that right now there has been
9 a renewal of the challenge.

10 THE COURT: It isn't a renewal, it is just that it
11 has never been determined.

12 MR. BUGLIOSI: Everyone outside knows. In fact, when
13 I left and went outside -- not outside the courtroom but
14 into the courtroom -- I was in the courtroom about ten
15 minutes, when I walked outside everyone knew about it,
16 that this is going to suspend proceedings for a while and
17 that the Court is going to read some transcript on another
18 case.

19 I don't know how it got out there but it did.

20 MR. FITZGERALD: I would prefer that these people
21 didn't know they were being challenged.

22 MR. KANAREK: That is correct.

23 I was approached by the press in regard to
24 this. I don't know how they found out about it.

25 I think I have an idea as to how they found out
26 about it. I would offer to be sworn that I didn't tell them.

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1 MR. SHINN: Do you want an evidentiary hearing?

2 MR. KANAREK: The point of the matter is that I
3 agree with Mr. Fitzgerald. I don't like to pinpoint anyone,
4 but I agree with Mr. Fitzgerald that this is very bad at
5 this time because these jurors, not knowing, not being able
6 to know what goes on in here, they are going to think that
7 we are challenging them.

8 THE COURT: I will tell them when I adjourn today.
9 Well, I don't have to tell them anything. I can just bring
10 them back on Monday.

11 MR. REINER: Your Honor, if I might make one suggestion,
12 which was suggested to me by some of the reporters
13 generally.

14 I indicated once before to them a couple of days
15 ago, I think it was, that one of the reasons -- without
16 being specific -- that we have taken an extra amount of
17 time in interrogating the jurors in chambers on the
18 publicity matter was not only pretrial publicity but
19 publicity that occurred during the jury selection; that
20 every time something appeared in the newspaper that we
21 thought they shouldn't be exposed to, we again had to
22 go over it with the jurors and find out if they read the
23 daily paper.

24 The reporters indicated that they were less
25 than delighted with the jury process and wished the trial
26 began and the testimony start.

14a3

1 If we told them that anytime there was some-
2 thing in the paper, this would cause us to have to go back
3 into the matter with the same jurors on a re-run asking
4 them if they read something in the papers, and I am sure
5 the reporters would willingly keep something out that
6 caused this type of delay. They would not even go back and
7 print filler, print something that they had known about,
8 like this Susan Atkins' confession, if they realized it
9 caused a delay, and I think we would have no problem at
10 all if we asked them not to mention that this matter was
11 before the Court until the jury has been sworn.

12 MR. FITZGERALD: I think the media is totally --
13 totally -- untrustworthy. That is just sheer sophistry that
14 they are going to keep something out of the press. There is
15 no such thing as off the record or, "Don't print that."

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1 MR. KANAREK: Your Honor, the point is this:
2 Cooper vs. the Superior Court stressed the point that some
3 matters are prejudicial because of the timing, and in this
4 case, the release to the press that we are challenging the
5 jury panel right now, at this point, I submit, the timing of
6 that --

7 THE COURT: Of course, they know we have been
8 challenging the jurors for the last four weeks. There is
9 no surprise about that.

10 MR. KANAREK: I know, your Honor, but that is more or
11 less in the nature of --

12 THE COURT: I have no intention of telling them,
13 Mr. Kanarek.

14 MR. KANAREK: I am informed and believe that someone
15 has told the press about this challenge to the jury panel.

16 THE COURT: Do you have some facts?

17 If you have some facts, I would be happy to
18 hear about it.

19 MR. KANAREK: I am not interested in having a fellow
20 lawyer found in violation of the gag rule, but imposed on
21 this is this denial of a fair trial to Mr. Manson.

22 THE COURT: I don't see anything harmful about this
23 particular fact. They have known about it.

24 In the first place, the challenge was raised
25 by you, I believe, first in open court. There was a
26 discussion about it. There was a discussion about it then

14B2 1 and there has been many discussions about stipulations
2 being entered into and shortening the time for determining
3 the challenge on the basis of the stipulations, and so
4 forth.

5 It is no surprise to anybody.

6 MR. KANAREK: No, but it is going to be in the head-
7 lines tonight and tomorrow and over the weekend, and these
8 jurors are going to somehow make an inference that we are
9 against them personally.

10 THE COURT: I think the less said about it the better,
11 and I have no intention of making any statement to the
12 press about it whatever.

13 The publicity order is still in effect,
14 gentlemen. What goes on back here comes within that order.

15 I don't want any attorney to think that he is
16 in a position of being able to weigh what is important
17 and what is not important about what is being said at
18 the bench and in chambers. That is why the publicity order
19 was made -- augmented, rather -- to cover those particular
20 areas, so that decision doesn't have to be made. It has
21 been made for you. Because we can't always anticipate what
22 the press is going to distort or blow up out of all propor-
15 23 tion, or do anything.
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1 THE COURT: Well, am I going to get the transcript
2 this afternoon, Mr. Bugliosi?

3 MR. BUGLIOSI: Yes, your Honor, I spoke to Mr. Leavy
4 about ten minutes ago. He said it would take about a half
5 hour to get up here.

6 THE COURT: What do they consist of?

7 MR. BUGLIOSI: I think there are about 20 boxes.
8 We will bring the entire transcript up.

9 Then Mr. Kanarek can indicate the relevant
10 pages so we will have to pare it out in various volumes.

11 THE COURT: I don't want 20 boxes in my chambers.

12 MR. BUGLIOSI: No, we will transport them back down
13 again after we remove the volumes the Court is going to
14 read.

15 Now, there is a question, how are you going to
16 take those home. There might be four or five boxes.

17 MR. KANAREK: I will be glad to carry them to your
18 Honor's car.

19 MR. FITZGERALD: I think his Honor has a body guard
20 chauffeur if the press is correct.

21 THE COURT: No comment.

22 THE CLERK: We can always arrange for someone to
23 carry them to your car; no problem about that, Judge.

24 THE COURT: All right. Well, then, they are on their
25 way, are they?

26 MR. BUGLIOSI: They are on their way as far as I know.

1 THE COURT: Is there any reason why I should not
2 excuse the jurors?

3 MR. BUGLIOSI: I cannot think of any reason. I think
4 the Court will probably recess the case until Monday
5 morning. I can't think of any reason for not doing so.

6 THE COURT: All right. Then let's go back into
7 open court.

8 I will simply recess the adjournment
9 proceedings without making any comment to them other than
10 the usual admonitions.

11 MR. REINER: Does the Court intend to sequester the
12 12 jurors after they are sworn, until the six alternates
13 are sworn?

14 THE COURT: Well, I had not intended to do that. I
15 wanted to allow them to remain at large as long as possible.

16 As long as no evidence is being taken, I did
17 not see the necessity. They have not been sequestered
18 during this phase of the trial. Another few days, or what-
19 ever it takes to get the alternates, should not make any
20 difference.

21 MR. SHINN: Your Honor, are we going to hear all of
22 these pretrial motions, your Honor, before the trial
23 actually starts, your Honor?

24 THE COURT: Pretrial?

25 MR. SHINN: Yes, like admissions and confessions.

26 THE COURT: I ruled on all the pretrial motions,

1 Mr. Shinn.

2 MR. SHINN: Your Honor, I think you said you would
3 defer some of these to the time of trial, your Honor.

4 By that, I did not know whether you wanted to
5 do it before we actually started the trial.

6 THE COURT: I think what happened was I either ruled
7 on the motions or they went off calendar without prejudice
8 to be raised at an appropriate time during the trial.

9 Now, with respect to your specific motion or
10 motions, I don't recall without reading the transcript
11 precisely what action was taken, but I suggest you take a
12 look at it over the weekend.

13 MR. SHINN: Assuming it is a motion to suppress the
14 admission or confession of Susan Atkins, would your Honor
15 take these before the trial or during the trial when they
16 attempt to introduce it, then I was going to take up the
17 question of whether or not --

18 THE COURT: I think the appropriate time for that is
19 if, as and when they are offered.

20 MR. BUGLIOSI: This issue has already been raised
21 by Mr. Fitzgerald on a motion to sever, but then there was a
22 withdrawal of the motion to sever, as I recall, but the
23 admissibility of Miss Atkins' statements was raised at one
24 point.

25 MR. FITZGERALD: That's correct, and the Court looked
26 at some exhibits. The Court was going to rule on whether

1 they could be sufficiently edited.

2 Left open for us was whether or not they were
3 legally or illegally obtained.

4 We have not determined any of that.

5 THE COURT: I see. I think it is premature. I have
6 no way of knowing if they are going to be offered.

7 If they are not going to be offered there is
8 nothing to suppress, is there?

9 MR. FITZGERALD: That is correct. I might say,
10 though, that Mr. Stovitz mentioned to me that he was going
11 to request that the Court hear some matters before the
12 actual testimonial portion of the trial began.

13 I believe the prosecution has some motions to
14 make in regard to the admissibility of certain areas of
15 evidence.

16 Is that correct?

17 MR. BUGLIOSI: I don't know.

18 THE COURT: All right, let's go back into court,
19 gentlemen, and I will adjourn for the day.

20 Do all counsel want to be present when these
21 transcripts are brought up?

22 MR. REINER: I don't believe that is necessary.

23 THE COURT: Who should be present?

24 MR. BUGLIOSI: I will have to be here.

25 THE COURT: Will you remain, Mr. Kanarek, with
26 Mr. Bugliosi until we determine what transcripts you want me

1 to read?

2 MR. KANAREK: Certainly, your Honor.

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1 MR. BUGLIOSI: With respect to the press, radio
2 or television asking us any questions, there being a
3 challenge to the jury system, is it permissible for us
4 to comment on that, saying that there is and the Court
5 will rule on the matter?

6 THE COURT: Why don't you just say the Court is
7 ruling on routine challenges to the jurors, that is all.
8 That is what we have been doing for the last month,
9 why change it?

10 MR. BUGLIOSI: Yes, I mean if the question contains
11 a reference to another transcript, is the Court going to
12 read another transcript or something like that?

13 That is all they are asking out there.

14 THE COURT: I certainly would not volunteer any
15 information.

16 MR. FITZGERALD: Coupled with Mr. Kanarek's
17 remark that earlier in the day one of the prosecutors
18 had mentioned to the press there was going to be a
19 dramatic change in events, they may erroneously associate
20 the dramatic change in events, or however the phraseology
21 was, that dramatic sort of change is that your Honor is
22 seriously entertaining a motion to quash the entire
23 jury panel and dismiss the case or something.

24 I can see the headlines in the Herald-
25 Examiner.

26 THE COURT: Do you have any suggestions? I cannot

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1 stop the newspaper from speculating, except doing what I
2 have already done, trying to prevent the outflow of
3 information.

4 MR. KANAREK: I might state this, your Honor, I
5 was approached about the Powell and Smith case by the
6 press who knew about the Powell and Smith matter being
7 involved, and so forth, your Honor, it was most incredible.

8 THE COURT: Where is the information coming from,
9 Mr. Kanarek?

10 MR. KANAREK: Well, I believe Mr. Reiner volunteered
11 this to the press.

12 MR. REINER: All right, in response to questions by
13 the press, bringing up the matter of the challenge to the
14 entire jury system that was made in open court, we were
15 asked what the delay was, and whether we were going to
16 continue voir diring jurors.

17 I said the matter was under consideration by
18 the Court, and the Court was considering the matter. I
19 did not reveal any information.

20 This was off the record, just indicating why
21 there was a delay. There was a matter pending before the
22 Court, previously made, that the Court was considering.

23 Then at that point I believe they went over
24 to Mr. Kanarek.

25 THE COURT: Gentlemen, I suggest that you do not
26 say anything further about it. I don't think you can make it

15a-3

1 any better.

2 MR. FITZGERALD: Let us agree to a voluntary
3 moratorium, everyone says "No comment."

4 MR. BUGLIOSI: On TV and radio.

5 MR. FITZGERALD: TV, radio and the newspaper.

6 MR. BUGLIOSI: All right.

7 MR. SHINN: That's right.

8 THE COURT: All right, let's go back into court.

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

11 THE COURT: All parties and counsel are present.
12 All of the prospective jurors are in the jury box.

13 Ladies and gentlemen, we are going to adjourn
14 at this time until 9:00 o'clock Monday morning.

15 Please remember the admonition.

16 Do not converse among yourselves or with
17 anyone else on any subject relating to this case, nor form
18 or express any opinion regarding the case until it is
19 finally submitted to those of you who are selected as
20 jurors.

21 In addition do not read, watch or listen
22 to any news reports concerning the case at any time while
23 you are connected with this case.

24 9:00 o'clock Monday morning, please.

25 Have a good weekend.

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

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1 just briefly?

2 THE COURT: Very well.

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

5 MR. KANAREK: Your Honor, I know your Honor has
6 made the admonishment, but I do make a motion for a
7 mistrial on the grounds of this particular --

8 And I refer, your Honor, to the language
9 in Cooper vs. Superior Court again.

10 THE COURT: What are the grounds of your motion?

11 MR. KANAREK: The ground is, your Honor, as I say,
12 I cannot represent because I have not seen what actually
13 is going to be printed in the paper or what will be over
14 TV tonight, but I believe in the context as Mr. Fitzgerald
15 indicated, the fact there was a statement by Mr. Bugliosi
16 that there was going to be something dramatic happening,
17 and then this is going to be integrated with the so-called
18 challenge to the jury panel, it is my belief, your Honor,
19 that as far as these jurors are concerned it is prejudicial.

20 I make a motion for a mistrial.

21 THE COURT: The motion is denied.

22 (Whereupon at 3:45 o'clock p.m. an adjournment
23 was taken until 9:00 o'clock a.m., Monday,
24 July 13, 1970.)
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1 LOS ANGELES, CALIFORNIA, MONDAY, JULY 13, 1970 9:06 A.M.

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4 (The following proceedings were had in the
5 chambers of the Court, outside the presence and hearing
6 of the prospective jurors, all counsel being present.
7 The defendants were not present.)

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

10 I want to ask you how you prefer to
11 proceed on this challenge to the petit jury panel.

12 Do you intend to argue, and if so, do you
13 want to do it in open court, in chambers, or what do you
14 desire?

15 MR. KANAREK: Our wish is to do it in open court.
16 I believe that is Mr. Fitzgerald's and Mr. Shinn's --
17 I don't know about Mr. Reiner.

18 MR. REINER: I don't intend to argue the point.
19 I will join with Mr. Fitzgerald's argument.

20 THE COURT: All right.

21 MR. STOVITZ: I think the stipulation should be
22 entered into in front of the defendants, your Honor,
23 asking for personal consent to have your Honor read
24 those transcripts. There may be a question of lack of
25 confrontation with these defendants, to your Honor's
26 reading the transcripts.

1 MR. FITZGERALD: I also will not argue. I will
2 defer to Mr. Kanarek, your Honor.

3 MR. KANAREK: My argument will not be long, your
4 Honor.

5 THE COURT: I have just been handed a 21-page
6 document entitled "Motion to Quash Indictment on the
7 Grounds that the Grand Jury Is Illegally Constituted and
8 Arbitrary Discretion To Proceed by Indictment."

9 MR. KANAREK: Yes, your Honor.

10 THE COURT: It appears to me this is a pretrial
11 matter.

12 MR. KANAREK: No, your Honor, what I am saying is
13 this:

14 Under People vs. Crovedi, a person, a human
15 being can only do so much, your Honor, the People have,
16 by pilloring me, have forced me to spend a great number of
17 hours in my personal defense.

18 What I am alluding to is, there is only so
19 much, as I say, a person can do.

20 Now, this motion to quash the jury panel is
21 a motion which I believe the Court should grant. I think
22 there is no question about it.

2 fls.

2-1 1 THE COURT: We are not talking about that now. I am
2 talking about the document I have just been handed.

3 MR. KANAREK: That is correct, your Honor.

4 THE COURT: Which relate to the Grand Jury.

5 MR. KANAREK: Right.

6 THE COURT: Apparently. I haven't read it yet. I
7 just received it.

8 MR. KANAREK: I would have had this done a lot sooner,
9 as I would have had other things done, your Honor, except
10 for the fact of the District Attorney's personal attack
11 upon me.

12 As I say, I can only do so much.

13 THE COURT: Well, obviously it is going to take me
14 a while to read this.

15 MR. KANAREK: Yes.

16 THE COURT: And I assume you want to argue it at the
17 same time as your challenge to the petit jury; is that
18 right?

19 MR. KANAREK: Whatever the Court prefers.

20 THE COURT: Well, I would prefer to dispose of both
21 matters at the same time.

22 MR. KANAREK: That would be agreeable, your Honor.

23 I would hope that the Court grant it because
24 I think that it is most valid.

25 I refer the Court to the case that we refer
26 to in the brief, in the motion, to the case of People vs.

1 Salvatori E. Castro, et al., No. A-239,032.

2 THE COURT: What page is that on?

3 MR. KANAREK: Page 19.

4 MR. STOVITZ: There has been no decision in that
5 case, Counsel.

6 How can you cite to the Court a case in which
7 there has been no decision?

8 MR. KANAREK: You haven't read the brief, Mr. Stovitz.
9 I am saying it is indicative.

10 MR. STOVITZ: I think it is the same thing as People
11 vs. Crovedi. Crovedi refers to one thing, the incompetence
12 of counsel, yet counsel keeps citing cases that have nothing
13 to do with the issues before the Court.

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1 MR. KANAREK: May I respond to that?

2 I believe that Crovedi stands for the
3 principle that a lawyer must have time to prepare.

4 THE COURT: Is Crovedi cited in this document?

5 MR. KANAREK: No.

6 THE COURT: What is the citation?

7 MR. KANAREK: 67 or 68 Cal. 2d. It is in the
8 late 60 series.

9 THE COURT: I have read it in the past.

10 MR. STOVITZ: Was this the Crovedi that was
11 disbarred or the Crovedi that was reversed?

12 MR. KANAREK: I would rather not answer inter se.

13 THE COURT: I will have to have time to look at
14 this. I assume you have cited some cases besides
15 Salvatori.

16 MR. KANAREK: That is correct.

17 THE COURT: If I am not already familiar with
18 them, I want to read them.

19 MR. STOVITZ: May I suggest this? Mr. Shinn has,
20 from the very beginning of this case, when he got back
21 from Tokyo, made motions to suppress Susan Atkins'
22 statements to Roni Howard and Virginia Graham and
23 Lawrence Schiller, and other people that she may have
24 made statements to.

25 He also made similar motions to that effect
26 before Judge Lucas.

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1 Judge Lucas ruled that there was nothing
2 before him at that time because of some procedural
3 matter. In other words, Mr. Shinn was seeking to go
4 outside the Grand Jury transcript.

5 We did not use the so-called statements
6 that she made to Roni Howard and Virginia Graham at
7 that time.

2b fls.

1 Mr. Shinn has come up to us today and said that
2 he would like to make these motions to suppress her state-
3 ment before the trial actually commences, before the evi-
4 dence actually starts coming in, and I think that this
5 motion, although the ultimate result may not have any merit,
6 I believe that the motion to have it made before the
7 actual testimony begins does have merit for three reasons.

8 Number one, it may take a day, it may take two
9 days to hear this evidence. If that happens, it will save
10 the jury being locked up for two days.

11 Secondly, if the motion is granted -- Mr. Shinn's
12 motion is granted -- Mr. Bugliosi, in making his opening
13 statement, would not refer to the statements that Susan
14 Atkins made to Roni Howard and Virginia Graham in his
15 open statement.

16 And number three, if the motion is granted --

17 THE COURT: In that regard, regardless of the outcome
18 of Mr. Shinn's motion, it would seem to me that it would
19 be the height of folly to mention that in the opening
20 statement because you have other problems which have not been
21 resolved. I am talking about the Bruton and Aranda problems.

22 I don't know what the problems are yet. I am
23 not that familiar with the evidence.

24 If, for example, the Court rules that those
25 admissions or confessions, or whatever they are, statements
26 of Miss Atkins, are not admissible and you have already

1 referred to them in the opening statement, we have a very
2 serious problem.

3 MR. STOVITZ: Your Honor, we thought that on the
4 Bruton-Aranda problem that we had assured the Court that
5 witnesses, when they testify, would limit their testimony
6 only as to what Susan Atkins said concerning Susan Atkins.

7 THE COURT: That is a determination that has to be
8 made by the Court, Mr. Stovitz, and I haven't made it.
9 It has to be made before they testify.

10 MR. STOVITZ: Yes.

11 This is the purpose of receiving those two
12 statements that they made with our assurance that they
13 would so testify.

14 Of course, we were going to have pretrial
15 testimony, so to speak -- not pretrial, the testimony before
16 the Grand Jury -- to make sure that the witnesses adhere
17 to the Court's order in that regard, but I don't see much
18 time being taken on that.

19 I do see that Mr. Shinn may want to present
20 Susan Atkins as a witness or may want to call other
21 witnesses to testify as to why, how, and if she made these
22 statements.

23 Am I reading your mind correctly, Mr. Shin?
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1 MR. SHINN: Absolutely correct, Mr. Stovitz.

2 MR. STOVITZ: So, if your Honor is thinking of
3 handling the challenge to the petit jury and the challenge
4 to the Grand Jury, I would ask your Honor also to consider
5 the taking of testimony on the motion to suppress the
6 statements that Susan Atkins made.

7 THE COURT: Well, I don't think that that should
8 be done now. I think we should go ahead and hear the
9 challenges and the motions with respect to the Grand
10 Jury and the petit jury and then proceed with the jury
11 selection, and then, when the jury is completed, then we
12 can take up any other unfinished business that we should
13 be taking up before the trial starts.

14 MR. STOVITZ: All right, I think that is agreeable.

15 Is that agreeable with you, Mr. Shinn?

16 MR. SHINN: Yes, your Honor, as long as we have it
17 before we start the trial.

18 MR. BUGLIOSI: There is a question about jeopardy.
19 It is a big issue. Once you impanel a jury. I think you
20 have to wait and call the witness.

21 MR. STOVITZ: No. Once the jury is sworn. That
22 includes the alternates as well.

23 MR. BUGLIOSI: As opposed to a court trial. You
24 have to call a witness to the stand. In a jury trial, you
25 swear the jury and jeopardy attaches.

26 THE COURT: Well, I think you are right, but what

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1 is the thrust of your statement? What are you trying to
2 tell me?

3 MR. BUGLIOSI: The Court might be dealing with
4 some motions for severance. If the Court grants the
5 motion for severance.

6 MR. STOVITZ: Also, there was a motion, I don't
7 know whether it was actually made formally, but there
8 was a suggestion of a motion for change of venue that
9 I think should be done before the jury is actually sworn,
10 and perhaps --

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1 THE COURT: Change of venue? I haven't heard of any
2 such motion.

3 MR. STOVITZ: Maybe Mr. Reiner speaks so low that your
4 Honor --

5 THE COURT: There has been a change of venue motion
6 that has gone all the way up to the California Supreme
7 Court.

8 MR. REINER: That is correct, your Honor.

9 A motion for a change of venue after the
10 prospective jurors have been examined and prior to the
11 time that the Court indicates that he intends to swear
12 the jurors in, must, at that time, be renewed, the position
13 being, at that time, that the defendants, notwithstanding
14 that a motion for a change of venue was made prospectively,
15 that is, prior to the examination of the jurors, was
16 denied, that perhaps an examination of the jurors has now
17 indicated that a fair and impartial jury cannot be
18 obtained in Los Angeles County, and it must then be
19 renewed, but that would be before the jury is sworn.

20 MR. STOVITZ: Perhaps we can enter into a stipulation,
21 your Honor, that the term "swearing of the jury" would
22 contemplate the swearing of the jury as it is composed with
23 the alternates.

24 In other words, the usual procedure is after the
25 12 jurors are selected those jurors are sworn, and the
26 Court then makes an announcement that there will be a

1 protracted trial and, therefore, the Court is going to
2 impanel alternate jurors.

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1 The paneling of the alternate jurors might
2 take a day, it might take six days, we cannot anticipate
3 how long it will take.

4 Let us assume that it takes three days.
5 All right, now, then after the alternate jurors are
6 sworn, then they are also sworn to hear the case, and
7 perhaps if all counsel are willing to we can stipulate
8 that the term "swearing of the jury" means swearing of
9 the 12 plus the alternates, or we can put off the
10 swearing of the 12 until we get the alternates.

11 THE COURT: The Code of course provides that the
12 alternates will be selected after the jury is sworn.

13 MR. STOVITZ: That's right, so we are thinking
14 in this respect, just assume for the moment that the
15 jury is sworn, and we go ahead and try to select the
16 alternates, and then a motion for a change of venue is
17 made and is granted.

18 Jeopardy attaches and we have to transport
19 this jury to some other County and that is not the
20 purpose of the change of venue motion.

21 MR. REINER: I would make a motion if at all
22 before the original 12 jurors were sworn. If I didn't
23 make it at that point, I don't think it would be timely.

24 THE COURT: In that case, I think it should be
25 made at the same time these other motions are heard.

26 Now, do you intend to rely upon your

1 motion upon the papers already filed, Mr. Shinn?

2 MR. SHINN: Yes, and then I'm going to file --

3 THE COURT: Don't surprise me at the last minute.

4 MR. SHINN: I am going to tell the Court right now
5 I am going to file a habeas corpus and additional papers
6 before the jury is sworn in, and on the same lines with
7 Mr. Reiner's motion.

8 THE COURT: We are not going to hold things up.
9 If you have some things to file, you'd better get them
10 on file.

11 MR. SHINN: These motions for continuance, change
12 of venue and all that has to come after we listen to
13 all of the jurors, your Honor, to see whether or not the
14 publicity has affected this trial or not.

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1 THE COURT: I am not talking about the motion for
2 change of venue now.

3 I am talking about your motion with respect to
4 the statements of Susan Atkins.

5 MR. SHINN: The motion is part of the record, your
6 Honor. It is filed already.

7 THE COURT: What I am asking you, are you going to
8 rely on what you already filed?

9 MR. SHINN: A habeas corpus I am going to file.

10 THE COURT: You are going to file in this case?

11 MR. SHINN: Just for the record.

12 THE COURT: When are you going to file it?

13 MR. SHINN: I worked on it all weekend, your Honor,
14 I should be finished by Tuesday or Wednesday.

15 MR. STOVITZ: Tomorrow is Tuesday.

16 MR. SHINN: I should have it finished by tomorrow.

17 THE COURT: We are going to start hearing these
18 motions now, as soon as I have read these points and
19 authorities and the cases involved.

20 Mr. Kanarek has said he does not intend to
21 argue at great length, so you should be prepared to go when-
22 ever --

23 MR. SHINN: When I subpoena all the witnesses we will
24 be prepared to go. I don't think we are going to get to
25 the jury for another week.

26 MR. STOVITZ: The People are going to accept the jury
as now constituted.

1 MR. SHINN: Then there are alternates. I will be
2 ready in a week.

3 THE COURT: You do not have a week.

4 MR. SHINN: I will be ready as soon as the Court is
5 ready, your Honor.

6 THE COURT: All right.

7 MR. SHINN: Mr. Kanarek has subpoenaed most of the
8 witnesses I was going to use.

9 THE COURT: To be perfectly safe, so there won't be
10 any problem for either side, these motions should all be
11 disposed of before any of the jurors are sworn.

12 I think it is too risky to start doing it by
13 stipulation, particularly where the defendants are reluctant
14 to say anything.

15 I would not want to do it. I would want to
16 hear all the motions before we swear anybody.

17 MR. REINER: It is not my intention to present
18 additional authorities or file briefs or present arguments.

19 MR. FITZGERALD: I might say the same thing.
20 The matter before we begin the trial is decided by the
21 California Supreme Court. Our position is now, after we
22 selected the jury, we demonstrated it is impossible to
23 achieve a fair trial in Los Angeles County, therefore we
24 are renewing the motion.

25 I will not present any additional authorities.

26 MR. STOVITZ: May we ask your Honor to ask the other

1 two attorneys whether they, too, will make motions for
2 change of venue.

3 MR. SHINN: I am going to file some additional points
4 and authorities.

5 MR. STOVITZ: For change of venue?

6 MR. SHINN: Change of venue, a continuance.

7 MR. FITZGERALD: I think what Mr. Shinn has in mind
8 is he would like to avail himself of the selected
9 remedies in the Reardon reports. The Reardon reports
10 seem to suggest that some time prior to the actual testi-
11 monial portion of the case that counsel make a motion to
12 continue until the prejudicial pretrial publicity abates.

13 That counsel make a motion to transfer the
14 matter to another County, and the third remedy is that
15 Mr. Shinn's earlier mention, to bring in a judge from
16 another County.

17 But I would not anticipate that there would be
18 any testimony or any extensive argument.

19 Is that correct?
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1 MR. SHINN: That is correct. I will submit it on
2 the documents I have filed.

3 THE COURT: All right, as I say, Mr. Shinn, we
4 are going to hear these motions in turn, and you should
5 be prepared to go.

6 MR. SHINN: I am ready for the motions of suppression.

7 May the record reflect that Susan Atkins
8 joins in this motion which Mr. Kanarek has filed to quash
9 the indictment.

10 THE COURT: When we start to hear each motion, if
11 there is any doubt about who is joining, you can make a
12 statement on the record at that time.

13 MR. BUGLIOSI: With respect to the motion to
14 suppress, I think we stated very clearly on the record
15 that we do not intend to introduce -- we made that
16 promise, we will not introduce her testimony at the
17 Grand Jury.

18 If Mr. Shinn wants to suppress that testimony,
19 we have made the representation we are not going to offer
20 it.

21 MR. SHINN: Yes, but your Honor, that is why I
22 filed the habeas corpus, your Honor. Habeas corpus is
23 where there is a violation of a person's constitutional
24 rights.

25 I believe when I filed my 995, Mr. Bugliosi
26 was there, and he informed the Court that I should confine

1 my 995 motion within the covers of the transcript, and
2 I believe I informed the Court at that time that the Court
3 has discretionary powers to give us an evidentiary hearing.

4 I think the Judge in 106 stated "Why don't
5 you take this up in your motion to suppress her testimony,"
6 which I did file before your Honor.

7 And I believe at that time the Court stated
8 we will refer this motion to the time of trial.

9 We actually had no chance to attack the
10 Grand Jury indictment, her testimony at the Grand Jury
11 indictment.

12 We had no opportunity to present our side
13 of it. We did not get an evidentiary hearing on that.

14 Now, I believe that we should be given an
15 opportunity to have an evidentiary hearing to determine
16 whether or not constitutional rights were violated at the
17 time she testified at the Grand Jury hearing.

18 MR. BUGLIOSI: Two things:

19 The motion to suppress her testimony, that
20 is moot, Mr. Stovitz and I are not going to offer her
21 testimony.

22 You cannot suppress something that is not
23 even going to be offered.

24 I think what Mr. Shinn wants to do is set
25 aside the Grand Jury indictment on the rationale that
26 Susan Atkins' testimony was improperly obtained.

1 The point there is that 995 is the sole
2 and exclusive remedy for setting aside a Grand Jury
3 indictment.

4 Habeas corpus simply will not lie to set
5 aside a Grand Jury indictment.

6 We filed briefs on that point, and offered
7 authority to the Court before Judge Lucas who held that
8 habeas corpus will not lie.

9 I will ask the Court to ask Mr. Shinn on
10 what conceivable rationale is he proceeding to set aside
11 the indictment.

12 There has been a 995 which has been denied.

13 Habeas corpus will not lie.

14 If it is to suppress Susan Atkins' testi-
15 mony, we are not going to offer it.

16 So I don't know why he intends to call
17 ten or fifteen witnesses.

18 MR. SHINN: I think counsel is wrong when he says
19 habeas corpus does not lie, your Honor. I have cases
20 that state after a 995 motion is denied that a defendant
21 has a right to bring habeas corpus, your Honor.

22 I have cases on it.

23 THE COURT: I don't have them.

24 MR. SHINN: Which I will present to the Court at
25 that time, your Honor.

26 THE COURT: If you intend to file something, you'd

1 better get it on file, Mr. Shinn.

2 MR. SHINN: Yes, your Honor.

3 MR. STOVITZ: May I again, your Honor, through
4 your Honor, request of Mr. Kanarek whether or not he is
5 going to join in the motion for change of venue.
6 The issue will be different if three defendants are
7 making the motion for change of venue and not the fourth,
8 or whether all four are going to make the motion.

9 MR. KANAREK: Does your Honor wish me to respond
10 to that?

11 THE COURT: It would be appropriate.

12 MR. KANAREK: Very well, I intend to join.

13 THE COURT: So the motion will be made on behalf
14 of all defendants.

15 MR. KANAREK: Yes, your Honor.

16 I would just ask the Court to consider the
17 testimony of the prospective jurors.

18 THE COURT: Now, let's do a little estimating as
19 to time on these various motions.

20 I would have to have the jury just sit
21 around doing nothing. We know we are not going to be able
22 to proceed with the jury selection for some time.

23 I want to make an estimate when we will
24 get back to them.

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1 MR. STOVITZ: Not being the moving party, we have no
2 way of estimating.

3 Our argument, the prosecution's argument, will
4 be very, very brief, perhaps one-tenth the time the defense
5 attorneys use to present their argument.

6 THE COURT: All right.

7 Let's start with Mr. Kanarek. How long do you
8 anticipate taking on your motions and your challenges to
9 the petit jury and the Grand Jury?

10 MR. KANAREK: I would say certainly no more, your
11 Honor, than one-half -- that is one session.

12 THE COURT: Like a morning session or afternoon
13 session?

14 MR. KANAREK: Yes, certainly no more than that,
15 conceivably less.

16 THE COURT: How long did you anticipate on the motion
17 for change of venue?

18 MR. KANAREK: Well, I am going to join with
19 Mr. Fitzgerald, Mr. Reiner, and Mr. Shinn. I don't think
20 I am going to argue that. I probably will just join with
21 the observation that the Court now has the prospective
22 juror's testimony and that would be all my argument on the
23 change of venue.

24 MR. FITZGERALD: 15 minutes.

25 THE COURT: And Mr. Shinn?

26 MR. SHINN: The motion to suppress, your Honor, we
will probably have witnesses, we will probably take about

1 two days, your Honor.

2 THE COURT: You may or may not have witnesses. I
3 want to review that.

4 I cannot at this point see the necessity for an
5 evidentiary hearing.

6 MR. SHINN: Your Honor, I believe on motion to
7 suppress we have a right to an evidentiary hearing, your
8 Honor.

9 I think Mr. Bugliosi is confused. First, I am
10 talking about her admissions to Roni Howard and Virginia
11 Graham.

12 That is going to take about two or three days.

13 THE COURT: Isn't that premature, though?

14 MR. SHINN: No, no, I believe the cases hold that
15 these motions should be taken before trial begins, and I
16 do have a case which I wish your Honor would read and it
17 explains, it cites Federal cases and Rule 41 of the Federal
18 Courts.

19 THE COURT: I will suggest again, Mr. Shinn, you'd
20 better get something on file with your points and
21 authorities.

22 We are not going to delay this trial while you
23 decide what you want to do.

24 You have had a long time now to decide what you
25 want to do.

26 MR. SHINN: I did file this motion to suppress, your

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1 Honor.

2 THE COURT: Are you talking now of the same points
3 and authorities?

4 MR. SHINN: Yes, that is on record, your Honor.

5 But this habeas corpus is a different matter,
6 your Honor.

7 This habeas corpus, I believe, will take maybe
8 two days.

9 THE COURT: Long before we get into that I am going
10 to want to know more about it.

11 MR. SHINN: Yes.

12 THE COURT: So get it on file.

13 MR. SHINN: Yes, your Honor, I will try to get it
14 tomorrow morning.

15 MR. REINER: I might indicate if we have a hearing in
16 open court on the matter of Susan Atkins' confession, or
17 any of Susan Atkins' statements, wouldn't that be self-
18 defeating?

19 THE COURT: We are not going to have that in open
20 court.

21 MR. REINER: Very well.

22 THE COURT: Any hearing or evidence taken will be
23 taken in chambers, if there is evidence to be taken.

24 MR. SHINN: It should be in open court, your Honor.

25 MR. FITZGERALD: Then we should do it after the jury
26 is sequestered, probably.

C4 1 MR. REINER: Otherwise the papers will be, of course,
2 writing about Susan Atkins' confession.

3 MR. STOVITZ: This presupposes that the Court will
4 determine that the jury in fact will be sequestered.

5 Just before his Honor makes the order final we
6 will try to show your Honor the reasons the jury should not
7 be sequestered.

8 MR. KANAREK: I must agree with the District Attorney,
9 your Honor, strange as it may seem.

10 I agree with Mr. Stovitz.

11 THE COURT: Let's not get into that matter. What I
12 am trying to do is estimate when we will get back to the
13 jury selection so that I can excuse the jurors in the mean-
14 time.

15 MR. SHINN: In the Hinman matter I had a motion to
16 suppress Susan Atkins' admissions in Santa Monica, your
17 Honor.

18 He did it in open court. We did about a day,
19 I believe it was.

20 MR. STOVITZ: That was a different thing; that was a
21 question of her confessions to the police officers, and you
22 called the police officers to see if they advised her of
23 her constitutional rights.

24 And they testified, and the Court was able to
25 make its decision after a week or two of argument.
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1 MR. SHINN: Whether or not Roni Howard or Virginia
2 Graham were agents of the police -- I don't know. I want
3 to get into that.

4 MR. STOVITZ: Do you have any evidence?

5 MR. SHINN: Yes, I have some evidence that they
6 may be a police agent.

7 I don't know.

8 Then we will get into the Miranda, you know,
9 and Escobedo.

10 THE COURT: It doesn't sound to me as if that is
11 a pretrial matter. That is something that should be
12 taken up by the time of the trial.

13 MR. SHINN: No, your Honor --

14 MR. STOVITZ: Why don't you submit the cases to
15 the Court, Counsel?

16 MR. SHINN: I just found this case over the
17 weekend, your Honor, S-a-i-d-i- T-a-b-a-t-a-b-a-i vs.
18 Superior Court, 61 Cal. Reporter 517. I think it is
19 253 Cal. 2d -- Cal. App. 2d 257.

20 MR. KANAREK: I have one other point I would like
21 to raise if I may, your Honor.

22 I just want to make sure in connection with
23 the challenge to the petit jury that the stipulation
24 includes all of the exhibits that went with the transcript.

25 In other words, to make it lucid, these
26 exhibits that are referred to in the transcript. I am

1 sure that is agreeable with the District Attorney because
2 these exhibits, as I say, are an integral part.

3 MR. FITZGERALD: I have a suggestion.

4 THE COURT: Are you asking for a stipulation?

5 MR. KANAREK: Yes, I think it is within the
6 ambit of our stipulation already. Just out of an abundance
7 of caution.

8 MR. STOVITZ: How many exhibits are we talking
9 about, five or six, or 20 or 30?

10 MR. KANAREK: Whatever I think is -- it is probably
11 on the order of 30, or maybe perhaps even more.

12 MR. STOVITZ: The exhibits of course are not in
13 our possession.

14 MR. KANAREK: Right, they are in the County Clerk's
15 possession.

16 But they are referred to in the transcript,
17 and we would in the interests of complete justice want to
18 underline that point.

19 MR. STOVITZ: With the understanding that these
20 exhibits are available and can be brought over by the
21 County Clerk to this court, we will upon the arrival of
22 these exhibits stipulate to their admissibility by
23 reference to the other number.

24 But if they are not existent, Counsel, we
25 are not stipulating to them and we are not going to try
26 to manufacture or reproduce something that does not

1 exist.

2 MR. KANAREK: No, they exist.

3 MR. STOVITZ: As soon as you give the County Clerk
4 the number and get the exhibits over here and specify
5 that they are, I will take one quick look at them and enter
6 into the stipulation.

7 MR. KANAREK: They are in the transcript. They are
8 all referred to.

9 I say if we are interested in the expedition--

10 MR. STOVITZ: Our stipulation encompasses the
11 exhibits if they are in existence.

12 MR. KANAREK: If that is the stipulation, I can
13 represent to the Court they certainly are in existence,
14 so I gather we have a stipulation then, your Honor, is
15 that correct?

16 THE COURT: It would seem so.

17 MR. KANAREK: All right, thank you.

18 They don't have to be physically brought to
19 this court, do they, your Honor?

20 THE COURT: Not as far as I am concerned.

21 MR. KANAREK: Thank you.

22 MR. FITZGERALD: I have an observation:

23 With the exception of Mr. Shinn's motion,
24 I don't see any reason why we cannot complete the challenge
25 to the petit jury, the challenge to the Grand Jury and
26 the change of venue motions today and resume with the

1 jury selection tomorrow morning.

2 THE COURT: I would think so.

3 MR. STOVITZ: I would think that is an excellent
4 suggestion. It will take us at least a half hour to read
5 the document that's been filed here. I have not been able
6 to read it.

7 THE COURT: I haven't either, so why don't we
8 excuse the jury until tomorrow morning?

9 MR. FITZGERALD: That is agreeable.

10 MR. SHINN: That is agreeable.

11 THE COURT: Does anyone have any objection to that?

12 MR. REINER: I'm sorry, I did not hear what the
13 Court said.

14 THE COURT: I am suggesting that since today we
15 will undoubtedly be occupied with arguments on the various
16 motions, we will excuse the jury to tomorrow morning.

17 MR. REINER: Very well.

18 MR. STOVITZ: Very well, your Honor.

19 THE COURT: At 9:00 o'clock.

20 MR. STOVITZ: Again, as the jury is presently
21 constituted the prosecution intends to accept the jury.

22 THE COURT: Now, Mr. Shinn, when do you expect
23 to file your additional papers?

24 MR. SHINN: Tomorrow morning, your Honor. I will
25 work on it all night.

26 THE COURT: All right,

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1 THE COURT: Now, then, as far as counsel are
2 concerned, after we have excused the jury until
3 tomorrow morning, do you think 11:00 o'clock will give
4 you enough time, Mr. Stovitz, to prepare whatever you
5 want to prepare in opposition to Mr. Kanarek's motion?

6 MR. STOVITZ: 10:30 will be satisfactory.

7 THE COURT: I think we need a little more time.

8 MR. STOVITZ: Very well.

9 THE COURT: I need a little more time.

10 MR. STOVITZ: All right. 11:00 o'clock is fine,
11 your Honor.

12 MR. FITZGERALD: I have a request. Well, let me
13 ask the Court.

14 During this hour period, your Honor, I can
15 go to my office and secure a brief on the change of venue
16 that I submitted to the California Supreme Court if you
17 are interested in reading it. If not, obviously, it
18 wouldn't be necessary. I am just interested in what the
19 Court's feeling on the matter is.

20 THE COURT: I did read the transcripts from 106,
21 I think it was, on the motions.

22 MR. FITZGERALD: Fine.

23 THE COURT: So I know what went on over there.

24 MR. FITZGERALD: Great.

25 THE COURT: In fact, I have the transcript right
26 up here on top of my file cabinet now, but I did read it

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1 earlier.

2 MR. FITZGERALD: Then it isn't necessary for me
3 to actually submit a brief.

4 If I can avoid that, I will, because I know
5 your Honor has a good deal to read.

6 THE COURT: All right. Then we will go back into
7 open court and I will excuse the jury until tomorrow
8 morning at 9:00, and I will excuse counsel until 11:00
9 o'clock this morning, and hopefully we will be able to
10 resume at 11:00.

11 MR. REINER: Your Honor, may we have three to five-
12 minute recess? I have an emergency call to make.

13 THE COURT: All right. Let the Clerk know when you
14 are ready.

15 (Recess.)

16 (The following proceedings occurred in
17 open court, all defendants, counsel and prospective jurors
18 being present.)

19 THE COURT: All parties and counsel are present,
20 all of the prospective jurors are present.

21 Ladies and gentlemen, before we resume with
22 the jury selection, the Court and counsel for the various
23 parties must complete some other matters which we antici-
24 pate will take the rest of the day.

25 So, I am going to excuse you until 9:00
26 o'clock tomorrow morning, all of the prospective jurors,

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1 including those of you sitting in the courtroom and not
2 in the jury box.

3 MR. KANAREK: Your Honor, before that occurs,
4 may we approach the bench? Before the jury leaves,
5 may we approach the bench just a moment?

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6 THE COURT: All right.
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1 (The following proceedings occurred at the
2 bench, outside of the hearing of the prospective jurors:)

3 MR. KANAREK: May I request that tomorrow, your
4 Honor, instead of the jury coming directly to the courtroom,
5 that your Honor have them go to a jury assembly room.

6 THE COURT: That is what they do. They are brought
7 over here each morning from the main County Courthouse and
8 returned at night, and also at noon.

9 MR. KANAREK: Your Honor, would you issue an order
10 that wherever they are kept, temporarily, that they be
11 kept there until your Honor gives them the word to come
12 here?

13 In other words, I think that they come here
14 automatically at 9:00 o'clock, and they would come here.

15 I think that would be best, your Honor, just in
16 case we wish to have other matters that we don't want them
17 to hear.

18 MR. STOVITZ: It might mean a 10 or 15 minute delay.
19 If there is a purpose?

20 THE COURT: They don't have to be brought over until
21 we are ready for them.

22 MR. KANAREK: If your Honor would do that, so that
23 they won't be in the courtroom?

24 THE COURT: All right.

25 (Whereupon, all counsel return to their
26 respective places at counsel table and the following

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1 proceedings occurred in open court within the presence and
2 hearing of the prospective jurors:)

3 THE COURT: During the interim, ladies and gentlemen,
4 remember the admonitions that I have given to you. Do
5 not converse among yourselves or with anyone else on any
6 subject relating to this case, nor form or express any
7 opinions regarding the case until it is finally submitted
8 to those of you who are selected as jurors.

9 And my further admonition that you not read,
10 watch or listen to any news reports concerning this case
11 so long as you are connected with the case as jurors.

12 You are now excused until 9:00 o'clock tomorrow
13 morning.

14 Counsel are excused until 11:00 a.m. today in
15 this department.

16 (Recess.)
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1 (The following proceedings were had in open
2 court out of the presence and hearing of the prospective
3 jurors, all defendants and their counsel being present:)

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

6 Proceedings are being held out of the
7 presence of the prospective jurors.

8 Do you wish to be heard on your motion
9 to dismiss the indictment, Mr. Kanarek?

10 MR. KANAREK: Yes, your Honor, if I may.

11 THE COURT: You may proceed.

12 MR. SHINN: May the record reflect that the
13 Defendant Atkins is joining in the motion, your Honor.

14 THE COURT: Very well.

15 MR. FITZGERALD: Defendant Krenwinkel also joins
16 in the motion.

17 MR. REINER: Join on behalf of Defendant Leslie
18 Van Houten, your Honor.

19 THE COURT: Very well.

20 MR. KANAREK: Your Honor, as far as the argument
21 goes, most of it, as I say, we have this some 20 pages
22 of points and authorities, and argument --

23 THE COURT: Yes, I have read your points and
24 authorities.

25 MR. KANAREK: And there is no question about it,
26 your Honor, that the Grand Jury in general -- the fact that

1 Judges of the Superior Court, and no matter how well
2 intentioned, and I don't say this without respect to your
3 Honor who is one of that group, no matter how well inten-
4 tioned this blue ribbon group is, nevertheless it certainly
5 is a blue ribbon group.

6 It is a group of people, that is, the pool
7 comes from the Superior Court Judges, their choice, and
8 therefore there is no question but we have a pool that is
9 predicated upon only the standards of life and the way of
10 thinking of the way of the particular Judges.

11 And so that, in itself, is a violation of
12 equal protection and due process, the fact that these
13 prospective Grand Jurors do not come from the great
14 masses of the people. They come only from the Judges.

6 fls.

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1 Then we have another -- in this particular case,
2 as far as Mr. Manson is concerned -- we have an even
3 further discrimination, and that is the fact that Mr. Manson
4 has never voted, Mr. Manson has never been on any
5 registration list; and so it is clear that Mr. Manson, as
6 indicated in his declaration, does not have any friends or
7 acquaintances that are Superior Court judges.

8 So, your Honor, we have an elite, in fact,
9 judging the case as far as the Grand Jury approach is
10 concerned.

11 In the preliminary approach to bringing a person
12 before the Courton a felony charge, there is the right to
13 confront, there is the right to counsel, there are all of
14 the rights that are inherent in an adversary system.

15 Now, the District Attorney, then, has the
16 opportunity to play games, as has been done in the case of
17 the State of California vs. Salvadori B. Castro, which is
18 cited on Page 19, and we have asked the Court to take
19 judicial notice of that case.

20 In that case, your Honor, the District Attorney,
21 after the motion to quash the Grand Jury indictment was
22 denied, the defendants took it to the Appellate Courts,
23 and the matter now reposes in the Appellate Court. The
24 District Attorney, perhaps fearing what the Appellate Courts
25 would do -- and I believe today is the day in Department 100
26 -- they are making a motion to dismiss and proceed by way of

1 information; that is, by way of preliminary hearing and,
2 from their standpoint, hopefully an Information would
3 result.
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1 Why do they do that? They do that because
2 they feel, in that case, that the result may be better
3 for them, from their viewpoint; that is, that they are
4 more likely to get the end result that they seek.

5 And this ability or power on the part of
6 the District Attorney to so act is a power which denies
7 equal protection and due process to the defendant.

8 So that we may pinpoint what we are speak-
9 ing of here, and actually in connection with this
10 particular case, it is most important, your Honor, I ask
11 that Susan Atkins take the witness stand in connection
12 with this motion to quash.

13 MR. STOVITZ: I object to hearing any evidence as
14 being immaterial and irrelevant, without an offer of
15 proof.

16 MR. KANAREK: It is most relevant and most material.

17 Susan Atkins was coached by Mr. Bugliosi --

18 MR. STOVITZ: It has nothing --

19 MR. KANAREK: May I finish?

20 MR. STOVITZ: -- to do with the makeup of the Grand
21 Jury.

22 If Susan Atkins had something to do with
23 the selection of the Grand Jury, I could see her taking
24 the witness stand.

25 THE COURT: You will have an opportunity, Mr.
26 Stovitz. Let Mr. Kanarek finish.

MR. KANAREK: This is the point. You see, in a non-adversary proceeding of the Grand Jury, in the non-adversary proceeding, the District Attorney, by power of suggestion, by the power to ask questions, by the power to do what he wishes to do, can influence these 23 people, I guess it is, who have already been selected in this blue ribbon approach that we have alluded to.

The District Attorney is really doing the indicting. He is the one. Because of the hearsay and all that, there is no one there judging the admissibility of the evidence, so the District Attorney can create great miscarriages of justice by allowing himself to forget that he is a quasi-judicial officer, and allowing himself to get a result that he wishes for some reason or other.

8-1
1 Now, as to Susan Atkins, the offer of proof
2 would be that if Susan Atkins were allowed to testify,
3 she would testify that she did not wish to testify at the
4 Grand Jury.

5 We will offer evidence as to exactly what
6 occurred so that your Honor can then determine as to whether
7 or not this indictment has any legal validity because, if
8 this indictment is predicated upon Susan Atkins' stating
9 what the District Attorney wished her to state, if she was
10 coached by the District Attorney into making statements which
11 have some question of validity, whether or not they are true,
12 then this indictment must fall because the law is clear
13 that an indictment that is predicated upon testimony that
14 is less than candid is an indictment that cannot stand.
15 No one can be forced to a felony trial upon testimony that
16 is improper.

17 So, your Honor, I ask that Susan Atkins take the
18 witness stand, and let the chips fall where they may, be-
19 cause it is our belief that when your Honor hears this,
20 that your Honor will, indeed, quash this indictment,
21 because Susan Atkins really, as we know from reading the
22 transcript, Susan Atkins' testimony was the prime moving
23 force in that indictment. It is the prime moving force
24 which allowed the indictment purportedly to stand upon a
25 995 attack.

26 So, your Honor, I ask that Susan Atkins be

1 allowed to take the witness stand and testify.

2 MR. STOVITZ: I objected to the offer of proof, your
3 Honor.

4 I have read carefully the 20-page document,
5 including the one-page declaration, and nowhere in this
6 document is there mention of the matters that counsel has
7 just referred to.

7-1

1 MR. KANAREK: Yes, there is, your Honor. Your
2 Honor will note --

3 THE COURT: Regardless of whether there is mention
4 of it or not, Mr. Kanarek, the objection will be received.

5 Proceed with your argument.

6 MR. KANAREK: Well, your Honor, that is our argument.
7 Our argument is that this indictment came about as the
8 result of the improper relationship --

9 Mr. Caballero is an ex-Deputy District Attorney.
10 Already certain financial matters, some \$90,000 transferred
11 hands.

12 There is the relationship of the Los Angeles
13 Times --

14 THE COURT: There is no point in going into what
15 occurred during that proceeding. This is a challenge to
16 the Grand Jury of the County of Los Angeles, as I under-
17 stand it.

18 MR. KANAREK: It is a motion to quash the indictment,
19 your Honor, it is not just an academic challenge to the
20 Grand Jury in a vacuum. It is a motion to quash this
21 particular indictment.

22 The point is that there was an illegal
23 putting of heads together between the Los Angeles Times,
24 Mr. Schiller, Mr. Jerry Cohen of the Los Angeles Times,
25 Mr. Caballero, Mr. Bugliosi, and Judge Keene even ordered
26 the Defendant Susan Atkins taken out from her place in

1 custody to the offices of Mr. Caballero.

2 All of this, your Honor, is most -- we
3 urge -- is most important to convince, to quash this
4 indictment on the basis that it is predicated upon
5 this testimony, this highly improper testimony.

7a fls.

7A-1

1 MR. STOVITZ: Your Honor, I was handed this morning
2 a document entitled;

3 "Motion To Quash Indictment on the Grounds:

4 "A. Grand Jury illegally constituted and;

5 "B. --"

6 THE COURT: Just a moment, Mr. Stovitz.

7 Haven't you finished your argument, Mr. Kanarek?

8 MR. KANAREK: Your Honor, I don't think I have.

9 The foundation upon which this entire indict-
10 ment was predicated is improper, and counsel is looking --
11 if I may guess at what he is doing -- he is reading the
12 headnote, so to speak, the title of this document.

13 The guts of it shows that we have
14 alluded to the fact that Mr. Manson had no lawyer at the
15 Grand Jury; he had no ability -- there was no chance on his
16 part to cross-examine Susan Atkins.

17 If that had taken place in the context of her
18 preliminary hearing before a magistrate, we would not be
19 here today and Supervisor Hahn would not be complaining
20 about the expense.

21 There is no necessity for this trial. It is
22 only because the District Attorney is running for the
23 Attorney Generalship of California, and because of the
24 notoriety of this case that he has decided he is going to
25 use these defendants to become Attorney General of the
26 State of California, and it is most improper.

We ask your Honor to have this evidentiary

1 hearing and let the chips drop where they may, as we stated,
2 your Honor.

3 Thank you.

4 MR. STOVITZ: May I be heard, your Honor?

5 THE COURT: Mr. Stovitz.

6 MR. STOVITZ: I was handed this 20-page document
7 this morning.

8 "A. Grand Jury illegally constituted.

9 "B. Arbitrary discretion to proceed by
10 indictment."

11 Under headnote A, Paragraph A, counsel raised
12 the point that the defendant is a member of a nomadic group,
13 and being nomadic, there are no nomads on the Grand Jury,
14 and therefore he was indicted by people who are not of
15 the same making.

16 I submit, your Honor, that is a completely
17 frivolous motion.

18 Under B he does raise the point that the Dis-
19 trict Attorney may seek to proceed by way of indictment
20 rather than by information.

21 I submit that the Legislature and the
22 Constitution of California allow the District Attorney's
23 office to seek either one of two avenues.

24 These matters have been tested in prior
25 decisions before the higher courts of this State, and that
26 they have held that the "indictment, which is the

1 traditionally older form, and the Information, which is the
2 newer form are both constitutionally valid."

3 I submit there was no arbitrary method of going
4 to the Grand Jury in this particular case, your Honor can
5 recall there were two of the defendants, in fact three of
6 the defendants at the time that we sought the indictment,
7 who were out of the State of California.

8 We cannot proceed by preliminary hearing when
9 the defendants are out of the State of California.

10 The Grand Jury does afford the District Attor-
11 ney's Office the opportunity of seeking an indictment when
12 the defendants are out of the State of California, and that
13 was one reason.

7b-1

1 The second reason is the fact that we felt
2 that, in our discretion, that going to the Grand Jury
3 would obtain an indictment with the least loss of time
4 available.

5 The defendants have full means to challenge
6 the indictment by other means; they have done so.

7 Mr. Manson has three 995 motions in his case,
8 all three of them have been denied.

9 I submit, your Honor, this latest outburst
10 of Mr. Kanarek is a good example of Mr. Kanarek's not
11 recognizing that he is an officer of the court, and as an
12 officer of the court before he makes allegations on the
13 record he should have some backing to support him.

14 I submit when an attorney makes an objection
15 or makes an offer of proof he should have some backing
16 behind that, otherwise it could be grounds for misconduct.

17 MR. KANAREK: Well, your Honor, the backing is
18 right here. The lady is sitting in court.

19 THE COURT: All right.

20 MR. KANAREK: I mean, counsel is most -- I cannot
21 understand the English that he speaks.

22 THE COURT: Do you wish to rebut the argument?

23 MR. KANAREK: Yes, your Honor.

24 First of all, we will again offer sworn
25 testimony by Mr. Manson.

26 I would make an offer of proof that Mr.

7b-2

1 Manson was in custody two months.

2 He talks about being out of the State.
3 Mr. Manson was in durance vile for two whole months, and
4 he was in custody and could have been brought here for a
5 preliminary hearing on December 8th, your Honor, when this
6 indictment occurred, Mr. Manson was very available for
7 return to Los Angeles County.

8 He was in Inyo County, and there is no
9 problem whatsoever in bringing him down here.

10 So Mr. Stovitz's argument is less than
11 specious; it is actually misleading to the Court.

12 Now, may I offer, and I do offer Mr. Manson
13 in connection with this aspect that Mr. Stovitz now brings
14 up.

15 May I offer him? May we take testimony?

16 THE COURT: Is there an objection?

17 MR. STOVITZ: We will stipulate that Mr. Manson
18 was in the State of California, your Honor.

19 MR. KANAREK: Will counsel stipulate that the
20 prosecution knew where he was?

21 MR. STOVITZ: Yes, we will stipulate that we knew
22 where he was.

23 MR. KANAREK: Then his argument falls to pieces,
24 that they could not give a preliminary hearing, and they
25 had to make an indictment, because someone is outside
26 the State of California.

7c fls.

7C-1

1 THE COURT: One at a time, gentlemen.

2 MR. STOVITZ: Counsel undoubtedly is not aware that
3 there were co-defendants in the case, your Honor.

4 MR. KANAREK: Your Honor, it is very clear that the
5 District Attorney does not want certain matters brought out.

6 The fact of the matter is that if there is a
7 foundation at the outset, that is why we have these
8 procedural guarantees, that is why the People that founded
9 this country built in these procedural guarantees, is to
10 protect defendants from arbitrary action, state action,
11 and that is exactly what we have here.

12 I cannot straighten it out later at the trial.
13 The point is, if you have an improper foundation to begin
14 with, then the proceedings must be dismissed, and there is
15 no question about it that in this case, in this case what
16 the prosecution has done is put themselves on a path where
17 they want a conviction at any price.

18 They don't care; all they want is just another
19 gold star, a result to be able to say that they have
20 convicted Mr. Manson.

21 Mr. Bugliosi has stated that Mr. Manson is
22 "the main defendant."

23 You don't have such things as main defendants.
24 You have defendants. And the very fact that the prosecution
25 is out to "get Mr. Manson," means that we should back off
26 a little bit, look at this thing in perspective, and we

1 most respectfully plead with the Court to quash this
2 indictment.

3 MR. STOVITZ: Submit it, your Honor.

4 THE COURT: All right. Well, first of all I noticed,
5 as Mr. Stovitz has pointed out, that there have been 995
6 motions in this case which previously have been heard and
7 denied.

8 There is also an order that this Court made on
9 June 1st that all pretrial motions must be heard not later
10 than June 10th, and of course this motion does not comply
11 with that order.

12 However, I did tell you this morning in chambers,
13 Mr. Kanarek, that I would permit you to file and have this
14 motion heard, which we have done.

15 I have now considered the arguments of counsel
16 and the papers filed in this case.

17 Do you have something more to say?

18 MR. KANAREK: Well, I was just going to say, your
19 Honor, as your Honor knows, the District Attorney has
20 taken off on me personally, and so therefore --

21 THE COURT: We don't have to go into that, because
22 as I have indicated you have been permitted to file the
23 motion, and it has been heard.

24 MR. KANAREK: Right. There are only so many hours
25 in the day, and under People vs. Crovedl.

26 THE COURT: Mr. Kanarek --

1 MR. KANAREK: Yes, your Honor.

2 THE COURT: -- you have been permitted to file the
3 motion and it has been heard.

4 MR. KANAREK: Yes, your Honor.

5 THE COURT: So I think you should take yes for an
6 answer.

7 MR. KANAREK: Yes, your Honor.
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1 THE COURT: The motion to quash the indictment
2 will be denied.

3 Now, you have a challenge pending to the
4 petit jury panels, 1970-1, and 1970-2.

5 Do you wish to argue with respect to those
6 challenges?

7 MR. KANAREK: Yes, your Honor.

8 In connection with those -- with the motion,
9 I think your Honor has read and we have agreed that the
10 challenge to the jury panel in People vs. Powell and
11 Smith, and the exhibits thereto that were offered in
12 connection with that would be considered by your Honor
13 in the challenge to the petit jury..

14 I won't belabor it, your Honor. I believe,
15 your Honor, that this --

16 For instance, the spectacle that we have
17 had in this courtroom of many many capable jurors being
18 disqualified because of the hardship aspect.

19 On that basis alone, Mr. Manson is denied
20 equal protection in that your Honor can take judicial
21 notice of the fact that in at least two Counties, I
22 believe it's Alameda County and San Diego County,
23 substantially more -- I think on the order of between
24 20 and \$30 per day is paid to prospective jurors in those
25 Counties, and so in that very real sense of the word
26 Mr. Manson is denied equal protection.

7c-2

1 I emphasize that because that is a fact of
2 life which has occurred since the Powell and Smith
3 challenge occurred, and in this County, of course, I
4 believe the amount that is paid is \$5 per day.

5 And so Mr. Manson is deprived of the
6 people who could sit as prospective jurors who would be
7 paid this added amount.

8 Other than that, your Honor, we submit it
9 on the transcripts and on our pleadings which we filed.

10 There is no question for instance that
11 these prospective jurors have not had, or that they were
12 not selected predicated upon the jury commissioner's new
13 approach.

14 As a result of the challenge of People vs.
15 Powell and Smith the Superior Court has changed, has
16 changed the test, so that instead of it being a sudden
17 kind of test, the two portions of the test are cumulative.

8 fls.

8-1

1 But Mr. Manson doesn't have the benefit of
2 those jurors who have been qualified under the new system
3 because all of the prospective jurors that come to your
4 Honor's court in connection with this case have been, with
5 a very small exception, I believe, based upon Mr. Goodwin's
6 testimony, have come about as a result of the old approach,
7 and in that old approach there is no question but what the
8 test was improperly administered and it was improperly
9 graded, and we will ask your Honor to quash the petit jury
10 panel.

11 THE COURT: Do you wish to argue, Mr. Stovitz?

12 MR. STOVITZ: Yes, your Honor.

13 Your Honor has received certain volumes of
14 transcripts. I wonder if your Honor could state for the
15 record what volumes of transcripts and what cases have
16 been submitted so that the record is clear as to the facts
17 that have been submitted to your Honor.

18 THE COURT: Well, I will take care of that.
19 You get on with your argument, if you wish.

20 MR. STOVITZ: My argument is that this method of
21 selection of the jury shows that the jury has been
22 selected with eminent fairness in the County of Los Angeles.

23 The only discrimination -- and I cannot call it
24 discrimination, because it is a fact of life -- is that they
25 are selected from voter's registration lists, and we sub-
26 mit that this is a valid discrimination that states

1 throughout our United States have all practiced.

2 The fact that the jurors are paid anything at
3 all is something that the County should be complimented on.
4 Jurors should serve freely and voluntarily. Of course,
5 they started to be paid many, many years ago, and the pay
6 at that time was three dollars a day, and then it went up
7 to four dollars a day, and the payment of the jurors has
8 not kept realistically up with the cost of living.

9 However, again, I say that the fact that the
10 jurors are paid at all is just a matter of legislative
11 determination, and if the legislature wants to raise the
12 jurors' compensation, that is another matter, but that
13 doesn't show that the jurors are being arbitrarily
14 discriminated against, and Mr. Manson and the other
15 defendants have a right to go through the jury panels year
16 after year and see that these jurors come from all walks
17 of life and all ways of life, and I submit that the jury in
18 this case has eminently demonstrated that.

19 These are not hand-picked jurors in any way.
20 These are residents from all over the County of Los Angeles,
21 from all different walks of life.

22 THE COURT: Anything further, Mr. Kanarek?

8a-;

1 MR. KANAREK: Just very briefly.

2 I would like to incorporate by reference
3 as if fully and completely set forth, all of the
4 testimony by the prospective jurors in connection with
5 this motion to challenge the jury panel.

6 It is our belief that through no fault
7 of the jurors, but through the fault of the District
8 Attorney's Office and through the District Attorney's
9 very active participation in the field of publicity,
10 including, as this record reveals, putting out summaries
11 approximately, I gather, weekly, that Mr. Manson is
12 denied a fair jury because of the publicity.

13 Now, your Honor, in that regard, I would
14 like to incorporate these transcripts -- or they are
15 called memorandum -- from Mr. Evelle J. Younger,
16 District Attorney, summaries which begin back on
17 December 15th, 1969, and go on through -- I gather they
18 are still going on -- the last one being Thursday,
19 July the 2nd, wherein there is released by Mr. Jerry
20 Littman, the news secretary, this memorandum.

21 I wonder if we might mark these as an
22 exhibit in connection with the challenge to the jury
23 panel and wherein these can be a permanent part of the
24 record in this case.

25 MR. STOVITZ: We object to the materiality on
26 this issue.

8a-2

1 We have no objection to counsel marking
2 them as an exhibit, bearing in mind that when we
3 originally gave them to counsel, the etchings that appear
4 on page 1 of it were not there. These etchings were
5 placed on by persons unknown to the District Attorney's
6 Office.

7 MR. KANAREK: Well, counsel's sarcasm notwithstanding,
8 ing, your Honor, we would ask that these be marked as an
9 exhibit next in order with the --

10 THE COURT: I don't see the materiality, Mr. Kanarek,
11 but they will be marked as an exhibit collectively as
12 to your challenge to the petit jury panel.

13 You are not contending that any of the people
14 on the 1970 jury panel have read these, have you?

15 MR. KANAREK: No, your Honor, but counsel and Mr.
16 Bugliosi have spoken about circumstantial evidence. The
17 fact that the District Attorney of Los Angeles County
18 spends taxpayers' money at a time when he is running for
19 Attorney General to send out summaries in the Tate-La
20 Bianca case is incredible.

21 What business has the District Attorney of
22 Los Angeles County in sending out press releases to the
23 news media in connection with this case.

24 It shows the state of mind of the prosecution.
25 It shows that the prosecution is deliberately fostering
26 publicity despite Sheppard vs. Maxwell, despite the Billie

8a-3

1 Sol Estes case, and despite Strobe vs. California.

2 And this all is in the County of Los
3 Angeles wherein the prospective jurors on this panel
4 have been submitted to this publicity, and these
5 memoranda clearly show that the District Attorney is out
6 there trying to capture the minds of the prospective
7 jurors.

8b fls.

8 There is just no other reason for it.
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MR. STOVITZ: We will renew our objections.

MR. KANAREK: So, it is our position that these memoranda are very, very powerful evidence as to why this Court should, at this time, discharge these jurors.

MR. STOVITZ: We renew our objection to the materiality, and now we also suggest that perhaps counsel's argument should be made at the Board of Supervisors rather than in this Court.

THE COURT: Well, the documents have not been offered in evidence, but they will be marked as an exhibit collectively.

MR. KANAREK: Well, your Honor, we offer them in evidence in connection with this case as far as the publicity, as far as our motions to dismiss, if I may, if your Honor would do that.

THE COURT: I don't think they have any relevancy or materiality whatever to your present challenge to this petit jury panel, but they will be marked as an exhibit and they may accompany your arguments as part of this challenge.

MR. KANAREK: Very well, your Honor.

THE CLERK: They will be No. C, Your Honor.

MR. KANAREK: I will remove, your Honor, if I may, the markings that counsel has mentioned.

THE COURT: All right.

Anything further from the People?

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1 MR. STOVITZ: Nothing, your Honor, but in removing
2 the markings, you are not going to remove any of the
3 mimeographed matter, are you?

4 MR. KANAREK: No, we are not going to remove anything
5 that the District Attorney typed up.

6 MR. SHINN: May the record reflect that Miss Atkins
7 joins in this motion, your Honor.

8 THE COURT: Very well.

9 MR. SHINN: Thank you.

10 THE COURT: The Court has read and considered those
11 portions of the transcript in People vs. Gregory Ulas
12 Powell consisting of a number of thousands of pages, as
13 stipulated by counsel, which case was heard and tried be-
14 fore Judge Alfred P. Peracca in 1968 and 1969.

15 The Court has also heard and considered the
16 arguments of counsel and has considered the various docu-
17 ments filed by defendants in support of their challenge
18 to the petit jury panels of 1970-1 and 1970-2, and their
19 motion to quash those jury panels.

20 The challenge of the defendants to the 1970-1
21 and 1970-2 petit jury panels is disallowed and their motion
22 to quash said panels is denied.

23 The Court makes the following findings: There
24 is no substantial evidence of any material departure from
25 the forms prescribed in respect to the drawing
26 of the jury or of any intentional omission of any proper

officer to summon one or more of the jurors drawn.

There has been no systematic exclusion of racial minorities, lower income groups, or any other identifiable group from the petit jury panels of Los Angeles County.

8c-1

1 The said petit jury panels of Los Angeles
2 County have each been selected by a random process from
3 a fair and representative cross section of the population
4 of Los Angeles County. In the selection of said jury
5 panels there has been no denial to the defendants of
6 equal protection of law or due process of law, or of
7 any other constitutional or statutory rights under the
8 Constitution or laws of the United States or of the
9 State of California.

10 We have pending before the Court a motion
11 for a change of venue now.

12 Do you wish to argue that motion, Mr.
13 Reiner?

14 MR. REINER: No, your Honor. Submit it.

15 THE COURT: Is this motion being joined in by
16 any of the other defendants?

17 MR. SHINN: Yes, your Honor. Miss Atkins will
18 join the motion.

19 MR. FITZGERALD: Yes. It is joined in by Miss
20 Krenwinkel also.

21 MR. KANAREK: Joined in on behalf of Mr. Manson,
22 your Honor.

23 THE COURT: All right.

24 MR. STOVITZ: Without agreeing to the change of
25 venue motion, your Honor, we will submit it without
26 argument.

8c-2

1 In other words, your Honor, "submit it"
2 doesn't mean that we yield to this argument. We merely
3 do not offer any argument in opposition to it.

4 THE COURT: Very well.

5 The motion for a change of venue is denied.

6 That leaves pending Mr. Shinn's motion
7 to suppress evidence, which I understand you wish to
8 have heard tomorrow morning; is that right, Mr. Shinn?

9 MR. SHINN: Well, your Honor, there are various
10 witnesses that are supposed to be subpoenaed for that
11 motion, your Honor.

12 I talked to Mr. Bugliosi, and I believe he
13 said that one of the witnesses is out of town.

14 I am ready to go tomorrow morning if --

15 THE COURT: Without intending to prejudge, I
16 can tell you that my present inclination is to exercise
17 my right to defer that -- any evidentiary hearing --
18 until such time as the evidence is offered.

19 Of course, you can argue it. I am not
20 deciding the point now, but I would indicate to you
21 that if you have not already done so, I think it would
22 be wise to refrain from subpoenaing a number of
23 individuals for the purpose of the hearing tomorrow.

24 MR. SHINN: Yes. I believe that the cases that
25 I have cited to your Honor in chambers --

26 THE COURT: I read them.

1 MR. SHINN: -- seem to indicate that these pretrial
2 motions should be taken up before the trial commences.

3 THE COURT: Well, with respect to this specific
4 motion, the motion to suppress evidence, the Saidi-Tabatabai
5 vs. the Superior Court case indicates, as other cases have
6 also indicated, that while the Court has jurisdiction to
7 entertain the motion as a pretrial motion, the Court is
8 under no compulsion to do so and may exercise its
9 discretion to defer hearing the motion until such time
10 as the evidence is offered.

11 That is what I was referring to before about
12 the possibility of subpoenaing the witnesses for tomorrow.

8d fls:

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1 MR. SHINN: This motion to suppress is a common law
2 motion, it is not a 1538.5 motion.

3 THE COURT: I understand that.

4 MR. SHINN: And I believe the cases will lean toward
5 the fact that they should take care of these motions
6 before trial.

7 Like your Honor said, it is discretionary with
8 the Court whether or not it should be done before trial or
9 during the trial, but I think the case which I cited this
10 morning does point out advantages and disadvantages of
11 having this pretrial motion before the trial, and I believe,
12 for all parties concerned, it has advantages, I believe,
13 rather than disadvantages.

14 THE COURT: Of course, each case depends on the facts
15 relating to that case. In this case, I think there are
16 some unusual circumstances which would make it highly
17 inadvisable to have the motion heard pretrial and would make
18 it highly desirable to defer the hearing of the motion until
19 such time as the evidence may be offered during the course
20 of the trial.

21 MR. SHINN: Yes, sir.

22 I believe other cases also point out the fact
23 that this pretrial motion may be detrimental to the
24 defendants, and they suggest that maybe you can have it
25 in a closed court, your Honor.

26 That was one of the suggestions made by other

1 cases, to have a pretrial motion suppressing the confessions
2 or admissions in a closed court in order to not divulge
3 any information to the public.

4 I believe, if we should have it in a closed
5 court, we should have it before trial.

6 THE COURT: Are you asking me to rule on the motion
7 at this time, Mr. Shinn?

8 MR. SHINN: No, your Honor.

9 THE COURT: Do you still want it heard tomorrow
10 morning?

11 MR. SHINN: I am ready for the motion, your Honor,
12 but I believe the burden is on the District Attorney.

13 THE COURT: I am not talking about the merits of the
14 motion itself but the question as to whether or not it will
15 be heard now or later.

16 Do you want me to rule on that at this time?

17 MR. SHINN: I would prefer tomorrow morning, your
18 Honor.

19 THE COURT: I understood from what you said
20 earlier in chambers that you have one other matter that you
21 want to take up tomorrow morning; is that right?

22 MR. SHINN: I was going to file a habeas corpus, your
23 Honor.

24 THE COURT: If you intend to have that heard tomorrow
25 morning, the papers should be on file then by 9:00 o'clock,
26 and we will proceed at that time with any remaining pending

1 matters before going ahead with the completion of the jury
2 selection.

3 MR. SHINN: Yes, your Honor.

4 And I stated to the Court that I will file a
5 motion for continuance and change of venue.

6 MR. STOVITZ: The change of venue motion was heard
7 just now.

8 Is that an additional change of venue?

9 MR. SHINN: You can always make a motion for a
10 change of venue before the jury is impaneled because of
11 the fact of publicity.

12 MR. STOVITZ: Your Honor, for the guidance of our
13 witnesses, we have several that are out of the County and
14 one or two that are out of the State, and we have made our
15 position clear to the other attorneys as far as the jury
16 selection is concerned.

17 I was wondering whether your Honor is
18 thinking in terms of after the jury is selected, including
19 the alternate jurors, whether or not there was going to be
20 a two-day recess so that the --

21 THE COURT: There will have to be at least one day
22 so that the various arrangements can be made for jury care,
23 and so forth. At least one day.
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1 MR. STOVITZ: For instance, if we get it by
2 Thursday or so, if we could have Friday off, we would
3 have the rest of the weekend to start getting our
4 witnesses in order, so that would be satisfactory.

5 THE COURT: Is there anything else, gentlemen?

6 MR. KANAREK: Yes, your Honor.

7 Is it timely, at this time, to ask the
8 Court -- to make a motion that the jury not be sequestered?

9 Now, the District Attorney and I are in
10 agreement on this point. We sincerely believe, your
11 Honor, that sequestration, at this point, is not going
12 to serve any good. In other words, after they have
13 been one hundred and ten percent saturated with publicity,
14 it is really locking the door after the entire stable
15 is gone at this late date to attempt to accomplish
16 something.

17 It is our position, and I understand Mr.
18 Stovitz agrees with me on this point --

19 THE COURT: I would suggest that this motion be
20 deferred until we actually have a jury and all of the
21 alternates selected, gentlemen. I think it may be a
22 little premature now.

23 In any event, I will defer ruling on that
24 motion, if you do care to make it now, until such time
25 as we actually have a jury selected.

26 MR. KANAREK: Yes, your Honor.

8e-2

1 THE COURT: Anything further, gentlemen?

2 I don't, from my remarks, intend to imply
3 that I agree with what you said.

4 MR. KANAREK: Pardon me?

5 THE COURT: I don't intend to imply by my remarks
6 that I agree with what you said or that I have any
7 inclination to change what I have already indicated to
8 you with respect to the jury.

9 MR. STOVITZ: May counsel and I approach the bench
10 for one brief matter?

11 THE COURT: Yes.

12 (Whereupon counsel approach the bench
13 and the following proceedings occurred at the bench:)

14 MR. STOVITZ: Your Honor, I brought this up in
15 chambers at one time as to whether or not your Honor
16 wanted to ask the defendants personally whether or not
17 they are satisfied with the jury.

18 Your Honor has said it is not necessary,
19 the challenges are being exercised in the presence of
20 the defendants and they are aware of what is going on,
21 and if they are desirous of making any objections,
22 they have not been gagged, they are free to speak, they
23 have spoken freely throughout the trial.

24 I would ask that before we go into the
25 selection of alternate jurors, your Honor, that the
26 defendants personally announce to the Court that they are

8e-3

1 satisfied with the jury and that they do not wish to
2 exercise any peremptories, as a bit of precaution.

3 I know it is obvious to us as we sat here
4 throughout the entire jury selection that they did not
5 want their attorneys to exercise peremptories. However,
6 whether or not they are satisfied --

7 THE COURT: What would you propose to be done in
8 case a defendant said he was not satisfied?

9 MR. STOVITZ: Then let them have the peremptory
10 challenges.

11 THE COURT: There is a definite procedure set
12 out in the Code and we followed that procedure. I do not
13 intend to change it.

14 MR. STOVITZ: I know if they were not represented
15 by counsel --

16 THE COURT: They are all represented by competent
17 counsel.

18 MR. STOVITZ: If they were not represented by
19 counsel, they would have to be made aware that they have
20 challenges jointly and five separately.

8f fls.

8-1

1 MR. BUGLIOSI: I have a comment to make after this,
2 your Honor.

3 THE COURT: All right.

4 MR. BUGLIOSI: It is obvious that Mr. Kanarek -- and
5 I have the kindness not to speak in open court -- is not
6 only a paranoid but he is a very malicious, vicious
7 individual.

8 Now, the Court has denied --

9 THE COURT: Before you start out that way,
10 Mr. Bugliosi, just state what it is you want, and then the
11 facts upon which you base it. I will decide what kind of
12 an individual Mr. Kanarek is.

13 MR. BUGLIOSI: If the Court would prefer that I
14 make these statements in front of the press, I can. I am
15 being very lawyer-like and professional and decent by
16 saying it up here where no one can hear it.

17 If the Court takes the position that I shouldn't
18 make the statement like this, then I will have to make it
19 in open court.

20 THE COURT: I consider that to be an irresponsible
21 statement.

22 MR. BUGLIOSI: It is very responsible.

23 THE COURT: I am not going to be moved by your
24 threat to say something before the press. You go ahead
25 and say whatever you want to before the press --

26 MR. BUGLIOSI: I have freedom of speech.

1 THE COURT: -- so long as you stay within the bounds
2 of the publicity order; and I presume that is just common
3 sense.

4 MR. BUGLIOSI: I will.

5 THE COURT: It is up to you.

6 MR. BUGLIOSI: That's right.

7 THE COURT: If you are making a legal argument --

8 MR. BUGLIOSI: Yes.

9 THE COURT: -- you are not going to get anywhere
10 starting out like --

11 MR. STOVITZ: Stated in a nutshell --

12 MR. BUGLIOSI: I want to be heard.

13 THE COURT: -- making a statement such as you just
14 made.

15 If you want some relief or you are making an
16 objection or motion, state it.

17 MR. BUGLIOSI: I am asking this relief and the Court,
18 for some reason, has refused to give me this relief,
19 and I want to know why. He is vicious, he is malicious.
20 I have asked the Court, on many occasions, to tell
21 Mr. Kanarek that if he wants to have diarrhea of the
22 mouth and make unfounded allegations, slanderous,
23 malicious allegations, it should be made up at the bench
24 or back in chambers. The Court refuses to do so.

25 The Court gives Mr. Kanarek complete freedom
26 to say anything he wants, and then, of course, denies
Mr. Kanarek's motion.

1 I am not concerned with the denial. I am
2 concerned with the vicious, paranoid slandering of
3 me and maligning me in front of the world press.

4 Now, a classic example is today. Mr. Kanarek
5 files this long brief with the Court, and the only issues
6 to be heard, as the Court knows, is the constitution of
7 the Grand Jury and the discrimination on the part of the
8 Grand Jury to take the case, the Grand Jury vis-a-vis
9 a preliminary examination. But does Mr. Kanarek do that
10 in open court?

11 No. He uses the subterfuge as an entree to
12 get up and say that I coached Susan Atkins, which is
13 totally irrelevant. Then he makes some kind of a slanderous
14 allegation that I am somehow involved with the Los Angeles
15 Times and Lawrence Schiller. Then he defames Mr. Younger's
16 character.

8g-1

1 I am asking the Court to talk to Mr.
2 Kanarek, because if he is going to get up like that,
3 I am going to have to get up and make counter remarks.

4 Now, I am professional and I am lawyer-like,
5 and this is why I am doing it at the bench, but if the
6 Court is not going to advise Kanarek in advance, when it
7 is so obvious that he gets up and he makes defamatory
8 and violent remarks and everything else, then I have
9 no recourse but to get up and do it in open court.

10 THE COURT: Two wrongs don't make a right.

11 MR. BUGLIOSI: Your Honor, he continues to do
12 this, and today is a classical example. The Court
13 permits him to do this.

14 My motion is to talk to Mr. Kanarek and
15 tell him to confine his remarks to legal argument
16 within the briefs that he has filed with the Court,
17 and if he intends to be defamatory, this should be done
18 at the bench like I am doing, or back in chambers.
19 But he continues to get up, and I am seeking relief
20 from the Court.

9 fls.

9-1

1 MR. KANAREK: Your Honor, may I respond?

2 THE COURT: No, there is no need to respond, Mr.
3 Kanarek.

4 I agree with Mr. Bugliosi that some of your
5 remarks were totally irrelevant to any of the motions
6 that you were making.

7 You were obviously going out of your way
8 to get something on the record to direct a personal attack--

9 MR. KANAREK: Since your Honor is stating that, I
10 would like to make a brief rejoinder.

11 THE COURT: No rejoinder is necessary.

12 I am telling you that is the way I see it. I
13 am going to ask you and all counsel to refrain from person-
14 alities.

15 You are not going to accomplish anything by
16 doing that except to hurt your own image, and possibly the
17 image of your client.

18 MR. KANAREK: Let's take testimony under oath, then,
19 your Honor --

20 THE COURT: Of what?

21 MR. KANAREK: -- that the District Attorney's
22 Office is fighting an evidentiary hearing as to the
23 impropriety of what Mr. Bugliosi did, as to the impropriety--

24 THE COURT: That is not the point. You are making
25 a challenge to the Grand Jury.

26 MR. KANAREK: To this indictment, your Honor, this

9-2

1 specific indictment, and if an indictment is predicated
2 upon -- if there has been subornation of perjury, the
3 indictment falls.

4 The way we test it out is with an evidentiary
5 hearing.

6 THE COURT: We have ruled on that and I have told
7 you what my thoughts are with respect to the personal
8 attacks.

9 Gentlemen, is there anything further before
10 we adjourn until tomorrow morning?

11 All right, we will adjourn now until 9:00
12 a.m. tomorrow morning.

13 The court is now adjourned until 9:00 a.m.
14 tomorrow morning.

15 (Whereupon an adjournment was taken until
16 9:00 o'clock a.m. of the following day,
17 Tuesday, July 14, 1970.)
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1 LOS ANGELES, CALIFORNIA, TUESDAY, JULY 14, 1970

2 9:21 o'clock a.m.

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4 THE COURT: All parties and counsel are present.
5 This proceeding is being held out of the presence of the
6 prospective jurors.

7 Mr. Shinn, I have read your petition for
8 a writ of habeas corpus. Do you wish to argue?

9 MR. SHINN: Your Honor, we have a -- I believe
10 yesterday I informed the Court I would like to be heard
11 on the motion to suppress, too, your Honor, which I filed
12 on April 13th, and I believe at that time it was heard on
13 the 27th and I believe at that time your Honor stated it
14 would be continued to a later time before the trial
15 started.

16 THE COURT: I have concluded with respect to
17 that motion that it should be deferred until such time as
18 the evidence is offered, during the course of the trial,
19 if it is offered.

20 MR. SHINN: Yes, your Honor. Then may I proceed
21 with my habeas corpus, then, your Honor.

22 THE COURT: You may.

23 MR. SHINN: May I call my first witness, your
24 Honor?

25 THE COURT: We are not going to take any evidence,
26 sir.

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MR. SHINN: I beg your pardon?

THE COURT: We are not going to take any evidence.

MR. SHINN: Your Honor, on habeas corpus, it is my understanding it is an evidentiary hearing, your Honor.

THE COURT: We are not going to have an evidentiary hearing, sir.

MR. SHINN: I beg your pardon?

THE COURT: We are not going to have an evidentiary hearing, sir.

MR. SHINN: Your Honor, this is not a motion, your Honor, it is a habeas corpus and it is an evidentiary hearing.

Now, either the Court has to deny it or grant it, your Honor.

THE COURT: Do you wish to argue it?

MR. SHINN: No, your Honor, I will submit it on the documents if I cannot put on any evidence, your Honor.

I have a few witnesses I would like to put on.

THE COURT: You may make an offer of proof, if you care to.

MR. SHINN: Yes, your Honor.

THE COURT: All right, that will have to be done

at the bench.

MR. SHINN: Yes, your Honor.

2 fls.

2-1

1 (Whereupon, all counsel approached the bench
2 and the following proceedings occurred at the bench:)

3 MR. SHINN: Your Honor, it is my understanding in a
4 habeas corpus, your Honor, that the petitioner has the
5 right to put on witnesses and to take testimony and produce
6 evidence.

7 I have two witnesses that I would like to put
8 on the stand to put on some evidence, and it concerns the
9 violation of constitutional rights.

10 THE COURT: First of all, as I understand your
11 position -- and I have read the points and authorities and
12 supporting affidavit and exhibits attached to it -- this is
13 simply an alternative attack, in addition to the motion
14 under 995 of the Penal Code, to set aside the indictment
15 which has previously been filed and, in fact, was ruled on
16 last April.

17 MR. SHINN: Yes.

18 THE COURT: Now, if you wish to make an offer of
19 proof as to what you expect to prove by your witnesses,
20 you may do so.

21 MR. SHINN: Your Honor --

22 MR. BUGLIOSI: May I be heard?

23 Mr. Manson's attorney -- I forget who it was at
24 the time -- also filed the same type of petition for a writ
25 of habeas corpus, I think in Department 106, making the same
26 identical allegations.

1 We responded, and there is a brief in the file,
2 and Judge Lucas denied it.

3 So, this is just under a different name here
4 but almost the same identical allegations were made
5 already.

6 THE COURT: I am aware of that.

7 Of course, this is on behalf of Miss Atkins.

8 MR. BUGLIOSI: Yes.

9 MR. SHINN: May I correct Mr. Bugliosi?

10 I think the points are different from the
11 petition that Mr. Manson filed.

12 THE COURT: I don't think he is saying that the
13 wording is identical.

14 MR. SHINN: I misunderstood.

15 My main purpose is trying to get a hearing on
16 Miss Atkins' testimony before the Grand Jury.

17 Now, there is no other way I can attack it.
18 I ~~tried~~ with a 995, and I believe Judge Lucas stated at that
19 time that I should attack or question her testimony before
20 the Grand Jury with a motion to suppress her testimony.

21 So, I filed that with this Court, and now this
22 Court has now stated to me it will not take up that motion
23 until the trial has started.

2a-1

1 THE COURT: That is an entirely different type
2 of motion. That is a motion to suppress evidence which
3 is sought to be introduced at the trial.

4 What you are doing is trying to attack
5 the indictment.

6 MR. SHINN: Yes.

7 THE COURT: There is no similarity between the
8 two.

9 MR. SHINN: But then, would your Honor tell me
10 in what manner can I get a hearing on the Grand Jury
11 testimony of Susan Atkins?

12 THE COURT: I don't think you have a right to
13 attack the indictment the way you are attempting to
14 attack it.

15 MR. SHINN: I do have a right.

16 THE COURT: No, you do not.

17 MR. SHINN: Is your Honor stating that any
18 testimony given at the Grand Jury cannot be attacked?

19 THE COURT: I am not stating that.

20 MR. STOVITZ: Perhaps Mr. Shinn needs
21 instruction in criminal law to teach him how to proceed
22 in a matter of this sort.

23 By not having gone up on a writ after
24 the 995 failed, counsel has more or less slept on his
25 rights.

26 MR. SHINN: I think Mr. Stovitz is wrong on

1 the law. I have researched it.

2 THE COURT: What is your offer of proof?

3 MR. SHINN: As to my witnesses, your Honor?

4 THE COURT: You have stated that you wanted to
5 have an evidentiary hearing. I am telling you that I
6 do not intend to have one, but I am certainly willing to
7 listen to any offer of proof before I rule on it.
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1 MR. SHINN: Yes. The witnesses who will testify on
2 the stand will testify that at the time she testified at the
3 Grand Jury hearing she talked to Mr. Caballero and
4 Mr. Bugliosi.

5 THE COURT: Who is the witness?

6 MR. SHINN: Susan Atkins.

7 And I want to put on Mr. Bugliosi on the stand
8 and find out whether he went to Mr. Caballero --

9 THE COURT: This is not an offer of proof. I want
10 you to tell me what the evidence is going to show.

11 MR. SHINN: It is going to show that she did, in fact,
12 go down to his office and was, in fact, influenced by her
13 own attorney, and in fact, she did go over the questions
14 and answers with Mr. Bugliosi at the office. It will show
15 all this.

16 She has a right to put this on, your Honor, by
17 way of habeas corpus.

18 THE COURT: Does that conclude your offer of proof?

19 MR. SHINN: Yes.

20 MR. STOVITZ: We object to the offer of proof and
21 stand on the Court's ruling.

22 THE COURT: I haven't ruled yet.

23 MR. SHINN: Your Honor, this is the only --

24 THE COURT: Just a moment, sir. Is this something
25 in addition now in your offer of proof?

26 I haven't ruled on the objection to it yet.

1 Are you now making another offer?

2 Are you adding to your offer of proof?

3 MR. SHINN: Yes.

4 I am going to try to prove --

5 THE COURT: You are going to what?

6 MR. SHINN: I am going to try to prove --

7 THE COURT: Mr. Shinn, an offer of proof is a
8 statement of what the evidence will show if you are
9 permitted to put it on.

10 MR. SHINN: Yes, your Honor.

11 It is going to show --

12 THE COURT: I don't want an explanation, I want to
13 know what you expect to prove.

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1 MR. SHINN: I am going to prove that she was denied
2 effective counsel. That is the first point that she is
3 going to prove.

4 I mean, it is obvious from the documents
5 that I filed.

6 And then I am going to prove that she did
7 not knowingly and intelligently waive the constitutional
8 right to remain silent.

9 THE COURT: Anything further?

10 MR. SHINN: Nothing further.

11 MR. BUGLIOSI: Submit it, your Honor.

12 THE COURT: Is this an objection to the offer?

13 MR. STOVITZ: Yes, your Honor, submit that assuming
14 everything that counsel says as far as factual, not as
15 conclusions, that he still doesn't show grounds for
16 relief in this action here.

17 Of course we can make further argument on
18 the legal course that he has here, but as far as the offer
19 of proof goes, we object to the offer of proof.

20 THE COURT: The objection is sustained.

21 Now, do you wish to submit your petition
22 for your writ of habeas corpus on the papers you filed?

23 Do you wish to argue?

24 MR. SHINN: If your Honor is going to deny me a
25 hearing -- I mean deny me from putting on evidence, your
26 Honor, there is no need to go further.

1 THE COURT: You wish me to rule then on your
2 petition at this time without argument?

3 MR. SHINN: Yes, so I can take my next step, your
4 Honor.

5 THE COURT: Do the People waive argument?

6 MR. STOVITZ: Yes, your Honor.

7 THE COURT: The petition for writ of habeas corpus
8 is denied.

9 Now, are there any other pending motions?

10 MR. SHINN: The motion to suppress.

11 THE COURT: I told you that is going to be deferred.

12 MR. SHINN: The other motion I believe was -- I
13 didn't have time to do it yesterday, I was doing this,
14 and I believe I was going to file a motion for continuance,
15 change of venue and objection to the jury as being --

16 THE COURT: I am not interested in what you were
17 going to do.

18 I want to know if there are any pending
19 motions at this time so we can call the jury back in?

20 MR. FITZGERALD: On behalf of Patricia Krenwinkel
21 I will move that this case be continued for a substantial
22 period of time.

23 I have in mind the date of August 21, 1971.

24 I will submit the matter with the very brief
25 statement that I feel that because of the inflammatory,
26 prejudicial pretrial publicity, Patricia Krenwinkel is

1 unable to receive a fair trial because of the climate
2 of opinion at the present date in Los Angeles County.

3 I will suggest that the matter be continued
4 until this climate of opinion which was fostered by
5 prejudicial pretrial publicity abates.

6 I have no authority for that proposition.

7 I have no case law authority directly in
8 point, but I would refer your Honor to the American Bar
9 Association Report on Fair Trial, and the Free Press,
10 commonly referred to as the Reardon Report.

11 It is one of the suggested remedies, your
12 Honor.

3a. fls. 12

3-A 1 MR. REINER: I will join on behalf of Leslie Van
2 Houten.

3 MR. SHINN: Join on behalf of Susan Atkins.

4 MR. KANAREK: I join on behalf of Mr. Manson, your
5 Honor, and actually I would couch it in the alternative and
6 ask the Court to dismiss the case or, in the alternative
7 for the relief that Mr. Fitzgerald requested.

8 And I would like the record to be clear,
9 Mr. Stovitz yesterday said that we were not making any
10 peremptory challenges because the defendants did not want it.

11 Such is not the case, your Honor.

12 The reason that I have not made any peremptory
13 challenges is because it is a useless act.

14 The percentage of peremptory challenges, five,
15 becomes meaningless when you have, I believe, something
16 like 140 or whatever it is, the number of jurors who cannot
17 serve because of what is reflected in this record, and so
18 therefore the law giving a purported five peremptory
19 challenges is absolutely a useless gesture in this case
20 because if you have five, it is meaningless.

21 I want the record to reveal the only reason
22 -- the only reason -- that this jury is accepted is because
23 we can go on and on, ad nauseum, interviewing jurors and
24 we are going to get the same result.

25 So what is the use? The law does not require
26 us to do a useless and futile act.

3A2

1 I am sure I don't have to give the Court
2 chapter and -- I don't have to cite to the Court cases on
3 that. You don't have to --

4 MR. STOVITZ: May we return to open court so that
5 their clients can hear what counsel is saying? I think
6 these statements of their attorneys should be known to the
7 clients in this respect.

8 THE COURT: Now just a minute, Mr. Kanarek's state-
9 ment is not in connection with any pending motion I can
10 see.

11 He is simply answering something said by one
12 of the prosecutors yesterday.

13 Mr. Fitzgerald just made a motion to continue.
14 Does anyone else wish to be heard on that?

B 15 MR. SHINN: I join, also, your Honor, but if you will
16 permit me to file points and authorities, say tomorrow
17 morning --

18 THE COURT: No, you have had months to file points
19 and authorities.

20 MR. STOVITZ: Before the prosecution makes its
21 position known, may I consult with Mr. Bugliosi? We may
22 want a three or four-minute recess.

23 I understand there is a motion by all counsel
24 to continue this case to August 1, 1971.

25 Defendants will join in and waive their right to
26 a speedy trial, is that right, Mr. Fitzgerald?

1 MR. FITZGERALD: Yes. My representations to the
2 Court in that respect are guarded.

3 I certainly don't intend to mislead the Court.
4 Unfortunately I am unable to represent -- on occasion --
5 what position my client will take in open court on the
6 record.

7 I would indicate to the Court that I have
8 discussed the matter, but I cannot represent what the
9 defendant would say.

10 But even if the defendant objects, I would like
11 to urge the motion on the Court.

12 MR. REINER: May I indicate my position on behalf of
13 Leslie Van Houten.

14 It is also my belief she would join in the
15 motion for continuance. However, I have been unable to
16 communicate effectively, if at all, with my client, and
17 therefore I cannot make an absolute representation, and I
18 would ask leave of the Court to make such inquiry of the
19 defendant.

20 MR. KANAREK: Your Honor, I would like to point out
21 to the Court that under Klopfer vs. North Carolina, the
22 U.S. Supreme Court has held that the right to a speedy
23 trial guaranteed by the Sixth Amendment is incorporated in-
24 to the due process protected by the Fourteenth Amendment.

25 Because of the activities of the prosecution in
26 this case, because of what they have done, Mr. Manson has

1 already been denied a speedy trial, and so it is our
2 position that this case should be dismissed.

3 In other words, because of their wrongdoing,
4 that is why we have this problem with the jurors, as far as
5 publicity is concerned.

6 Mr. Manson has been locked up in jail. He has
7 contributed nothing to this publicity problem, and so,
8 therefore, since the prosecution has done what they have
9 done, the only alternative is to dismiss this case.

10 There is no other way about it.

11 As I say, we can go through this trial and we
12 can have the charade of a trial with all these jurors --
13 this community is permeated with hostility --

14 THE COURT: Mr. Kanarek, what relief are you seeking?
15 I don't understand what you are saying.

16 MR. KANAREK: My position is the case should be
17 dismissed on the basis of Klopfer vs. United States.

18 THE COURT: The motion to dismiss will be denied.

19 Are you joining in the motion to continue?

20 MR. KANAREK: Well, with great reluctance. In other
21 words, with the greatest of reluctance.

22 MR. BUGLIOSI: I would like to be heard briefly, your
23 Honor, I think, on an important point.

24 THE COURT: All right.

25 MR. BUGLIOSI: Talking about a charade:

26 Mr. Kanarek's client, charged with seven counts

1 of murder, Mr. Kanarek hasn't asked one question on voir
2 dire.

3 I find this unbelievable!

4 THE COURT: Well --

5 MR. BUGLIOSI: Wait a while, I have something further --

6 THE COURT: Of course, many, many questions have been
7 asked by different counsel and also by the Court. There
8 has been a thorough examination of the prospective jurors.

9 Any counsel who refrains from simply being
10 repetitious is to be commended, rather than criticized.

11 I find nothing remiss about that.

12 / MR. BUGLIOSI: Mr. Kanarek has a well-earned reputation
13 of asking questions ad nauseum.

14 Now, the question is this, we all heard, and
15 back in chambers, Manson told Kanarek to shut up, and
16 Kanarek has shut up.

17 Now, my question is this / --

18 THE COURT: He has made many challenges, objections,
19 motions.

20 MR. BUGLIOSI: As far as questions, he shut up.

21 THE COURT: I don't want to hear any more of this,
22 Mr. Bugliosi, get to the point.

23 MR. BUGLIOSI: Your Honor, you have interrupted me
24 five times.

25 THE COURT: Get to the point.

26 MR. BUGLIOSI: I will.

1 THE COURT: State it now.

2 MR. BUGLIOSI: I will get to the point right now.

3 I would ask the Court to ask Mr. Kanarek if
4 he intends to cross-examine witnesses in this case, and if
5 he says that he does not I think we should have a very,
6 very serious hearing in this matter.

7 His client is charged with seven counts of
8 murder, and Manson has told him to shut up --

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1 THE COURT: I will not ask Mr. Kanarek that.

2 Did you wish to be heard on the motion?

3 MR. BUGLIOSI: There is case authority that a
4 defense attorney has to participate in the trial.

5 I don't know whether he intends to cross-
6 examine or not.

7 THE COURT: I don't either.

8 MR. BUGLIOSI: If he doesn't intend to cross-examine,
9 go through an entire four or five months without cross-
10 examining witnesses, I think we ought to know about it
11 right now before jeopardy attaches.

12 MR. STOVITZ: It should be asked in the presence of
13 his client, because if your Honor does order Mr. Kanarek
14 to participate, it could be contempt if he refuses.

15 We are in effect having a pro per that is
16 not even participating in the trial.

17 We are having less than a trial because Mr.
18 Manson, as a pro per, would at least participate.

19 THE COURT: I see no evidence of that whatever.

20 MR. STOVITZ: Not so far --

21 MR. BUGLIOSI: Not so far, but jeopardy will
22 attach. This is a precautionary measure.

23 I think there was every indication that Mr.
24 Kanarek will not cross-examine. If he does intend to
25 cross-examine, swell, I think he should.

26 But if he did not ask one question on voir

3c-2

1 dire and we know Manson told him he doesn't want him to
2 say another word. in this trial, I don't see how we
3 can go through this trial, seven murder counts, when Mr.
4 Manson's attorney is not cross-examining witnesses.

5 THE COURT: It may well be if Mr. Kanarek is last
6 in order of examining defense counsel, whatever worth
7 examining on may have been done with respect to any
8 particular witness.

9 There is nothing to be served by merely
10 being repetitious, by going over the same ground again
11 because he is there.

12 MR. BUGLIOSI: Your Honor, an attorney representing
13 someone accused of seven murders, I don't think can go
14 through a trial without asking questions.

15 THE COURT: It has not happened.

16 MR. BUGLIOSI: This is a precautionary measure
17 before jeopardy attaches, if this is what his intention
18 is we should know right now.

19 THE COURT: Is that your intention, Mr. Kanarek?
20 Is it your intention to participate in this trial?

21 MR. KANAREK: First of all, I would like to say
22 this, what counsel was saying invades the attorney-
23 client privilege, the right to effective counsel by way
24 of the Sixth Amendment.

25 As a lawyer, your Honor, I must object to
26 counsel interjecting himself into a matter between attorney

3d-2

1 and client.

2 THE COURT: I am asking, do you intend to partici-
3 pate in the trial?

4 MR. KANAREK: Certainly I intend to participate
5 in the trial.

6 THE COURT: Then let's proceed.

7 Do the People wish to be heard on the
8 motion to continue?

9 MR. STOVITZ: We would like a three-minute recess
10 on this, counsel and I, to get together to discuss it.

11 This is brand new, the first time we heard
12 about the motion.

13 Of course it would depend upon the
14 defendants personally giving up their right to a speedy
15 trial.

16 THE COURT: Don't think just because you might
17 agree to that, I'm going to.

18 MR. STOVITZ: I realize that, your Honor, I
19 realize there was another case here about a year ago that
20 the defense and the District Attorney's Office agreed on
21 a certain point that the Court disagreed on.

22 I know your Honor has the ultimate power
23 to agree to a continuance or order a continuance.

24 If Mr. Bugliosi and I could get together
25 for one and one-half minutes now we can put on the
26 record what our position is.

3d-3

4 fls.

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THE COURT: Let's take a five-minute recess.

MR. STOVITZ: Thank you.

THE COURT: The Court will recess for five minutes.

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1 (The following proceedings occurred in open
2 court, all parties and counsel present, the prospective
3 jurors absent:)

4 THE COURT: All parties and counsel are present, the
5 prospective jurors are not present.

6 MR. STOVITZ: Your Honor, for the reasons that the
7 defense cited for the continuance, we will oppose the
8 motion for a continuance.

9 We feel that those reasons could exist a year
10 from now or even three years from now. There is no barring
11 of the newspapers, as was reported in the Fain case that
12 your Honor is undoubtedly familiar with. The newspapers,
13 the press and television could again play up all the
14 stories and all of the facts that they know about it a
15 year from now or even two years from now.

16 I think that in going over the questions and
17 answers that the jurors gave, that the 12 jurors that we
18 have selected here have not been influenced by anything
19 that has been written up or broadcast on this case.

20 So, therefore, your Honor, we will oppose the
21 motion for continuance. We feel that, for the grounds
22 stated, the motion should be denied.

23 MR. FITZGERALD: Could I briefly reply to that?

24 THE COURT: Yes, Mr. Fitzgerald.

25 MR. FITZGERALD: When I selected the date of August
26 1st, 1971, I wasn't suggesting that at that time the climate

1 of opinion in Los Angeles County would have substantially
2 abated. Perhaps it would take a period of five years or
3 more, as Mr. Stovitz seems to suggest. But I think that is
4 a starting point. One year from now we can re-evaluate the
5 situation, on August 1, 1971, to determine the climate of
6 opinion.

7 I am not suggesting -- I want the record to be
8 clear -- I am ~~not~~ suggesting that on August 1st, 1971, I would
9 not make a motion to further continue the case.

10 THE COURT: Well, I don't think that a continuance is
11 necessary.

12 After our voir dire examination to date, I
13 am convinced that a fair and impartial jury can be obtained;
14 I am convinced that the 12 people in the jury box^{are} fair
15 and impartial, and no continuance is necessary in order to
16 insure the defendants of a fair and impartial trial.

17 The motion will be denied.

18 We will take a brief recess and I will ask that
19 the prospective jurors be brought back into the courtroom.

20 MR. STOVITZ: Before your Honor leaves the bench, may
21 counsel --

22 MR. REINER: Yes, your Honor.

23 THE COURT: We are in recess now.

24 MR. STOVITZ: May we see your Honor during the
25 recess on a point?

26 THE COURT: Yes.

1 (Whereupon, the following proceedings occurred
2 in chambers. All counsel are present, the defendants are
3 not present.)

4 MR. STOVITZ: The reason I requested this meeting,
5 Your Honor, when the jurors get over here, the first order
6 of business would be the exercise of peremptory challenges
7 by the defense.

8 THE COURT: They have already passed.

9 MR. STOVITZ: They have already passed?

10 MR. BUGLIOSI: It is our turn right now.

4a-1

1 MR. STOVITZ: And we are going to accept the jury.

2 Then I don't know if your Honor is going to
3 give the defense another opportunity to accept or challenge
4 any other jurors. I think they should be given another
5 opportunity to consult with their clients and either accept
6 or exercise the peremptory.

7 Following that, there will be the swearing in
8 of the jury, I take it, and selection of the alternates.

9 We have nine, someone told me out there, and
10 I was just thinking whether or not we should send for another
11 panel so that we won't have any further delays in the
12 selection of the alternate jurors.

13 Another point I would like to bring up, your
14 Honor. It is usually up to the discretion of the Court as
15 to how the alternates are changed to regular members of
16 the jury in the event that a regular member of the jury
17 gets ill.

18 I personally prefer the lot system rather than
19 the first alternate sworn.

20 THE COURT: I do too.

21 I would anticipate that if it becomes necessary
22 to replace a regular juror with an alternate, the names of
23 the alternates would simply be placed in a box and the names
24 be drawn by lot from the box by the Clerk in the same manner
25 that he withdraws the names when the jury is being impanelled.

26 MR. FITZGERALD: I would personally prefer the system

4a-2

1 where we designate the alternate jurors, alternate
2 Juror No. 1, alternate Juror No. 2, alternate No. 3,
3 alternate No. 4, alternate No. 5 and alternate No. 6.

4 I think that system will materially expedite
5 the selection of alternate jurors.

6 THE COURT: Well, I have no objection to that system.

7 MR. STOVITZ: It is agreeable,

8 THE COURT: If all counsel are willing to stipulate
9 to it, then I am prepared to accept that.

10 MR. STOVITZ: It is agreeable with the People if
11 the defendants want it that way.

12 MR. REINER: I don't have strong feelings on it but
13 my preference is always by lot.

14 I am concerned that alternate No. 6, for
15 example, feeling that the possibility that he will sit on
16 the case is so remote, he may not pay as much attention.

17 MR. STOVITZ: They don't have to know about it.

18 THE COURT: They don't have to know about the
19 stipulation.

20 MR. REINER: I don't have any strong feeling either
21 way, but indicating my preference, your Honor, my preference
22 is the lot system.

23 THE COURT: You don't care to stipulate?

24 MR. REINER: Perhaps I can consult with counsel.
25 If counsel feel very strongly about it.

26 THE COURT: Well, why don't you do that.

(Whereupon all defense counsel confer.)

MR. FITZGERALD: We cannot agree among ourselves, your Honor.

THE COURT: All right.

MR. FITZGERALD: Other counsel have a real objection. I am not suggesting that anybody's position is unreasonable.

THE COURT: Then we have no stipulation.

I don't have to determine at this particular moment what method will be used. I simply indicated that my natural inclination is to use the lot system, but I haven't really researched the problem as to whether or not there have been any cases on the subject one way or the other.

MR. KANAREK: I think, your Honor, the whole thesis of our jury system is by lot, and I think that that idea is perpetuated by doing it by even picking the alternate jurors by chance.

MR. SHINN: The Code section says it shall be by lot.

THE COURT: Hopefully, the problem won't arise.

5-1

1 THE COURT: Now, there are two other matters,
2 Mr. Norman Espinoza who is not in the jury box but who is in
3 the panel has called in, or someone has called in for him
4 to the clerk.

5 He is absent today due to illness in the family
6 and he expects to be present tomorrow. So he is not here.

7 MR. FITZGERALD: I will offer to stipulate he may be
8 removed from the panel.

9 MR. REINER: I will join in the stipulation.

10 MR. SHINN: So stipulated.

11 MR. KANAREK: So stipulated.

12 THE COURT: Mr. Norman Espinoza will be excused by
13 stipulation of all counsel.

14 Now, I have a letter which I received yesterday
15 from the Los Angeles City School District, Catherine S. Lee,
16 Administrative Coordinator, in which she is pleading with me
17 to excuse Mrs. Shirley Evans, who is sitting in the jury box,
18 and she cites various matters, reorganization of the City
19 School District, and Mrs. Evans' expertise in this field,
20 and so forth.

21 I personally have no inclination whatsoever to
22 excuse Mrs. Evans for that reason.

23 Of all agencies I think that any governmental
24 or quasi-governmental agency should be willing without
25 exception or reservation to have their employees serve as
26 jurors when they are called and selected, and I cannot

1 imagine if there are -- if you want to look at this letter,
2 you may.

3 (Letter handed to Mr. Fitzgerald.)

4 I cannot imagine that she cannot be replaced
5 with someone, or that there is not someone present in her
6 department or some other department who has the necessary
7 skills to carry on.

8 MR. SHINN: Is that the teacher from Monrovia?

9 THE COURT: No, this was the lady in the adminis-
10 trative department. She is not a teacher.

11 She is in the administrative department of the
12 Los Angeles City Schools.

13 MR. FITZGERALD: My experience has been, in selecting
14 jurors over the years, that frequently the employee or
15 prospective juror is very willing to sit but that person is
16 put in the middle, so to speak, between the Court and the
17 employer, and frequently employers write letters to the
18 Court.

19 I don't think there is any indication whatsoever
20 that Mrs. Evans cannot be fair and impartial, and the fact
21 that her employer may need her is going to influence her
22 one way or the other.

23 THE COURT: I agree with you completely, and I
24 would be reluctant to even mention the subject to her
25 because I would hate to put her in the position of being
26 in the middle between her supervisors and the Court.

1 It is a question of whether she would be
2 willing to serve.

3 I don't think she should be placed on the
4 horns of that dilemma. She has made no request to be
5 excused.

6 MR. STOVITZ: Of course it would make her feel
7 better to know she is wanted and needed.

8 MR. FITZGERALD: She knows that.

9 THE COURT: Is there anything further, gentlemen, with
10 respect to calling over another panel? I think we should
11 call a panel but I will take only one step at a time, if,
12 as and when we have a jury and there are not sufficient
13 remaining jurors sitting in the courtroom to comprise a
14 respectable panel for selection, we will call for another.

5A

5a-1

1 MR. FITZGERALD: Are we going to follow the same
2 procedure in selecting the alternate jurors as we did
3 in the selection of the jurors themselves?

4 I think that would be desirable.

5 I will be guided or at least consider the
6 opinions of counsel on that.

7 Is there anyone who wants to proceed in
8 some other manner?

9 MR. REINER: No.

10 THE COURT: Just so we can review, then, and be
11 sure we are all talking about the same thing.

12 Of course we will call all six prospective
13 jurors into the jury box at the same time, one after the
14 other.

15 Then we can come into chambers and examine
16 them on the matters of availability, hardship, death
17 penalty and publicity, one after the other, and if any
18 are excused we will call in additional, and proceed in
19 the same manner as we did for the 12, and then return
20 to open court and a complete voir dire examination before
21 challenges begin.

22 MR. STOVITZ: Is it agreed that each defendant is
23 entitled to as many challenges as there are alternates?

24 THE COURT: The Code is very clear on that, 1089,
25 I believe, of the Penal Code, each defendant is entitled
26 to as many peremptory challenges as there are alternates

5a-3

1 selected, and the People are entitled to a number equal
2 to all of the separate challenges exercised by the
3 defendants.

5b fls.

4 MR. STOVITZ: So that if there are six alternates,
5 each defendant is entitled to six and they need not be
6 exercised jointly.

5b-1

1 THE COURT: There is no statement about joint
2 exercise under 1089.

3 Actually it is an anomaly, because the
4 defendants by virtue of this law get more challenges for
5 alternates than they did for the jury as a whole.

6 MR. STOVITZ: That is because we are selecting six.
7 If we were only selecting two alternates they would only
8 get two.

9 MR. FITZGERALD: Has that been agreed upon, that
10 there will be six alternates?

11 THE COURT: Well, I have just made the decision,
12 Mr. Fitzgerald, if anyone wants to be heard it is
13 necessarily an estimate, of course. The most that I
14 have ever had in any other trial was four, and I never
15 had to use any.

16 They had six in the Sirhan trial. I don't
17 recall whether any were used.

18 MR. STOVITZ: I think there were two or three
19 used, your Honor.

20 THE COURT: I don't believe that many.

21 MR. REINER: Four alternates, and two were used.

22 THE COURT: No, there were six alternates.

23 MR. REINER: I am relying on Captain Carpenter
24 who was at the head of security for the Sheriff's
25 Department.

26 He informed me there were four alternates

5b-2

1 and two were used in that case.

2 THE COURT: I don't believe that is accurate. I
3 think actually they had six.

4 MR. SHINN: Your Honor, we are getting so close
5 to trial time now, and we all work pretty hard.

6 What is going to happen when one of the
7 attorneys get sick, your Honor, unless we get relief
8 in the middle of the week someone is going to break down,
9 either psychologically or physically.

10 MR. STOVITZ: I suggest you renew your Medicare
11 insurance.

12 MR. SHINN: In a situation like that would your
13 Honor just suspend the trial until the attorney gets
14 well, or could the other attorneys represent the defendant?

15 THE COURT: We will have to meet that problem
16 when it occurs, and in the context in which it occurs,
17 Mr. Shinn.

18 I cannot anticipate all those problems
19 until they come up, or what the solution might be.

20 MR. BUGLIOSI: With respect to the opening statement,
21 it might be premature, but I intended to make reference
22 to the out of court statements of Susan Atkins and
23 Leslie Van Houten, not in great detail, except they did
24 make incriminatory statements, and to whom they made
25 the statements.

26 I think the Court indicated yesterday that

1 perhaps this would not be advisable inasmuch as the Court
2 has not ruled on the admissibility of these statements.

3 THE COURT: That's right.

4 MR. BUGLIOSI: I don't know. I have to look at
5 Aranda closer. I don't know whether the Court actually
6 has power to completely preclude the prosecution from
7 offering evidence or any part of an incriminatory statement.

8 I think the Court certainly has power to
9 cause a deletion of all direct and indirect references,
10 but if there is a speck remaining -- in other words,
11 I wasn't going to go into what the statement was. That
12 would be dangerous because there might be parts of the
13 statement that the Court may rule are inadmissible.

14 But the mere statement that Susan Atkins
15 made an incriminatory statement. We intend to offer that.

16 THE COURT: I know, that does not solve the problem.

17 Effective deletion is not always possible;
18 in fact it is frequently impossible, in which case the
19 answer is either of the alternatives, which is severance
20 or exclusion of the evidence.

21 MR. BUGLIOSI: There are many portions of these
22 statements where, for instance, Susan Atkins talks about
23 herself, "I did this."

5c fls.

5C-1

1 THE COURT: Of course, Aranda talks about what
2 effective deletion is, in the context of what that means
3 with respect to the possibility those statements can be
4 linked to the other defendants after the other defendants
5 have been sufficiently identified, otherwise than by the
6 statements of the declarant.

7 MR. BUGLIOSI: I think there is a footnote in Aranda
8 talking about this, and they are talking about a situation,
9 if I am not mistaken, where the language "we" and "they"
10 are used.

11 If the other evidence tells the jury who the
12 "we" or "they" is or are, then we are talking about
13 an indirect reference.

14 But if it is just an "I," if it's "I did this,"
15 and "I did that" -- the other evidence cannot connect the
16 co-defendants with that statement.

17 That statement does not refer to anyone else.

18 Is Aranda 63, your Honor?

19 MR. FITZGERALD: Could we take this up at a later
20 time?

21 THE COURT: Yes, I don't think this is the time.

22 MR. BUGLIOSI: The reason why it may be the time,
23 because we are about to impanel the jury now and Mr. Shinn
24 has made a motion which I think has considerable merit to
25 it.

26 Perhaps it should be heard now.

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1 MR. FITZGERALD: I intend to introduce a motion in
2 connection with your opening statement to the Court,
3 restricting your references not only to the inculpatory
4 statements of Susan Atkins, but various other items of
5 physical evidence, and certain areas of evidence.

6 And I think that it would be better handled
7 all at one time, and if the selection of alternate jurors
8 takes anywhere near the length of time it took us to select
9 six jurors in the box, we are talking about some time
10 early next week, so I think there is plenty of time to
11 thoroughly evaluate this.

12 I just wouldn't like the Court to make a
13 hasty decision at this time.

14 THE COURT: On which subject?

15 MR. FITZGERALD: On whether or not Mr. Bugliosi may
16 mention certain things in his opening statement.

17 MR. BUGLIOSI: The only problem is, what if the
18 Court rules we cannot use any part of the statement? We
19 might then ask for a severance, and I am saying I think
20 this should be resolved before jeopardy attaches, because
21 these statements are very, very important.

22 They are extremely important as to two of the
23 defendants in this case, Susan Atkins and Leslie Van Houten,
24 extremely important, probably more important as to Van Houten
25 than anyone else because that is it as far as Van Houten is
26 concerned.

1 MR. STOVITZ: You are conceding Linda Kasabian would
2 be an accomplice.

3 MR. BUGLIOSI: Right, right. I cannot find Aranda,
4 for some reason.

5 MR. STOVITZ: Is the jury out there?

6 THE BAILIFF: Yes.

7 MR. STOVITZ: We can defer this, and each party can
8 present their points on the matter within a day or so.

9 MR. BUGLIOSI: The point is are we going to accept
10 the jury now?

11 MR. STOVITZ: All right.

12 MR. BUGLIOSI: If we accept the jury, jeopardy
13 attaches at that moment.

14 Maybe this is an issue that should be resolved
15 before jeopardy attaches is what I am trying to point out.

5D-1
1 MR. REINER: Excuse me, Mr. Bugliosi, are you
2 suggesting at this late date you would move for severance?

3 MR. BUGLIOSI: There is a possibility. I think we
4 almost have to move for a severance as to your client, we
5 almost have to. I don't think we have a choice.

6 But we would have a choice as to Susan Atkins.

7 Your client we almost would have to. Her
8 statement cannot be used against her, assuming that
9 Mrs. Kasabian is deemed to be an accomplice in the La Bianca
10 murders, ergo, we would not have a case against your client.

11 MR. SHINN: Maybe the Court is going to reconsider my
12 motion to suppress, your Honor, and take it up before we
13 impanel the jury.

14 THE COURT: Are you in a position to present the
15 statement with the deletion that you suggest? I know it was
16 presented to me some time ago, which had some peculiar
17 markings on it, but I could not tell what they were supposed
18 to mean.

19 MR. BUGLIOSI: I could get the statement, your Honor,
20 and give you several parts of the statement that in my
21 opinion are totally admissible.

22 The Court would have to rule right now, because
23 in the opening statement I am not going to give the
24 statement, I will say, "Susan Atkins made an incriminatory
25 statement to Virginia Graham and Roni Howard."

26 I am not going to offer the entire statement

1 because the Court might delete 95 per cent of it, but even
2 if the Court permits 5 per cent of it, my statement during
3 my opening statement would be accurate even if it is only
4 5 per cent as an incriminatory statement.

6-1

1 I could show the Court now these statements
2 and we could look at Aranda, and I think that under Aranda
3 any time a co-defendant says "I did something," uses the
4 word "I," that this statement is admissible, because if
5 the Court were to deem that Aranda prohibited that type
6 of a statement coming in in a joint trial, then this would
7 completely eliminate joint trials whenever any defendant
8 made an incriminatory statement. It would completely
9 eliminate joint trials.

10 In effect, Aranda would have been deemed to
11 have held that any time a defendant made an out-of-court
12 statement there could never be a joint trial. Aranda,
13 I am sure, doesn't go that far.

14 THE COURT: I would suggest that you do this:
15 The statement should be presented in its entire form,
16 that is, in toto, and the parts which you^{think}/should be excised,
17 that is, deleted, so that they may be introduced in the
18 trial should be completely indicated by brackets or some
19 other method so that they can be seen in relation to the
20 entire text of the statement.

21 That is for the purpose of allowing me to
22 rule on it.

23 MR. BUGLIOSI: So, may I bring these two statements
24 up here, now, and I think we can discuss this informally.

25 Of course, the Court's ruling is going to be
26 a formal ruling, but I think all of us can discuss these

1 statements informally right back in chambers here.

2 MR. REINER: May I further indicate that I think
3 it would be necessary for the People to indicate what
4 other proof they propose to offer to connect Miss Van
5 Houten with this particular crime.

6 The reason being that in Aranda you don't
7 simply look at the statement out of context. If there is
8 other evidence that the People are going to offer which
9 will draw other defendants into the statement, then even
10 though the words such as "we" are deleted and only such
11 words as "I" remain, if other evidence brings the defendants
12 in, then you don't have --

13 MR. STOVITZ: I disagree with counsel's interpreta-
14 tion of the cases because, in that event, you could never
15 have joint trials.

16 Let's assume that A, B and C rob a liquor
17 store. The liquor store owner identifies B and C, he does
18 not identify A. A is later arrested and is questioned,
19 and A says, "Yes, I robbed that liquor store."

20 "Were you alone or were you with someone?"

21 Then, when the answer is, "I was with
22 someone," that is deleted.

23 So, he has A robbing the liquor store.

24 The liquor store owner says B and C plus
25 another man were there. A's statement would certainly
26 incriminate himself, and we could still have a joint

1 trial with B. and C.

2 This is the situation in our trial. We
3 are going to have Linda Kasabian testifying that she
4 along with three others, on the first night, and she
5 along with six others on the second night, went out and
6 participated in a certain type of conduct. The conduct
7 that she will describe will show that these people
8 acted in a certain manner. That Leslie Van Houten went
9 into this home in the Los Feliz area, and later on we
10 are going to introduce a statement Leslie Van Houten
11 made to a friend of hers that she did participate in a
12 murder.

6a fls. 13

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1 She is not going to say that anyone else killed
2 anyone, but she will say that -- this Diane Lake will
3 testify that Leslie Van Houten admitted participating in
4 the murder and, naturally, that statement that she gives
5 will then say, "See, Linda Kasabian's testimony was
6 correct, it was Leslie Van Houten and Patricia Krenwinkel
7 and Charles Watson, they went into the house, and here
8 Leslie Van Houten admits that she participated in a murder,"
9 but in Leslie Van Houten's statement to Diane Lake, she is
10 not going to incriminate Patricia Krenwinkel and Charles
11 Watson.

12 MR. FITZGERALD: All this is well and good, but the
13 point I tried to make when this was mentioned pretrial was
14 this, and the most recent cases bear this out: Even if the
15 statement is successfully deleted and it is introduced as
16 to Miss Atkins or Miss Van Houten, certainly the attorneys
17 representing those persons are going to ask on cross-
18 examination, "Didn't they say that there were other persons
19 present?"

20 That is a proper question in order to mitigate
21 and ameliorate the guilt of the respective declarant.

22 It is also proper to demonstrate that other
23 persons might have been present and actually perpetrated
24 the killings.

25 The most recent cases point out that the
26 deletion must withstand cross-examination, and as I have

1 suggested to the Court in this case, and I will suggest to
2 counsel, there is no statement in this case that will sur-
3 vive cross-examination.

4 MR. BUGLIOSI: I don't think there is any statement
5 in any case, Paul, that would withstand cross-examination
6 under the theory that you have just propounded.

7 MR. REINER: That isn't true.

8 THE COURT: What cases are you referring to?

9 MR. STOVITZ: Raymond Shepard.

10 MR. FITZGERALD: People vs. Massey.

11 MR. BUGLIOSI: That is 66.

12 MR. FITZGERALD: I filed a document with the Court.

13 THE COURT: I may have those.

14 MR. REINER: Mr. Bugliosi a moment ago stated that no
15 statement may withstand cross-examination under that
16 theory.

17 MR. BUGLIOSI: That statement of Paul's.

18 MR. REINER: I disagree.

19 Tying that into the example that Mr. Stovitz
20 gave --

21 THE COURT: Massey is 66 Cal. 2d.

22 MR. FITZGERALD: If I could get my points and
23 authorities in regard to the motion for severance, it
24 contains all the citations I would urge upon the Court.
25 It is in the court file.

26 THE COURT: All right.

1 MR. FITZGERALD: At some later time.

2 MR. REINER: If I might respond to the comment by
3 Mr. Bugliosi and that other one by Mr. Stovitz in connection
4 with the position taken by Mr. Fitzgerald.

5 An appropriate example would be this: If we
6 have an eye witness that two unidentified persons --
7 and that is the key word, "unidentified" -- two unidentified
8 persons walk into a liquor store, and subsequently two
9 persons were arrested, and A indicates that B was with
10 him --

11 THE COURT: I don't see why all of this has to be on
12 the record.

13 MR. REINER: All right. Very well.

14 MR. KANAREK: I think, your Honor, if we are in
15 chambers, because some of the statements that the prosecution
16 has made --

17 THE COURT: We are just cluttering up the record now.
18 There is nothing under consideration. This is just
19 informal conversation.

20 MR. KANAREK: I know, your Honor.

21 THE COURT: You don't have to participate in it.

22 MR. KANAREK: I wish to have the benefit of --

23 THE COURT: Since there is no motion or objection or
24 anything else pending before the Court, I don't see any
25 reason to clutter up the record with this conversation.

26 MR. KANAREK: Because of some of the allegations.

1 THE COURT: I am going to take it off the record,
2 and if anybody wants to go back on the record with some
3 official business of some kind, we will certainly do so.

4 (An off-the-record discussion was had.)
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1 MR. STOVITZ: I'd like to put this on the record
2 as to Roni Howard's testimony, and I don't mean this
3 would be the entire testimony Roni Howard will testify
4 to.

5 By way of offer of proof, your Honor, Roni
6 Howard testified that she was an inmate with Susan
7 Atkins in the County Jail.

8 She will not testify as to what Susan
9 Atkins was in for or how the conversation began, because
10 the conversation began "What are you in for?"

11 Susan Atkins said she was in for murder.
12 That was on the Gary Hinman murder. She will not
13 testify to that.

14 But in her conversation with Susan Atkins
15 they did get around to the Sharon Tate case, and Roni
16 Howard will testify in substance and effect:

17 "She," indicating Susan Atkins,
18 "said that Sharon Tate, she said she was in
19 a bedroom, but when I asked her about the color
20 of the bedspread she," indicating Susan Atkins,
21 "said it was pulled down.

22 "She," again indicating Susan
23 Atkins, "said that Sharon just said 'Well,
24 why are you doing this, you know, don't
25 kill me, let me live just for my baby.'

26 "And Sadie said" -- Sadie is of course

1 Susan Atkins, Sadie was the name she was booked
2 in in the County Jail, "I got no feelings for
3 you, bitch, we are doing you a favor; we are
4 releasing you from this earth.'

5 "And she said she had no feelings
6 whatsoever for her because she was doing people
7 a favor, and in the future what should be,
8 like she said people, you know, really you
9 don't really live until you die.

10 "Question: Did she say that she
11 stabbed Sharon,^{or} she stabbed some of the people
12 there?

13 "Answer: Yeah, oh, yeah, because
14 she even told me, she said, 'Well, it felt so
15 good,' she said, 'The first time that I stabbed
16 her.'

17 "She made a motion and that is when
18 I told her, I said, 'I don't believe you did it,'
19 I said, 'What does it feel like when you stab
20 somebody?'

21 "I said, 'I know because like
22 I told you I have stabbed somebody.'

23 "And she kind of doubted me, and
24 I said, 'Well, it has been quite a while ago.'

25 "I told you the deal about my
26 ex-husband, and I said, 'Did it feel kind of

1 "like a pillow?"

2 "And she said," again talking
3 about Susan Atkins, "'Yeah,' and she got all
4 enthused, 'it was like going into nothing, just
5 like into air,' she said" --

6 And of course this is where there will be
7 a deletion:

8 "And she said that a couple of
9 girls held Sharon's legs."
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1 Now we are going to delete the part about a
2 couple of girls holding her legs.

3 THE COURT: And back earlier she said, "We are
4 releasing you from this earth."

5 MR. BUGLIOSI: Yes. "We," "they," "us," all of those
6 will have to be deleted.

7 MR. STOVITZ: In a sense, as Mr. Bugliosi said,
8 this entire statement is 46, 47 pages long; of course, a
9 lot of it is introductory matter, and a lot of other
10 matter deals with other homicides that would in no way be
11 admissible even if it were a separate trial, so we could
12 certainly delete the statement if it was a separate trial,
13 and in a joint trial we could delete it and make it depend
14 only on what Susan Atkins said to Roni Howard as to Susan
15 Atkins' participation in this homicide.

16 Now, if Mr. Shinn, in cross-examination of
17 Roni Howard, wants to show : there were other girls
18 involved, I think the Court could effectively stop him,
19 because the harm of bringing the other defendants into it
20 would be outweighed by the so-called resourceful cross-
21 examination.

22 I think the Code and the cases, especially the
23 Graham case and the other cases, speak about the value of
24 joint trials. It is not only the saving of the Court's
25 time and the witnesses' time, but it is also getting at the
26 truth. You can get at the truth a lot better in a joint

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1 trial than you can in a separate trial, and the purpose of
2 our trials is the ascertainment of the truth.

3 MR. SHINN: Your Honor, the danger there is that even
4 under cross-examination, your Honor, I have no control over
5 the witness, over what the witness may say.

6 Now, Mr. Stovitz is presupposing that the
7 witness is going to say exactly what the witness is
8 supposed to say.

9 As you know, some witnesses will ramble off to
10 different subjects, and I do believe that the cases do
11 point out this danger, your Honor, that the witnesses get
12 on the stand and then on cross-examination may say things
13 damaging to other defendants, and then the Court would have
14 to call a mistrial.

15 MR. KANAREK: Which, if I may, your Honor, just
16 briefly make the point again.

17 We asked for the deposition of Linda Kasabian.

18 THE COURT: Let's not get into Linda Kasabian. That
19 is another matter.

20 MR. KANAREK: Well, yes and no.

21 In any event, your Honor, I will do it in
22 connection with this. The only protection that any
23 litigant has in this kind of situation is to take a
24 deposition because the atmosphere that the statement was
25 taken in is a prosecution atmosphere, it is not a judicial
26 atmosphere, and absent knowing what the witness is going to

1 say, as Mr. Shinn points out, there are all kinds of risks
2 involved, and there is a good way of overcoming the risk,
3 and that is by taking the deposition of the person in advance.
4 Take their deposition and find out what they are going to
5 say and then you have it in a judicial atmosphere, and you
6 have something to hang your hat on if they change their
7 statement at the time that they testify before the jury.

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1 On behalf of Mr. Manson, I will make a
2 motion that we take the deposition of Virginia Graham.

3 MR. SHINN: Plus the fact that Mr. Stovitz doesn't
4 know for sure what she is going to testify to, your
5 Honor. He is just guessing that she is going to testify
6 to the same thing that she said before. We have no
7 guarantee of that.

8 MR. STOVITZ: It is not a guess.

9 MR. SHINN: You can't give us a guarantee that
10 she will testify substantially to the same facts.

11 THE COURT: I will suggest this, gentlemen. I
12 want to reread some of these statements.

13 MR. STOVITZ: Let me say that with respect to
14 the offer of proof, with respect to Diane Lake, she
15 was a young lady living at the Ranch, and she talked --

16 THE COURT: Just a moment.

17 This statement that you just read, that
18 was Roni Howard?

19 MR. STOVITZ: Roni Howard.

20 THE COURT: Does that purport to be the entire
21 statement?

22 MR. STOVITZ: No. It is the entire statement
23 that we are going to use, but I gave your Honor the
24 whole book there of her interview with the Police
25 Department.

26 THE COURT: Then you are not going to use all

1 these other statements in this Roni Howard statement?

2 MR. STOVITZ: No.

3 In Virginia Graham's statement we are going
4 to use the part underlined.

5 MR. BUGLIOSI: Yes. The part underlined in red,
6 your Honor.

7 THE COURT: I want to be sure that I have it right.

8 The statement that you just read into the
9 record is whose?

10 MR. STOVITZ: Roni Howard's.

11 THE COURT: And that is the only statement that
12 you propose to read?

13 MR. STOVITZ: Yes.

14 THE COURT: Now, you intend to read in the
15 statement of --

16 MR. STOVITZ: Yes, the statement as to Diane
17 Lake, but I want to give you the background so you can
18 see how it fits in.

19 THE COURT: What about Virginia Graham?

20 MR. STOVITZ: She was also an inmate with Susan
21 Atkins in the County Jail.

22 THE COURT: Are you going to read that statement?

23 MR. STOVITZ: No. I gave your Honor the entire
24 transcript.

25 MR. BUGLIOSI: There is quite a bit. That
26 which is underlined in red.

1 MR. STOVITZ: Diane Lake was a girl that lived at
2 Spahn Ranch and she talked to the officers about two hours,
3 and then the officers condensed in two pages the essence
4 as it goes to the La Bianca case, and then she signed this
5 statement as her statement.

6 In order for your Honor to make sense of
7 this statement, Bobby Beausoleil was arrested on August the
8 6th, 1969, and he was returned to Los Angeles County on
9 August the 7th, 1969, and there will be evidence that they
10 learned at the Spahn Ranch about his incarceration on
11 August the 7th.

12 Now, Leslie Van Houten says -- and this is
13 supposedly Diane Lake's testimony --

14 "Leslie came in the back house at
15 the Spahn Movie Ranch at about dawn, sometime
16 after Bobby Beausoleil's incarceration and the
17 raid at the Spahn Movie Ranch in the middle of
18 August, 1969.

19 "As soon as she entered, she burned
20 a rope, a credit card and a purse in a fireplace.

21 "She also had with her a plastic
22 sack of change, United States currency, nickels,
23 dimes and quarters.

24 "She then went to sleep. Then a
25 man in a pink car came up to the Ranch and cut
26 the wires.

1 "At that time, she hid" -- she,
2 meaning Leslie Van Houten -- "hid under the
3 blankets and said not to let him see her because
4 he was the one that had given her the ride from
5 Griffith Park that morning. The man is a friend
6 of Frank's. I don't know Frank's last name. It
7 is a German name. Frank is the man that is buying
8 the property that is the last half of George
9 Spahn's property for a club that they are going
10 to build for attorneys and things like that. It
11 is going to be something like a \$30,000 club.

8b fls.

3B-1

1 "The purse that Leslie burned was soft
2 brown leather about six inches high. The rope
3 she burned was hemp about four inches in length
4 and 1-1/2 inches in diameter. There was also a
5 credit card that she burned.

6 "She brought these things in with her
7 when she came in that morning. She was also
8 carrying a lady's blouse and she also burned
9 that.

10 "About the last seven days of September
11 to about October 3rd, 1969, while at Willow
12 Springs, Leslie explained to me that she had a
13 part in the killings that the others were
14 involved in."

15 Now, of course, we are going to remove "that
16 the others were involved in."

17 "Leslie explained to me that she had a
18 part in the killings" -- period -- "but it was
19 a murder other than the Tate killing.

20 "She told me that she was instructed by
21 Tex."

22 Now, we are going to omit the reference to Tex.
23 MR. BUGLIOSI: Charles Watson.
24 MR. STOVITZ: Even though Tex is not a defendant in
25 this case.

26 "To wipe all the fingerprints off of

8B2
1 "everything."

2 MR. KANAREK: I think counsel misspoke. He
3 doesn't mean he is not a defendant in this case.

4 MR. STOVITZ: He is not here at the trial.

5 This is the part that she will testify to.

6 "She," speaking about Leslie Van Houten, "told
7 me she wiped them off of things they had even touched,"
8 -- "they" will be omitted -- "that weren't even touched."
9 Then she told me that Tex asked her to stab one of the
10 victims."

? 11 We will admit the word "Tex."

12 She then told me she was asked to stab one of
13 the victims.

14 MR. BUGLIOSI: We will have to omit that. That
15 would imply that someone asked her. We will omit any
16 reference to another human being. We will delete that.

17 THE COURT: Don't you have to go back to where she
18 makes the statement in that connection that she had a part
19 in the killings to indicate someone else had the other part?

20 MR. BUGLIOSI: That is a good point. I have thought
21 about that certainly. If she had a part.

22 MR. STOVITZ: She was involved in the killings.

23 THE COURT: You can't change the language.

24 MR. STOVITZ: That's right. You can't change the
25 language.
26

9-1 1 THE COURT: All you can do is delete, you cannot
2 change her words. You cannot substitute one word for
3 another.

4 MR. BUGLIOSI: This will be a witness testifying to
5 her recollection what she told her.

6 She can use whatever words she wants to convey
7 that thought.

8 She can say she said words to the effect that.

9 MR. REINER: Now that we are getting to the point
10 where we are paraphrasing the statement, and I don't think
11 that is what is meant by editing --

12 MR. BUGLIOSI: I think editing necessarily connotes
13 that you can use synonyms.

14 MR. STOVITZ: Now, this is the part she will definitely
15 testify to:

16 "She," talking about Leslie Van Houten, "said
17 that at first she was afraid, but later as she continued
18 stabbing it became more inviting to her.

19 "before she left the house where the murders
20 occurred she ate something and she drank some milk. I
21 believe she said it was chocolate milk, which they always
22 took with them when they left the house, which was also
23 taken when she left the house."

24 "Then she hitchhiked back to the ranch. She said
25 she hitchhiked from around Griffith Park back to Spahn's
26 Movie Ranch."

1 Of course, the La Blancas did live in the
2 Griffith Park area.

3 I submit, your Honor, that Diane Lake's
4 testimony can be effectively edited, and she can be
5 effectively instructed to make reference only to Leslie
6 Van Houten's statement, and only what Leslie Van Houten
7 said that she, Leslie, did and what she, Leslie, said.

8 I realize, your Honor, that there is going to
9 be some type of coloring necessary.

10 I also realize --

11 THE COURT: "Coloring," what do you mean by that?

12 MR. STOVITZ: Well, if Leslie's words were "the
13 Family did this," and "the Family did that," we can
14 tell her to use the singular rather than to use the
15 term "Family."

16 We can also instruct her the reason for the
17 rule.

18 Police officers, you know, many, many times are
19 instructed before they take the witness stand, "Now, look
20 here, you cannot make any references to his past record,
21 so you start off just with the statement what he said
22 about this crime. If the defense attorneys ask you any-
23 thing about his past record or about polygraphs, don't go
24 into it."

25 We tell police officers that. The Baker case
26 approves this type of editing because of the prejudicial

1 remarks.

2 Now, the big problem will be on cross-examination
3 as to whether or not the defendants would be restricted,
4 especially the attorneys for the defendants of the
5 "confessing defendant."

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1 MR. KANAREK: Your Honor, may I just make a point
2 if I may.

3 THE COURT: You both may make points, but one at
4 a time.

5 MR. KANAREK: While this is on my mind, if I may,
6 your Honor.

7 MR. REINER: Since the comment was directed towards
8 Leslie Van Houten, may I respond?

9 MR. KANAREK: Certainly.

10 MR. REINER: I will put this in concrete terms
11 rather than theoretical terms.

12 Diane Lake, if she testifies to the entire
13 statement such as it was, will indicate in sum and
14 substance approximately as follows:

15 That Leslie Van Houten stabbed an inert
16 body at the direction of Tex. The person at that time
17 perhaps was no longer living, and that she wiped off
18 fingerprints after the homicides had occurred at the
19 direction of Tex, as indicated also in the statement.

20 Now, if Diane Lake let out the complete
21 statement, she in effect would present a picture that the
22 homicides occurred, were committed by two other persons
23 with Leslie Van Houten present, and participating subse-
24 quently, that is, after the homicides and certain acts.

25 Clearly that would so establish liability--
26 I am not arguing that it would not.

9a-2

1 But it is an entirely different picture
2 than simply the witness Diane Lake indicating that Leslie
3 Van Houten "participated" in the killings, and leaving
4 it there.

5 Obviously once it comes out that she
6 participated in any way, shape or form in these killings,
7 as her attorney I would then have to ask Diane Lake
8 questions to show that her participation, such as it was,
9 was less than minor -- strike "less than," it was minor,
10 and I hate to use the word "minor" considering the nature
11 of the acts, but minor relative to the acts of the others.

12 I could not competently sit back and not
13 ask such questions of Diane Lake, if I am precluded from
14 doing it the situation is that Diane Lake has testified
15 to something totally out of context, as indicated that
16 Leslie Van Houten was a prime mover, as opposed to a
17 person who did not move until the harm, such as it was,
18 had been accomplished.

9b fls.

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1 MR. BUGLIOSI: Where do you get this "inert body"?
2 Is that in the statement?

3 MR. REINER: The word "inert body" is not, or "dead"
4 does not exist in that statement, but I have good reason to
5 believe that if Diane Lake would testify fully to the state-
6 ment that was made to her by Leslie Van Houten, she would
7 relate all of these things, and in conjunction with all of
8 the other evidence it would indicate in fact that is what
9 happened, because Tex Watson directed her to do certain
10 things, which would have had to have occurred after Tex
11 Watson completed his conduct in this matter.

12 That is the horns of the dilemma I am on.
13 I will have to ask Diane Lake to give the entire statement.

14 I would much rather not see the statement in
15 the case. Obviously once the statement is in I would have
16 to show that bad as it is, it is not as bad as it
17 initially appears.

18 This is terribly relevant when we get to the
19 matter of first or second, and it becomes massively relevant
20 at the penalty phase.

21 MR. BUGLIOSI: Why couldn't you ask on cross-
22 examination did she indicate at the time she stabbed this
23 person the person was already dead or not?

24 MR. REINER: If the answer is yes -- strike that.

25 It is not simply a matter of asking questions
26 and getting answers and then moving on, it's a matter of

1 proof.

2 Is the jury indeed persuaded this is the case,
3 or is this one defendant trying to suggest that was the
4 case?

5 The way you prove these things, you will then
6 have her relate all of the circumstances as to what led up
7 to various acts.

8 MR. BUGLIOSI: In effect you are saying you would
9 like to bring in the entire statement, right? To explain
10 your client's involvement.

11 MR. REINER: I want the statement out, obviously,
12 but once the statement is in it is essential to bring the
13 entire statement out to show her involvement was minor com-
14 pared to the others.

15 MR. BUGLIOSI: Let us assume the statement could come
16 in as you would like to have it, right? To explain your
17 client's relatively minor involvement, if the whole state-
18 ment would come in this would be prejudicial to your client.

19 MR. REINER: It would be massively prejudicial as
20 compared to the statement not coming in, but if it comes
21 in to her participation and nothing else, or her participation
22 in a relatively minor way, obviously the entire statement
23 is less prejudicial than the edited statement.

24 But the entire statement is obviously more
25 prejudicial than no statement.

26 MR. FITZGERALD: In fairness to the Court, I think

1 counsel for the prosecution ought to point out to the
2 Court that this witness, Diane Lake, is presently in a
3 mental institution.

4 I think the Court should know that, because
5 that is going to be important in terms of whether or not she
6 can follow instructions, and whether or not she is going to
7 get up on the stand and just blurt out various things.

8 I assume she is in Patton State Hospital for
9 a reason.

10 MR. KANAREK: That is the point I was trying to raise,
11 your Honor, when Mr. Reiner asked to speak first.

12 That is, that this lady is, as I understand it,
13 in the Patton State Hospital.

14 On top of that, we have a police officer who
15 has synopsized, thinking again that he is law enforcement,
16 and this is no criticism of him, but he wants a certain
17 result in this case.

18 Now, if you balance the prejudicial effect and
19 the chance for error as to what Diane Lake actually said,
20 and you put it through all of these tortuous processes and
21 try to present it to this jury, the balance is just
22 completely in favor of excluding it in terms of probative
23 value, and that is really what we are supposed to be here
24 for, to get evidence of probative value before the jury,
25 not just to get a conviction at any price.
26

9C 1 Now, it is my position on behalf of Mr. Manson
2 that law enforcement are now using recording devices, and
3 not taking down word-for-word statements --

4 MR. STOVITZ: There is a word-for-word statement of
5 Diane Lake, a two-reel tape, which has been given to
6 Mr. Reiner, and I don't know whether Mr. Fitzgerald heard
7 it or not.

8 MR. KANAREK: All right, that problem in this
9 particular instance does not lie as to Diane Lake, as
10 far as the reproduction of what the lady said.

11 But it is our position on behalf of Mr. Manson,
12 I just want the record to be clear, that due process,
13 fair trial and all of that requires the deposition of
14 Diane Lake, the deposition of Roni Howard and the
15 deposition of Virginia Graham.

16 Absent that, your Honor, we then are turning
17 the trial over to the so-called witnesses.

18 We are letting them decide this case, because
19 there is no chance to impeach them; there is no chance for
20 lawyers to sit down and go over their statement.

21 If you do this in an automobile accident,
22 where the only thing involved is money, you certainly ought
23 to be able to do it in a death sentence request by the
24 prosecution where life itself is at stake.

25 It is our position that due process requires
26 that, and that the Federal and California Constitutions

1 require it even though the Penal Code puts it down, if there
2 are other certain very narrow bases for taking a deposition
3 in a criminal case.

4 It seems to me the Court in administering the
5 Federal Constitution as well as the California
6 Constitution, has the power, and we make the motion that the
7 Court order the depositions of these prospective witnesses,
8 and then we know exactly where we stand.

9 I do make the request that the depositions of each
10 of these prospective witnesses be taken at a time con-
11 venient to the Court, convenient to counsel, outside the
12 presence of the jury, and then we will have some kind of a
13 knowledge, a beginning knowledge of what really these
14 witnesses purportedly heard the respective defendants
15 utter.

16 Because otherwise we are relying upon, as I say,
17 law enforcement, the prosecution synopsising.

18 That is not the witness, your Honor, that is
19 law enforcement.

20 THE COURT: I understand you were given copies of
21 the complete statements.

22 MR. KANAREK: Yes, your Honor, but it is not in the
23 judicial context. These statements are statements which
24 have been made, and questions asked only with the
25 prosecution's point in mind.

26 There may be all kinds of reasons why there
weren't the proper foundation.

1 THE COURT: Well, all right, we are not going to have
2 any depositions at this time. The motion is denied.

3 MR. KANAREK: And I include Linda Kasabian in my
4 request also, your Honor. May I? I do.

5 THE COURT: Very well.

6 Now, as to the statements, it appears to me
7 that there are portions of them which could be deleted, or
8 excised, which would not incriminate the other defendants.

9 However, this is certainly just preliminary.
10 The view is necessarily going to have to be tempered by
11 whatever the evidence is during the course of the trial.

12 Now, this is something that you people are going
13 to have to, as I mentioned before, this is something you
14 are going to have to think through yourself.

15 I don't know what the evidence is going to show
16 except what I heard. You are intimately, being the
17 prosecutors, you are intimately familiar with what your
18 cases are and what the evidence will be, at least on your
19 side.

20 MR. BUGLIOSI: In very rough form, your Honor,
21 Linda Kasabian, as to both murders, will place the defen-
22 dants at the scene.

9d-1

1 THE COURT: That was going to be my next comment.

2 Perhaps literally these statements can be
3 excised, I am speaking of the statements of Virginia
4 Graham and Roni Howard and Diane Lake. Perhaps they can
5 be excised so as not to incriminate the other defendants,
6 but what about the problem, if there is one, I don't
7 know, of the testimony perhaps of Linda Kasabian who
8 will connect up the other defendants?

9 MR. BUGLIOSI: She will of course.

10 THE COURT: Obviously she is going to be testifying
11 as an eyewitness.

12 MR. STOVITZ: Further, Linda Kasabian says she
13 spoke to Charles Manson and he made certain statements to
14 her.

15 Following that she went with Watson,
16 Krenwinkel and Atkins to this location on Cielo Drive.

17 Following that she is going to describe
18 what happened.

19 Then there is going to be the introduction of
20 the fingerprint of Krenwinkel from the rear door, the
21 fingerprint of Watson from the front door, and Susan
22 Atkins' statement to Roni Howard and Virginia Graham.

23 THE COURT: The point I am making is, to what
24 extent if any, and I am just posing the question, I am
25 not attempting to answer it, the statements of Linda
26 Kasabian and whatever evidence there will be in the case

9d-2

1 will tend to connect the non-declarant defendants with
2 the statements after the identity of the other partici-
3 pants, otherwise known by reason of evidence not included
4 in the statements themselves.

5 MR. BUGLIOSI: I am very confident, your Honor, I
6 know exactly what the Court is referring to.

7 Here is what Aranda is talking about.

8 Let's say that we were to permit Virginia
9 Graham to testify that Susan Atkins told her "We did this,"
10 which we will not permit her to do.

11 Now, who is "we"? Well, one of the "we's,"
12 one of the persons comprised in the we is Susan Atkins.

13 The jury is going to want to know who is
14 the other party or parties comprising the we.

15 Aranda says you cannot do that because other
16 evidence will tell the jury who the we is. That is what
17 Aranda is talking about.

18 But if --

19 THE COURT: The question I am raising is whether
20 or not that problem can exist even though there is no
21 "we" mentioned by virtue of the facts which are contained
22 in the statement.

23 MR. BUGLIOSI: That is why there has to be very
24 severe, I grant the Court that, very severe comprehensive
25 editing where we have a situation where the defendant
26 says "I did this."

1 THE COURT: I would think out loud further, there
2 must be situations in which it is possible for such a
3 statement not to incriminate co-defendants, otherwise,
4 as someone has mentioned before, Aranda and Bruton would
5 do away with joint trials.

6 MR. BUGLIOSI: Right, right, that is the point I
7 made.

8 MR. FITZGERALD: But don't mislead the Court, in
9 a sense, and I am sure you are not doing it intentionally.

10 Aranda is not the only ground. The Aranda
11 problem is not the only ground for the inadmissibility
12 of statements, or the severance of cases for trial.

13 MR. BUGLIOSI: It is not the only ground for
14 severance. I think it is the only ground for the
15 admissibility of an extrajudicial statement of a co-
16 defendant.

17 MR. FITZGERALD: I think that if the Court felt
18 that the admissibility of an edited statement would
19 deprive some of the other defendants of a fair trial
20 in other respects, the Court would have power --

21 THE COURT: It could deprive the declarant of a
22 fair trial.

23 MR. FITZGERALD: Yes.

24 MR. BUGLIOSI: That would be a situation where the
25 prosecution had not complied with Aranda.

26 MR. FITZGERALD: I think that is what the Court has

1 in mind when the Court queries counsel about the
2 admissibility of statements, using the singular pronoun,
3 when other prosecution witnesses will put plural
4 defendants at the scene of a particular ground, coupled
5 with the fact that Count VIII of the indictment is a
6 conspiracy, alleging community of action between the
7 defendants.

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1 MR. BUGLIOSI: You will have to forget about the
2 other evidence. It is not relevant to the extrajudicial
3 statement unless the extrajudicial statement by itself can
4 be connected with the other evidence, and it cannot, unless
5 "we" or "they" --

6 MR. FITZGERALD: I disagree. I think the Court can
7 take that into consideration; the Court examines all the
8 facts and contents, surrounding the statement itself.

9 MR. REINER: Let me pose a question to Mr. Bugliosi.

10 You will be able to prove, for example,
11 Patricia Krenwinkel was at the residence at a certain
12 date and time.

13 MR. BUGLIOSI: Actually we will not, with the
14 exception of Linda Kasabian's testimony.

15 MR. REINER: That is how you will prove it.

16 Now, you proved she was there at a certain point
17 in time.

18 How do you propose to go ahead and prove at
19 that particular time a homicide, or two homicides occurred?
20 By putting in the statement of Diane Lake, which is an
21 admission as to Leslie Van Houten, but not an admission as
22 to Patricia Krenwinkel.

23 Now, you prove up what happened while Patricia
24 Krenwinkel was there.

25 Now, that is the dilemma that you have. Do you
26 have any other evidence as to what happened at that point in

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1 time other than Van Houten's statement?

2 MR. BUGLIOSI: We only proved your client's
3 involvement in what happen, not that Patricia Krenwinkel
4 was there.

5 MR. REINER: Let's say Leslie Van Houten was not a
6 defendant in this case. You would not then be using
7 Diane Lake's testimony.

8 How would you prove what happened while
9 Patricia Krenwinkel was there?

10 MR. BUGLIOSI: We could not.

11 MR. REINER: That is my point, you could not.
12 Aren't you now using Diane's testimony against Patricia
13 Krenwinkel?

14 MR. BUGLIOSI: Against your client only because she
15 was involved, someone else may have been involved, it
16 doesn't mean it was Patricia Krenwinkel.

17 MR. STOVITZ: It could have been Tex Watson, nothing
18 wrong with identifying Tex Watson. If we had four separate
19 trials, Roni Howard's testimony would go in completely
20 against each defendant.

21 MR. REINER: No argument.

22 MR. STOVITZ: Editing Diane Lake's statement,
23 originally I said we would have to eliminate Tex. All we
24 have to do is explain that Tex Watson did not refer to any
25 of the defendants on trial here.

26 MR. REINER: That is not the question I put to

1 Mr. Bugliosi, who answered it as I anticipated he would
2 answer, that was this, if Leslie Van Houten was not a
3 defendant in this case and, let us say for the sake of
4 argument this was a trial of Patricia Krenwinkel, for the
5 deaths of the La Blancas, and that was the only matter
6 before the Court, you would then offer evidence that
7 Patricia Krenwinkel went to the La Bianca home at a
8 certain date at a certain time and entered the residence;
9 you would do this by putting on the testimony of
10 Linda Kasabian.

11 The next question is, all right, she was
12 there, but what happened while she was there?

13 MR. BUGLIOSI: What happened? You know what happened,
14 of course, by the multiple stab wounds you know it was
15 murder.

16 MR. REINER: What evidence do you have it occurred
17 while she was there?

18 MR. BUGLIOSI: Circumstantial evidence.

19 MR. REINER: As opposed to some later time.

20 MR. BUGLIOSI: Circumstantial evidence.

21 MR. REINER: Apart from the testimony of Lake,
22 who then will indicate what happened while they were there,
23 what other evidence is there?

24 MR. BUGLIOSI: I don't understand.

25 MR. REINER: There are a number of ways one might go
26 about trying to prove what occurred while a certain

1 defendant or defendants were at the scene of the crime,
2 and one way is that one of the --

3 MR. BUGLIOSI: To save time, let's stipulate,
4 arguendo, we are going to prove what happened by Diane
5 Lake's testimony, this still does not connect Patricia
6 Krenwinkel; it does not connect Patricia Krenwinkel.

7 MR. REINER: Patricia Krenwinkel is not charged with
8 merely going to the La Bianca home, she is charged with
9 going there and participating in a homicide.

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1 MR. BUGLIOSI: All right. That is not evidence
2 against Patricia Krenwinkel.

3 THE COURT: Gentlemen, if I may intercede for a
4 moment.

5 We obviously aren't going to achieve any
6 unanimity of opinion here discussing these matters
7 between us. Some of you see it one way and some another.

8 The real question in my mind is: What do
9 the People want to do at this time? Do they wish to
10 proceed? Are they making a motion for severance? Or
11 what?

12 MR. BUGLIOSI: No. The People want a joint trial,
13 and we want to severely edit those portions of the extra-
14 judicial statements of Leslie Van Houten and Susan
15 Atkins and introduce those portions which only implicate
16 them and no one else.

17 THE COURT: And I have indicated to you just a
18 bare preliminary -- and I emphasize the word "bare" --
19 a bare preliminary view that it appears that some of
20 these statements can be excised without harm to either the
21 declarant or the non-declarant defendants; but I want to
22 emphasize further that this may very well change, that
23 is, my view may very well change during the course of
24 the trial as the trial develops.

25 Now, if you are willing to proceed on
26 that basis?

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1 MR. BUGLIOSI: We have to take the risk. I don't
2 think we have a choice.

3 Well, we do have a choice, but I mean,
4 it is obvious what our choice is going to be, your Honor.
5 We want to go forward.

6 THE COURT: I don't want my statements now to
7 be in any way construed to be a ruling, because they are
8 not. I don't think that I am in a position to rule;
9 and even if I rule now, it would be subject to change
10 based on what the evidence develops.

11 MR. STOVITZ: I think once your Honor hears the
12 opening statement -- and Mr. Bugliosi has made the
13 statement that he is not going into details of the
14 incriminatory statement, he is merely going to mention the
15 word "statement," to show how the defendants are connected
16 with the crime, and your Honor can take our opening
17 statement by way of a trial brief, so to speak, and your
18 Honor will be able to see the development of this evidence,
19 that although it will be shown that this was not an
20 individual effort by either Susan Atkins or Leslie Van
21 Houten, that nevertheless the statements of the declarants
22 will be considered against that declarant and only that
23 declarant, and we will have other evidence that will
24 firmly incriminate the other defendants.

25 MR. KANAREK: Your Honor, may I --

26 THE COURT: Just a moment.

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1 That raises another question in my mind.

2 In view of the danger or the very real risk
3 that a subsequent ruling during the course of the trial
4 may deprive the prosecution of the benefit of one or
5 more of these statements, why is it necessary to mention
6 it in an opening statement?

7 The opening statement isn't evidence, it
8 certainly isn't going to prove anything. Why subject the
9 prosecution to that risk?

10 MR.BUGLIOSI: Well, the jury listens very closely
11 to the opening statement. It is not evidence, your Honor,
12 but --

13 THE COURT: If the statement in fact comes in,
14 it isn't going to be any less effective.

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1 MR. BUGLIOSI: I think it would be less effective,
2 your Honor. It would be strange that we didn't mention
3 a confession in the opening statement. A confession is
4 pretty powerful evidence.

5 MR. REINER: I think the law is clear on this,
6 if you say that the defendant made certain admissions
7 and later the admissions don't come in, that standing
8 alone is more than a sufficient basis for a mistrial --
9 for a new trial, rather.

10 So, I think that puts incredible pressure
11 upon the Court to make a ruling subsequently as to
12 whether it comes in; that irrespective of other
13 sufficient evidence to convict the defendants, the Court
14 would be obliged to grant a mistrial if the Court ruled
15 that the statement could not otherwise come in.

16 There is no reason why Mr. Bugliosi could
17 not state in his opening statement, in sum and substance,
18 that the People will prove that Leslie Van Houten
19 participated, without saying that they will prove it by
20 putting in ^{an} admission.

21 It is that last phrase, your Honor.

22 THE COURT: I would certainly agree to that. I
23 think it would be extremely dangerous in view of the
24 tentative --

25 MR. BUGLIOSI: It is a risk that the prosecution
26 might decide to take or might decide they won't take.

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1 MR. FITZGERALD: No. That happens not to be a
2 statement of the law.

3 You shouldn't force the defendants into
4 making a motion for a mistrial. These defendants are
5 entitled to have their case tried in a speedy expeditious
6 fashion, and they shouldn't have to rely on their remedy
7 for a mistrial because of material that was adequately
8 discussed in advance and that could have been obviated.

9 MR. BUGLIOSI: I think the defense has made ten
10 or fifteen motions for mistrial. Mr. Kanarek --

11 THE COURT: I think an effective opening statement
12 could be made without pinpointing the precise source of
13 the evidence with respect to these matters that we have
14 been talking about.

15 MR. BUGLIOSI: You mean, as being statements to
16 Virginia Graham and Roni Howard?

17 THE COURT: The fact that they are statements
18 of a co-defendant.

19 MR. BUGLIOSI: Well, it can be done. It would
20 diminish the power and impact of the opening statement.

21 THE COURT: As Mr. Reiner suggested, you could
22 state that you expect to prove her guilt, and perhaps go
23 beyond that -- I am not saying it is limited to that --
24 but without actually stating that it is going to be proved
25 by virtue of a statement.

26 MR. BUGLIOSI: Of course, this is almost applicable

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1 to very item of evidence.

2 THE COURT: Well, that is true. That is true.

3 MR. BUGLIOSI: In that case, your Honor, there
4 wouldn't be an opening statement.

5 THE COURT: But here in this case we have unusual
6 problems. You can predict in the average case what your
7 evidence will show without any great fear that it is
8 going to be suppressed or excluded, but here you have some
9 unusual problems.

10 You would certainly have a prejudice if your
11 opening statements contained a bald assertion of the
12 co-defendants' statements and they were, in fact, subse-
13 quently excluded.

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1 MR. KANAREK: Your Honor, may I just make one point?

2 I believe in an opening statement you can only
3 state what the evidence is going to be. You cannot make
4 conclusions.

5 And I would make the motion that the Court
6 instruct the prosecution that they can't use conclusionary
7 statements like "incriminatory" and "We are going to show
8 that the defendant is guilty."

9 All they can do is say what the evidence is,
10 that Mr. X testified that he drove down the street and ran
11 into a telephone pole.

12 THE COURT: I don't agree with that. It can be
13 argumentative.

14 MR. KANAREK: But I don't believe that they can make
15 a statement like "incriminatory," and so forth.

16 MR. BUGLIOSI: Your Honor, I think the law is clear
17 that in an opening statement you can tell the jury what
18 you expect to prove by the evidence, not just what the
19 evidence is going to be, but what you expect to prove by
20 the evidence, and by definition, your Honor, this requires
21 drawing certain conclusions.

22 THE COURT: That is not what he was referring to.

23 MR. BUGLIOSI: That is exactly what he was referring
24 to, your Honor, about someone driving down the street and
25 running into a telephone pole.

26 THE COURT: He is talking about the use of

LOB2 1 conclusionary terms like "incriminatory."

2 MR. BUGLIOSI: We expect the statement to be
3 incriminatory.

4 MR. KANAREK: They can't state that in an opening
5 statement.

6 THE COURT: I think that is improper in an opening
7 statement.

8 MR. BUGLIOSI: If I were to say -- forgetting about
9 this case here -- that someone made a confession, that
10 is argumentative, too, and that is a conclusion.

11 MR. KANAREK: You can't do that in an opening
12 statement. You can only state what the person will testify
13 to.

14 THE COURT: That is not of the same character.

15 MR. BUGLIOSI: If we were to buy Mr. Kanarek's
16 theory, your Honor, this would impose upon the prosecution
17 the duty of getting our entire case in during the opening
18 statement and telling the jury what each witness is going
19 to testify to in detail.

20 To avoid that, your Honor --

21 THE COURT: Let's not get into an argument about the
22 opening statement.

23 MR. BUGLIOSI: I think it is very important.

24 MR. STOVITZ: The Court agrees with you that you
25 don't have to say that we are going to have witness A that
26 lifted the fingerprints. All you have to say is that we are

1 going to prove it was Watson's fingerprints. You don't
2 have to show the three or four steps to show that it was
3 his fingerprints.

4 THE COURT: I agree with that.

5 I was talking about the use of the
6 conclusionary terms which, in effect, turned the opening
7 statement into an argument rather than a statement.

8 MR. STOVITZ: I think we know what you mean, your
9 Honor.

10 MR. BUGLIOSI: This is not a clear-cut area. This is
11 definitely not a clear-cut area here based on what the Court
12 has said.

13 THE COURT: I don't think there is any problem there.

14 The point that I wanted to make was in reference
15 to revealing the possibility of the statements and later
16 being disappointed because of some ruling by the Court
17 excluding them and the prejudice that would result from it.

18 MR. BUGLIOSI: But the nature of the opening state-
19 ment, I think, is very relevant, and we are going to have
20 to discuss it in great depth, since Mr. Kanarek has ideas
21 which I disagree with a hundred and one per cent. We are
22 going to have to discuss it in great depth because I want to
23 try to avoid the continuing discourtesy of Mr. Kanarek
24 during my opening statement.

25 I don't intend to argue, but, by the same
26 token, we are not going to put on all the evidence in the

opening statement, or I might be there seven or eight
days, and I don't think the Court wants that.

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1 THE COURT: I don't think it is necessary.

2 MR. BUGLIOSI: I think we undoubtedly can be
3 conclusionary during the opening statement, to summarize
4 not only what the witnesses are going to testify to but
5 why we are offering these witnesses and what we expect
6 to prove.

7 THE COURT: I agree.

8 MR. BUGLIOSI: And by definition, your Honor,
9 we are talking about conclusions.

10 THE COURT: What I indicated, I used the term in
11 reference to argument.

12 MR. BUGLIOSI: Mr. Kanarek said that we cannot
13 state conclusions.

14 THE COURT: Well, it is after 12:00, gentlemen.
15 Let's adjourn until 1:45.

16 MR. KANAREK: Could your Honor make it -- I have to
17 go during the noon hour, your Honor, to Van Nuys. I wonder
18 if your Honor could make it after 2:00 today?

19 THE COURT: Mr. Kanarek, we are going to have to get
20 going. I think you are just going to have to make some
21 other arrangements with your other business.

22 I want to resume this jury selection process
23 and get along with the selection of the alternates as soon
24 as possible.

25 MR. KANAREK: I don't believe that I have asked
26 for any special considerations, your Honor.

10c-2

1 THE COURT: You are asking now for more time.

2 MR. KANAREK: The record may reveal that I have
3 previously, your Honor, but I don't recall making any
4 previous requests.

5 THE COURT: You are making one right now?

6 MR. KANAREK: Yes, your Honor.

7 I wonder if your Honor would allow it to
8 be 2:00?

9 THE COURT: All right. 2:00 o'clock. And that means
10 2:00 o'clock.

11 MR. KANAREK: Yes, your Honor. I will be here,

12 MR. BUGLIOSI: Has this issue of statements now
13 been resolved? Not the opening statement, your Honor, but
14 the other statements?

15 THE COURT: I don't think it can be resolved.

16 MR. BUGLIOSI: I don't mean at all final, but
17 provisionally?

18 THE COURT: There has been a clearing of the air.
19 We are all aware of the problems and the dangers.

20 MR. BUGLIOSI: What I am saying is, before we move
21 on, I want to make sure that we have accomplished as much
22 as we could up to this point on this particular issue.

23 Is there anything else remaining?

24 This is such a sophisticated issue.

25 MR. REINER: There is one brief one-sentence comment
26 I would like to make, and that is this: That neither

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1 party is entitled as a matter of right to an opening
2 statement -- I just want to say this one thing -- that
3 an opening statement is completely discretionary with the
4 Court, and since it is discretionary, the Court has the
5 absolute power to control the comments, and I think to
6 avoid the possibility of a protracted trial where there
7 would be sufficient evidence of the defendant Van Houten's
8 guilt but the Court would, in addition to that, the Court
9 would find that the statement of Miss Lake could not come
10 in, but in this trial would be necessary, to avoid putting
11 the Court in that position, I think it would be reasonable
12 for the Court to forbid counsel from referring to the
13 actual admission.

14 Counsel can refer to matters that would be
15 proved up by the admissions without identifying them as
16 admissions.

17 In other words, Mr. Bugliosi may say that
18 "We will prove that Leslie Van Houten was present and
19 participated," but not say "We will prove that by bringing
20 out admissions."

21 MR. BUGLIOSI: I wasn't going to say "Admissions."
22 I was going to say a statement that she made to Diane Lake.

23 MR. REINER: A statement made to Diane Lake hurts
24 just as much.

25 THE COURT: All right, gentlemen. 2:00 o'clock.
26 I think at that time we will be ready to go back into the

1 courtroom and proceed.

2 MR. STOVITZ: Thank you.

3 (Whereupon at 12:05 o'clock p.m. the court
4 was in adjournment.)

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1 LOS ANGELES, CALIFORNIA, TUESDAY, JULY 13, 1970

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4 (The following proceedings were had in open
5 court in the presence and hearing of the prospective
6 jurors, all defendants and counsel being present:)

7 THE COURT: All parties and counsel are present.
8 All of the prospective jurors are present and in the jury
9 box.

10 It is the People's next peremptory challenge.

11 MR. STOVITZ: Your Honor, on behalf of the People we
12 are satisfied with the jury and pass peremptory.

13 THE COURT: Before I ask the clerk to swear the jury
14 I am going to ask each of you as prospective jurors a
15 question, and I would like an individual answer from each
16 of you, and I will put my question first to Mrs. McKenzie
17 as Juror No. 1.

18 Do you swear on your oath as a prospective
19 juror that you can act impartially and fairly upon the
20 matters to be submitted to you, and that you can base your
21 verdict in this case solely on the evidence received during
22 the trial, and in accordance with the Court's instructions?

23 Do you, Mrs. McKenzie?

24 MRS. MCKENZIE: Yes.

25 THE COURT: Mrs. Evans, do you?

26 MRS. EVANS: Yes.

1 THE COURT: Mr. McBride, do you?

2 MR. McBRIDE: I do.

3 THE COURT: Mr. Dawson, do you?

4 MR. DAWSON: I do.

5 THE COURT: Mrs. Roseland, do you?

6 MRS. ROSELAND: I do.

7 THE COURT: Mr. Sisto, do you?

8 MR. SISTO: Yes, sir.

9 THE COURT: Mr. Zamora, do you?

10 MR. ZAMORA: Yes, I do.

11 THE COURT: Miss Mesmer, do you?

12 MISS MESMER: Yes, sir.

13 THE COURT: Mr. Baer, do you?

14 MR. BAER: Yes, sir.

15 THE COURT: Mrs. Hines, do you?

16 MRS. HINES: Yes.

17 THE COURT: Mr. Vitzelio, do you?

18 MR. VITZELIO: Yes, sir.

19 THE COURT: And Mr. Tubick, do you, sir?

20 MR. TUBICK: Yes, sir.

21 THE COURT: Very well, the clerk will swear the
22 jury.

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1 THE COURT: Very well, the clerk will swear the jury.

2 THE CLERK: Will all the members in the jury box
3 please rise.

4 Would you raise your right hand, please.

5 You, and each of you, do solemnly swear that you
6 will well and truly try the cause now pending before this
7 court and a true verdict render therein according to the
8 evidence and the instructions of the Court, so help you
9 God?

10 THE COURT: It appears to the Court that this will be
11 a protracted trial. The Court directs the selection of six
12 alternate jurors.

13 Before you call the first name, will counsel
14 approach the bench, please.

15 (Whereupon, all counsel approach the bench and
16 the following proceedings occur at the bench outside of
17 the hearing of the prospective jurors:)

18 THE COURT: We have eight prospective jurors remaining
19 who have not been called into the box. We will now call six.

20 I just wanted to ask what counsels' thoughts
21 are on whether we should call over a new panel at this
22 time or whether we should start voir diring on the first
23 six that we call?

24 MR. BUGLIOSI: I think we should call over a new
25 panel, your Honor. I am positive we will go through these
26 eight. I am absolutely positive.

1 THE COURT: Well, that, of course, may very well be
2 true, although we might not get to it today.

3 MR. STOVITZ: I think we should start a new panel on
4 the way. We could start questioning the six that you call
5 in, but a new panel should be called in because it some-
6 times takes 25 minutes to get over here, your Honor.

7 THE COURT: Is that agreeable, then?

8 MR. KANAREK: Yes.

9 What I was going to suggest, if it is agreeable
10 with the Court, that since there is a good portion of it
11 done in chambers, whatever your Honor intends to tell them
12 en masse your Honor could tell them after the panel got
13 here, and we could then conserve the time by starting with
14 the publicity questions in chambers.

15 THE COURT: That is what I had in mind.

16 MR. KANAREK: Oh, then, no problem.

17 THE COURT: Gentlemen, what I propose to do, then, is
18 to call the six from the remaining eight so that we can
19 start our chambers voir dire, and I will ask the clerk to
20 call over another panel so that even though -- well, as soon
21 as we are ready to call from that panel I will come back
22 out into court and make my introductory statements to the
23 new panel.

24 MR. STOVITZ: Fine.

25 THE COURT: All right.
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1 (Whereupon all counsel returned to their
2 respective places at counsel table and the following
3 proceedings occurred in open court, within the presence
4 and hearing of the jury and prospective alternate jurors:)

5 THE COURT: Mr. Darrow, would you call the alter-
6 nate jurors.

7 THE CLERK: Mrs. Rose Blau; R-o-s-e, B-l-a-u.

8 Shall I call six names, your Honor?

9 THE COURT: I think so.

10 THE CLERK: Mrs. Vera A. Gallant; V-e-r-a,
11 G-a-l-l-a-n-t.

12 THE COURT: Would you give that spelling again?

13 THE CLERK: The first name is Vera --

14 THE COURT: Is that Mrs.?

15 MRS. GALLANT: Yes.

16 THE CLERK: Yes.

17 Middle initial A; last name G-a-l-l-a-n-t.

18 THE COURT: Very well.

19 THE CLERK: Mrs. Anita K. Reinfeld; A-n-i-t-a,
20 R-e-i-n-f-e-l-d.

21 Joy W. Frieden; J-o-y-, F-r-i-e-d-e-n.

22 THE COURT: "d-e-n"?

23 THE CLERK: Yes, your Honor.

24 Arthur E. Ramirez; A-r-t-h-u-r, R-a-m-i-r-e-z.

25 Miss Danna Melinkoff; D-a-n-n-a,
26 M-e-l-i-n-k-o-f-f.

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That is six alternate jurors, your Honor.

THE COURT: Very well.

I will ask counsel and the parties to join
me in chambers, and then the bailiff will bring in first
Mrs. Rose Blau.

13 fls.

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(The following proceedings were had in the chambers of the Court out of the hearing of the members of the jury and the prospective alternate jurors, all defendants and their counsel being present, Mr. Bugliosi and Mr. Stovitz also being present:)

THE COURT: All parties and counsel are present. Will you please bring in Mrs. Blau.

(Mrs. Blau enters the room.)

THE COURT: Good afternoon, Mrs. Blau.

MRS. BLAU: Good afternoon.

VOIR DIRE EXAMINATION OF MRS. ROSE BLAU
BY THE COURT:

Q We have asked you to come into chambers so that counsel and the Court could ask you various questions out of the presence of the other prospective jurors as to what you may have learned about the case, and any opinions you may have formed and other questions.

First, if you were selected as an alternate juror in this case would you be able to serve?

A No, sir.

Q What is your situation?

A My husband has a heart condition and also has rheumatoid arthritis.

Q And is your presence required?

A Yes, yes, I would say so. I would be

1 afraid to leave him for any length of time.

2 Q Is he there at home?

3 A Yes, I don't have no children, no one to
4 take care of them.

5 Q There is no one else there to take care
6 of them?

7 A No, no, just myself.

8 MR. STOVITZ: Is your husband Sig Blau, S-i-g?

9 MRS. BLAU: No, his name is Aaron.

10 THE COURT: Will you stipulate?

11 MR. FITZGERALD: So stipulated.

12 MR. REINER: So stipulated.

13 MR. SHINN: So stipulated.

14 MR. KANAREK: So stipulated.

15 MR. STOVITZ: So stipulated.

16 THE COURT: All right then, you will be excused by
17 stipulation of counsel, Mrs. Blau; and will you refrain
18 from discussing with anybody what we said in here this
19 afternoon?

20 MRS. BLAU: Yes.

21 THE COURT: Thank you.

22 (Mrs. Blau leaves the chambers of the Court.)

23 (A prospective alternate juror enters the
24 room.)

25 THE COURT: Good afternoon.

26 THE JUROR: Good afternoon.

1 THE CLERK: The prospective alternate juror's name
2 is Robert G. McCaman, R-o-b-e-r-t; M-c-C-a-m-a-n.

3
4 VOIR DIRE EXAMINATION OF MR. ROBERT G. MC CAMAN
5 BY THE COURT:

6 Q Mr. McCaman, if you were selected as an
7 alternate juror in this case would you be able to serve?

8 A No, I would not, your Honor.

9 Q What is your situation?

10 A Well, in the aerospace industry things are
11 a little touchy right now and I think they might find out
12 they could do without me for six months.

13 Q Who is your employer?

14 A TRW Systems.

15 Q What type of position do you hold?

16 A Project business administrator.

17 Q Do you know what the TRW policy is with
18 respect to paying compensation to jurors?

19 A I was on jury duty down here three years
20 ago and they reimburse.

21 Q How long were you on?

22 A I was on for 30 days.

23 Q Do you know what their policy is with
24 respect to trials that go beyond the 30-day period?

25 A No, I don't, your Honor. I have not had
26 occasion to find out about that. My supervision has been

1 back in Washington this past week, and I have not been
2 able to get in touch with him.

3 Q Are you a non-union employee?

4 A Yes, sir.

5 Q But you are presently employed?

6 A Yes, sir.

7 Q I'm going to ask you -- we will pass this
8 matter for the time being.

9 I will ask you this: Would you between now
10 and tomorrow check with whoever the appropriate supervisor
11 would be with regard to the company policy on jury service
12 beyond the 30-day period?

13 A If I may make another statement --
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13a fls.

13A-1

1 Q All right.

2 A I, over the past four months, I have been in
3 the process of starting another business of my own, plastics
4 business, plastic foam, and this is just in the start-up
5 phase.

6 It would be a little difficult being
7 sequestered and trying to keep this thing above water,
8 because right now it is my own efforts.

9 Q Do you think you might have a little difficulty
10 concentrating on the evidence in this trial?

11 A I might, sir.

12 Q Because of concern about your own new business?

13 A I have several dollars invested. I would
14 hate to see the advertising go unrewarded, so to speak.

15 Q You think one or the other might suffer?

16 A I think it might.

17 Q Either this case or your business or both?

18 A Yes.

19 THE COURT: Will there be a stipulation, gentlemen?

20 MR. BUGLIOSI: People will stipulate.

21 MR. FITZGERALD: No, there will be no stipulation.

22 Q BY THE COURT: This new business that you are
23 talking about, is that beyond the planning stage?

24 A Yes, it is. I have already had some national
25 advertising going in school supply magazines for a couple
26 of months running.

1 It is right up at that go or no go line.

2 THE COURT: All right, I will exercise my discretion
3 and excuse you on hardship grounds.

4 Thank you, Mr. McCaman.

5 MR. McCAMAN: Thank you, your Honor.

6 THE COURT: Will you refrain from discussing with
7 anybody what has been said here this afternoon?

8 MR. McCAMAN: Yes, sir.

9 THE COURT: All right.

10 (A prospective alternate juror enters the
11 room.)

12 THE COURT: Good afternoon.

13 THE CLERK: The prospective juror's name is Miss
14 Linda S. Broome, L-i-n-d-a, B-r-o-o-m-e.

15
16 VOIR DIRE EXAMINATION OF MISS LINDA S. BROOME
17 BY THE COURT:

18 Q Miss Broome, if you were selected as an
19 alternate juror in this case would you be able to serve?

20 A Yes, I would.

21 Q Do you recall that I have asked the other
22 prospective jurors some questions regarding the death
23 penalty?

24 A Yes.

25 Q Have you had an opportunity to think about those
26 questions?

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A Yes.

Q And your answers to them?

A Yes.

Q All right, I am going to ask you the same two questions now.

The first question is this:

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

A No.

Q Do you entertain such conscientious opinions regarding the death penalty that you will automatically refuse to impose it without regard to the evidence in the case?

A No.

Q And I will ask you the converse of that question:

Do you entertain such conscientious opinions about the death penalty that you would automatically impose it in every case without regard to the evidence in the case?

A No.

Q Now, we are interested in finding out what you may have learned about this case over the months from newspapers, television, or from whatever source, and whether or not you have formed any opinions regarding the case or any

1 of the defendants.

2 Have you lived in Los Angeles County con-
3 tinuously since last August?

4 A Yes.

5 Q Do you subscribe to any daily newspaper?

6 A Yes.

7 Q What paper is that?

8 A Los Angeles Times, Long Beach Independent
9 Press Telegram.

10 THE COURT: Will you keep your voice up as much as
11 possible? All these people have to hear you.

12 Q Do you live in Long Beach?

13 A Yes.

14 Q Do you watch television news reports on a
15 regular basis?

16 A Oh, usually once or twice a week.

17 Q Do you read the newspaper on a daily, regular
18 basis?

19 A Yes, I do.

20 Q Now, do you remember when you first heard about
21 this case or about the killings which are the subject of
22 the case?

23 A Yes.

24 Q When was that?

25 A The day after.

26 Q The day after the deaths were discovered?

4-1

1 A Yes.

2 Q Now, how did you learn that?

3 A Over the radio, I think it was.

4 Q Have you made any conscious effort to follow
5 this case in the newspapers or on television since that
6 time, Miss Broome?

7 A Not since the beginning. Just when it
8 first broke.

9 Q Did you learn at some later time that the
10 defendants had been arrested and charged with these
11 offenses?

12 A Yes.

13 Q Do you remember how you learned that?

14 A Either on the radio or TV. I don't remember
15 which.

16 Q Now, you know, of course, from your previous
17 statement, that it is evident that you know these defendants
18 have been arrested and charged with these offenses, as you
19 were so advised by the Court when you first came into the
20 case.

21 A Yes.

22 Q Apart from the fact that they are before
23 the Court to stand trial on these offenses, Miss Broome,
24 these alleged offenses, as far as they are concerned,
25 have you learned anything at any time from any source
26 which causes you to believe that there is some connection
between these defendants and the alleged offenses?

14-2

1 A I don't understand.

2 THE COURT: You will have to keep your voice up.

3 MISS BROOME: Yes, sir.

4 THE COURT: Q Apart from the fact that the
5 defendants have been charged and are before the Court
6 to stand trial for these offenses, have you ever learned
7 anything from reading the newspaper or from listening
8 to the radio or watching television, or any other source,
9 which causes you to believe that the defendants have some
10 connection with what they are charged with having done?

11 A No. Just that they had been charged.

12 Q Have you ever read or heard any statement
13 which appeared to you to be a statement of an eyewitness
14 to any of the killings?

15 A No, I have never heard or read.

16 Q Have you ever read or heard of any statement
17 which appeared to you to be a statement made by any of
18 the defendants?

19 A No, I haven't.

20 Q As a result of whatever you have learned
21 over the months, Miss Broome, have you formed any
22 opinion as to the guilt or innocence of any of the
23 defendants?

24 A No, I don't think I have.

25 Q You say that you don't think you have?

26 A Well, I don't know.

1 Q You are saying that you have not formed
2 any?

3 A I have not formed any.

4 Q One way or the other?

5 A Right.

6 Q Would you say at this moment that you are
7 entirely neutral so far as the guilt or the innocence
8 of any defendant is concerned?

9 A I think I am. I think so, yes, your Honor.

10 Q Suppose you were on trial, Miss Broome,
11 if you can place yourself mentally in that position,
12 for some criminal offense.

13 Would you be willing to have on your jury
14 trying your case someone who has the same frame of mind
15 as you now have?

16 A I would be willing, yes, sir.

17 THE COURT: Mr. Fitzgerald?

18 MR. FITZGERALD: Thank you.

19
20 VOIR DIRE EXAMINATION OF MISS BROOME

21 BY :MR. FITZGERALD:

22 Q Do you have a radio in your home, Miss
23 Broome?

24 A Yes.

25 Q Do you listen to the radio?

26 A Yes.

1 Q Have you listened to the radio reports
2 about this case or about the defendants in this case?

3 A Just on the news reports.

4 Q Do you watch television regularly?

5 A Yes.

6 Q Do you watch news programs on television?

7 A A couple of times during the week.

8 Q Do you watch a particular channel usually?

9 A No, sir.

10 Q Do you watch a particular news broadcaster?

11 A No. Just what is on.

12 Q Jerry Dunphy, or George Putnam, or Thomas
13 Reddin, or somebody?

14 A No.

15 Q You have heard of the name Charles Manson,
16 haven't you?

17 A Yes.

18 Q You don't know anybody that knows Mr.
19 Manson personally, do you, ma'am?

20 A No.

14a fls.

14A-1

1 Q What you have learned about Mr. Manson has been
2 based on your exposure to newspapers, radio and television;
3 is that correct?

4 A Yes.

5 Q What, in connection with Mr. Manson, have you
6 read or heard from those sources, Miss Broome?

7 A That he is charged with -- he is involved with
8 these murders.

9 Q That he is involved with these murders?

10 A Yes.

11 Q Based on what you have read, seen or heard,
12 what is your understanding of how he is involved?

13 A Well, that he was not an actual participant but
14 he was in the planning.

15 MR. KANAREK: I didn't get the last words, your Honor.

16 THE COURT: You will have to keep your voice up,
17 Miss Broome. Try as hard as you can to project your voice
18 out so everyone in the room can hear you.

19 MISS BROOME: Yes, sir.

20 THE COURT: Will you read the last answer?

21 (The record was read by the reporter.)

22 MR. KANAREK: Thank you.

23 MR. FITZGERALD: Q You may continue.

24 A That is all.

25 Q Can you elaborate on the previous statement that
26 you made?

4A2
1 A No, I can't.

2 Q Would you agree that your statement that
3 Mr. Manson had some part of the planning is a conclusion or
4 an opinion, ma'am?

5 A I imagine it was a conclusion.

6 Q Could you tell us upon what you base that
7 conclusion?

8 A On just what I have heard and read in the
9 newspapers -- heard on the radio.

10 Q What have you read, seen or heard from media
11 sources that led you to form this opinion?

12 A (Pause.)

13 Q Maybe I can ask you this: How did he go about
14 planning it, if you know?

15 A I don't know.

16 Q Do you know anything about Mr. Manson other
17 than that?

18 A No.

19 Q Haven't you read anything in connection with
20 his background or his history?

21 A No.

22 Q Or anything?

23 A No, I haven't.

24 Q What about the female defendants in this case?
25 Susan Atkins? Have you heard of her?

26 A Just from the stories in the news.

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1 Q Did you read anything about her?

2 A Not her background, no.

3 Q Did you read anything about her implication in
4 these offenses?

5 A Just that she was a participant.

6 Q And how do you know that? From reading some-
7 thing?

8 A From reading and TV.

9 Q Do you know upon what the television or news-
10 paper based that observation that she was a participant?

11 A No, I don't.

12 THE COURT: Excuse me, Mr. Fitzgerald, while you have
13 paused.

14 May I ask a question or two while we are on this
15 particular subject? I don't like interrupting you.

16 MR. FITZGERALD: Certainly.

17 VOIR DIRE EXAMINATION OF MISS BROOME

18 BY THE COURT:

19 Q Miss Broome, when you say that she was a
20 participant, are you now saying something different than you
21 said about Mr. Manson?

22 Now, you correct me if I am wrong. I don't
23 want to put any words in your mouth, so if this is not your
24 thinking, I want you to tell me.

25 A I don't think that is what I meant.
26

1 Q If I understand what you said about Mr. Manson,
2 you said that you learned from the newspaper that he is
3 charged with these offenses and that he had some connection
4 involved in the planning; is that right?

5 A Yes, sir.

6 Q But you didn't know anything more than that.

7 A Yes.

8 Q Now, are you saying the same thing generally
9 about Miss Atkins?

10 A Generally, yes.

11 Q Or are there some additional facts that you
12 know about upon which you are basing that statement?

13 A There is nothing additional. That is all I
14 know. They are involved.

15 Q Well --

16 A From what I read.

17 Q Is that statement based upon the fact that they
18 have been arrested and charged with the offense, or is it
19 based on something more than that?

20 A Nothing more that I can think of.

21 THE COURT: Go ahead, Mr. Fitzgerald.

22 MR. FITZGERALD: Thank you.

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14b-1

VOIR DIRE EXAMINATION OF MISS BROOME

BY MR. FITZGERALD:

Q Have you heard about Mr. Kanarek?

A No.

Q Have you read about Mr. Kanarek?

A No. Just what I have observed during the last week, that he is here.

Q You haven't read, seen or heard anything from any media sources in connection with Mr. Kanarek?

A No, sir.

MR. FITZGERALD: I have nothing further.

THE COURT: Mr. Reiner?

MR. REINER: Thank you.

VOIR DIRE EXAMINATION OF MISS BROOME

BY MR. REINER:

Q Miss Bloom --

MR. STOVITZ: It is Broome.

MR. REINER: I am terribly sorry.

BY MR. REINER:

Q Miss Broome, presumably you did read the Los Angeles Times on a regular basis?

A Yes.

Q And that includes the Sunday Los Angeles Times?

A Yes.

14b-2

1 Q Have you been reading the Los Angeles
2 Times, including the Sunday Times, on a regular basis
3 since last December?

4 A Yes.

5 Q And that includes the Long Beach Press-
6 Telegram?

7 A Yes.

8 Q And in addition to that, I understand that
9 you watch the television news perhaps once or twice a
10 week?

11 A Yes.

12 Q Do you on occasion watch it more than once
13 or twice a week?

14 A On occasion, yes.

15 Q Do you listen to the radio news on a more
16 frequent basis?

17 A Not the radio, no. The news, no.

18 Q About how often do you listen to the radio
19 news?

20 A I am not sure, because I turn off the news
21 that is on the radio.

22 Q Miss Broome, unless I otherwise indicate,
23 when I refer to "news accounts," I am referring to
24 news accounts whether they appear in newspapers or on
25 radio or on television.

26 A Yes.

1 Q Now, did I understand you correctly to state
2 in response to some of Mr. Fitzgerald's questions that the
3 news accounts indicated that Mr. Manson did not physically
4 participate in these crimes?

5 A Yes, sir.

6 Q And the news accounts, as you understood them,
7 indicated, or at least it was claimed in the news accounts
8 that Mr. Manson participated in the planning as opposed
9 to physically participating?

10 A Yes, sir.

11 Q Is that right?

12 A Yes.

13 Q And the news accounts, as you understood them,
14 indicated that the other defendants physically participated
15 in the particular crimes?

16 A As I understood them, yes, sir.

17 Q I see.

18 Would it be a fair statement to say, Miss
19 Broome, that in your opinion the news accounts that you
20 read, heard and saw since last December assumed that the
21 defendants were, in fact, guilty?

22 A The newspaper accounts?

23 In my opinion, I think yes.

24 Q All right.

25 Now, you have been seated here in the
26 courtroom for approximately two weeks; is that correct?

1 A No. This is my second week.

2 Q All right. For one week?

3 A Yes.

4 Q During that time, Miss Broome, have you had
5 occasion to see any newspaper accounts, hear any radio
6 accounts, or see any television accounts that related
7 either directly or indirectly to any aspect of this case?

8 A Not that I can remember. I have been trying
9 to avoid them.

10 Q Would it be reasonable to presume that the
11 reason that you were trying to avoid them, in response to
12 his Honor's admonition, that since you are a prospective
13 juror you were attempting to avoid having your opinions
14 influenced by anything that comes to you through the news
15 accounts?

16 A Yes.

17 Q And for this reason, Miss Broome, you did
18 specifically avoid exposing yourself to news accounts;
19 is that correct?

20 A Yes, sir.

21 Q If a news account had come to your attention
22 that related to this particular case, I assume that you
23 had disciplined yourself not to be influenced by any
24 suggestion in the news account that the defendants or
25 any of them were guilty?

26 Would that be a fair statement?

14c fls.

A Yes, sir.

4C-1

1 Q Now, last December you did not assume, or
2 suspect even, that you might some day be a prospective
3 juror in this particular case; is that correct?

4 A No, I did not.

5 Q And at that time, Miss Broome, there was no
6 particular reason in your mind that you knew of to disci-
7 pline yourself to ignore any of the suggestions that were
8 being made by the news accounts relative to the guilt of
9 these defendants?

10 Would that be true?

11 A Yes, that is true.

12 Q And would it be also a fair statement to say
13 that because you had no reason to so discipline yourself,
14 that, in fact, you did not so discipline yourself?

15 Would that be a fair statement, Miss Broome?

16 A Yes, I think so.

17 Q And that you read these accounts of how
18 Mr. Manson allegedly did the planning and how the other
19 defendants allegedly carried out these particular crimes,
20 and you had no reason to suspect that these news accounts
21 were inaccurate.

22 Is that a reasonable statement?

23 A Yes, sir.

24 Q And did you, at that time, form not a firm
25 opinion but a tentative opinion based upon the news
26 accounts that the defendants were probably guilty as was

14C2

1 suggested in the news accounts?

2 A I don't think so.

3 Q Well, did you, at that time, wonder in your own
4 mind whether the defendants were guilty?

5 A Yes.

6 Q All right.

7 Was there any information that you had received
8 to suggest -- strike that.

9 You indicated a moment ago, did you not,
10 Miss Broome, if I properly understood your answer, that the
11 news accounts did suggest that Mr. Manson was guilty and
12 that the other defendants were guilty.

13 Is that true?

14 A Yes, sir.

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Q Did you read anything or were you exposed to any news accounts at all on radio or television that suggested that these defendants were not guilty?

A Not that I can remember.

Q Would it be a fair statement to say that all of the news accounts in your opinion seemed to suggest that the defendants were guilty?

A The ones that I saw.

Q And you had no reason to question or doubt the accuracy of any of these accounts at that time, is that a fair statement?

A Yes.

Q And you did wonder in your own mind as you were reading these accounts and as you were listening to them on the radio and seeing them on television as to whether these defendants were guilty, is that true?

A Yes.

Q Wouldn't it be a reasonably fair statement to say that at that time, not anticipating you would be a juror in the case, that you did at least tentatively accept the accuracy of these statements and assume that the defendants probably were guilty?

A I don't think I did.

Q Whom at that time, if any, one did you suspect might be guilty?

A I had no idea.

???

1 Q Did you suspect -- did you have any leanings,
2 if I might put it in those terms, at that time, listening
3 to all of these news accounts, that the defendants might be
4 guilty?

5 A I really don't think so. By then I was not
6 doing too much reading about it by then, just the first
7 flash, and I really don't think so.

8 Q Since the arrest, last December, you have read
9 various news accounts and so forth of the defendants and
10 the various persons that are associated with this case,
11 have you not?

12 A Yes.

13 Q On a fairly regular basis since last December?

14 A Not since last December.

15 Q On a fairly regular basis -- by a fairly
16 regular basis I mean this case and the persons involved in
17 it have not been out of the news for any length of time, is
18 that a fair statement?

19 A Yes.

20 Q During this time did you form any tentative
21 opinions at all that the defendants were possibly or probably
22 guilty?

23 A I don't think so.

24 MR. REINER: No further questions.

25 THE COURT: Any questions, Mr. Shinn?

26 MR. SHINN: No, no, I have no questions, your Honor.

1 THE COURT: Mr. Kanarek?

2 MR. KANAREK: No questions, your Honor.

3 THE COURT: Mr. Stovitz?

4 MR. STOVITZ: Yes.

5
6 VOIR DIRE EXAMINATION OF MISS BROOME

7 BY MR. STOVITZ:

8 Q Miss Broome, how old are you?

9 A 22.

10 Q And what is your business or occupation?

11 A Right now I am not doing anything. I just got
12 out of school in June.

13 Q What school?

14 A Cal State, Long Beach.

15 Q And you live at home with your parents?

16 A Yes.

17 Q Do you have your own TV set?

18 A Yes.

19 Q They let you watch whatever programs you want to
20 watch?

21 A Yes.

22 Q But your own personal preference is not to
23 watch the news, is that right?

24 A No, it isn't.

25 Q Do your parents get both the Times and the
26 Long Beach paper?

1 A Yes, sir.

2 Q Which Long Beach paper is it, the morning or
3 the afternoon?

4 A The afternoon.

5 Q And do you recall whether or not you ever
6 received the paper and then turned to the story about the
7 so-called Manson case, or Sharon Tate case in the newspaper?

8 A Not directly. I go to the sports page first.

9 Q You go to the sports page, all right.

10 In other words, you do not consciously remember
11 ever turning to the portion of the paper to look for what
12 is the latest episode?

13 A I never turned directly to it, no, sir.

14 Q And does the name of Robert Beausoleil or
15 Bobby Beausoleil mean anything to you?

16 A No, it does not.

17 Q Do you recall reading anything about that in
18 any newspaper report whatsoever?

19 A I don't recall, no.

20 Q You never recall reading any periodical such as
21 a magazine or book concerning this case?

22 A No, sir.

23 MR. STOVITZ: No further questions.

24

25

26

VOIR DIRE EXAMINATION OF MISS BROOME

1
2 BY THE COURT:

3 Q Miss Broome, I want to ask you one or two
4 other questions based on the questions Mr. Reiner asked
5 you.

6 Now, you said in substance in response to these
7 questions about your reading or hearing the various media,
8 that they seemed to suggest the guilt of the defendants.

9 Now, can you tell me upon what you base that
10 statement? What caused this suggestion; what do you recall
11 reading or hearing that caused the suggestion?

12 A I really cannot tell.

13 Q Well, now, again I don't want to put words in
14 your mouth, and you tell me if this is not correct.

15 Was it simply the fact that these defendants are
16 the ones who were arrested and charged with the offense
17 and therefore mentioned in the news reports?

18 A I don't think it was that.

19 Q All right, I want you to tell me what it was
20 then, if you can recall.

21 A I honestly cannot recall.

22 Q Well, you have not read anything or heard
23 anything where someone said, "We believe or we think they
24 are guilty," did you?

25 A No, sir.
26

15a-1

1 Q You cannot think of anything other than
2 what you have told us, is that right?

3 A I cannot think of anything.

4 THE COURT: All right, I will ask you to go back
5 into the courtroom, Miss Broome, and will you refrain from
6 discussing with anyone what has gone on here this after-
7 noon?

8 MISS BROOME: Yes.

9 THE COURT: All right, thank you.

10 (Miss Broome leaves the chambers of the
11 Court.)

12 THE COURT: Would you have Mrs. Gallant come in,
13 please.

14 MR. REINER: Before Mrs. Gallant is brought in,
15 may I be heard on a challenge for cause?

16 THE COURT: Yes.

17 MR. REINER: Do you wish to make the challenge?

18 MR. FITZGERALD: Yes, on the ground of pretrial
19 publicity.

20 MR. SHINN: Join.

21 MR. KANAREK: Join.

22 MR. REINER: I would also challenge this particu-
23 lar juror for cause and indicate to the Court, notwith-
24 standing her answer, that her exposure to media information,
25 the defendants' guilt was based only on the fact that they
26 were indicted.

15a-2

1 The fact she was able to make a distinction
2 between which defendant allegedly did the planning and
3 which defendants allegedly carried out physically the acts,
4 would indicate her information has gone beyond the mere
5 fact of the indictments.

6 This is the type of information that was
7 contained in the news media.

8 Obviously her exposure has gone far beyond
9 that, and she indicates she does not recall the specifics
10 of the information that she has been exposed to, which I
11 think makes her situation even more hazardous because if
12 she was aware of a particular article or particular news-
13 cast that contains particular information, she might well
14 be able to set that aside, but where someone has been
15 exposed to a great deal of information, all of which she
16 said pointed towards the guilt of the defendants, and she
17 cannot recall the specifics, then there is very little
18 she can do to discipline herself, her mind to set aside
19 such information and arrive at a judgment based on other
20 information presented here in court.

21 THE COURT: Of course she did not say she was
22 exposed to a great deal of information. Those are your
23 words.

24 MR. REINER: That is true, but she said she read
25 the newspaper on a regular basis.

26 THE COURT: She read and heard relatively little

15a-3

1 after the initial accounts.

2 It appears to me she's had remarkably little
3 exposure to pretrial publicity; that she recalls virtually
4 nothing about it, and she has formed no opinions.

5 MR. KANAREK: I want the record to reveal I join
6 in the challenge with Mr. Fitzgerald.

7 THE COURT: All right.

8 The challenge will be disallowed.

9 (A prospective alternate juror enters the
10 courtroom.)

11 THE COURT: Good afternoon, Mrs. Gallant.

12 MRS. GALLANT: Good afternoon.

13
14 VOIR DIRE EXAMINATION OF MRS. VERA A. GALLANT
15 BY THE COURT:

16 Q Mrs. Gallant, if you were selected as an
17 alternate juror in this case would you be able to serve?

18 A I don't think so, sir, I am an elementary
19 school teacher in East Los Angeles. My principal told me
20 it would be very difficult to get someone to substitute
21 from the time school started until the time the case would
22 be over.

23 Other than that, you know, I would be able
24 to, but it is two months until school starts.

25 Q I don't quite follow the significance of the
26 last statement.

15a-4

1 A You told us, you know, that the case might
2 last three to four months.

3 Q That is possible, that has been the estimate
4 of the attorneys, somewhere in that range.

5 A Yes, and as I said the school will start in
6 just two months.

7 Q Yes.

8 A So that would be an overlapping of time.

9 Q That would also give the school system two
10 months to find someone to replace you?

11 A Perhaps, yes.

12 It isn't that easy, you know, to get someone
13 that would be willing to fill in.

14 Some substitutes will do it, you know, for
15 a short period of time, you know, if they have to they have
16 to, that is the way it would be.

17 Q Well, actually we have another woman who is
18 now a juror in the case who is from the -- she is not a
19 teacher, but she is from the Los Angeles School District.

20 A Yes, sir, she works for Mr. Purdy's office,
21 the head one for the elementary division.

22 Q Is there anything other than that then?

23 A No, the only other thing is I have a mother
24 who is 80 years old that lives in back of me, and I sort
25 of have to keep an eye on her because I am the only person
26 who is around her, now, who would be able to kind of look

1 after her.

2 Q There is no one else at home who looks
3 after her?

4 A No, sir, my husband and I are separated
5 and my older girl is married.

6 My younger daughter goes to school at
7 San Diego State College. She is not at home.

8 Q Is your mother able to care for herself?

9 A Most of the time, yes, but every once in
10 a while little problems arise that I have to help her out.

11 Sometimes she forgets things, you know, and
12 sometimes I have to remind her to do certain things, you
13 know, her mind is not that clear as it should be.

14 But I suppose I would have to get some
15 neighbors to make sure she's taken care of.

16 Other than that I'm all right.

17 Q Do you think it would be possible for you
18 to have a neighbor look in on her and see that she was
19 getting along all right?

20 A I would check around and make sure.

21 I know possibly two people, but I will have
22 to ask them first.

23 I don't like to volunteer anybody unless
24 I am sure that they would be able to do it.

25 Would you wish me to check again with the
26 school?

1 Q Well, no, I am sure they meant what they
2 said, that it would be difficult to find a substitute,
3 but I take it not impossible?

4 A True. It just depends, you know, some
5 schools have a little more difficult problem than others,
6 and I happen to have been in this school for quite a long
7 time and I know the children, whereas another new person
8 coming in I would feel would have quite a difficult time
9 getting oriented to the children.

10 I was just thinking that it would not be
11 too fair to the children in my particular classroom to
12 start with a substitute teacher for two months or some-
13 thing, and then have me come back in.

14 You know, we all don't teach the same, and
15b fls. 15 there are sometimes problems, as you well know.

15B-1

1 Q Well, all right, I wonder if you would do this:
2 Would you check tonight and see if, assuming
3 that you were selected, that you could find someone to take
4 a look and see if your mother is getting along all right so
5 that that would not be a problem?

6 A Right.

7 Q All right, we are going to ask you some
8 questions, Mrs. Gallant. I am going to ask you the
9 questions that I asked the other prospective jurors
10 regarding the death penalty.

11 Have you had a chance to think about those
12 questions and your answers to them?

13 A Yes, I have, yes.

14 Q And then we will want to ask you some
15 questions about what you may have read or heard about the
16 case over the months, and whether or not you formed any
17 opinions with regard to the case or any of the defendants.

18 Now, with respect to the death penalty questions,
19 do you entertain such conscientious opinions regarding the
20 death penalty that you would be unable to make an impartial
21 decision as to any defendants' guilt regardless of the
22 evidence?

23 A No, I don't have any preconceived notions about
24 the death penalty.

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

L5B2

1 refuse to impose it without regard to the evidence?

2 A No, I mean maybe I am not understanding you
3 correctly, but I am not opposed to the death penalty.

4 I haven't bad feelings about that.

5 I would be able to judge, you know -- let's see,
6 I don't know how to say it, except that I would say I have
7 no feelings against the death penalty.

8 Q Are your feelings such that you would
9 automatically vote for it in every case?

10 A No, no, sir. No, definitely not. The
11 individual circumstances would be the factor.

12 Q In other words, you have not prejudged it one
13 way or the other?

14 A No, I have not.

15 Q You would be willing to listen to all of the
16 evidence and then make your decision, is that right?

17 A Yes, that is correct.

18 Q And when I say "decision," I mean decision
19 both as to guilt and as to penalty, if it should become
20 necessary to have a penalty phase of the trial.

21 A Yes, sir.

22 Q Have you lived in Los Angeles County con-
23 tinuously since last August?

24 A Yes, in August, at the time of this tragedy I
25 was in Greece, I was not in the United States at the time,
26 and I did not return until about three or four weeks

JB3

1 after.

2 Q That would have been sometime in September?

3 A Yes, yes.

4 Q Did you hear about the case while you were gone?

5 A In Athens I saw an article about this large
6 (indicating), about two inches or so, a paragraph, and that
7 is where I heard about it, that, and that is the information
8 I had.

9 Q Do you remember what the article said?

10 A Just that this occurred, but no great detail.

11 Q Just that what had occurred?

12 A That a murder -- that this murder had taken
13 place, that was all that I had heard.

14 Q It did not mention anything about the defendants
15 or arrests or anything like that?

16 A No, no, sir, no.

17 Q Now, do you subscribe to a daily newspaper?

18 A Yes, I do.

19 Q What paper?

20 A Los Angeles Times.

21 Q Do you read that on a regular basis?

22 A Yes, I read what I want -- I don't read it
23 cover to cover, but I read the things I am most interested
24 in, mostly current events for classroom sessions, things
25 like that, the sport page.

26 Q Have you made a conscious effort to follow this

1 case?

2 A No, sir.

3 Q In the newspaper or on TV?

4 A No, sir, I have not.

5 Q Now, at some time did you become aware that
6 these defendants had been arrested and charged with these
7 offenses?

8 A Some place way back in my mind, but I cannot
9 remember any details other than that.

10 Q Now, apart from the fact that the defendants
11 have been arrested and they have been charged with these
12 offenses, and that is why we are here, to have a trial on
13 those issues, have you ever learned anything which caused
14 you to believe there was some connection between the
15 defendants and the alleged offenses?

16 A No, because I just am not that interested in
17 following cases such as this.

18 Q Whether you are interested or not, have you
19 ever read or heard anything that caused you to think, "Aha,
20 there's a fact, or an alleged fact which links Mr. Manson
21 or one of the other defendants with these particular
22 offenses"?

23 A No, I cannot remember any particular incident --
24 any details that would have -- other than just what was in
25 the newspaper, and maybe a headline or something.

26 Q Well, that is what I am talking about. You

1 tell me.

2 A Just the headlines, but not the details.

3 Q Has there been something that caused you to
4 believe that?

5 A Well, I just -- as I say, in my mind I cannot
6 remember a specific date when all the little pieces, you
7 know, were forming, but I remember just only that some
8 people were arrested, but I did not get too involved in it
9 other than just the information that there was this
10 arraignment, and that was it.

11 Q Do you know anything about Mr. Manson's
12 background, from what you read or heard?

13 A Some place, I think he was arrested in Inyo,
14 Kern County, if I am not mistaken, but I don't know too
15 much other than that.

16 Q Do you know anything about where or how he
17 had been living, say, during the year preceding his
18 arrest?

19 A The category was sort of like hippy, that is
20 the word that I would say.

21 Q Where did you learn that? What caused you to
22 believe that?

23 A Well, when people don't, you know, go to work
24 every day and, you know, sort of have the kind of routine
25 the average people have, and they dress a little bit, you
26 know, more casually, that is my definition.

1 other than that --

2 Q Well, did you learn that from reading the
3 newspaper?

4 A I guess I did, I guess.

5 As I say, it is hard to pinpoint one specific
6 thing when many things have occurred, and --

7 Q Well, I'm not asking you to pinpoint it if you
8 cannot pinpoint it.

9 But I do want to hear everything you know,
10 even though you cannot pinpoint it. Do you understand?

11 A Right, yes.

12 Q In other words, we want to know, even if it is
13 only a rumor, we want to know what you know or what you
14 have heard or believe.

15 A Right, well -- as I say, I have not really been
16 that closely connected or really that interested in
17 following this case.

18 Q Now, before you came into this case as a
19 prospective juror did you know the names of all of these
20 defendants?

21 A No, sir, I did not. I knew only Mr. Manson's
22 name, but I did not know the young ladies' names.

23 Q Had you ever heard the name, Leslie Van Houten?

24 A I might have but it did not mean anything
25 because I remember several times you asking some of the
26 prospective jurors who the certain people were and I, myself,

1 was not clear as to who was who.

2 Q Had you heard the name Patricia Krenwinkel?

3 A If I did, it did not make too much of an
4 impression.

5 Q What about the name Susan Atkins?

6 A No, I became more familiar standing here last
7 week with these names, other than that, I would not figure
8 on it.

9 Q When you came back into this case did you know
10 the names of any of the victims?

11 A Yes, I did. Mostly the name of Sharon Tate --
12 that is what was in the Greek paper, just Sharon Tate was
13 mentioned, but one other thing, though, someone told me
14 at my school that the La Bianca people owned the market
15 that is in my school neighborhood, called the Gateway
16 Market, someone told me that they had owned this market
17 chain which was in my school neighborhood.

18 Q What neighborhood is that?

19 A Aragon, the school is called Aragon.

20 It is on Cypress Avenue, I would say --
21 directions are kind of funny. Perhaps north of Figueroa --
22 not north, east of Figueroa and then the other Gateway
23 Market is on North Figueroa Street near, more or less,
24 Cypress Avenue.

25 There are two markets, and one of the children
26 at school mentioned this to me, and that is all I know.

1 Q Did you ever read or hear anything which
2 seemed to you to be the statement of an eye witness to the
3 alleged killings?

4 A No, sir, I know nothing of that.

5 Q Did you ever hear or read anything which
6 caused you to believe that there was a statement made by
7 any of the defendants?

8 A No.

9 Q Do you believe at this moment you are entirely
10 neutral on the question of guilt or innocence?

11 A I think I am, sir, I am.

12 Q Have you at any time formed any opinion as to
13 the guilt or innocence of any of the defendants?

14 A No, sir, as a school teacher I try to be very
15 objective about everything or else I have problems, and I
16 try to look at everything as objectively as I possibly can
17 because I always say there is always two sides, so I
18 have quite, I would say, an objective mind.

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1 Q Well, now, for a moment I would like you to
2 be subjective.

3 A All right.

4 Q In your answer to my next question.

5 A Yes.

6 Q Let's assume that you had been charged with
7 a criminal offense and you were before the court to stand
8 trial?

9 A Yes.

10 Q Would you be willing to have on your jury
11 a juror having the same frame of mind that you now have?

12 A Yes, sir, I think I would.

13 Q That is a subjective answer.

14 A True.

15 THE COURT: Mr. Fitzgerald?

16 Excuse me. I think we had better take our
17 recess.

18 Mrs. Gallant, will you refrain from discussing
19 with anyone what went on here in chambers?

20 MRS. GALLANT: Surely.

21 You want me to stay right in here now?

22 THE COURT: No. You can go out and we will take
23 the recess, and then we will come back.

24 MRS. GALLANT: All right. Thank you, sir.

25 (Recess.)
26

16-2

1 (The following proceedings occurred in
2 chambers, all counsel being present, defendants being
3 absent:)

4 MR. REINER: I suppose this can be stated without
5 the defendants present.

6 It has occurred to me that now that we have
7 12 jurors and jeopardy has attached, if there is some great
8 break in a news story and these jurors are not sequestered
9 and they are exposed to it, there is no way the matter can
10 be cured.

11 If the jury is to be sequestered ultimately,
12 I suppose it might be advisable to have these 12 jurors
13 sequestered as soon as possible rather than wait a week
14 or longer while we are selecting the alternate jurors.

15 THE COURT: Well, that certainly is a point, and
16 I have given it consideration.

17 I am hopeful, of course, that the selection
18 of the alternates will proceed expeditiously and it will
19 be a matter of a relatively short period before they are
20 selected but, of course, again, I have no way of knowing.
21 It might be a considerable time.

22 MR. STOVITZ: Your Honor, I think that the admoni-
23 tion that the Court gives to the jurors, now that we have
24 a new panel in there and you will give the same admonition
25 to them, certainly will prevent any type of harm in that
26 regard.

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1 Furthermore, I have read the newspapers as
2 diligently as anyone and I have not seen anything since
3 June 10th of any of the evidence in this case, not even
4 any hint of the evidence in this case.

5 The only reports that have been in the
6 newspapers since June 10th have merely been the procedures
7 that have gone on, the various motions that have been
8 discussed.

9 There hasn't been anything in any of the
10 newspapers, or magazines for that matter.

11 MR. REINER: Well, I have read just recently in
12 the Herald-Examiner an indication that the prosecution
13 intends to call as a witness Ronl Howard who will testify
14 to the admissions of Susan Atkins.

15 Also, I have read in the Los Angeles Times
16 information that was lifted off of the autopsy protocol
17 as to the number and types of wounds on each of the victims.

18 And there are a great number of items that
19 have appeared in the paper beyond just matters of procedure.

20 But let's just say, for one horrible example,
21 that we see a headline in tomorrow's paper, or a story,
22 whether or not it is a headline, discussing the Susan
23 Atkins' confession which, of course, is not a secret,
24 it is not being discussed presently, but it could be
25 discussed tomorrow or the day after tomorrow, and if it
26 is and a member of the jury sees it, we are powerless to

16a-1

1 do anything about it.

2 MR. KANAREK: Just so the record will not show
3 any acquiescence on my part, your Honor, I think that
4 everything, to use the vernacular, indicates that we are
5 living in a dream world.

6 This jury and everyone in this community
7 is so permeated with this publicity that what we do
8 at this point is hopelessly inadequate.

9 THE COURT: You stated this a number of times,
10 Mr. Kanarek.

11 MR. KANAREK: Yes, your Honor.

12 THE COURT: And I don't think there is any point
13 in repeating it.

14 MR. KANAREK: It is because I don't want the
15 record -- I don't want any implication in the record of
16 acquiescence on my part.

17 THE COURT: The record will not bear you out
18 with respect to these jurors.

19 MR. KANAREK: What we have is 12 people who want
20 to be on this jury. That is what we have, 12 people who
21 want to be on this jury.

22 THE COURT: That is your opinion, Mr. Kanarek.
23 I don't share it, and I don't think there is any evidence
24 of it whatever.

25 They are willing, yes, willing, they have
26 evinced a willingness to serve, but beyond that, I think

1 we have a representative jury, and there has not been
2 any exposure which has in any way influenced their
3 opinions.

4 MR. KANAREK: As I say, your Honor, I wish I
5 could share your Honor's feelings in that regard.

6 THE COURT: All right. Anything further?

7 MR. STOVITZ: Submit it, your Honor.

8 THE COURT: Submit what?

9 MR. STOVITZ: Rather than saying "Nothing further,"
10 your Honor, I just say "Submit it."

11 MR. SHINN: Every time Mr. Kanarek talks, he
12 submits.

13 MR. FITZGERALD: Well, it is a problem.

14 As counsel, we really aren't in control
15 of the media. Certainly, in some respects counsel can
16 control the media by not making statements to them in
17 connection with prejudicial materials.

18 On the other hand, there is nothing to
19 prevent the media from getting out their pretrial
20 edition, or whatever, concerning evidence that they
21 have obtained previously, and so on and so forth.

22 On the other hand, I would like to see
23 this jury have a few days to get their affairs in order.

24 THE COURT: I am afraid it isn't going to be a
25 few days regardless of when we go. It may be one day.

26 Of course, they all have known for some

1 time now, all of the present 12, that there was a good
2 possibility that they would be selected, although no
3 certainty. So, I am sure they have all given due con-
4 sideration to arranging their affairs. But I do not
5 anticipate giving them more than one day, just for that
6 reason.

7 I don't want to permit any more opportunity
8 for exposure than is absolutely necessary, taking into
9 account their convenience and the necessity to prepare
10 for sequestration.

11 MR. REINER: One matter that may create a problem
12 that was related to me by a couple of reporters, and perhaps
13 I should relate it to the Court.

14 The news media is having a great deal of
15 difficulty finding something to say because a great deal
16 of the jury selection is occurring in chambers and that
17 occurring in open court is not all that exciting.

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16b fls.

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KSC-1

1 One reporter's editor asked her for five inches
2 of filler. In other words, the story was five inches too
3 short, and to put five inches in. So, she would simply go
4 back over previous matter and when asked for five inches
5 of filler on one particular day, she had already inserted
6 matter under Susan Atkins' confession.

7 I talked to her about this and indicated the
8 problem we would have, that if any mention of that ever
9 appeared in the paper, we would probably have to start
10 back at the beginning and have a re-run with every juror in
11 the box to find out if they had been exposed to it, and
12 that would be further proceedings in chambers which, of
13 course, the news media is obviously not delighted with
14 because they are sitting in court.

15 So, on that basis, she withdrew it, because she
16 didn't want to sit around for a lot more days.

17 But that is the problem. Once in a while
18 some reporter may put in filler and hark back to the Susan
19 Atkins' confession, which may be the only thing of interest
20 at the moment.

21 So, your Honor, it is not at all unlikely or
22 unreasonable to expect that if we sit around for a week,
23 which it may take to select the alternate jurors, that
24 these jurors may be exposed to the fact that there is a
25 confession in this case.

26 THE COURT: I am sure you're right. I have been

.6B2
1 apprehensive about it.

2 MR. KANAREK: It would seem like your Honor could
3 conduct a session outside of the presence of the jury in
4 which your Honor could order these people, the media, to
5 do certain things and not to do certain things, just the
6 same way that a judge in a labor dispute makes an order and
7 asks people to do certain things and not to do certain
8 things.

9 THE COURT: That is not the way to do it, and I
10 seriously question whether any court has the power to make
11 such an order.

12 I don't know what particular order you are
13 referring to. If you are talking about ordering them not
14 to print something, I just don't think that power exists.

15 MR. KANAREK: I don't think that the Court need show
16 the hospitality -- when I use the word "hospitality,"
17 your Honor, I mean the Court doesn't have to foster this
18 by making half of the courtroom available just for the mass
19 media, arranging all of the conveniences of telephones and --

20 THE COURT: I don't think that would change anything,
21 Mr. Kanarek, because if we cut it down to one person, for
22 example, from the media, they would immediately make an
23 arrangement among themselves to pool all the news, so you
24 would have one person reporting on it instead of 20, but
25 the result would be just the same. And I don't think
26 that is desirable anyway.

1 You want to have a public trial. The media have
2 a right to be present. They are a link between the trial
3 and the public. Certainly the public can't get into a
4 courtroom that only has 90 seats.

5 MR. KANAREK: They do it successfully in England, your
6 Honor.

7 MR. STOVITZ: Are you making a motion that we change
8 the venue of the case to England?

9 MR. KANAREK: The Court has the power.

10 THE COURT: What they do in England is not what you
11 are suggesting.

12 MR. KANAREK: No. What I'm saying, your Honor, is
13 that in labor disputes the Court makes an order and the
14 People can be in contempt of that order, even the People
15 who are not in the courtroom when the order of the Court
16 is made. That is, the order is deemed to be applicable to
17 anyone who has knowledge of it, and you don't have to be in
18 the courtroom and have to listen to it uttered to be under
19 the power of the Court.

16c-1

1 By analogy, the Court can make a similar
2 order. Free speech and all that is involved in labor
3 disputes also. By analogy, your Honor can make a similar
4 order as far as the press is concerned.

5 THE COURT: What kind of an order are you talking
6 about, Mr. Kanarek? Ordering them to do what?

7 MR. KANAREK: An order wherein your Honor would order
8 that no proceedings in this courtroom shall be put on TV,
9 on the radio, in the newspaper.

10 Your Honor has the power to make that order
11 because your Honor has the power to --

12 THE COURT: That isn't the problem, Mr. Kanarek.
13 The problem is the media republishing things that have
14 already been disclosed or published.

15 There is no evidence taking going on at the
16 moment. We have no problem here in the court. They are
17 not getting any news stories out of this court now.
18 What they are doing is getting it from collateral sources
19 or republishing or rewriting things that have already been
20 printed or disclosed or rumored or something, but not
21 from the court itself.

22 MR. KANAREK: But your Honor has the power to
23 control proceedings that are going to take place in the
24 future in connection with some of the testimony -- I mean,
25 all the testimony.

26 The Court has the power, I think, over its

1 own proceedings.

2 THE COURT: All right. I don't think we are
3 getting anywhere.

4 Gentlemen, I think I am going to adjourn at
5 this time. I want to give some more consideration
6 particularly to this problem of sequestration.

7 It is a really important problem. I am glad
8 Mr. Reiner raised it again. I have been thinking about it
9 continuously, but I am glad of the fact that he raised
10 it again. It helps focus --

11 MR. KANAREK: May I inquire what the Court's
12 thinking is in that regard?

13 THE COURT: It helps to reinforce my own thinking.

14 MR. KANAREK: What was the Court's thinking in
15 that regard?

16 THE COURT: My thinking is that it is a very serious
17 problem and I haven't yet made a decision how long I want
18 this jury to remain unsequestered.

19 MR. FITZGERALD: So the Court wants to adjourn to
20 think?

21 THE COURT: It is not just a question of thinking,
22 but also investigating how much lead time we need to give
23 the hotel and the Sheriff's Department.

24 MR. BUGLIOSI: Has the Court decided that this jury
25 definitely will be sequestered?

26 THE COURT: Yes.

MR. BUGLIOSI: I knew that was the Court's state
of mind but I had gleaned this was not an unalterable
position.

17 fls.

7-1

1 THE COURT: I think it would be folly not to sequester
2 the jury in this case.

3 MR. FITZGERALD: I agree.

4 MR. REINER: In the event that the Court is going to
5 ultimately sequester the jury, as apparently it is, then
6 I think it would be very wise to sequester them as soon as
7 is practical rather than at some later date because a
8 problem could develop that just simply would not be -- if
9 they are exposed to a confession the day after tomorrow,
10 there just is nothing we can do, I or Mr. Fitzgerald, we
11 cannot even enter into a stipulation that that juror may be
12 excused and an alternate take his place, because it would
13 involve other defendants.

14 It is clear a stipulation could not be
15 obtained.

16 We will then be exposed to a juror confronted
17 with a confession.

18 THE COURT: I have missed the last part.

19 MR. REINER: If a juror who presently has been sworn
20 is exposed to the fact that there is a confession in the
21 case, that is a very real possibility in the next few
22 days, there isn't anything that could be done to clear the
23 problem. We could not even excuse that juror by stipulation
24 and replace that juror with an alternate because I think
25 it is clear that we would not have a stipulation by all
26 counsel, so we would just be running the risk every single

17-2
1 day that a juror could be so infected by exposure to a
2 confession.

3 once it happened, that will be the ball game.
4 We would have a jury that is seated in the case --

5 MR. STOVITZ: Your Honor, I can see more -- not harm --
6 but if you go ahead and sequester the jury, and tell them
7 not to discuss this case among yourselves or with anyone
8 else, these are 12 total strangers, and with six alternates,
9 18 total strangers, what are they going to talk about? They
10 are going to talk about the weather; you can just say,
11 "It's so hot" and that's all.

12 I think they are going to talk about the case
13 and they are going to create problems and they are going to
14 come to conclusions.

15 THE COURT: You are talking about if they are
16 sequestered?

17 MR. STOVITZ: If they are sequestered, yes, whereas if
18 your Honor allows them to lead normal lives, they will
19 continue to be normal individuals.

20 They will be the same individuals that they
21 were before they were chosen for this jury.

22 If these people, and they are from different
23 walks of life, have taken this sacred vow they have taken
24 this afternoon, keeping their mind concentrated on the
25 evidence, I think they can do it.

26 I cannot foresee that any of the newspapers will

17-3

1 come out with any stories of the so-called Susan Atkins
2 confession.

3 We don't know what the magazines have in store.
4 I understand "Inside Detective" had something in March or
5 April which I have got to get a copy of.

6 But the jurors come from different walks of
7 life; they have told us what they do, and I think they can
8 keep themselves pure for the rest of this trial.

9 Now, this trial could very easily take two
10 or three months --

11 MR. REINER: That long!

12 MR. STOVITZ: I think it's a hardship, your Honor,
13 to lock the jury up each night and to deprive these people
14 of their ordinary walks of life.

15 MR. BUGLIOSI: I think the selection of the alter-
16 nates will take at least a week, your Honor, at least,
17 although Mr. Stovitz is more optimistic, he mentioned two
18 or three days.

19 I think at least a week. Theoretically it
20 should take us two weeks, it took us a month to pick 12,
21 it should take us two weeks to pick six.

22 I am hopeful we can knock it down to a week.

23 I do see the problem that they might read
24 something about Susan Atkins' confession, that is the
25 problem.

26 MR. KANAREK: Your Honor, I guess it's a point --

1 I hope it isn't just making a record, but I guess it would
2 be, the point is this:

3 I believe the record will reveal that we were
4 against sequestering from the beginning.

5 Now we are somewhat on the horns of a dilemma
6 because if your Honor does not sequester now, we have been
7 deprived of jurors --

8 THE COURT: Well, I am going to sequester, Mr. Kanarek.

9 MR. KANAREK: I just want to make the record in that
10 regard.

11 Actually I am against sequestering, but if your
12 Honor at this point does not sequester, then the foundation
13 upon which a lot of the voir dire was based becomes a
14 little bit meaningless.

15 But because of the fact that a lot of people are
16 -- were not considered, and allowed themselves not to be
17 considered because of your Honor's intent to sequester --

18 THE COURT: Well, I will tell you what I am going to
19 do, gentlemen, it seems to me that there would be no point
20 at all in taking a month to obtain what I sincerely to be-
21 lieve to be a fair and impartial jury and then expose them
22 for an additional week to the very real risk of being
23 contaminated by pretrial publicity.

24 I think what Mr. Reiner mentioned, it hadn't
25 really occurred to me in that context before, but I think
26 it could very well be true there may very well be a surge

1 of publicity just before the trial starts between now and
2 the actual taking of evidence.

3 , Because, as we all know, the media like to
4 generate interest in their respective enterprises and they
5 do that by disseminating news, and so it is not at all
6 unusual.

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17a-1

1 MR. BUGLIOSI: Even if you sequester these 12,
2 now, for that reason and it is a valid reason, the six
3 alternates will still be reading this.

4 THE COURT: They may or may not. At least we can
5 do something about those.

6 We can keep voir diring prospective jurors
7 until we find six that have not been exposed.

8 But the present 12, we now have 12 and that
9 is it.

10 And it just seems to me that it isn't worth
11 the risk. I had not really considered this very likely
12 surge of publicity just before the evidence taking phase
13 of the trial begins.

14 The more I think about it the more I think
15 it is a real possibility -- probability.

16 Now, whether they can refrain from rehashing
17 some of the things we don't want the jury to see is another
18 matter. But I don't think it is worth the risk.

19 I should think the People would feel that
20 way also.

21 MR. BUGLIOSI: I see the Court's point. It is a
22 very valid point.

23 THE COURT: So what I am going to do, I am going
24 to excuse the new panel at this time until tomorrow
25 morning, at which time I will give them the preliminary
26 remarks I have given all the others, keep the jury here

17a-2

1 momentarily until they have departed, and then inform the
2 jury that they should come tomorrow prepared with their
3 personal belongings.

4 MR. STOVITZ: I submit that the new panel, when
5 you excuse them tomorrow, that they may be jurors in this
6 case.

7 THE COURT: Oh, yes, I will give them the admoni-
8 tion, yes, but I would rather not let them know that the
9 jury is being sequestered at this point, although it
10 certainly will be common knowledge.

11 But in case any of the jurors have special
12 questions that they want to ask me I will have the panel
13 out of the courtroom by that time.

14 (The following proceedings were had in open
15 court in the presence and hearing of the jury and the
16 prospective alternate jurors, all the defendants and all
17 counsel being present:)

18 THE COURT: All parties and counsel are present.

19 The jury is in the jury box.

20 To the new members of the jury panel who have
21 come into the court this afternoon, I will have some
22 preliminary remarks to make to you tomorrow morning when
23 you come back.

24 I'm going to excuse you at this time until
25 9:00 o'clock tomorrow morning, and I ask you to listen
26 very carefully to the admonition I am about to give, not

1 only to you, but to all of the jurors, actual and
2 prospective.

3 First of all, this case is the case of
4 People vs. Charles Manson, Susan Atkins, Patricia
5 Krenwinkel and Leslie Van Houten.

6 I admonish you that it is your duty not to
7 converse among yourselves or with anyone else on any
8 subject related to this case, nor to form or express an
9 opinion regarding this case until it is finally submitted
10 to you.

11 And I admonish you further that you should
12 not read, watch or listen to any news reports concerning
13 this case so long as you are connected with the case as
14 prospective jurors.

15 I will now excuse the panel until 9:00
16 o'clock tomorrow morning and I will ask the jury to
17 remain in the jury box for a few minutes as I have some
18 other things I want to say to the jury.

19 You are now excused, ladies and gentlemen.

20 (Whereupon the prospective jurors leave the
21 courtroom, the sworn jurors remaining in the jury box.)

22 THE COURT: The record will show the prospective
23 jurors have departed from the courtroom.

24 Ladies and gentlemen, I have concluded that
25 it is necessary for the Court to sequester the jury starting
26 as of tomorrow, so I am going to ask you to bring whatever

1 you wish to bring with you tomorrow morning, and be
2 prepared to commence your sequestration tomorrow night
3 after our proceedings tomorrow have concluded.

4 We will make arrangements of course during
5 the course of the trial, whenever it becomes necessary
6 or desirable for you to receive additional matters,
7 clothing and whatever you need.

8 These arrangements will be made through
9 the Deputies who will supervise the jury.

10 But you should be prepared to commence
11 tomorrow evening, and I will now excuse you until 9:00
12 o'clock tomorrow morning.

13 Remember the admonitions.

14 (Whereupon an adjournment was taken until
15 the following morning at 9:00 o'clock a.m.,
16 Wednesday, July 15, 1970.)
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1 LOS ANGELES, CALIFORNIA, WEDNESDAY, JULY 15, 1970

2 9:41 A.M.

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4 (The following proceedings were had in the
5 chambers of the court outside the hearing of the jury and
6 the prospective alternate jurors, all defendants and all
7 counsel being present.

8 THE COURT: All the parties and counsel are present.

9 Before we call in the next juror, the Sheriff
10 has requested that we adjourn early today so that he can
11 get the jury out to the hotel, since this is their first
12 day.

13 He wants to have a little meeting with them to
14 explain what the rules of procedures will be during
15 sequestration.

16 So I have agreed to accommodate him, and we
17 will adjourn at 3:00 o'clock this afternoon rather than
18 4:15.

19 MR. KANAREK: I have a couple of requests to make,
20 your Honor.

21 THE COURT: All right.

22 MR. KANAREK: One is that Mr. Manson, I repeat, your
23 Honor, I ask for an evidentiary hearing. Mr. Manson -- they
24 took away his pencils. They come in and take his papers,
25 stomp on them, mix them all up and then just shove them
26 -- scrunch them all up and then shove them back in some

1 little spot-like folder or something like that.

2 He wants back his pencils and, your Honor --
3 I know your Honor does this by checking with the Sheriff,
4 your Honor, but it is inadequate because the Sheriff is
5 antagonistic to Mr. Manson.

6 The people in that Sheriff's office want to see
7 Mr. Manson die.

8 If your Honor was up there like I am --
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1 THE COURT: That kind of a statement, Mr. Kanarek,
2 isn't going to accomplish anything.

3 MR. KANAREK: I know, your Honor.

4 THE COURT: Just give me the facts, whatever they
5 are.

6 MR. KANAREK: We are in chambers, your Honor.

7 I say this, and I know it is probably hard
8 for your Honor to believe it, but you should see the
9 atmosphere up there when you even talk to him. They have
10 seven people watching you. You would think there was a
11 hydrogen bomb there.

12 THE COURT: Got on with it, Mr. Kanarek. What is
13 it that you want?

14 MR. KANAREK: What we want is for Mr. Manson to
15 be treated civilly. We also want specifically for him
16 to be given his pencils back, for your Honor to order
17 that he be given --

18 THE COURT: When were they taken?

19 MR. KANAREK: Yesterday.

20 THE COURT: Why?

21 MR. KANAREK: God only knows; God and Mr. Pitchess.

22 DEFENDANT MANSON: Sexual paranoia is a good word.

23 THE COURT: I will ask the bailiff to inquire into
24 it and report back to me.

25 MR. KANAREK: May we have sworn testimony on it?

26 DEFENDANT MANSON: We don't have to go that far.

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THE COURT: I will investigate it.

Anything further?

MR. KANAREK: Yes.

We would also like Mr. Manson to have a comb, a towel, and he would also like to be able to communicate with the outside world.

Two or three phone calls a week, I think, are not unreasonable, your Honor.

And he is not allowed any visits; that is, other than attorney visits.

2a fls.¹⁰

A-1

1 THE COURT: Well, aren't these phone calls something
2 that you can take care of for him as his attorney?

3 MR. KANAREK: No, your Honor. He would like to make
4 them, and I think it is not an unreasonable request, your
5 Honor.

6 THE COURT: All right. I will look into that also,
7 Mr. Kanarek.

8 DEFENDANT VAN HOUTEN: Your Honor --

9 THE COURT: Confer with your attorney, Miss Van Houten.

10 MR. KANAREK: I understand, your Honor, I am informed
11 and believe that Linda Kasabian is no longer in the jail at
12 Sybil Brand, that they have taken her and sequestered her
13 in some place other than Sybil Brand, so that we don't
14 even know where to go to try to talk to her.

15 THE COURT: I don't know anything about it,
16 Mr. Kanarek.

17 MR. KANAREK: I don't either, your Honor. That is why
18 I am mentioning it to the Court at this time.

19 MR. STOVITZ: Your Honor, unless Mr. Kanarek has
20 information that she has escaped, it is our information
21 that she is still at Sybil Brand Institute.

22 MR. KANAREK: We have been told, your Honor, by
23 -- may I have just a moment?

24 THE COURT: Yes.

25 (Mr. Kanarek confers with Defendant Atkins.)

26 THE COURT: All right, let's proceed, gentlemen.

1 MR. KANAREK: Yes, your Honor.

2 THE COURT: We have alternate jurors to select.
3 Bring in Mrs. Gallant.

4 MR. REINER: Your Honor, might I suggest that we
5 perhaps work until 1:00 o'clock today rather than noon,
6 and then adjourn at 1:00 as opposed to taking approximately
7 a two-hour lunch break?

8 THE CLERK: Our other prospective jurors are arriving
9 at the moment.

10 THE COURT: No, that won't be possible. I have some
11 matters to take up during the noon recess, including a trip
12 out to the hotel.

13 (Prospective juror, Mrs. Vera A. Gallant,
14 enters chambers.)

15 THE COURT: Good morning, Mrs. Gallant.

16 MRS. GALLANT: Good morning.

17 THE COURT: Mr. Fitzgerald, I believe you were about
18 to inquire of Mrs. Gallant when we adjourned.

19 MR. STOVITZ: Before we do that, I believe your
20 Honor asked Mr. Gallant to inquire concerning certain
21 personal problems.

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1 MRS. GALLANT: Yes, I did, sir.

2 I called the principal, and she said that
3 it would be quite difficult to get someone.

4 If they wanted to be a substitute, they
5 don't come to teach every day for a long period of time.
6 Most of the substitutes only prefer, you know, a short
7 range type of assignment.

8 And she said they are having trouble right
9 now even getting a couple more teachers in the school to
10 fill vacancies.

11 THE COURT: The matter we were more concerned with
12 was about your mother.

13 MRS. GALLANT: Yes. I checked on that.

14 One lady is moving away quite soon, and most
15 people aren't quite that interested in being responsible
16 for an older person.

17 This one lady said she didn't want to be
18 tied down herself for any lengthy period of time.

19 Maybe, if you would say a week or two, but
20 for an indefinite period of time, she felt that that would
21 be an imposition.

22 So that is what happened.

2c fls.

2C-1

1 THE COURT: All right.

2 Do you feel that this would impose an undue
3 hardship on you?

4 MRS. GALLANT: I kind of worry. I will have to be
5 honest. I really would be kind of concerned, you know,
6 since I am the only person available, you know. I would
7 rather worry a bit.

8 THE COURT: Do you think this might affect your
9 ability to concentrate on the matter at hand during the
10 trial?

11 MRS. GALLANT: If everything went well, fine, but if
12 I were to know that there was a problem, I probably would
13 not be as good on the jury as I possibly should be.

14 THE COURT: How old did you say your mother is?

15 MRS. GALLANT: She will be 81 in October.

16 THE COURT: And there is no one else there to care
17 for her?

18 MRS. GALLANT: No, sir. And she would have to be
19 responsible for not only her place -- she lives in back of
20 mine -- but she would also have to be responsible for the
21 place where I live too, so far as I know, you know, keeping
22 the yard up and various expenditures that could come up
23 along with potential problems, you know.

24 THE COURT: All right.

25 MR. FITZGERALD: Can I ask a few questions on the
26 hardship?

1 THE COURT: Yes.

2 MRS. GALLANT: Yes?

3
4 VOIR DIRE EXAMINATION OF MRS. GALLANT

5 BY MR. FITZGERALD:

6 Q Mrs. Gallant, you are not married; is that it?

7 A No. I am separated from my husband.

8 Q And you have no children?

9 A I have two daughters, but one, I told you
10 yesterday, is married, and my other daughter goes to -- she
11 graduated from college and she is getting her teaching
12 credential next year at San Diego State, so she is not at
13 home. I mean, she will not be home after the summer.

14 Q And the married daughter is not living in
15 Los Angeles?

16 A Yes, she lives in Los Angeles, yes.

17 Q Is it possible that she could care for your
18 mother?

19 A She is pregnant at this particular time and I
20 don't know, you know. She is kind of occupied that way.

3-1

1 Q Do you have any sisters or brothers?

2 A I have a brother that lives way out of
3 town. He is not close by and he has a family.

4 Q In the past when you have gone away or when
5 you went to Europe what did you do?

6 A Well, when I was gone last year my daughter
7 who was going to school was home. She stayed in my house
8 and I was gone seven weeks.

9 My daughter was working, and -- the one
10 that goes to college -- and she was working, and so she
11 was home at that time.

12 Q She is going to start at San Diego State?

13 A Yes, you see, she is home in the summertime
14 but around the 1st of September she has to go down to
15 San Diego to find a place to live, and to stay down there
16 to get her teaching credential.

17 Q Aside from that hardship problem would you
18 like to sit on this jury?

19 A If I were two people, yes, I really feel
20 this is my duty as a citizen, you know, to do this sort
21 of thing, but as a daughter of an older mother I feel that
22 I have a responsibility toward her also.

23 MR. FITZGERALD: I have no further questions on
24 the hardship.

25 There will not be a stipulation.

26 THE COURT: All right.

1 MR. FITZGERALD: I have no other questions.

2 THE COURT: Mr. Reiner?

3 MR. REINER: No questions, your Honor.

4 THE COURT: Mr. Shinn?

5 MR. SHINN: No questions, your Honor.

6 THE COURT: Mr. Kanarek?

7 MR. KANAREK: No questions, your Honor.

8 THE COURT: Mr. Stovitz?

9
10 VOIR DIRE EXAMINATION OF MRS. GALLANT

11 BY MR. STOVITZ:

12 Q Mrs. Gallant, have you ever heard of a
13 publication known as the Rolling Stone?

14 A I heard of a group of singers, but not a
15 publication.

16 Q If you were selected as an alternate juror
17 in this case do you think you could concentrate solely
18 on the evidence and disregard all rumors about this case?

19 A I think I could, sir.

20 Q And if anything happens to any of the
21 regular jurors, if you were substituted in as a regular
22 juror do you think that your verdict would be based
23 solely on the evidence and not upon any rumors at all?

24 A Yes, it would be, sir.

25 MR. STOVITZ: I have no further questions.

26 MR. REINER: Your Honor, may I make some inquiries

1 in the matter of the hardship?

2 THE COURT: Very well.

3
4 VOIR DIRE EXAMINATION OF MRS. GALLANT

5 BY MR. REINER:

6 Q Mrs. Gallant, your mother is of course 80
7 years old.

8 You appreciate during the entire course of
9 this trial, which will run three to five months, perhaps
10 six months, except for visitation rights on weekends,
11 that she would be alone and would have to be self-
12 sufficient 24 hours a day?

13 A She would have to be completely, unless
14 someone came by to visit her or something like that, but
15 she is alone. My father is dead.

3a fls.

3A-1

1 Q Considering her advanced years do you think as
2 a practical matter it is really possible for her to be
3 totally self-sufficient and to be alone 24 hours a day for
4 some months?

5 A She goes through periods, sometimes, you know,
6 she doesn't have to do anything, but on other occasions I
7 notice she does not listen too well.

8 She does not concentrate. When she goes to
9 the bank she says she paid the telephone bill, and then she
10 comes and tells me that it is not paid because somebody did
11 not hand her some paper back.

12 So on many occasions I would do things like
13 that for her.

14 Q I was thinking in terms of medical problems.

15 You suggested something I have not thought of.
16 Is it possible that without you there to from time to time
17 supervise or overlook her affairs, that in these next six
18 months, if it should be that long, that she might totally
19 disrupt her personal affairs by her inability to give
20 proper attention to them?

21 A Well, I worry about that potential problem.

22 Q Do you think it is possible that during the
23 next few months she may, because of her inattention to her
24 affairs, create problems that are irreversible, that six
25 months from now at the termination of your jury service
26 she would create problems in her own personal affairs that

A2 1 you could not reverse?

2 A She could easily do that, sir. I don't say for
3 sure, you know.

4 MR. REINER: No further questions.

5 THE COURT: Still no stipulation, gentlemen?

6 MR. FITZGERALD: No, your Honor.

7 THE COURT: All right, I will ask you then to go back
8 into the courtroom, Mrs. Gallant.

9 MRS. GALLANT: Thank you, your Honor.

10 THE COURT: And to not discuss with anyone what has
11 occurred in here.

12 Thank you.

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1 (Mrs. Gallant leaves the chambers of the Court.)

2 MR. STOVITZ: Your Honor, we did not offer to
3 stipulate because we felt it might in some way influence
4 the juror, that we would stipulate and the defendants'
5 attorneys do not.

6 If your Honor wanted to dismiss this juror on
7 your own motion, we would be fully in accord with that
8 position.

9 MR. REINER: We join.

10 MR. FITZGERALD: We ask your Honor not to. I am
11 certainly sympathetic with her problem; I certainly under-
12 stand her problem.

13 On the other hand she is an alternate juror;
14 she is apparently a good juror.

15 I think she may really be able to make some
16 arrangements to take care of her mother, although I
17 certainly don't think if your Honor chooses to exercise
18 his discretion --

19 THE COURT: It is not a question of taking care of
20 her mother. Her mother may be able to take care of herself.

21 But she has a house, and apparently her mother
22 lives in a place in the rear, but she has a main house that
23 would be vacant and uncared for.

24 Whether her mother is capable of taking care of
25 all of that is something else.

26 MR. FITZGERALD: I don't think her mother is,

1 according to what we know.

2 THE COURT: It seems to be questionable. I think in
3 order to save time, gentlemen, and because of the apparent
4 hardship, that I will excuse her on my own motion.

5 I don't think she would be a very good juror for
6 either side if she is continually apprehensive about her
7 mother and what is going on at the home, and the care of
8 her house as well as her mother.

9 So I will excuse Mrs. Gallant for hardship
10 reasons.

11 Now we have exhausted the old panel, have we
12 not?

13 THE CLERK: Yes, your Honor. We have five alternate
14 jurors sitting up in the box, but there are no more out in
15 the audience.

16 THE COURT: We have the new panel of 48 jurors. All
17 of the old panel who have been given the preliminary
18 instructions have now been exhausted so we will go back
19 into court and I will give them the preliminary instructions
20 and then we can resume the voir dire in chambers.

3c-1

(The following proceedings were had in open court in the presence and hearing of the jurors and the prospective alternate jurors, all defendants and all counsel being present:)

THE COURT: All parties and counsel are present; all of the jurors are present in the jury box, and our five prospective alternate jurors are present.

For the benefit of those of you ladies and gentlemen who have come into this case this morning, this is the case of the People of the State of California vs. Charles Manson, Susan Atkins, Patricia Krenwinkel and Leslie Van Houten.

The defendants, Charles Manson, Susan Atkins and Patricia Krenwinkel have each been charged in an indictment with seven counts of murder and with one count of conspiracy to commit murder.

The Defendant Leslie Van Houten has been charged with two counts of murder and one count of conspiracy to commit murder.

These events are alleged to have occurred on or about August 9th and 10th, 1969.

To each of these counts the defendants have entered pleas of not guilty.

The alleged victims of these murders or alleged murders were Abigail Anne Folger, Wajciech Frykowski, Steven Earl Parent, Sharon Marie Polanski,

1 Thomas John Sebring, Leno A. La Bianca and Rosemary
2 La Bianca.

3 Mr. Manson, would you kindly stand up and
4 face the prospective jurors.

5 Thank you, you may be seated.

6 Mr. Manson is represented by Mr. Irving
7 Kanarek.

8 Mr. Kanarek, would you stand, please.

9 Do any of you know either Mr. Manson or
10 Mr. Kanarek? If the answer to any of my questions is
11 yes, would you kindly raise your hands.

12 Miss Atkins is being represented by Mr.
13 Daye Shinn.

14 Miss Atkins, would you stand, please,
15 and face the prospective jurors. Thank you.

16 And, Mr. Shinn, would you stand?

17 Miss Patricia Krenwinkel is being repre-
18 sented by Mr. Paul Fitzgerald.

19 Miss Krenwinkel, would you stand, please,
20 and face the prospective jurors.

21 And Mr. Fitzgerald.

22 Do any of you know Miss Atkins, Miss
23 Krenwinkel or Mr. Shinn or Mr. Fitzgerald?

24 And Miss Van Houten is being represented
25 by Mr. Ira Reiner.

26 Miss Van Houten, would you stand up, please,

3c-3

1 and Mr. Reiner.

2 Do any of you know Miss Van Houten or Mr.

3 Reiner?

4 The People are being represented by the

5 Deputy District Attorneys, Mr. Aaron Stovitz and Mr. Vincent

6 Bugliosi.

7 Do any of you know either Mr. Stovitz or Mr.

3d fls.

8 Bugliosi?

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1 As I previously indicated, the defendants have
2 each entered pleas of not guilty to all of the counts of
3 the indictment.

4 In a criminal case the defendant is presumed to
5 be innocent until the contrary appears, and in case of a
6 reasonable doubt as to his guilt, he is entitled to an
7 acquittal.

8 This presumption places upon the State the
9 burden of proving his guilt beyond a reasonable doubt.

10 Reasonable doubt is defined as follows:

11 It is not a mere possible doubt because
12 everything relating to human affairs and depending on moral
13 evidence is open to some possible or imaginary doubt.

14 It is that state of the case which, after the
15 entire comparison and consideration of all of the evidence,
16 leaves the minds of the jurors in that condition that they
17 cannot say they feel an abiding conviction to a moral
18 certainty of the truth of the charge.

19 Are each of you willing and able to give to
20 each of the defendants that presumption of innocence?
21 If there is anyone who could not, will you kindly raise your
22 hands.

23 (Whereupon, there is a show of hands both in
24 the jury box and in the audience.)

25 THE COURT: All right, I am going to ask you to
26 stand and give me your names.

1 A PROSPECTIVE JUROR: Joy Freiden.

2 THE COURT: Spell that, please.

3 THE PROSPECTIVE JUROR: J-o-y, F-r-e-i-d-e-n.

4 THE COURT: All right, before I ask you any further
5 questions I am going to have the clerk swear the
6 prospective panel.

7 THE CLERK: All members of the prospective panel in
8 the audience, please stand.

9 Would you raise your right hands, please.

10 You, and each of you, do solemnly swear that
11 you will well and truly answer all such questions as may be
12 asked of you, touching on your qualifications to act as
13 alternate trial jurors in the cause now pending before this
14 Court, so help you God.

15 (All of the prospective alternate jurors indi-
16 cate in the affirmative.)

17 THE COURT: All right, those of you who would be un-
18 able to give the defendants the benefit of the presumption
19 of innocence --

20 Your name, sir?

21 A PROSPECTIVE ALTERNATE JUROR: John W. Anderson.

22 THE COURT: John --

23 MR. ANDERSON: John W. Anderson, A-n-d-e-r-s-o-n.

24 THE COURT: All right, sir. You may be seated.

25 Yes, ma'am?

26 A PROSPECTIVE ALTERNATE JUROR: Frances Kohl, K-o-h-l.

1 THE COURT: Frances?
2 MRS. KOHL: Yes.
3 THE COURT: Thank you.
4 A PROSPECTIVE ALTERNATE JUROR: Gene Romero.
5 THE COURT: Gene Romero? Thank you.
6 A PROSPECTIVE ALTERNATE JUROR: Freddie Mae Smith.
7 THE COURT: Thank you.
8 A PROSPECTIVE ALTERNATE JUROR: Ann Kageiman.
9 THE COURT: Spell that, please.
10 THE PROSPECTIVE ALTERNATE JUROR: K-e-g-e-l-m-a-n.
11 THE COURT: Thank you.
12 A PROSPECTIVE ALTERNATE JUROR: Evelyn O'Neill.
13 THE COURT: Thank you.
14 A PROSPECTIVE ALTERNATE JUROR: Lena Glaviano.
15 G-l-a-v-i-a-n-o.
16 THE COURT: Thank you.
17 A PROSPECTIVE ALTERNATE JUROR: Frank-Floyd Jones,
18 that's a hyphenated name.
19 THE COURT: Thank you.
20 A PROSPECTIVE ALTERNATE JUROR: Noan, N-o-a-n,
21 Burris, B-u-r-r-i-s.
22 THE COURT: Thank you.
23 A PROSPECTIVE ALTERNATE JUROR: Eugene Spiro,
24 S-p-i-r-o.
25 THE COURT: Thank you.
26 A PROSPECTIVE ALTERNATE JUROR: Alan Porter.

1 THE COURT: Thank you.

2 A PROSPECTIVE ALTERNATE JUROR: Darryl Mahnke,

3 THE COURT: How do you spell the last name?

4 MR. MAHNKE: M-a-h-n-k-e.

5 THE COURT: Thank you.

6 A PROSPECTIVE ALTERNATE JUROR: Henry Alonzo,

7 A-l-o-n-z-o.

8 THE COURT: The last name?

9 MR. ALONZO: A-l-o-n-z-o.

10 THE COURT: Thank you.

11 A PROSPECTIVE ALTERNATE JUROR: Milton Horenska.

12 H-o-r-e-n-s-k-e.

13 THE COURT: Thank you.

14 A PROSPECTIVE ALTERNATE JUROR: Nick Tarin, T-a-r-i-n.

15 THE COURT: Thank you.

16 A PROSPECTIVE ALTERNATE JUROR: Kenneth Bennett.

17 THE COURT: All right, thank you.

18 It is the exclusive province of the jury to
19 determine the issues of fact from the evidence in the case,
20 and it is the function of the Court to instruct the jury
21 as to the law applicable to that.

22 Will each of you follow all of the Court's
23 instructions on the law regardless of your own personal
24 beliefs as to what the law is or should be?

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1 The attorneys in the case have estimated
2 that this case may take from three to five months to try,
3 but it is my own personal opinion from what I know about
4 it that it will probably be closer to three months than
5 five months; but no one can say for sure exactly how long
6 it will take.

7 The jury and the alternate jurors will be
8 sequestered during the course of the trial, which means
9 that you will not be permitted to go to your homes at
10 night but you will be housed in a hotel, and, of course,
11 you will not be permitted to visit your families and your
12 friends except on weekends, at which time you may have
13 your spouses visit you. In fact, they may stay at the
14 hotel at their own expense over the weekend.

15 In a murder case, such as this is, where one
16 of the possible penalties is death, the Court is required
17 to ascertain whether any of the prospective jurors
18 entertains such conscientious opinions regarding the death
19 penalty that they would be unable to make an impartial
20 decision as to any defendant's guilt, or if, because of
21 those opinions, they would automatically refuse to impose
22 the death penalty.

23 If any of you hold such opinions, then the
24 law requires that you cannot be compelled nor permitted
25 to serve as trial jurors in the case.

26 At the outset of the case, the Court has no

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1 way of knowing whether you will be called upon to make any
2 decision as to penalty because that will depend on what
3 the jury's verdict is as to the issue of guilt with respect
4 to any defendant.

5 While the jury is considering the issue of
6 guilt, they are not permitted to consider the question of
7 penalty as that is a matter which will be taken up in a
8 separate proceeding if the verdict on the question of
9 guilt is such that a separate proceeding on the issue of
10 penalty is required.

4a fls.