

MR. KAY
MR. MUSICH

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

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

COPY

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

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

Defendants.

157

No. A253156

REPORTERS' DAILY TRANSCRIPT
Tuesday, December 29, 1970

APPEARANCES:

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DEPUTY DISTRICT ATTORNEYS

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For Deft. Krenwinkel:

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MURRAY MEHLMAN, CSR.,
Official Reporters

LOS ANGELES, CALIFORNIA, TUESDAY, DECEMBER 29, 1970

9:04 A.M.

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(The following proceedings were had in open court, all counsel with the exception of Mr. Hughes being present; members of the jury are present. The defendants are not physically present.)

THE COURT: All counsel and jurors are present.

MR. KANAREK: Your Honor.

THE COURT: Yes, Mr. Kanarek.

MR. KANAREK: May we approach the bench for a moment, your Honor?

THE COURT: Very well.

MR. KANAREK: Thank you.

(The following proceedings were had at the bench out of the hearing of the jury:)

MR. KANAREK: Your Honor, I make a motion that Mr. Manson be allowed to assist me in my final argument.

THE COURT: Is that it?

MR. KANAREK: Yes, your Honor.

THE COURT: The motion is denied.

(The following proceedings were had in open court in the presence of the jury:)

THE COURT: You may proceed, Mr. Fitzgerald.

MR. FITZGERALD: Thank you, your Honor.

Yesterday before we adjourned I was addressing

1 some remarks to you about circumstantial evidence, but
2 before I get into some of the areas of circumstantial
3 evidence that I would like to talk to you about, I noticed
4 in reviewing my notes that I missed a couple of points that
5 I think are important, and that I want to bring to your
6 attention.

7 First, in connection with the La Bianca homicides,
8 one point I forgot to mention to you yesterday was that
9 the testimony shows that Mr. and Mrs. La Bianca stopped
10 by a newsstand on the way home and they talked to Mr.
11 Fokianos, the newsstand proprietor, and they talked to him
12 about the Tate homicides of the day before.

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1 It was well publicized, and apparently Rosemary
2 and Leno La Bianca were interested in the homicides that
3 had occurred the day before. So interested were they,
4 apparently, that Mr. Fokianos gave them a supplement out of
5 the Los Angeles Times; apparently a paper they didn't
6 ordinarily read.

7 And the photographs taken at the home after the
8 homicides indicate that the papers were there on the
9 coffee table.

10 If the La Blancas were interested in this
11 offense, I think a natural reaction, as one read about
12 these offenses, was to become fearful and apprehensive, and
13 I think given the fact that they had read about these
14 offenses, it is even that much more unlikely that they
15 would open their doors to strangers.

16 I think newspaper articles like that have a
17 tendency to create a climate of fear, and I think that our
18 natural reaction when we read an article like that is to
19 say to ourselves, "There but for the grace of God am I,"
20 or, "Am I next?" And certainly with this in mind, they
21 would be unlikely to admit strangers to their home,
22 particularly late at night.

23 A few other points I would like to make about
24 Linda Kasabian are these. Now, you are going to be
25 instructed, as you know, as I said yesterday, it is per-
26 fectly proper for an attorney to talk to a witness before

1 that witness testifies.

2 Now, it might very well be necessary to talk to
3 a witness before he or she testifies, but if you talk to a
4 witness once or twice or three times and that witness
5 related her prospective testimony in a manner that was
6 logical and coherent, and the person doing the interviewing
7 had confidence that that person was telling the truth,
8 there wouldn't be any necessity for any further interviews
9 with the witness.

10 Linda Kasabian was interviewed time and time
11 and time again by various police officers, by various
12 members of the prosecution's staff. In addition, she was
13 continually interviewed throughout her testimony here in
14 court.

15 And I submit to you that if the prosecution had
16 any feeling of any degree of satisfaction with her testi-
17 mony, it would have been totally unnecessary to interview
18 her that many times.

19 Furthermore, unless Linda Kasabian was
20 extremely vague, unless there were substantial gaps in her
21 memory, unless there were facts about the homicides that
22 were just totally unknown to her, it would be unnecessary
23 to remove her from the jail and take her on the tour of
24 Pasadena, to take her on the tour of the Tate estate,
25 and to take her on the tour of the West Los Angeles Will
26 Rogers' State Park facility.

1 That is a highly unusual procedure and would
2 only be utilized in a situation in which substantial
3 benefits were to be obtained by taking a witness to those
4 kinds of locations.

5 Now, recall that at the time she is removed
6 from the jail, she was actually under indictment for murder.

7 In other words, they didn't take her out of the
8 jail for nothing. They took her out of the jail and they
9 took her to the scene, to La Bianca, to Tate, they took her
10 on a tour of Pasadena, in order, obviously, to fill in
11 gaps in her memory or to fill in -- and perhaps it wasn't
12 even the prosecution that was the prime mover, perhaps it
13 was Linda Kasabian manipulating the prosecution; perhaps
14 it was her who said: If you take me out of the jail and
15 I could go out and see these places, it will refresh my
16 memory, or refresh my recollection. Maybe it was she who
17 was the prime mover. She wanted to get out so that she
18 could embroider this tapestry that she was ultimately going
19 to testify to.

20 Now, also in terms of Linda Kasabian, we know
21 that Linda Kasabian is capable of frolics on her own.
22 We know, and I think it is also reasonable, when one
23 considers her background, that Linda Kasabian is a rather
24 independent young lady. By and large, she has been on her
25 own since age 16.
26

3

1 She has been, as we were discussing yesterday,
2 in a number of different human situations, and particularly
3 she had a good deal of experience in group living
4 situations, in communes.

5 It is unlikely that she was easily swayed.
6 She had been likelyⁱⁿ/every situation conceivable.

7 Once she was at the ranch, she had no difficulty
8 apparently fitting in almost immediately, and she was
9 capable of leaving the ranch and going out on frolics of
10 her own.

11 From her own testimony we learn that at least
12 on one, and on probably more than one prior occasion, she
13 left the ranch and went out at least in one situation to
14 the Encino area of the San Fernando Valley where she
15 actually participated in the burglary of some homes. She
16 actually went in and creepy-crawled.

17 We also have evidence that Linda Kasabian stole
18 \$5,000. That was done largely on her own. She would like
19 you to believe that the genesis of the idea to steal the
20 \$5,000 came from Tex Watson, but that appears to be
21 extremely unlikely. In the event Watson was the man who
22 told her where the \$5,000 was -- I mean obviously she told
23 him about the \$5,000 before he suggested to her that she
24 steal it, because Tex Watson obviously had no information
25 about how much money Charles Melton had.

26 The point is this, that Linda Kasabian had in

1 the past left the ranch and done things independently and
2 alone.

3 Also we know, according to the testimony of
4 Danny De Carlo, that it was her buck knife, People's Exhibit
5 No. 39, that was found at the Tate residence inside, stuck
6 in the couch.

7 All right. Linda Kasabian, if she is charged
8 with murder, has certain problems. Her knife was found
9 inside the house. Who is to say -- who is to say -- it is
10 just as reasonable an inference that Linda Kasabian
11 actually participated in this offense as she has testified;
12 that she was there; and that is the reason she knows some
13 of these facts and details -- but that when she went to the
14 Tate house she was not with the defendants Patricia
15 Krenwinkel, Susan Atkins and Tex Watson, but that she went
16 there with some other person or persons.

17 It is entirely conceivable that Linda Kasabian
18 went to the Polanski residence with, say, for example,
19 Charles Melton and her husband, Robert Kasabian.

20 She was in trouble with her husband and Charles
21 Melton because she had stolen \$5,000. There were a number
22 of reasons why she was miffed and angry with Charles
23 Manson, and the rest of the so-called Manson family.

24 She recognizes that she is going to have to
25 explain certain facts and circumstances, and also we don't
26 know what is going on in her mind. We don't know what she

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1 thinks they know as opposed to what they do in fact know.

2 She has to explain that buck knife, and one
3 easy way to explain it -- she cannot blame it on Charlie
4 because she knows there is other independent evidence
5 indicating that Manson was at the Spahn Ranch on the evening
6 of the 8th.

7 But she weaves him into the tapestry by saying
8 he was the progenitor of the offenses; that it was his idea;
9 that he ordered and sent other people out to commit the
10 offenses.

11 Now, in terms of circumstantial evidence, I was
12 talking yesterday about the proposition that if there are
13 two interpretations -- if there are two hypotheses,
14 directed away from an item of circumstantial evidence, you
15 are duty-bound to accept that hypothesis that points to a
16 defendant's innocence as opposed to adopting the inter-
17 pretation that points to guilt.

18 In addition, in terms of circumstantial evidence,
19 there is the so-called chain rule of circumstantial evidence.

20 There are two major rules about circumstantial
21 evidence:

22 One is, if there are two reasonable inter-
23 pretations, one of which points to innocence, you are bound
24 to adopt it.

25 The other is, each link in the chain of
26 circumstantial evidence must in itself be sufficient. In

1 other words, the chain of circumstantial evidence is only
2 as good as its weakest link.

3 You are going to be instructed each fact
4 which is essential to complete a set of circumstances,
5 necessary to establish the defendants' guilt, has to be
6 proved beyond a reasonable doubt.

7 In other words, if you are going to use three
8 circumstantial evidence facts in order to reach a con-
9 clusion, each one of those facts must be proved to you
10 beyond any reasonable doubt.

11 If any way down the chain of reasoning there
12 is a link in the chain that is not proved to you beyond a
13 reasonable doubt, the whole chain falls, and I think that
14 that can be illustrated as we move through some of this
15 circumstantial evidence.

16 Now, circumstantial evidence is not one bit
17 better because it happens to be a fingerprint. A finger-
18 print is an item of circumstantial evidence.

19 Fingerprints are in no special category. I
20 think that as a result of watching television and seeing
21 movies, reading magazines and novels we have an idea about
22 fingerprints that they are in some respects infallible.
23 We have an idea that the perfect evidence is the finger-
24 print.

25 A fingerprint is merely circumstantial evidence,
26 and if you become analytical in your minds you can see that

1 very easily.

2 Now, the prosecution has introduced evidence
3 that Patricia Krenwinkel's fingerprint was found within the
4 Polanski residence; they argued that at length.

5 They put on expert testimony in connection with
6 that fingerprint, and the testimony was approximately as
7 follows: that Jerome Boen testified, he is an employee of
8 the Los Angeles Police Department, that Patricia Krenwinkel's
9 fingerprint was found on the left French door on the frame
10 of the louver that was attached to that door, approximately
11 halfway up the door and opposite the handle side.

12 The left French door in the master bedroom,
13 leading from the master bedroom to the pool area.

14 It was approximately halfway up the door and
15 opposite the handle side.

16 I believe that People's Exhibit 246 -- it is
17 either 246 or 245 -- and it shows Boen pointing to the area
18 of the louvered door, approximately halfway up, and here is
19 the handle where the fingerprint was found.

20 This is a closeup, 246-B is a closeup indicating
21 where, more particularly, the print was located.

22 246-D represents a blowup of what was called a
23 latent lift, with 12 points of identification marked out in
24 red.

25 246-F is a photograph of a fingerprint exemplar
26 that appears immediately above a blow-up.

246-E, the blowup, is of the left middle finger. Here, 246-C, the very small photograph is the photograph of the original latent lift.

On the back of it it says "inside door frame, left French door, master bedroom pool area, handle side."

Now, it is elementary that the fingerprints -- well, before we even start that.

The testimony is that there were 17 points of similarity; that the expert fingerprint man lifted a fingerprint, compared it with a known fingerprint of Patricia Krenwinkel. He found that there were 17 points of identification, and he therefore formed the opinion that they were the same fingerprint.

Now, on cross-examination the expert was asked how many total possible points of similarity could there be in a fingerprint.

He was asked could there be as many as three hundred points of similarity in a fingerprint.

He said yes, there could be 300 possible points of similarity, but that would be unlikely.

4-1

1 Let's assume for a moment that a fingerprint,
2 these fingerprints, do have three hundred points of
3 similarity, possible points of similarity. On the basis
4 of 17, you determine that it is the same fingerprint.
5 In other words, you are making a judgment on the basis
6 of six percent of the total possible points of similarity.

7 It was then testified that it was likely, and
8 very common, for there to be 50 points of similarity in
9 a fingerprint. He said it was uncommon for 300 -- it is
10 possible, but it was uncommon -- but it was common for
11 there to be 50 points of similarity, 50 total points of
12 similarity.

13 If his judgment is based on 17 points, then
14 out of a total of 50, you are talking about 34 percent.
15 You are making a scientific judgment on the basis of
16 34 percent of the data available to you.

17 So, there is doubt as to whether or not that
18 fingerprint belongs to Patricia Krenwinkel.

19 But let's assume that that fingerprint does
20 belong to Patricia Krenwinkel.

21 Let's assume that it was lifted, compared,
22 and the analysis is correct, that it is the fingerprint
23 of Patricia Krenwinkel.

24 Obviously, that fingerprint did not have a
25 date on it. There is no way to tell when that fingerprint
26 was placed on that door.

4-2

1 All a fingerprint tells you is that somebody
2 who had that print put it on a surface. That is all that
3 item of circumstantial evidence tells you in itself.

4 A fingerprint is a fingerprint, period. You
5 don't learn anything directly from a fingerprint. You must
6 add some interpretation, you must add some analysis. And
7 that is where we get into reasonable hypotheses.

8 Now, how many reasonable hypotheses -- and
9 remember, you are bound to adopt the hypotheses that point
10 to innocence as opposed to any that point to guilt -- how
11 many hypotheses are there for the presence of that finger-
12 print?

13 Winifred Chapman testified that she washed the
14 door of that back bedroom, that French door leading to the
15 pool, on Tuesday, August the 5th.

16 I have a little bit of a problem with Winifred
17 Chapman. I think that Winifred Chapman had the idea that
18 she was on trial here, and that what she was on trial for
19 was being a good maid.

20 I found that her testimony was very defensive
21 and in many respects she was belligerent.

22 That may be entirely due to the accident she
23 had. She came into court with a bandage on her arm, and
24 she was a woman that was a little nervous and a little
25 distraught. I am willing to give her the benefit of any
26 of those doubts. But I think that she wants us to know

4-3.

that she was a good maid. I think she wants to say that she did something that she should have done rather than something that she did in fact do.

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1 But let's assume, let's give her the benefit
2 of every single doubt, and let's say that she did, in
3 fact, wash that door on Tuesday, August the 5th.

4 Reasonable hypothesis number one. Patricia
5 Krenwinkel put her fingerprint on that door Tuesday,
6 August the 5th, after Winifred Chapman washed the door.

7 Reasonable hypothesis number two. She placed it
8 there Wednesday, August the 6th.

9 Number three. She placed it there Thursday --
10 I lost track -- the 7th.

11 Okay. That is three days.

12 Winifred Chapman is only there during the day.
13 Those fingerprints could have been placed there any of those
14 three days.

15 This is not a fingerprint in blood. There is
16 nothing on that fingerprint to indicate when it was placed
17 on that surface.

18 Dolan was asked this question from Page 9826:

19 "Is there any way to determine the age of a
20 fingerprint, Officer?

21 "A No, there is not.

22 "Q What is the longest period that a
23 fingerprint could remain inside a residence?

24 "A In a normal residence with every day
25 use, I would say several days.

26 "Q They could last several months?

"A Yes.

"Q For instance, on a wall or a window or something like that?

"A Yes, sir."

That was not my questioning. That was questioning by the prosecutor, not me.

The prosecutor's expert, on questioning by the prosecutor, says that a fingerprint can last on an interior surface several months.

Now, how normal would it be for a fingerprint to be on a door? I think it would be very normal.

When we walk in and out of buildings, we frequently touch doors. I mean, that is so elementary, maybe it doesn't even bear saying.

There is nothing about the placement of that fingerprint that is incriminating in itself. This is not a fingerprint on a buck knife, this is not a fingerprint on a murder weapon, this is not a fingerprint on a wall two feet above the ground immediately above a body, this is not a fingerprint in a place it shouldn't be. This is a fingerprint in a very normal traffic area of the house. Particularly this house, the Polanski's residence.

Winifred Chapman testified that frequently -- frequently -- guests were entertained at the Polanski residence, and when guests were entertained, it was frequent that they would use the pool, and when they would

use the pool, they would use the master bedroom and the immediately adjacent dressing room in order to facilitate their use of the pool.

It is a reasonable hypothesis that that fingerprint got on that door through a very innocent, invited guest-type use at that house.

That is just as reasonable as that the fingerprint got on that door on the evening of August the 8th.

How does the prosecution prove that that fingerprint got on there on the evening of the 8th?

They don't prove it at all. All they have proved is the existence of a fingerprint.

4b-1

1 Now, you are going to say to yourself: Sure,
2 but what would Patricia Krenwinkel be doing at the Polanski
3 residence?

4 Recall the testimony of Shahrock Hatami. He
5 testified that people in casual dress, young people, people
6 with long hair, were not unknown at the Polanski residence.

7 Bear in mind also from the testimony of other
8 witnesses that the Polanskis entertained.

9 Note also that actually at the time of their
10 deaths, Sharon Marie Polanski had guests in her home.

11 It is entirely conceivable, possible and
12 reasonable that Patricia Krenwinkel was at that house
13 as an invited guest or a friend.

14 Is the prosecution going to tell us that is
15 not true when they have put on evidence that Charles
16 Manson was at that house, in the vicinity of that house?

17 It is not preposterous at all.

18 Remember also that Melcher, who is the young
19 man approximately the same age as the defendants, was
20 at the Spahn Ranch, had contact with them.

21 Remember also that Gregg Jakobson had been
22 to the Polanski residence. He had also been to the ranch.

23 The prosecution has also put on other evidence,
24 apparently, that people at the ranch knew about the Polanski
25 residence.

26 No problem whatsoever.

4b-2

1 Furthermore, there are no other fingerprints
2 of Patricia Krenwinkel in that entire house. There are
3 no fingerprints on any other door within the house. An
4 interior door, for example, a door between a bedroom, or
5 a closet door. A fingerprint that would indicate actually
6 physical presence within the interior of the house.

7 There are no fingerprints on any windows, there
8 are no fingerprints on any screens. There are no finger-
9 prints on any physical objects within the house itself.

10 Now, the most important point about this
11 fingerprint is this, and it is extremely important to me:

12 If -- if -- that was the fingerprint of Patricia
13 Krenwinkel -- and remember, it was lifted from the door
14 the next day, on August the 9th -- if that was Patricia
15 Krenwinkel's fingerprint in that house and it was incriminat-
16 ing in any sense whatsoever, how come she was not charged
17 with these offenses when she was arrested at the Spahn
18 Ranch on August the 16th, 1969?

19 Eight days later she is arrested in a massive
20 raid by the Los Angeles County Sheriff's Office, she is
21 arrested, she is booked into jail. Her fingerprints, in
22 the normal and ordinary course of business, are taken.
23 And she is not arrested for these Tate offenses, and she is
24 not charged with these offenses.

25 If that was her fingerprint, how come she
26 wasn't arrested?

4b-3

1 Furthermore, she was arrested again. She was
2 arrested on October 10, 1969, in Inyo County, California.

3 This is a crime that unfortunately received
4 national attention and notoriety. It is unfortunate that
5 it received attention way beyond any intrinsic merits
6 involving the offense. And I think there are reasons why
7 it achieved notoriety and prominence, and we won't go
8 into that. Suffice it to say that it did achieve a fantastic
9 amount of notoriety. There was public speculation by
10 people as to who committed these offenses, et cetera,
11 et cetera.

4c fls.

4c-1

1 The police were under pressure. They had to
2 solve this crime. People in Los Angeles were fearful.

3 If Patricia Krenwinkel was arrested on October
4 10, 1969, obviously the fingerprints of every suspect
5 arrested in the State of California is going to be
6 checked against those outstanding fingerprints at the Tate
7 house.

8 It is The Crime in California at the time.

9 It is absolutely inconceivable, I can conceive
10 of absolutely no rational or reasonable explanation why she
11 was not arrested and charged with these offenses eight
12 days later at the Spahn Ranch.

13 And if you think that the fingerprint on that
14 back door is incriminating in itself, then we have got
15 some questions we have to ask ourselves, because what
16 about the other fingerprints on the very door?

17 Defendants' Exhibit L-4-A is a small photograph
18 that you will have in the jury room which is a latent
19 fingerprint that was obtained on the inside door frame,
20 French door, master bedroom. That is an uneliminated
21 print.

22 You may recall that there were 50 prints lifted
23 from the Polanski residence, 25 of which are euphemistically
24 referred to as uneliminated fingerprints. That is to say
25 that they are fingerprints that are not directly attributable
26 to any particular known human being.

1 There is an outstanding fingerprint on the
2 same door that Patricia Krenwinkel's print is. Does it
3 belong to Tex Watson? Does it belong to Susan Atkins?
4 Does it belong to Charles Manson? Does it belong to any of
5 these defendants?

6 No, it doesn't.

7 If Patricia Krenwinkel's fingerprint on that
8 door is incriminating, what about this fingerprint?

9 What about defense exhibit L-2, which is another
10 latent fingerprint taken from precisely the same location:
11 edge of left French door master bedroom. This is an
12 uneliminated fingerprint.

13 Who does L-2 belong to? We don't know.

14 On the basis of this evidence, we don't know
15 what process or procedure, if any, the Police Department
16 utilized in attempting to check whether or not somebody
17 belonged to this print.

18 For all I know, these prints may belong to
19 number two on the 10 most wanted list.

20 I do know this: they don't belong to any of
21 these defendants.

22 Now, let's look at some incriminating finger-
23 prints at the Polanski residence.

24 L-17 is a fingerprint that was lifted from a
25 screen.

26 You saw photographs of the screen that had been
removed from the window.

5-1

1 The police were the ones whose opinion it was
2 that the screen in the adjacent window was the point of
3 entry through which the killer or killers gained access.

4 There is an uneliminated fingerprint at that
5 location. That is an incriminating fingerprint, ladies
6 and gentlemen. There is no plausible excuse for a finger-
7 print being on that screen.

8 Now, obviously if that screen belonged to
9 some tradesman who changed the screens, that would be a
10 very simple matter indeed, to find . . . the tradesman,
11 roll his fingerprints, check it and eliminate it.

12 I think you've got to assume that the police
13 did their best in attempting to eliminate every possible
14 suspect and every possible innocent person who might have
15 had their fingerprints at that location. It would seem
16 obvious that once you go into a house where there are
17 bodies and you start picking up fingerprints, you ask who
18 the friends and relatives are; you ask who the maid is;
19 you ask who the gas-man is, these sort of things, so that
20 you can eliminate the innocent prints.

21 These are what is left, these are the ones
22 that cannot be matched up.

23 Let's take a look at another incriminating
24 print, Defense Exhibit M, inside the windowsill at the
25 possible point of entry.

26 We have again a similar situation. It is

1 difficult to explain the reasonableness of a print being at
2 that location, so you've got inside window frame as a
3 possible point of entry.

4 You've got screen, a possible point of entry,
5 and you've got inside windowsill as a possible point of
6 entry.

7 You've got three very important and significant
8 uneliminated prints.

9 In addition you have a fingerprint on the back
10 inside door, another fingerprint on the back inside door.

11 L-12, fingerprint outside window, 25 yards
12 right of front door open. That is what he testified to.

13 I am having difficulty finding that on this
14 diagram because when I apply the key, and I measure from the
15 doorway, I cannot find a window that is 25 yards from the
16 front door.

17 The closest window -- the window furthest away
18 that gets closer to 25 yards is the far bedroom window in
19 the front bedroom, approximately 60 feet measured from the
20 center of the front door.

21 L-14 is another fingerprint. This was found
22 inside the residence on the inside door jamb. Now, you
23 are going to recall, I think, that through a considerable
24 amount of testimony, and there was photographic evidence of
25 blood spatters and spots throughout the vicinity of the
26 door jamb --

5-3

1 It strikes me that that is a rather peculiar
2 place for a fingerprint to be, if it is an innocent print.

3 Now, the ones I have not marked in red, L-1,
4 a beer bottle, a Heinekin beer bottle in the master bedroom.

5 You remember Hearst testified that when he came
6 to the house that evening to deliver a bicycle, Sebring
7 answered the door and had a bottle in his hand; maybe this
8 is the same bottle.

9 It is unlikely that bottles are going to lay
10 around that house for three or four days. Winifred Chapman
11 is not going to let beer bottles lay around, so I think you
12 can assume that she is going to pick up beer bottles.

13 Okay, if this was the beer bottle that was
14 used by Sebring, what is somebody else's print doing on
15 it? I mean, certainly you could understand if it was
16 Abigail Folger's print or Frykowski's or Sharon Polanski's;
17 she just took the bottle and took a drink out of it.

18 How significant that is, is for you to determine.

19 L-3, an uneliminated fingerprint, white ashtray,
20 living room table.

21 L-4, white telephone master bedroom.

22 L-6, a plastic tape case.

23 L-7, 8, 9, 10 and 11 are uneliminated finger-
24 prints from the respective automobiles, all of which are
25 uneliminated.

26 L-13 is another very peculiar fingerprint, the

1 outside kitchen window screen, outside kitchen window screen.
2 It is possible, if not probable, that before gaining access
3 to the location by the front window, the killer or killers
4 attempted to secure entry at some other location, in which
5 case L-13 makes a considerable amount of sense, outside
6 kitchen window screen.

7 L-14, an uneliminated print on the rocking chair,
8 I don't know what significance that has.

9 L-16, inside door jamb. I'm unable to evaluate
10 that print. L-19, right inside window, '65 Rambler. Right
11 inside window '65 Rambler. That could have got there by
12 a hitchhiker, somebody could have gone in there and ransacked
13 this car, but that doesn't make any sense.

14 His watch is laying there on the seat; his
15 clock radio is laying there; he has got his wallet in his
16 pocket.

17 Maybe he picked up a hitchhiker and that is a
18 hitchhiker's fingerprint.

19 L-20, left inside wing window, '65 Rambler,
20 left inside wing window.

21 That is the driver's side wing window on the
22 inside.

23 Ordinarily only the driver's fingerprints would
24 be at that location. Maybe somebody else drove the car, I
25 don't know.

26 L-21, right inside window, '65 Rambler, just

1 like L-19. How that got there I don't know.

2 There were fingerprints on that '65 Rambler,
3 however, and this demonstrates it, that Watson's fingerprints
4 did not appear on the outside of that car and Linda Kasabian's
5 car is -- he pushed that car.

6 And Linda Kasabian's testimony is also that
7 nobody was wearing gloves, Tex Watson or anybody else.

8 He pushed the car backwards; he reached in the
9 car and turned off the ignition. No print!

10 Apparently, according to Linda Kasabian's
11 testimony, things were moving fast. Things were hectic
12 that evening, if you are going to believe her testimony.

13 Things have been rapid and quick; people
14 running; there is some sort of frenzy.

15 No one is going to stop and wipe off any finger-
16 prints. Nobody is going to be terribly careful about where
17 their fingerprints land.

18 Where is Tex Watson's only fingerprint?
19 Immediately above the front door latch in the front door,
20 not at the point of entry, not at the screen, not at
21 the kitchen window, not inside the house. It is on the
22 outside of the front door.

23 If he went through the window, his prints are
24 likely to be at the windowsill or at the adjacent window
25 structure.

26 Now, in terms of his fingerprint, Mr. Watson's

1 fingerprint, I will show it to you --

2 It is People's 245-A, a photograph of Jerome
3 Boen pointing to the location where the fingerprint was
4 secured.

5 245-B, original latent lift, the blow-up of the
6 latent lift, the blow-up of the exemplar.

7 Now, it is the exemplar that I find extremely
8 interesting. Remember, up at the top it says "Watson,
9 Charles Denton," in the upper left-hand corner is the
10 location where the inmate or prisoner or arrestee is to sign.

11 Written in is "Unable to sign."

12 These are said to be Watson's fingerprints,
13 but he did not sign that fingerprint card. Somebody else
14 has written in "Watson, Charles Denton."

15 It bears the signature, Escalante. Apparently
16 this is his serial number, 7911, date, 4/23/69.

17 Officer Escalante testified that he is
18 employed by the Los Angeles Police Department, Valley
19 Services Division in Van Nuys, and that it is his duty
20 and function to roll fingerprints.

5a fls.

5a-1

1 That is all he does, apparently, and he told us
2 that he has been doing it for apparently approximately two
3 years, although it may be a year and a half.

4 He says that he rolls approximately 75 sets of
5 prints a week. Let us assume that he works a 50-week year,
6 that is 3,750 fingerprints, sets of fingerprints he rolled
7 in a year's time.

8 3,750 people come before him and put their
9 hands on the ink, and then their hands on the card.

10 Maybe my mathematics is erroneous, so let's
11 in the interest of fairness just cut it in half, let's say
12 he only saw 1800 people in the year 1969 or the year 1968.

13 Escalante reminds me of a cashier in a super-
14 market who cashes checks and comes to court and attempts
15 to testify as to whether or not a particular defendant
16 wrote a bad check.

17 The cashier in the supermarket doesn't have
18 the faintest idea -- he cashes so many checks in a day,
19 so many checks on a Saturday, on a weekend, she cannot
20 possibly remember who cashed a particular check.

21 Escalante is in the same position:

22 "Q Was it your job on April 23rd to
23 roll fingerprints of arrestees?

24 "A Yes, sir.

25 "Q How long had you been in that
26 assignment with the Los Angeles Police

1 "Department?

2 "A Oh, approximately a year and a
3 half.

4 "Q How many fingerprints did you roll
5 in a year and a half?

6 "A That would be hard to say.

7 "Q Give us an estimate.

8 "A Perhaps on an average of 10 to 20
9 a night, I don't know, sir, just an average.

10 "Q You work five days a week?

11 "A Yes, sir.

12 "Q I take it an average of 15, that
13 would be 75 different persons whose fingerprints
14 you rolled every week.

15 "A Approximately, yes, sir.

16 "Q How many have you rolled since
17 April 23, 1969?

18 "A Well, approximately the same number,
19 sir.

20 "Q So it would be a vast number of
21 persons whose fingerprints you have rolled,
22 right?

23 "A Yes, it is.

24 "Q The man whose fingerprint you took
25 just before Mr. Watson, what did he look like?

26 "A I don't know, sir.

1 "Q What did the man look like whose
2 fingerprints you took immediately after
3 Mr. Watson's print?

4 "A I have no idea.

5 "Q If I were to bring you pictures
6 of each of 500 persons whose fingerprints you
7 rolled, would you be able to recognize or
8 remember them?

9 "A I don't know, sir.

10 "Q You don't know the real Tex Watson
11 from the man in the moon, do you?

12 "A Yes, sir, I do.

13 "Q Do you?

14 "A Yes, sir.

15 "Q Did you check his birth certifi-
16 cate?

17 "A No, sir, I did not.

18 "Q Did you check his Social Security
19 card?

20 "A No.

21 "Q Was he 18 years of age?

22 "A As far as I know, yes.

23 "Q Did you check his Selective Service
24 registration card?

25 "A No, sir.

26 "Q Did you check any independent source

1 "for fingerprints other than the fingerprint
2 you put on that exemplar card?

3 "A No, sir, I did not.

4 "Q You cannot testify whether this
5 man was Tex Watson or an alias or an assumed
6 name?

7 "A The only thing I know is he was
8 booked under that particular name.

9 "Q Frequently people are booked under
10 assumed names, are they not?

11 "A Yes, sir.

12 "Q Frequently people are booked under
13 false names, are they not?

14 "A Yes, sir.

15 "Q And you say that on April 23rd,
16 1969 that in addition to the fingerprints of this
17 Mr. Watson being rolled a photograph was taken of
18 him.

19 "A Yes, sir.

20 "Q Do you have that photograph?

21 "A No, sir, I don't.

22 "Q Were you asked to bring that
23 photograph here to court?

24 "A No, sir.

25 "Q Did you review that photograph
26 before you testified here today?

1 "A No, sir, I did not.

2 "Q Did you make any attempt to
3 secure that photograph?

4 "A No, sir, I did not."

5 Escalante took a mugshot photograph of the man
6 he booked into the jail and took his fingerprints. He took
7 a photograph of that man. That man was unable to sign his
8 name apparently.

9 Officer Escalante said that he was arrested on
10 a misdemeanor charge. This guy was not arrested on any
11 horrendous felony charge that would click somebody's memory.

12 He took a look at a photograph of Tex Watson,
13 a large black-and-white, 8 x 10 photograph, with the hair
14 coming down like this, and he said, "That's the man."

15 Well, we don't have any foundation for that
16 photograph; we don't know when that 8 x 10 photograph was
17 taken; we don't know if that is a likeness of Mr. Watson or
18 not.

19 But you ladies and gentlemen saw Mr. Watson
20 in this courtroom. He stood right here, and he was brought
21 into this courtroom for the purpose of having a witness
22 identify him, and I'm sure you remember him.

23 He did not look like the man in that photograph,
24 and if it is the man whose fingerprints they say are Tex
25 Watson's, if he is really Tex Watson, why don't you do two
26 things:

1 Number one, why don't you bring in the mugshot
2 that was taken of him at the time his fingerprints were
3 rolled, and we can get an accurate look at the man they say
4 is Tex Watson.

5 Number two, you don't even need to do that.
6 Tex Watson was in jail, right? Long before, and you know
7 this, long before these prints were brought into this
8 courtroom.

9 Just roll Mr. Watson's prints in the County
10 Jail, no problem at all, and do it in front of 40 witnesses,
11 if you like.

12 Roll Mr. Watson's fingerprints right in this
13 courtroom.

14 Why take a fingerprint exemplar card of some-
15 body who cannot even sign his name? You cannot even bring
16 a handwriting expert in here and say that is his signature.

17 If it is his fingerprint, it is a terribly
18 shoddy and inappropriate way to present evidence, and to
19 secure evidence and to perpetuate evidence.

20 And I am suggesting to you that it is unlikely
21 that they were shoddy in that preparation. They were
22 meticulous in the preparation of what little evidence they
23 have.

24 If they could have brought in here a finger-
25 print exemplar of the real Tex Watson, why didn't they do
26 it? Why open up all this conjecture? Why open up all

1 these hypotheses, that it is simply not necessary to
2 consider?

3 Now, in addition to the fingerprint of
4 Patricia Krenwinkel being at the Polanski residence, the
5 prosecution has introduced evidence of some sort of
6 conversation that Patricia Krenwinkel apparently had with
7 Dianne Lake.

8 I am having difficulty categorizing it, because
9 it is obviously not a confession.

10 It is not even an admission, and it is some sort
11 of a conversation, and here is exactly what it is, no
12 more or no less.

13 This is Page 16,725, the testimony of Dianne
14 Lake:

15 Now, you are going to be instructed, too,
16 that questions lawyers ask witnesses are not evidence.
17 Questions I ask witnesses are not evidence. Their answers
18 are evidence.

19 I am not a witness. I am not under oath and I
20 cannot testify and I cannot testify by way of questions;
21 and the prosecution cannot testify by way of questions.

22 Sometimes it is possible to pose leading and
23 incriminating questions that are unfair in nature to a witness.
24 Don't pay any attention to those questions; pay only
25 attention to the answers, because that is the only
26 testimony you can consider.

1 You are not going to decide this case on the
2 basis of the questions lawyers ask, or feelings lawyers
3 have. You are going to base your decision on the evidence.
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5b

5b-1

The questions by Mr. Bugliosi of Dianne Lake:

"Q Approximately when did you have this conversation with Patricia Krenwinkel?

"A The last part of October, early September.

"Q You say the last part of October?

"A I mean August.

"Q The last part of August or early September, 1969?

"A Yes.

"Q Where did this conversation take place?

"A Barker Ranch or Willow Springs, I think it was Willow Springs.

"Q What time of day?

"A Afternoon.

"Q Was this outside or inside the house at Willow Springs?

"A Outside.

"Q Was anybody else present?

"A Yes.

"Q Do you know who was present in addition to yourself and Patricia?

"A No.

"Q But there were other people present?

"A Yes.

"Q What did Miss Krenwinkel say?"

And this is crucially important.

5b-2

1 "Q What did Miss Krenwinkel say?

2 "A She said that she had dragged Abigail
3 Folger from the bedroom to the living room."

4 I will read the question for you:

5 "Q What did Patricia Krenwinkel say?

6 "A She said that she had dragged Abigail
7 Folger from the bedroom to the living room."

8 She said that she had dragged Abigail Folger
9 from the bedroom to the living room; that is the statement.
10 That is the so-called admission; that is supposed to be
11 a confession.

12 That statement tells us literally nothing.

13 When did Patricia Krenwinkel drag Abigail
14 Folger from the bedroom to the living room?

15 Where did Patricia Krenwinkel drag Abigail
16 Folger from the bedroom to the living room, in San Francisco
17 in 1967?

18 How did Patricia Krenwinkel drag Abigail Folger
19 from the bedroom to the living room? Who was present at
20 the time Patricia Krenwinkel dragged Abigail Folger from
21 the bedroom to the living room?

22 Look at the diagram, using the scale, it is
23 36 feet from the middle of the bedroom to the middle of
24 the living room, and, as Kanarek says, as the crow flies,
25 that is not going around the doors.

26 Take a look at the size and weight of Abigail

5b-3

1 Folger. Patricia Krenwinkel dragged Abigail Folger from
2 the bedroom to the living room?

3 Assuming that is true, what do you make of
4 that? Does it say she killed Abigail Folger? Does it say
5 that she had any evil design?

6 This statement standing alone demonstrates
7 absolutely nothing. You need at least 14 other facts
8 to determine what weight or force this statement could
9 possibly have. Patricia Krenwinkel is not saying "I killed
10 Abigail Folger."

11 This is absolutely absurd. All right, that is,
12 assuming it is true; that is, assuming that Patricia
13 Krenwinkel actually had this conversation with Dianne Lake
14 in which she said she dragged Abigail Folger from the bed-
15 room to the living room.

16 All right, if you were an attorney and it was
17 your job to represent somebody charged with having made a
18 statement like this, how do you think you would proceed?

19 How do you think you would attempt to establish
20 what actually occurred?

21 Throughout this trial you heard the lawyers
22 argue and beef about this problem of a foundation.

23 You have heard objections on the basis of lack
24 of foundation -- "foundation, foundation."

25 Well, one way you are going to attempt to
26 determine whether the statement was actually made is, you

5b-4

1 are going to try to find out the foundation. You are going
2 to try to find out when it took place, the statement, where
3 it took place, who was present, so that you can determine
4 was your client there at that particular time and place,
5 so that you can contact other people and find out if they
6 heard the same conversation.

7 So on cross-examination I attempted to establish
8 just that:

9 "Q Miss Lake, have you ever been treated
10 by a physician for amnesia?

11 "A No.

12 "Q Is there anything wrong with your
13 memory?

14 "A No.

15 "Q Who was present besides yourself when you
16 and Patricia Krenwinkel allegedly had this conversation
17 with Patricia Krenwinkel about this murder at Barker
18 Ranch or Willow Springs?

19 "A I don't know.

20 "Q What was the date of the conversation?

21 "A Late August, early September."

22 Late August -- early September.

23 "Q Do you know a date?

24 "A No.

25 "Q Do you know what day of the week it was?

26 "A No.

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"Q Do you know whether it was actually in August or actually in September?

"A No.

"Q Have you testified to the complete conversation you had with Patricia Krenwinkel?

"A I don't understand the question.

"Q Have you testified to the complete conversation you had with Patricia Krenwinkel, that conversation taking place at Willow Springs or Barker Ranch in late August or early September, have you told us the entire conversation you had on that subject matter?

"A No."

6 fls.

6-1

1 Well, if she hasn't told us the entire
2 conversation, pray tell what else was said?

3 Was something said that interprets that state-
4 ment about Abigail Folger in Patricia Krenwinkel's behalf?
5 What part of the conversation are we missing?

6 If we are going to determine what evidentiary
7 effect to give this statement, let's hear the entire
8 statement.

9 "Q You remember the entire conver-
10 sation?

11 "A No.

12 "Q Do you have any idea who was
13 present besides yourself and Patricia
14 Krenwinkel?

15 "A Some.

16 "Q Is it one of several people?

17 "A I don't understand the question.

18 "Q You don't know who was present
19 besides yourself and Patricia Krenwinkel; correct?

20 "A No.

21 "Q But there were other people; is
22 that right?

23 "A Yes.

24 "Q How many other people were there?

25 "A Approximately five."

26 All right. So there are five independent

Handwritten:
Krenwinkel
Folger
Folger

witnesses to this conversation, independent from Dianne Lake.

"Q And do you remember any of them?

"A No.

"Q How many people did you know who resided in Inyo County in August and early September, 1969?

"A I don't understand the question.

"Q How many people did you know who lived in Inyo County in August or September of 1969?

"A 15, approximately.

"Q And approximately five of those 15 were present when you had this conversation with Patricia Krenwinkel?

"A Yes.

"Q But you don't know which five?

"A No.

"Q Do you remember whether the conversation took place at Barker Ranch or at Willow Springs?

"A No."

What would you have me do? Or what would you do if you were asking Dianne Lake questions?

You can ask her who was present so that you can get some independent verifiable information about

1 whether or not A, the statement was made; if it was made,
2 what was the balance of the conversation; and C, the
3 circumstances surrounding the entire conversation.

4 She doesn't know who was there. She admits
5 there was an entire conversation. She admits there was
6 more conversation than what she testified to, but she
7 doesn't know what it was.

8 I talked yesterday sort of about a written
9 contract in terms of a conspiracy case, and we said it
10 was unlikely, but I also mentioned that the reason busi-
11 nessmen put their contracts in writing are that if at a
12 later date there ever becomes a question about a term of
13 the contract, you don't have to rely on your memory, you
14 can pick up the contract out of your file and you can read
15 it, and frequently you say: Wow, I didn't realize that
16 was there. Particularly when you are getting sued.

17 Contracts in writing embody, in a precise
18 form, conversations between and among people.

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5a

5a-1

1 There is no written record of this conversation.

2 If you are not going to write down this conver-
3 sation, another way to perpetuate it would be when the
4 events were fresh in your mind, while they were still
5 pretty clear, you made some notes to yourself, you wrote
6 it down.

7 Obviously, none of these happened.

8 And I don't really expect Dianne Lake to make
9 out a written contract, and I don't expect her to write
10 this down verbatim, and I don't even expect her to make
11 a note of it.

12 It is a verbal, oral conversation she had with
13 somebody a year ago, and I don't expect her memory to be
14 good about it. But if you are going to use it against
15 Patricia Krenwinkel, her memory better be good, because if
16 there are two words out of place, or one word out of
17 place, that statement doesn't make any sense. In total,
18 it doesn't make any sense.

19 Are you convinced that that is exactly what
20 Patricia Krenwinkel said?

21 If it is not, you can't use that evidence
22 against her.

23 If that is Dianne Lake's recollection, her
24 vague recollection of what took place in August or September
25 of 1969, if that is no more than a vague reconstruction of
26 the events, it is useless to you. It is useless to you,

1 Would you trust somebody near and dear to you
2 who tried to recall precisely and exactly a conversation
3 that took place a year ago, a year and a half ago? Somebody
4 without the kind of impediments that Dianne Lake had in
5 her life? Somebody who you could look at and say was
6 more empirically reliable than any Dianne Lake?

7 Now, this is again not a case of first impression.

8 These problems have arisen frequently since the
9 beginning of trials and lawsuits. And for that reason,
10 you are going to be given an instruction concerning how
11 to evaluate statements, oral statements, of defendants that
12 are allegedly made out of court.

13 The last line of this instruction is as follows:

14 "Evidence of an oral admission of the defendants
15 ought to be viewed with caution,"

16 "Evidence of an alleged oral admission of the
17 defendant ought to be viewed with caution."

18 The law is going to tell you to be very, very
19 careful about oral statements you use in arriving at your
20 decision in this case.

21 And I wouldn't belabor the point so much if
22 it were simply Dianne Lake in this case. But it wasn't.
23 It was witness after witness after witness after witness
24 who got up on this witness stand and in a cavalier fashion
25 purported to tell you precise and exact conversations that
26 they had with Charles Manson and Susan Atkins and Patricia

1 Krenwinkel and everybody else. The topics of these
2 conversations ranging from philosophy all the way down
3 to dune buggies, relating to almost every imaginable topic.

4 And there wasn't a witness here who was a
5 polymath. There wasn't a witness here -- I am sure you
6 are familiar with the term photographic memory -- somebody
7 that looks at a page and they can remember it verbatim.

8 There is also a memory called a phonographic
9 memory; that is, a memory where you remember everything you
10 hear. No witness in this case had a phonographic memory.
11 None of these people.

6b fls.

b-1

1 These people also were particularly casual
2 about the whole thing, because when you tried to defend
3 your client against these statements, when you tried to
4 pin these people down, when you tried to ask them: When
5 did this conversation take place? So that you could get a
6 limit to it, so you could hold it, so you could analyze it.
7 They said something during the months of August and
8 September, or sometime during the summer months of 1969.

9 And when you would ask them over and over
10 again, what day?

11 Well, we didn't pay any attention to days.
12 One day merged into the next.

13 Could it have been a Sunday?

14 Yes, it could have been a Sunday.

15 A Monday? A Tuesday? A Friday?

16 Could it have been August?

17 Yes, it could have been August.

18 Could it have been July?

19 It could have been July.

20 Who was present?

21 I don't know who was present. You know, every-
22 body who was at the ranch was present.

23 So then you would start off on that little
24 tangent.

25 How many people were at the ranch?

26 Well, I don't know.

1 Well, were there ten people at the ranch?
2 Were there 80 people at the ranch? 800 people at the ranch?

3 Well, some people would say 20, some people
4 would say 40, some people would say 150.

5 So, then you would say: Okay. Let's go down
6 the list of people that lived at the ranch. And they
7 would give you about six names.

8 Then you would say: Well, what about Bruce?
9 What about Karate Dave? What about 86 George? And all
10 these names.

11 Well, they would say: I don't know if he was
12 there then or not. He might have left. I don't know if
13 he was a member of the Family or not. He hung around there
14 for a while. I don't know if he heard this conversation or
15 not.

16 What can you do to defend against these
17 statements?

18 Then you get somebody like Juan Flynn who
19 walks in this courtroom and he tells you exactly, precisely,
20 word-for-word, the content of two notes that had been given
21 him six months before that, unfortunately, he lost in the
22 laundry, so you can't verify to determine whether or not
23 they are exactly what he is telling you.

24 Verbatim. It was beautiful. He even remembered
25 there were flowers on the note.

26 He remembered it perfectly, but you ask him

1 what date a conversation took place that he had with
2 Manson,³ and he can't remember.

3 THE COURT: Mr. Fitzgerald, we will take our recess
4 at this time.

5 Ladies and gentlemen, do not converse with any-
6 one or form or express any opinion regarding the case
7 until it is finally submitted to you.

8 The Court will recess for 15 minutes.

9 (Recess.)
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6c-1

1 THE COURT: All counsel and jurors are present.

2 You may continue, Mr. Fitzgerald.

3 MR. FITZGERALD: If the Court please, we would like
4 to bring this diagram over just a little^{bit}/closer to the jury
5 briefly.

6 THE COURT: Very well.

7 MR. FITZGERALD: It will just be a second.

8 I apologize for the art work.

9 Let me get over here. I apologize for the art
10 work.

11 The reason we brought this over, as I indicated
12 to you yesterday, it is a drawing, it is a tracing of the
13 prosecution's exhibit, and I filled in various things,
14 and I wanted to show you the things that I mentioned yester-
15 day and this morning.

16 Starting at the top and working over.

17 Obviously, at the top of the diagram, this is
18 the gate through which anybody can secure attendance. As
19 I said yesterday, it is approximately 60 feet from the gate
20 to the Rambler.

21 I measured the distance across the lot, and
22 it is approximately 54 feet.

23 It is approximately 42 feet from the edge of
24 the two-story garage to the concrete abutment.

25 This is a water hydrant located near the
26 garage.

6c-2

1 The yellow marking here demonstrates where the
2 fence was broken.

3 The yellow line immediately below it indicates
4 where the abutment was scraped.

5 Approaching the house and approaching the
6 nursery bedroom, and this was the bedroom about which --
7 the name of the witness escapes me, but he was employed
8 by an interior decorator to paint the bedroom, and was
9 actually in the process of painting it on the 8th -- it
10 is this bedroom window that the police opined was the point
11 of entry, and that is where uneliminated print M was found,
12 uneliminated print L-5, and uneliminated print L-17.

13 Immediately adjacent, on the outside corner of
14 the nursery bedroom, is a fire hydrant.

15 Going to the back of the kitchen, on the kitchen
16 window is where uneliminated print L-13 was found.

17 Coming back to the house, the areas here
18 marked here S, S, S, S, T, T, T, S, S indicate the blood
19 of Tate, Sebring, Tate-Sebring, and you can see all throughout
20 the green -- the green markings here are shrubbery. Actually,
21 this portion that I am pointing to now is actually the
22 flagstone porch. And you can see that there is a considerable
23 amount of blood outside on the porch, and some actually in
24 the shrubs, and some down the walkway, as well as some in
25 front of the shrubs.

26 The red circle indicates where the glasses were

1 found next to the trunks. The two trunks are marked here
2 with an S.

3 Here is L-3, an uneliminated fingerprint.

4 There is another uneliminated fingerprint here,
5 L-15.

6 This is where the distance from the back
7 bedroom to the front bedroom is marked off and measured
8 36 feet.

9 6d fls.
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6-d

1 Another fire hydrant at the back of the house.
2 An indication of where uneliminated fingerprints L-4-A were
3 found and L-2 were found. Also an indication of a green
4 hose.

5 In addition to the facts that were unable,
6 through the testimony of Dianne Lake, to establish the
7 basic questions who? what? when? and where? Who was
8 present at the conversation? When and where it took place?
9 And the entire conversation? You may choose, for other
10 reasons -- those are good enough reasons to be extremely
11 careful about her testimony; in addition to the fact that
12 you are going to be instructed that any testimony of an
13 alleged admission ought to be treated with caution -- that
14 is enough to disregard her testimony -- but if that isn't
15 enough to disregard her testimony, there are some other
16 factors you might want to take into consideration in
17 evaluating Dianne Lake's testimony.

18 I talked yesterday about the witness who was
19 willfully false in a material part of her testimony. How
20 that witness ought to be distrusted in other particulars.
21 And that you had the power, and perhaps even the duty, in
22 some situations, to reject all of the witness' testimony,
23 or a substantial portion of a witness' testimony if you feel
24 that witness has been materially false, willfully false in
25 a material, important part of their testimony.

26 Now, Dianne Lake is in a very peculiar position.

1 Dianne Lake -- also, you are going to be instructed that
2 there is something called inconsistent statements.

3 You have seen a lot of it during the course of
4 the trial. A witness testifies one way on the witness
5 stand. And then one of the lawyers says: Well, but didn't
6 you say this on such-and-such a date?

7 An inconsistent statement. At some time previous
8 they have said something that contradicts their present
9 statement. That is called an inconsistent statement.

10 Obviously, if what people are talking about is
11 the truth, obviously their statements are going to be
12 consistent, with some minor variations.

13 If they are not, however, it is likely that
14 they may -- it is not likely, but it is entirely probable
15 that at some previous time they made an inconsistent
16 statement.

17 Now, evidence of inconsistent statements can
18 be used by you for the truth of the inconsistent statement.

19 Maybe I am not making that clear. In a sense,
20 it is a little complicated to me, and I will try to explain
21 it.

22 If I got on the witness stand and I said that
23 something happened on May 12th, and then I was impeached,
24 one of the lawyers pointed out that I had actually, at an
25 earlier time, said that it occurred on May the 9th, and
26 it was important for you to determine when something

1 happened, you could consider that previous inconsistent
2 statement, although it was made outside of the court, for
3 the truth of the matter asserted. That is to say, you
4 could actually say to yourself: Uh-huh, it happened the
5 9th. It didn't happen the 12th as he says on the witness
6 stand.

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1 In other words, not only can you consider the
2 fact that a witness previously made an inconsistent statement,
3 but you can consider the contents of that inconsistent
4 statement.

5 Okay. Dianne Lake made an inconsistent state-
6 ment.

7 Dianne Lake made one of the most significant
8 and important, a thing that almost never happens, to catch
9 a witness lying under oath.

10 Dianne Lake -- I will read it to you -- Dianne
11 Lake, now, says this conversation -- says that certain
12 things happened at the Spahn Ranch on August the 8th and
13 the 9th and the 10th, and she got up on this witness stand
14 under oath and she testified that she was here in Los
15 Angeles at the Spahn Ranch on August 8th, 9 and 10.

16 Right?

17 All right.

18 She made a previous inconsistent statement.

19 "Q Where were you on the days of August
20 the 8th, 9th and 10th of 1969?

21 "A Spahn Movie Ranch.

22 "Q Are you sure of that?

23 "A Reasonably.

24 "Q Are you telling the truth?

25 "A Yes.

26 "Q Didn't you testify at the Grand Jury

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1 "under oath that you were in Inyo County on
2 August 8th, 9th and 10th of 1969?

3 "A Yes.

4 "Q In other words, you testified at the
5 Grand Jury that you were up in Inyo County on
6 August 8th, 9 and 10 of 1969; is that correct?

7 "A Yes.

8 "Q Was that the truth or was that a lie?

9 "A It was a lie.

10 "Q You had lied under oath at the Grand Jury?

11 "A Yes."

12 I quoted that from page 16,819.

13 "Q Miss Lake, did you testify under oath
14 at the Grand Jury in this case that the first time
15 you heard anything about the Tate murders was in
16 the Inyo Station after your arrest in the middle
17 of October, 1969?

18 "A Yes."

7 fls.

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1 All right. Dianne Lake has just said that she
2 didn't know anything about any murders involving these
3 decedents, until she was in the Inyo County Police Station
4 in the middle of October.

5 She testified to that on previous occasions,
6 and it wasn't a casual out of court statement. She made
7 it under oath just like she made her statements under oath
8 here.

9 And you can choose to believe that she told the
10 truth when she said that she did not know anything about
11 these murders; or you can choose to believe her, and if you
12 believe her, she was telling a lie because she said she
13 was telling a lie.

14 "Q Miss Lake, did you testify under oath
15 in the Grand Jury in this case that the first time
16 you heard anything about the Tate murders was in the
17 Inyo County Police Station after your arrest in the
18 middle of October?

19 "A Yes.

20 "Q Was that the truth or was that a lie?

21 "A It was a lie.

22 "Q Now, you told us that when you went to
23 Inyo you went to Inyo County with a fellow by the
24 name of Bruce Davis, and another person, is that
25 right?

26 "A Yes.

1 "Q At the Grand Jury, however, you denied
2 knowing the identity of the persons you went to
3 Inyo County with, isn't that correct?

4 "A Yes.

5 "Q And that was also a lie, wasn't it?

6 "A Yes."

7 Those questions and answers are on page 16,821.

8 If you believed Dianne Lake when she testified
9 in this case under oath, how do you square the fact she
10 lied under oath before at a court proceeding, investigating
11 facts in the very incident to which she is testifying in
12 court?

13 Dianne Lake is a liar, and she admits she is
14 a liar, and the problem in evaluating her testimony is
15 determining whether or not she is presently telling^{you}/the
16 truth or telling you a lie.

17 How do you know? Is her testimony in this
18 courtroom more consistent with truth than her testimony
19 before the Grand Jury?

20 Is there any way we are able to tell that she
21 is clearly and unequivocally telling the truth here, and
22 she was lying at the Grand Jury?

23 Is there any way we can determine that she
24 is not lying here as well?

25 Now, one of the things you can take into
26 consideration in evaluating a witness' testimony is his or

1 her admission of untruthfulness, and she has admitted the
2 paramount untruthfulness: She has admitted telling a lie
3 under oath.

4 Now, there is some controversy about whether or
5 not that constitutes perjury. Certainly it constitutes
6 perjury with a small "p"; it constitutes what we know as
7 laymen to be perjury.

8 It may not be legally perjury, but it certainly
9 is what we, or what you ladies and gentlemen consider to be
10 perjury. It is a violation of an oath.

11 Here somebody stands up and swears to God they
12 are going to tell the truth, and they lie.

13 If you can trust a person like that; if you can
14 feel safe with using that kind of testimony in arriving at
15 a verdict, do it. But it is fraught with so many inherent
16 dangers -- it is so terribly difficult to determine when
17 somebody is telling the truth and when they are not, that
18 I suggest to you that her testimony ought to be largely
19 discounted.

20 Now, she not only admits that she told lies
21 under oath, she admits she told lies not under oath, and
22 she has admitted she has lied to a number of people.

23 She has lied to Officer Gutierrez; she admits
24 she lied to him about living at the Spahn Ranch, about
25 her true name, about her age.

26 She lied to Buck Gibbons, the District Attorney

of Inyo County.

In addition to telling lies in connection with this case she also has done something else that perhaps is not legally reprehensible, but it is morally reprehensible.

She is under no duty, apparently, certainly under no legal duty to step forward and say that she lied on any previous occasion.

She is under no manifest legal duty to step forward and indicate that in the past she has been untruthful.

But when you take an oath, you take an oath to tell the truth, the whole truth -- the whole truth and nothing but the truth, and certainly I think implicit in that is the idea that you have got a duty to tell something.

She wants to get up here on the witness stand and say that the reason she lied at the Grand Jury was that she was afraid and that she had been intimidated.

However, she had about 14 opportunities to tell law enforcement personnel when she was in places that were safe and sound, and where she was removed from any intimidating influence, that she did in fact lie, and she lied because she was intimidated. She did not choose to do that.

Now, it is difficult in evaluating other aspects of Dianne Lake's testimony, as well:

On the one hand, she seems to be a relatively bright and alert young girl. On the other hand she has a

1 sort of impenetrableness about her, it's almost as though
2 some part of her mind or some part of her recollection is
3 blocked off or something, because you ask her questions
4 after question, and she says "I don't know. I don't know."

5 If you went through this transcript, I suspect
6 that you would find that Dianne Lake, well, over 100 times
7 answered questions "I don't know." "I can't remember."

8 And Dianne Lake, remember, had an intervening
9 mental illness. She says that she heard or saw certain
10 things back in the summer. In the winter she's mentally
11 ill. Then in the summer she comes here to testify and
12 she is testifying as to things that occurred back before
13 she was mentally ill.

14 It is almost like somebody who had a delusion
15 of grandeur, who believes they are Napoleon, and they walk
16 around in the hospital ward with their hand in their tunic,
17 and they think they are Napoleon, and they are cured and
18 they no longer think they are Napoleon.

19 I wonder, though, if you would trust the
20 reliability of that person to tell you about things that
21 happened before he thought he was Napoleon.

22 Now, there is really some controversy about
23 whether or not Dianne Lake was mentally ill. I think the
24 controversy is nonsensical, but there was some controversy
25 here.

26 Dianne Lake was referred, the evidence indicated,

1 by the Superior Court of Inyo County to the Patton State
2 Hospital.

3 The Patton State Hospital is an institution
4 for the diagnosis, care and treatment of the mentally,
5 emotionally, psychologically and psychiatrically disturbed.

6 She was referred there from a court in Inyo
7 County because she was greatly disabled, and that term
8 was defined as "a condition in which a person, as the result
9 of a mental disorder, is unable to provide for his basic
10 needs, for clothing, food and shelter."

11 She was referred to Patton State Hospital for
12 a reason. The official, documented legal reason for sending
13 her there was that she was greatly disabled.

14 She arrives at Patton State Hospital. The first
15 thing that the efficient personnel at a state hospital in
16 California do, is, they diagnose these people. They diagnose
17 them, obviously, to determine what is wrong with them;
18 to determine what sort of treatment they ought to receive;
19 to determine where within the institution they ought to be
20 placed.

21 People come into Patton State Hospital frequently.
22 People come in and out of California mental institutions
23 every day.

24 They have an institution that has a division of
25 labor. Certain areas of institutions do certain things.

26 They have an admission staff.

1 They have diagnosticians whose duty and
2 function is to diagnose incoming patients.
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Dianne Lake received two diagnoses.

Diagnosis number one was acute schizophrenic reaction, and her alternative diagnosis by another diagnostician was chronic schizophrenic reaction.

Now, acute is a descriptive term meaning of short duration.

Chronic means one of long duration, probably in existence for a year or more.

And the two psychiatrists testified that schizophrenia is a diagnostic label which includes a group of psychotic reactions of a functional type in which there are disturbances of thinking, disturbances of affect, or the feeling tone of the individual, and disturbances of behavior.

Also, disturbances of judgment at times.

Schizophrenia is an illness that ordinarily requires a prolonged course of treatment with periods of remission.

Now, one of these diagnoses was made by a Dr. Bruce Meeks, who is a clinical psychologist, a Ph.D.

He does not have a medical degree. He is not a licensed medical physician in the State of California.

The prosecution thinks that is very important; that he made a medical diagnosis and he is not a medical doctor.

Well, I submit to you a diagnosis of

1 schizophrenia is a psychiatric or psychological diagnosis.
2 It has nothing to do with medicine per se.

3 Unless one poses the premise that all mental
4 illness is related to some physiological disturbance --
5 if mental illness were caused by viruses, then medical
6 doctors would be the most competent, reliable people to
7 diagnose it.

8 But mental illness is not caused by germ-bearing
9 organisms, and it is not related to hematology or anything
10 else, or is not related to chemical imbalances in the sys-
11 tem, then why do you need a medical degree?

12 A clinical psychologist who is a Ph.D., it
13 seems to me, is ideally suited to make these kinds of
14 diagnosis, and he doesn't make it on the basis of an
15 interview he has with somebody. He doesn't sit them down
16 and talk to them for 15 minutes and determine whether or not
17 they are mentally ill.

18 He does interview them and he relies on his
19 judgment. But in addition he verifies his judgment by
20 giving them a number of recognized, acceptable diagnostic
21 tests, tests that are accepted in the profession.

22 He gave her an MMPI, Minnesota Multiphasic
23 Personality Inventory.

24 He gave her a Bender-Gestalt, the sentence
25 completion test, and he formed the opinion that she was
26 schizophrenic; that she was a psychotic young lady,

1 psychotic as opposed to neurotic.

2 Neurotic represents minor emotional disorders.

3 Psychotic represents major psychological and
4 emotional disorders.

5 Dr. Meeks stated that the test results presented
6 the picture of a highly-disturbed person who was presently
7 psychotic.

8 "The patient Dianne Lake frequently
9 experienced hallucinations and depersonali-
10 zation. She expresses many ideas of reference
11 and some feelings of persecution."

12 Some feelings of persecution!

13 "Dianne is a highly conforming, highly
14 suggestible and obedient girl who is very
15 fearful of rejection. Her thought processes
16 are frequently autistic, illogical and confused
17 as is characteristic of the psychotic individual.

18 "She is a highly suggestible -- she is
19 very fearful of rejection; she is highly con-
20 forming."

21 That is what Bruce Meeks, the Ph.D., stated about
22 her.

23 Dr. Oshrin, who is a medical doctor, who is a
24 licensed physician in the State of California for whatever
25 that is worth, in the context, and also, I presume, a
26 psychiatrist, diagnosed her as follows:

1 "Schizophrenia, chronic schizophrenia."

2 Meaning of long duration, of the undifferentiated
3 type with a group dealing with reaction.

4 Dianne stated to Oshrin that she thought she
5 was crazy.

6 Dianne Lake told the psychiatrist she was
7 crazy.

8 Oshrin noted she laughed inappropriately when
9 discussing books she read, and her speech was vague and
10 evasive, and it is difficult to follow and difficult to
11 rectify misunderstanding.

12 Her prognosis, which is the opposite of diagno-
13 sis, which is some sort of an estimate of her future,
14 her prognosis is extremely guarded for any improvement in
15 this girl.

16 It is felt she is greatly disabled and in need
17 of long-term treatment as well as placement after she
18 leaves the hospital, with 24-hour supervision for many years.

19 Linda Hall, a psychiatric social worker on
20 the staff of Patton State Hospital, formed the opinion that
21 Dianne Lake was gravely disabled and in need of a conser-
22 vatorship.

23 MR. BUGLIOSI: Your Honor, I don't think this came
24 off the witness stand.

25 MR. FITZGERALD: Dr. Skrdla, ladies and gentlemen --

26 MR. BUGLIOSI: There is an objection.

1 THE COURT: The objection is sustained.

2 MR. KANAREK: Your Honor, I did not hear it.

3 MR. FITZGERALD: Dr. Skrdla testified that in
4 arriving at his opinion, as the result of examining --

5 That in arriving at an opinion about Dianne
6 Lake, he took into consideration in forming his opinion the
7 official medical reports of Patton State Hospital, and
8 Dr. Skrdla indicated under oath that he had read com-
9 pletely the Patton State Hospital file, and during his
10 conversation and part of his direct examination and redirect
11 examination he actually had the file in his lap while he
12 testified, and he testified that he was familiar with the
13 entries made by the people who had diagnosed and treated
14 Dianne Lake in January of 1970.

15 And he indicated under oath that contained
16 therein was diagnoses made by Linda Hall, a psychiatric
17 social worker, that Dianne Lake was gravely disabled and
18 in need of a conservatorship; that she was in need of
19 continued care and treatment, and that she ought to be
20 certified for 14 days of intensive treatment, and referred
21 to for a conservatorship as gravely disabled.

22 Dr. Deering examined Dianne Lake and testified
23 that perhaps in January of 1970 Dianne Lake was suffering
24 from acute organic brain syndrome with psychosis due to
25 the ingestion of LSD.

26 I think that she, after ingesting LSD, she did

1 experience misperceptions, physical changes and did have
2 visions and auditory hallucinations of Mr. Manson's voice.

3 Dr. Skrdla also formed a similar opinion.

4 Drs. Deering and Skrdla felt that if there was
5 anything wrong with Dianne Lake in January of 1970, it was
6 a psychosis, a mental illness of major proportions that was
7 induced by the ingestion of drugs, particularly the hallu-
8 cinogenic agent, LSD.

9 They differed with the psychiatrist and the
10 psychologist who actually interviewed Dianne Lake upon
11 her admission to the hospital.

12 Drs. Deering and Skrdla candidly admitted that
13 they did not see Dianne Lake at the time she was experiencing
14 hallucinations and delusions. They did not see her in
15 January of 1970 when she was disturbed and distraught.

16 They did not see her after she had been
17 immediately referred by the Superior Court of Inyo County.
18 They felt, however, that she probably did experience a
19 psychotic episode due to the ingestion of drugs.

20 So, in essence, they all agreed, whether it
21 is schizophrenia, chronic undifferentiated type, whether
22 it's another form of schizophrenia, whether it's a drug-
23 induced psychosis, or it is an organic brain syndrome due
24 to LSD really doesn't make a great deal of difference.

25 They all agree that from whatever source,
26 from whatever origin, this young lady suffered a mental

1 illness, of psychotic proportion.

2 Now, Dr. Skrdla indicated on examination by the
3 prosecution, who actually called them as witnesses, to
4 demonstrate to you that there was nothing wrong with
5 Dianne Lake, he testified that those same medical records
6 I referred to indicated that three weeks after her admission
7 she was rediagnosed as having nothing wrong.

8 Nothing wrong with her.

9 The diagnosis was changed from chronic
10 schizophrenia, or schizophrenia, chronic, undifferentiated
11 type, to some sort of adolescent syndrome, normal teen-
12 ager, she was diagnosed as.

13 All right. If that is the case, if by
14 January 21 of 1970 this girl was perfectly normal, what
15 was she doing in a California mental institution?

16 Now, it is a matter of common knowledge, if
17 you have lived in the State for any length of time, and I
18 know all of you have, because you are registered voters,
19 there was in the last gubernatorial election in this state
20 a considerable amount of controversy about mental
21 institutions in California, and about dire need for funds
22 and tax revenues to support those institutions, and feared
23 cutbacks, and so on and so forth.

24 It is extremely unlikely, it seems to me, that
25 in a state where we have a shortage of beds in mental
26 hospitals that a girl who was a normal teenager would be

1 kept in an institution if she was perfectly all right.

2 If there was nothing wrong with her it is
3 extremely unlikely she was quartered in a mental institution.

4 If that is the case, somebody ought to know
5 about it because I am sure if she was a normal teenager,
6 if we accept that diagnosis, there are other young people
7 in this State who are sorely in need of treatment who would
8 not get it because she took up a bed space, and I asked
9 Dr. Skrdla:

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1 "Q Doctor, in your experience are mental
2 institutions in California used for treatment for
3 the mentally ill or are they used as orphanages,
4 foster homes, and this sort of thing?

5 "A They are used as treatment at the
6 present time of the mentally disordered or mentally
7 ill."

8 There might be another reason why she was in
9 that mental institution, even though she wasn't mentally
10 ill. If you decide in your own mind she was not mentally
11 ill, I will talk about that.

12 A lot of times, all the time really, I don't
13 know what, really, what question you have in your mind
14 about the evidence. It is difficult for me to know what
15 you are thinking and what you want answered, and what you
16 want the lawyers to address themselves to. I can only
17 sort of guess and surmise about the questions you have.

18 I will try to legitimately ask any question
19 I think you might have. If I overlook one, I'm sorry.
20 But let's say that you think that she really was all
21 right, there really wasn't anything wrong with her; she
22 had some acid flashback; she had a little LSD -- after
23 all, LSD isn't really harmful. It is an intensifying
24 experience; it makes certain portions of your life more
25 vivid; other than that it doesn't bother you. You can get
26 flashbacks, illusions, feelings of persecution; you can get

7b-2

1 paranoia, but essentially it doesn't harm you.

2 Let's say she is normal. There may be another
3 reason why she was kept there even though she was normal,
4 and Dr. Skrdla and Dr. Deering were cross-examined about
5 this, and they indicated that they saw this indication
6 in the Patton State Hospital file:

7 "Dianne stated that she did not want
8 to do anything to upset the people in Los Angeles
9 from the District Attorney's office, who were her
10 friends."

11 Records of the Patton State Hospital reflect
12 that:

13 "Deputy District Attorney Vincent
14 Bugliosi, of Los Angeles County, wishes to be
15 notified if this patient is motivated towards
16 seeking her release or if you propose her release,
17 inasmuch as at that time she will be apprehended
18 for another matter."

19 Let's give the prosecution the benefit of the
20 doubt because I don't want to think as a lawyer and as an
21 officer of this court, and a man whose taken an oath to
22 uphold the Constitution of the United States and the State
23 of California, and I'm certainly going to assume that Mr.
24 Bugliosi -- and I know in my past dealings with Mr. Bugliosi--
25 I think it's extremely unlikely -- I don't want to think
26 that, but if the prosecution in this case used the Patton

1 State Hospital to keep Dianne Lake quarantined until she
2 could testify in this case, that is manifest dishonesty,
3 ladies and gentlemen.

4 Ordinarily I would not even mention anything
5 like that, but I think there are some things about Dianne
6 Lake that are a little peculiar. She comes here from Inyo
7 County, California, in the company of one James Gardner,
8 a District Attorney investigator from Inyo County, California.

9 Dianne Lake has natural parents. She is though,
10 nonetheless, in a foster home and she is in the foster home
11 of Mr. Gardner from the District Attorney's Office, of
12 Inyo County.

13 Also, recall that Dianne Lake left home when she
14 was 13 years old and had her early drug experiences, drug
15 experiences that are often terrifying in nature, terrifying
16 in nature perhaps even for an adult, but particularly
17 terrifying for a girl who is moving through adolescence,
18 a girl who is moving through puberty and adolescence,
19 without the benefit of a structured home life, without a
20 mother and a father; a girl who is pretty much out on her
21 own, a girl who is diagnosed as being impressionable and
22 highly conforming and terribly afraid of rejection.

8 fls.

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1 She has friends in the District Attorney's
2 Office. She is afraid of rejection. She lives with the
3 District Attorney's investigator in Inyo County. Can she
4 really do anything else but come down here, under oath,
5 and testify against these defendants?

6 Does she really have any opportunity?

7 If I were going to accept the word of somebody,
8 I'd want to make sure that there were no pressures;
9 sophisticated, subtle, unconscious or overt, direct,
10 obvious pressures being brought to bear on somebody.

11 I would like to believe, before I believed the
12 testimony of a witness, that they got up there freely and
13 voluntarily and without any threats, without any
14 intimidation, without any promises of leniency or lesser
15 sentence, immunity or reward, they got up and told the
16 truth for the sake of telling the truth.

17 But I don't think you can reach that con-
18 clusion with Dianne Lake.

19 I forgot what I was going to say. (Pause.)
20 Right. I remember.

21 In addition to the appearance of subtle
22 pressures on Dianne Lake to conform, there was actually
23 overt pressure that was exerted on her.

24 She admitted that she was threatened by a
25 Los Angeles police officer, Officer Gutierrez, who, in
26 essence, threatened her with the gas chamber unless she

1 came across and told him what he wanted to know.

2 This was a conversation where Dianne Lake was
3 alone, a 16 or 17-year-old, possibly mentally-ill girl, a
4 girl alone, a girl without any support, a girl without
5 parents present, friends present, or an attorney present,
6 who had a conversation in jail on November the 26th with a
7 police officer who tells her that unless she comes across
8 she is going to the gas chamber.

9 And he told her other things that you heard
10 from the witness stand.

11 She said: This had no apparent effect on me.
12 It didn't affect me at all. I went right ahead to the
13 Grand Jury and I lied. It didn't bother me at all.

14 Well, maybe it didn't bother her at all, but
15 I doubt it.

16 She knows that she has to say it doesn't bother
17 her. She is not going to get up here after she has testi-
18 fied and say the reason that I said all of this was I was
19 afraid I was going to go to the gas chamber.

20 Those are the sort of -- you don't have anything
21 in jail to do but think. What do you have to do at Patton
22 State Hospital besides think and think?

23 And she knows the prosecution in this case means
24 business because the agents of the prosecution is not above
25 threatening her and not above intimidating her, and he is a
26 240-pound police officer if he weighs an ounce.

1 All right. I'd like to talk about some other
2 evidence, supposed evidence, alleged evidence, relating to
3 Patricia Krenwinkel.
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1 Now, the prosecution brought a witness here from
2 Mobile, Alabama, to testify. They brought a witness here
3 from Mobile, Alabama, to testify as to certain conduct of
4 Patricia Krenwinkel.

5 They are not going to bring a police officer
6 from Mobile, Alabama, to Los Angeles to testify in this
7 case unless they think it is important, obviously.

8 And to illustrate the really incredible lack of
9 evidence in this case, here is what happens. Here is the
10 way.

11 They bring Sergeant McKellar from the Mobile
12 Police Department here to testify as to some sort of
13 consciousness of guilt of Patricia Krenwinkel.

14 He comes here to testify that she did something
15 that would show she was guilty and that, therefore, you
16 ought to consider her guilty. No direct evidence of any
17 guilt, but sort of some evidence that makes you think she
18 is probably guilty or she wouldn't act that way.

19 I take it, that is the thrust, that is why
20 they brought this witness here, to testify that apparently
21 Patricia Krenwinkel tried to hide or something, and she
22 tried to hide because she was guilty of murder and wanted
23 to avoid detection, which shows she is guilty.

24 I mean, even at its face value, that doesn't
25 strike me as being the kind of thing that I would be
26 willing to condemn a fellow human being for. But let's

1 analyze it and see.

2 These are questions by Mr. Bugliosi of Officer
3 John William McKellar, at page 15,372.

4 "Q Briefly relate, Sergeant, the circum-
5 stances immediately leading up to the arrest?

6 "Were you with a fellow officer?

7 "A Yes, I was.

8 "Q What is his name?

9 "A Detective Sergeant Charles" -- I can't
10 pronounce the last name -- S-n-a-p-e-s.

11 "Q Was he driving a police vehicle?

12 "A He was driving a car.

13 "Q You were the passenger?

14 "A I was a passenger.

15 "Q Your car was parked?

16 "A Yes, our car was parked.

17 "Q Where at?

18 "A Bucknell Road in front of Mr. Garnett
19 Reeves' residence.

20 "Q Had you determined that Garnett Reeves
21 was a relative of Patricia Krenwinkel's?

22 "A An uncle of Miss Krenwinkel."

23 I want to stop at this juncture for a moment.

24 Patricia Krenwinkel is in Mobile, Alabama,
25 with a relative.

26 "Q What happened as you and your fellow

1 "officer were parked in the police vehicle?

2 "A We observed a small black Triumph
3 automobile heading north on Bucknell Road.

4 "As it passed the point where we were,
5 on the passenger side was a white female.

6 "She immediately reached over in the
7 back and got a large black felt hat and pulled it
8 over her head, down over her face.

9 "Q Well, before she did that, did the car
10 in which she was a passenger pass your car?

11 "A Yes, it did.

12 "Q How close did it come to your car?

13 "A Within about 15 feet.

8b Fls,

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"Q Did you look at this white female?

"A I did, sir.

"Q Did you observe her looking at you?

"A Yes, sir.

"Q How long after she looked at you did she reach for this large hat?

"A Almost immediately.

"Q And she reached where for the hat?

"A Over the back seat.

"Q Do you recall the type of hat that it was?

"A It was a black felt-type hat, very large.

"Q And she placed this hat over her face?

"A Over her head.

"Q Over her head?

"A Yes.

"Q You have to answer out loud.

"A Over her head down over the side of her face.

"Q How much of her face did the hat cover?

1 "A Well, it covered her ears. You
2 could still see her eyes and nose and mouth.

3 "Q So it covered her ears?

4 "A Yes, sir.

5 "Q Did she pull the hat as far as
6 she could down?

7 "A As far as she could, yes, sir.

8 "Q There was no empty space between
9 the top of her head and the hat?

10 "A No, sir."

11 Excuse me. There was an objection to that
12 question and the objection was sustained, and the Court
13 ruled that it was stricken. You were admonished to dis-
14 regard it.

15 "Q Did it appear that the hat was placed
16 over her head tightly?

17 "A Yes, it did.

18 "Q What happened after you observed
19 this, Sergeant?

20 "A The car continued on north and I
21 advised my partner that it looked like the
22 subject we were looking for.

23 "And we proceeded -- we started to pursue
24 the car.

25 "Q The subject you were looking for
26 was Patricia Krenwinkel?

1 "A That's correct.

2 "Q You may continue. What happened
3 next?

4 "A We followed this vehicle for
5 approximately a block and a half, and stopped
6 it at the intersection of Higgins Road and
7 Bucknell Road.

8 "Q And did you then place Miss
9 Krenwinkel under arrest?

10 "A Yes, I walked around to the right
11 side of the car, the passenger side of the car
12 Miss Krenwinkel was in, and I identified myself
13 as a police officer.

14 "Q Without going into any conversation
15 now, you identified yourself and then you
16 ultimately placed her under arrest, is that
17 correct?

18 "A That is correct.

19 "Q Did she give her name at the time
20 of arrest?

21 "A The minute we stopped her she gave
22 the name of Marnie Montgomery.

23 "Q Marnie Montgomery?

24 "A Yes, sir.

25 "Q She did not give you the name
26 Patricia Krenwinkel?

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"A. She did not.

"Q. When had you received information that she was wanted for these murders?

"A. Approximately 10:00 a.m. December 1st.

"Q. That morning then?

"A. That morning, yes, sir.

"Q. The girl I am standing behind now, is this the girl you arrested?

"A. That is Patricia Krenwinkel. That is her."

Mr. Bugliosi's last statement: "No further questions."

8c-1

Cross-examination by Mr. Fitzgerald.

"Q This intersection here, Bucknell and Higgins Road, is that a public thoroughfare in Mobile, Alabama?

"A Yes, sir, it is, it is in the police jurisdiction.

"Q That is a public street?

"A Yes, it is a public street.

"Q Traffic is not prohibited on the street?

"A No, sir.

"Q And did this car in which Patricia Krenwinkel was a passenger proceed in a normal fashion down the street?

"A That is correct.

"Q Was it speeding or anything?

"A No, sir, it was not.

"Q Were you in a marked police vehicle?

"A Unmarked car.

"Q Unmarked car?

"A Yes, sir.

"Q Yet the moment Patricia Krenwinkel's and your eyes met, she put on a hat?

"A That's correct.

"Q Had you known her and seen her before?

"A No, sir, I had not seen her before.

"Q This was on what day, December 1?

1 "A December 1, yes, sir.

2 "Q You, I take it, read newspapers, do you
3 not?

4 "A Yes, sir, we read newspapers.

5 "Q And you are familiar with the television
6 and the radio and the newspaper coverage in connection
7 with the arrest of the defendants in this case, are
8 you not?

9 "A That is correct.

10 "Q And in this encounter with Miss Krenwinkel,
11 it took place before that publicity was released in
12 Mobile, Alabama, isn't that correct?

13 "A That is correct.

14 "Q And in what manner did you stop this
15 Triumph automobile in which she was a passenger?

16 "A We blew the siren on our police car.

17 "Q Did this black Triumph automobile attempt
18 to elude you in any fashion?

19 "A It did not, sir.

20 "Q Did it speed away?

21 "A No, sir, it did not.

22 "Q Did anyone open gunfire on your car or
23 anything like that?

24 "A No, sir.

25 "Q Was anyone armed at the time they were
26 arrested?

1 "A No, sir, nobody but my partner and I.

2 "Q With the exception of you and your
3 partner?

4 "A Yes, sir, that's correct.

5 "Q Did Patricia Krenwinkel attempt to flee
6 or to run in any fashion?

7 "A She did not.

8 "Q Do you have the hat with you?

9 "A No, sir, I do not."

10 Redirect by Mr. Bugliosi.

11 "Q After the car passed you and you
12 observed Miss Krenwinkel to place the hat over her
13 head, you say the car did not speed away, is that
14 correct?

15 "A It did not speed away, no.

16 "Q Did it increase its speed at all?

17 "A I don't think so, just in a normal
18 driving manner.

19 "Q Your vehicle, you say, was an unmarked
20 police vehicle?

21 "A That's correct.

22 "Q Did it have an aerial on it?

23 "A Yes.

24 "Q Where was this aerial located?

25 "A In the center of the vehicle on the
26 roof.

1 "Q And you say your vehicle was parked
2 close to a relative of Patricia Krenwinkel's?

3 "A That's correct.

4 "Q About how far away again?

5 "A Almost in her driveway, and the house
6 sits back perhaps 200 yards from the road."

7 That concluded Mr. Bugliosi's direct examination,
8d fls. 8 and it concluded my examination.

8d-1

1 The Court asked this question:

2 "Sergeant, were either you or your
3 partner in uniform?

4 "A No, sir, we were not, your Honor."

5 Now, these police officers were not in a
6 marked car, they were not in uniform, there was no
7 indication they were police officers unless we are going to
8 believe that Patricia Krenwinkel driving by in a normal
9 fashion happened to glance over and see an aerial on the
10 top of a car, and immediately put on a hat.

11 The car was driving normally. When they
12 attempted to apprehend her or stop her, the car stopped.

13 Patricia Krenwinkel did not attempt to flee,
14 she did not attempt to run, she did not attempt to hide.

15 This is absurd in many respects.

16 I suppose that you could make an argument that
17 she used a false name, Marnie Montgomery, consequently that
18 shows some sort of consciousness of guilt.

19 I mean, obviously, her other behavior doesn't
20 indicate consciousness of guilt. As soon as the police
21 indicated, "Stop," she pulled over.

22 I think that it is a gross speculation and
23 opinion on somebody's part. I mean, it is like one of you
24 ladies and gentlemen may take off your glasses at the same
25 time I am looking at you, and I may say: See, I looked at
26 him and he took off his glasses. He was afraid to look at

1 me withⁿ his glasses on.

2 It may very well be that you took off your
3 glasses coincidentally with the fact that I happened to
4 look at you.

5 There is nothing about Patricia Krenwinkel
6 putting on a hat that we can directly attribute to the
7 penetrating gaze of Officer McKellar.

8 Now, what about the alias or the false name
9 Marnie Montgomery?

10 Would you convict Patricia Krenwinkel because
11 she didn't use the name Patricia Krenwinkel?

12 Do you attach some significance to the fact
13 that a false name was used?

14 If you do, what sort of significance do you
15 attach to it? Do you think that somebody who used a false
16 name shouldn't be believed? Do you think that?

17 Do you think the mere fact that somebody uses
18 a name that doesn't belong to them, they shouldn't be
19 believed or they shouldn't be trusted, or they are deceitful
20 by nature and character?

21 Do you think that people that go around using
22 false names aren't to be trusted?

23 If you do, then disregard the testimony of
24 about 50 witnesses in this case that came up here and
25 testified to their false names.

26 Take a look at the entire list. Take a look

1 at them. Every one.

2 Take a look at the exhibits in evidence. Take
3 a look at the hundreds of names you have heard during the
4 course of this case.

5 How many names was Linda Kasabian known by?
6 How many names was Paul Watkins known by? How many names
7 was Brooks Poston known by? How many names was everybody
8 that testified from this witness stand known by?

9 If you are going to disregard or attach some
10 sinister significance to the fact that names different than
11 their own were used, then disregard the testimony of
12 every witness who testified here who at some time in the
13 past had used a false name.

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1 Or another thing is this. I think it is clear
2 that there was no sinister motivation behind the use of
3 these false names by most everybody connected with this
4 case.

5 That is my personal feeling. You don't need
6 to accept that. And I think that there is evidence in
7 the record that sustains my position, but it is certainly
8 something about which reasonable people could differ,
9 and certainly you are reasonable, and I hope I am.

10 If you come to a contrary conclusion, fine.
11 I think, though, that the evidence in this case indicated
12 that the defendants, all the people at the Spahn Ranch,
13 made a conscious effort to assume a new identity; that, in
14 a sense, they dropped out from middle-class American society
15 and they started to form and establish some sort of their
16 own society.

17 One way to remove one's self from one's back-
18 ground, obviously, is to change the clothing you are
19 wearing, and I am sure these defendants were not wearing
20 their high school graduation clothing when they lived out
21 at the Spahn Ranch.

22 They changed certain accoutrements of their
23 way of living, and one of the things they did was change
24 their name. And they changed their identity. They became
25 the identity of nicknames and terms of endearment and
26 affection, and they became whimsical almost in their use of

names.

The use of the names of the people that appear in Spahn Ranch is, in some very odd way, almost humorously poetic.

I don't see anything sinister about the fact that somebody calls themselves Quish or Squeaky or Gypsy or Little Larry or Stickman or The Keeper of the Witches or 86 George or Karate Dave, or any one of these assumed identities sort of.

Another thing bear in mind is this, and this is a bitter pill, I think, for you to swallow. It is hard. Maybe I shouldn't even mention it because I obviously am going to receive some sort of adverse reaction on your part. It is a dangerous thing for me to say, I suppose.

But the police actually represent sort of the enemy to these defendants and to people like them, and to people who have adopted the life style they have adopted.

I don't want to use the term hippie. I think that is a gross oversimplification. It is stereotype that leads to stereotype thinking.

But for the purposes of communication, let's refer to them as hippies.

These kids are hippies. They are engaged in a sort of life style that really affronts other people. It affronts middle class society. It is abrasive.

8f fls.

8e-3
8f-1

1 Police officers don't like them. Police
2 officers hassle them.

3 I mean, let's just tell the truth here.

4 I mean, let's just actually deal with the facts
5 wherever they are.

6 Policemen are not all bad, and policemen are
7 not pigs, and policemen have a responsible and legitimate
8 function in this society, and they certainly do in Los
9 Angeles, and there is not a person among us who would do
10 away with one single police officer.

11 But police officers frequently are bitter,
12 often hostile. They pick on hippies.

13 The evidence in this case indicates that they
14 did more than sort of pick on hippies. I mean, Charles
15 Manson really got hassled.

16 Take a look at the photographs that are in
17 evidence. Officer Olmstead got up here and he testified
18 that all they did was secure Mr. Manson from underneath
19 the porch. All they did was remove him. Once he removed
20 him, he secured him from the place of removal until the
21 place of arrest.

22 But when you start getting, you know, through
23 the euphemisms and asked him what removed means, he said
24 he pulled him out by his hair.

25 And when you ask him what does the word
26 secure mean, he says, well, handcuffed him.

1 Did you lift him up by his handcuffs when he
2 was handcuffed behind his back and actually suspend him
3 by his body weight?

4 No, I didn't do that.

5 Look at the exhibits and see. There was a
6 photographer that was present who has got a picture of
7 Manson being hoisted off the ground. Not one photograph,
8 five photographs.

9 Danny DeCarlo is shown in a photograph in
10 evidence with a bloody nose, standing there under arrest.

11 Danny DeCarlo testified that on the night of
12 the 15th he got drunk.

13 Asked how he got the bloody nose, he said:
14 I was pretty drunk. He said: I guess they worked me over
15 pretty bad.

16 Danny DeCarlo was so drunk, he didn't feel the
17 blows. There is Danny DeCarlo with his bloody nose.

18 Everybody denied any sort of maltreatment.

19 Everybody denied Manson's ribs were kicked in.

20 Everybody denied that they were retaliated and
21 harassed because they lived in a commune in the San
22 Fernando Valley of all places.

23 If I were going to start a commune, I think
24 the San Fernando Valley of the City of Los Angeles would
25 be the last place I would go. I think I might want to go
26 to Mendocino County or British Columbia or Alberta, or

something.

I would want to get as far away from antagonistic society as I possibly could. But, okay. They are there. And the police -- Olmstead isn't a bad man. Olmstead isn't an evil, sadistic, treacherous man who is a police officer because he likes to beat people up. I don't believe that. I don't believe that at all.

He simple represents a different way of life, a different set of moral and social and political attitudes than the defendants do.

8g fls.

8g-1

1 And their job sort of is not an easy one in the
2 sense that everybody in this society is increasingly finding
3 that there are more and more restraints on his or her
4 behavior. It is not easy to operate within the framework
5 of a large metropolitan Police Department. They have got
6 problems, ladies and gentlemen, and in some cases their
7 attitudes may be perfectly proper.

8 The point is this -- the point is this, though --
9 that if you are on the receiving end of somebody lifting
10 you up by the handcuffs, you don't see things quite that
11 way.

12 If you are on the receiving end of being
13 arrested every other time you turn around, and you are
14 obviously -- sure, they have got probable cause to
15 arrest you, they have got a lot of good reasons for arresting
16 you, but the real reason you get arrested is because you
17 have got long hair or you drive around in a psychedelic
18 bus, or you have a peace sign on your forehead, or something.

19 That is the real reason. And that is what they
20 think. That is their psychic reality. That is what they
21 believe. Police are their enemy, be it right or wrong,
22 good or bad. That is the fact, and that is the truth.

23 They are not going to tell the police their
24 true names. I don't blame them. I wouldn't if I were in
25 their situation either.

26 If you, nonetheless, want to use that evidence

1 them, apply it unilaterally -- or whatever -- apply it to
2 everybody. Apply it right across the board. Apply it to the
3 Danny De Carlos and the Paul Watkins and the Juan Flynns,
4 and everybody else who used an alias.

5 I think it is perfectly obvious why they use
6 different names, and I think, in many circumstances, it
7 sort of shoes a certain amount of creativity and imagination
8 and resourcefulness that they selected the names they did.

9 We are born with a name and we can't escape it.
10 They did.

11 We talked about circumstantial evidence, and
12 I'd like to get back to some circumstantial evidence.

13 I think I have pretty well answered, as best I
14 was able, any question you might have as to evidence
15 relating directly and specifically to Patricia Krenwinkel.
16 If there is anything else, I will review my notes and try
17 to address myself to you about it later.

18 There is another item of circumstantial evidence,
19 and it is an item of physical evidence, and it is an item
20 of evidence about which there has been an enormous amount of
21 testimony. The testimony was not necessarily in chronologi-
22 cal order about this exhibit, and maybe I ought to take it
23 and put it in chronological order so that we can sort of
24 understand from the very beginning what occurred, if we are
25 able to.

26 DeWayne Wolfer, an expert from the Los Angeles

1 Police Department, testified that the Los Angeles Police
2 Department -- he testified at Volume 115, Page 12,950 --
3 that the Los Angeles Police Department was aware as early as
4 August 12, 1969 -- as early as, maybe even earlier, but as
5 early as August 12, 1969 -- the Los Angeles Police Depart-
6 ment knew that a weapon used in the killing of decedents
7 Frykowski and Sebring was a .22 caliber Buntline Wyatt Earp
8 Special.

9 They knew that August 12 at least.

10 And here is how they knew it, he said. They knew
11 it from the configuration of the pistol grips.

12 Later evidence indicated that those pistol
13 grips were unique; that the pistol grips were, in fact,
14 pistol grips from a .22 caliber Buntline Wyatt Earp Special.

15 They knew about it August 12, 1969.

-1

1 And they set out to find that gun, wherever that
2 gun may be located.

3 There is an exhibit, Defendants' Exhibit Q,
4 which I will show you in just a moment, that is a photocopy
5 of a .22 caliber Buntline Wyatt Earp Special, with a
6 photograph of the gun in the lower left-hand corner. It
7 contains the following information:

8 "Longhorn nine-shot .22 caliber LR long-
9 horn, 9-1/2 inch barrel.

10 "This long-barrel beauty is reminiscent
11 of the Wyatt Earp days when the Buntline
12 presented the marshal with a similar long-
13 barreled gun; shoots nine shots faster than
14 fanning.

15 "Grip -- something -- trigger action
16 and button swag precision barrel.

17 "Walnut grips, gold-finished trigger
18 guard."

19 All right, this Exhibit Q Sergeant Calkins
20 from the Robbery-Homicide Bureau of the Los Angeles Police
21 Department testified is a copy of a flyer that was sent to
22 every major police department in the United States as well
23 as a number of gun shops and gunsmiths as well as to the
24 country of the Canada, looking for this gun and requesting
25 any information anybody might have about the owners or
26 operators, possible use or possession, any information

1 whatsoever they might get on a possible murder weapon.

2 " They sent this flier during the months, Calkins
3 testified, of August, September, October, November and part
4 of December.

5 The Los Angeles Police Department was looking
6 for this murder weapon in August, in September, in October,
7 in November and part of December. They were looking for
8 this gun. This was the major clue.

9 Gun grips were found broken at the scene, and
10 they knew what kind of a gun they were looking for. They
11 knew exactly what gun they were looking for.

12 It turned out in fact that it was a very unique
13 pistol indeed, we are told.

14 Mr. Lomax from High Standard came here and
15 testified that only 2700 of these pistols have ever been
16 manufactured. Every bit of accurate data concerning this
17 pistol was contained on this flyer that was sent to the
18 Police Departments all over the country for this gun.
19 They were looking, they were looking everywhere for this
20 gun.

21 Now, what about this gun? What about People's
22 40, this gun? They could not have been looking for this
23 gun during August, September or October, November and
24 half of December, because the Police Department had this
25 gun from September the 1st, 1969 to the present time.

26 Steven Weiss testified that he found what he

1 thinks is this gun with the broken guard on his hillside
2 while he was fixing a sprinkler, September 1, Labor Day,
3 1969.

4 He called the Los Angeles Police Department.
5 The Los Angeles Police Department, by Officer Watson, a
6 uniformed, regularly-employed Los Angeles Police Department
7 officer, came out, picked up this gun and took it to the
8 Los Angeles Police Department, and we are told that this is
9 the murder weapon.

10 Do you believe that?

11 Do you believe that the Los Angeles Police
12 Department lost this gun for three months? Lost this gun?

13 They booked it into Property, filled out a
14 report on it. It was in a canyon area a couple of miles
15 from where this offense was committed, from Cielo Drive to
16 Longview Valley Road in the same canyon area.

17 They find a gun with the identical configuration,
18 the precise identical unique gun they are looking for, and
19 they lose it? I don't believe it.

20 They lost it? Are they so grossly irresponsible
21 and negligent that they are going to lose a gun?

22 I suppose what you have to say is that they
23 did not know they had it. Is that reasonable, ladies and
24 gentlemen? Is it reasonable that they are going to be looking
25 all over the country for this gun when it is in their own
26 property division? It is in their own firearms division?

1 Or did they know this gun was there? Was
2 this gun rejected for some purpose?

3 I don't know the answer, but you must believe,
4 in order to believe this is the murder weapon, you must
5 believe that the Los Angeles Police Department officers
6 investigating this case did not find this gun or have any-
7 thing to do with this gun until December 16th, 1969, three
8 months after it was found.

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1 Let's say that through some process of
2 reasoning, reasonable and legitimate, you find in your
3 deliberations that somehow this is it.

4 I've got to assume that for the purposes of
5 argument. I just have to.

6 All right, let's take a look at what we can
7 find out about this gun, okay. This gun, supposedly, came
8 from the Spahn Ranch -- from the Spahn Ranch, and that
9 Manson shot this gun, Danny DeCarlo shot this gun, or
10 Randy Starr shot this gun and, to quote Danny DeCarlo,
11 a couple of broads shot this gun.

12 I've got some names here:

13 Jim, Ouish, Sheri, Squeaky, Gypsy, Brenda,
14 Mike Finney, Karate Dave, Barbara Hoyt, Dianne Lake,
15 Juan Flynn, Brooks Poston, Paul Watkins, Bill Vance,
16 Gregg Jakobson, Little Larry, Johnny Swartz, Randy Starr,
17 Droopy, David Hannum, Stephanie Schramm, Kitty Lutesinger,
18 Linda Kasabian, Larry Craven, 86 George, Mary Brunner,
19 Robert Rhinehart, Zero, D. J. Walleman, Edward Thompson,
20 Al Springer, Static, Ellie Jo Bailey, Charles Pierce,
21 Joe Shoemaker, Stickman, Little Patti, Cupid, Dirty Old
22 Man, The Keeper of the Witches, B.C., Bruce, Danny DeCarlo,
23 Kathy, Richard Allan Smith and Laura Ann Sheppard, Dog and
24 John.

25 That is a list of people that I was able to
26 compile whose names came up in this evidence who during

9a-2

1 July and August of 1969 were present at one time or
2 another in some fashion or another at the Spahn Ranch.

3 In addition to all those people whose names
4 I have just read, bear in mind that the ranch, the
5 Spahn Ranch was open to the public. People came there
6 and rented horses.

7 A variety of witnesses have testified in this
8 case that there was an open house policy at the ranch;
9 that whoever wanted to come could come; whoever wanted to
10 leave could leave.

11 That all sorts of people came, including, if
12 you believe this, which strikes me as somewhat -- forget
13 it.

14 In addition, numerous people came in and out
15 that were not in any sense made members of the census or
16 anything. They did not receive any membership cards.
17 They weren't there long enough for anybody to tag a name
18 to a face or a nickname or anything.

19 But this is just some indication of the number
20 of people who had access to that pistol, if you find that
21 in fact that is the pistol.

22 At least this many people had access to this
23 pistol, and bear in mind that if you are to believe the
24 prosecution, when one joined the so-called Manson Family,
25 everything that was everybody else's belonged to you and
26 everything you had belonged to everybody else.

9a-3

1 Anybody could have taken this gun from the
2 Spahn Ranch, including Linda Kasabian or anybody else,
3 they could have taken this gun from the Spahn Ranch and
4 gone and used it in a murder.

5 As a matter of fact, that seems to be more
6 likely than the fact Charles Manson or Tex Watson would
7 use this gun.

8 Charles Manson is the leader, right? He is
9 the mastermind, right? He has got this power, his power,
10 the people think that he's God, that is how great his power
11 is, according to the prosecution.

12 His power is so enormous that we are led to
13 believe that people follow even suggestions that are not
14 even articulated.

15 If Manson wanted to commit some murders, he
16 doesn't have any problem at all. He can just go in and get
17 a submachine gun, a 12 guage shotgun, a .303 Enfield M-1
18 rifle, a carbine. He is not going to proffer some little
19 .22 caliber pistol and go off on some -- he's a mastermind,
20 he thinks things through, he isn't going to send women
21 to do this job. He is not going to give five people one
22 gun and the worst gun in the arsenal.

23 It strikes me if this is his gun, someone took
24 it from the Spahn Ranch and that would not be difficult at
25 all.

9b fls.

9b-1

1 If this was the gun!

2 Juan Flynn testified that he saw Manson shoot
3 this gun, and the purpose of Juan Flynn's testimony was
4 to tie this gun to Manson and to tie the gun to the Spahn
5 Ranch.

6 Incidentally, who is the registered owner of
7 this gun? Maybe we should put him on trial.

8 Is Manson the registered owner of this gun?
9 If he was you would have heard about it, I'm sure.

10 Who is the registered owner of this gun? Where
11 did this gun come from? It would be just as reasonable
12 to put the registered owner on trial, wouldn't it? The
13 registered owner had access to this gun, didn't he?
14 Put the registered owner on trial; we will bring him in
15 here and make him prove he didn't -- we will make him
16 prove he sold the gun or he gave it away or somebody took
17 it from him.

18 Anyway, Juan testified Manson shot this gun,
19 and the reason he testified he shot this gun was to tie
20 the gun to Manson and to tie the gun to the ranch, right?

21 Or Danny DeCarlo. Maybe Danny DeCarlo ought to
22 be on trial. There is the keeper of the guns. That is
23 the man who is the custodian of the arsenal at the Spahn
24 Ranch.

25 That is the man who repairs guns; he is
26 currently employed as a gunsmith in Medford, Oregon.

1 That is the man who gave tender loving care
2 to guns to the exclusion of human beings occasionally,
3 a man who powders his own shells, a man who considered
4 himself to be an expert, an unqualified expert.

5 Incidentally -- well -- an unqualified expert
6 in the use and manufacture and repair of firearms.

7 And all these guns, all these guns, all these
8 guns were with Danny DeCarlo in his bunkhouse. DeCarlo
9 had custody of these weapons; not Manson.

10 It was apparent that anybody could use the
11 gun at the ranch, anybody can shoot the gun, and I just
12 read off a list of people who had access to the gun.

13 This is a convenient time, your Honor.

14 THE COURT: Ladies and gentlemen, do not converse with
15 anyone or form or express an opinion regarding the case
16 until it is finally submitted to you.

17 The court will recess at this time until 1:45.

18 (Noon recess.)
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LOS ANGELES, CALIFORNIA, TUESDAY, DECEMBER 29, 1970

1:54 P.M.

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(The jurors are present. All counsel are present. Defendants absent.)

THE COURT: All counsel and jurors are present.

You may continue, Mr. Fitzgerald.

MR. FITZGERALD: Thank you, your Honor.

Just before noon I was talking about Juan Flynn and Juan Flynn's testimony that he had actually seen Manson fire this pistol.

It is contained in Volume 104 at Page 11,944, and it is significant:

"Q Now, you saw Mr. Manson with a gun, and you know you saw him with a gun because he shot at you; right?

"A Right.

"Q And you were with a girl at the time; correct?

"A Correct.

"Q Who was the girl?

"A It is just one of the girls that come up to --

"Q Visit you?

"A No. To walk around the woods. To see the woods.

1 "Q Did you ask her her name,
2 Mr. Flynn?

3 "A No.

4 "Q You never saw her before or since
5 either, right?

6 "A Uh-huh. Well, I don't want to say
7 her name, you know."

8 Well, it is sort of the old problem. How do
9 you defend yourself against these sorts of allegations?
10 If witnesses mention the existence of other witnesses but
11 will not help you in attempting to secure their attendance?

12 I think what we are going to see as we read
13 on, and this is never considered to be a very good thing
14 for a defense attorney to do, a defense attorney should
15 never say somebody is lying, a defense attorney should
16 always couch his argument in terms of the fact that
17 people are mistaken, that an innocent misrecollection is a
18 common thing, or it is possible that a witness was mis-
19 understood or mistaken.

20 That is not the case. Juan Flynn is telling a
21 lie.

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"Q Do you know her name?

"A Uh-huh.

"Q What is it?

"A I don't know her name, let's put it that way, okay?

"Q You understand you have taken an oath to tell the truth, Mr. Flynn?

"A Yes, I understand, and I'm also going to protect, you know --

"Q Even it means" --

The question was objected to:

"A Yes, I understand and I am also going to protect, you know --

"Q Do you know this girl's name?

"A No.

"Q Are you sure you don't know her name and you are just trying to protect her?

"A I'm sure, I'm sure.

"Q Where does she live?

"A She just came up to Spahn Ranch and we went walking in the woods.

"Q How old is she?

"A About 18.

"Q How tall is she?

"A Can I stand down there?

"Q Are you capable of estimating

1 "height in terms of feet or inches?

2 "A. About five-seven.

3 "Q She was a female Caucasian?

4 "A. White."

5 Then skipping some questions:

6 "Q What is her name?

7 "A. I don't know her name, you know.

8 "Q Where can she be located?

9 "A. It's just a girl, you know, she
10 came up in a Volkswagen, you know, and, you
11 know --

12 "Q You never saw her before that day,
13 is that right?

14 "A. Before that day, yes.

15 "Q Did she just ride in and ask to
16 go for a tour of the bushes?

17 "A. Well, yeah, yeah.

18 "Q What did she say, do you recall?

19 "A. Well, she agreed, she went along,
20 you know.

21 "Q Did you introduce yourself?

22 "A. Yeah.

23 "Q You told her your name was Juan?

24 "A. Yeah.

25 "Q What did you call her, 'Girl'?

26 "A. Just woman, you know, just woman.

1 "Q Did she come up all alone in
2 a car?

3 "A She had a girl friend, you see."

4 Then skipping some questions:

5 "Q You thought somebody was shooting
6 at you, didn't you, Mr. Flynn?

7 "A I did not say I thought. I said
8 that the shots were fired in my direction,
9 which I was located at, you see, where I was
10 located at, the fires were shot, you see.

11 "Q And you knew they were .22 caliber
12 because you could tell by the sound, right?

13 "A I could tell by the sound, and I
14 was watching the man by the creek. It was 25
15 feet, or something like that.

16 "Q But you did not get excited or
17 disturbed or anything; you did not run for your
18 life. You just kept walking to the back.

19 "A Well, I fanned the girl to the
20 side, you know, and we just walked."

21 Do you believe Manson shot at Juan Flynn and
22 his girl friend? If so, why doesn't Flynn say that
23 Manson shot at him, and if so, and there was a witness,
24 Juan Flynn's girl friend, why doesn't he tell us who she
25 is?

26 He first says when he is questioned that he

1 knows who she is; that she is a friend of his.

2 When asked what her name is he says, "Well,
3 you know, I've got to protect."

4 And then he says he doesn't know. Juan Flynn
5 is not telling the truth. What reason, what possible
6 reason would he have to protect this girl?

7 And if he is in fact protecting this girl,
8 you are deprived of the facts. If there is another
9 independent witness, a witness more independent than Juan
10 Flynn, a witness who did not receive \$1,100 for his story of
11 life in the Manson Family, if you can get somebody that was
12 independent, somebody that did not have the bias, interest
13 and motive that Juan Flynn has, if that person were
14 available, we could bring that person in as a witness to
15 verify, some independent observer, to tell us if these
16 occurrences actually occurred.

17 But he deprives us of that opportunity and he
18 does so in a very deceitful fashion.

19 It is the same Juan Flynn who is six feet,
20 five inches tall, weighs 187 pounds, is 26 years old and is
21 in good health, who runs up and down mountains.

22 It is the same Juan Flynn that was a light-
23 heavyweight boxer in the State of Alaska.

24 It is the same Juan Flynn who was intimidated
25 by a five-foot, three-inch, 110-pound girl who handed him
26 a note saying, "This is an indictment on your life."

1 I think if you believe the testimony of Juan
2 Flynn that you have certain inherent problems.

3 I think that Juan Flynn really accurately
4 demonstrates the type of witness we had in this case.

5 We have had witnesses who have this tremendous
6 bias, interest and motive in the outcome of this case.

7 We have these witnesses who tell us, like
8 Juan Flynn, like Paul Watkins, like Brooks Posten, who
9 actually made money off the sale of their stories,
10 or their versions of events.

11 Paul Watkins, you will remember, in connection
12 with the Satan's Second In Command, each one of those
13 people received \$1,100. Each one of those people, and
14 what is so terribly crucial and so terribly important is
15 that every one of these witnesses who have testified for
16 the prosecution against these defendants came forward
17 after November or December of 1969.

18 I would believe some of these witnesses if
19 they had the forthrightness to step forward and tell the
20 truth when the truth was important; if they had stepped
21 forward and told their brand of the truth at a time of
22 perspective in this case when their testimony could have
23 been critically analyzed and evaluated.

24 But after people start putting television
25 cameras in your face, and still photographers are looking
26 at you, and every reporter from every newspaper in the

1 world, and every reporter from every periodical in the
2 world descends upon you and you step forward and give
3 information of ostensible news character in return for
4 money, I severely and substantially question the source of
5 that information.

12-1

1 If these people were so righteous, if Juan
2 Flynn is not telling you a damn lie, how come he didn't
3 step forward in August of 1969 or September of 1969?

4 He purports to testify to some confession
5 Charles Manson made in a kitchen at Spahn Ranch. Why
6 didn't he dial up the Police Department?

7 Is he afraid? He is a big strapping guy. He
8 could pick up five foot four inch Charlie Manson and bounce
9 him against the wall.

10 Is he under Manson's control? Is he under
11 Manson's mesmerization and Svengali-like control? Is he
12 a bootlicking slave of Manson?

13 No, he never was, and he never will be.

14 Well, then, you explain to me why he didn't
15 come forward with what he considers to be this crucial
16 information.

17 Juan Flynn, the man who said he didn't come
18 here to pompous himself.

19 Ask yourself about each one of these witnesses.
20 Why did they deign it important enough to bring this
21 information to your attention, or anybody else's attention?

22 Was it in December of 1969? If it was in
23 December of 1969, or later, forget about it. These
24 offenses were committed in August.

25 You ladies and gentlemen know, as well as I
26 do, that this was information that reverberated around the

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1 world. These people can't say they didn't know these people
2 met their deaths. And as soon as these people came into a
3 position to relate to the information they had to relate,
4 they should have related it.

5 I would treat with jaundice, critical caution
6 any information that came after the publicity in this case
7 broke.

8 I started off talking about Juan Flynn because
9 I started off talking about a People's Exhibit, a pistol.

10 Incredibly enough, and almost, well, I guess
11 incredible means unbelievable, the prosecution has introduced
12 exhibits 51, 52, 53, 54 and 55. A group of clothing --
13 pants and shirts that they say are dyed, incidentally --
14 but a group of shirts and pants that were found at the
15 bottom of Benedict Canyon immediately across from the
16 address 2901 Benedict Canyon.

17 They claim this was the set of clothing worn
18 by the persons who perpetrated the homicide.

19 Sergeant Michael McGann of the Los Angeles
20 Police Department testified that he employed a large group
21 of Boy Scouts to search with him, 75 to 80 boys, plus
22 perhaps five to seven police officers.

23 "I searched this area on several occasions,
24 and then on one occasion I took a squad of police
25 officers, Metro men, I believe, nine, plus a
26 supervisor, and they conducted a search from

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"Mulholland Drive to actually where the Weiss residence
is."

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1 He testified it took them approximately eight
2 hours during that time.

3 "I did not find any knives, nor did any of
4 the officers or any of the Explorer Scouts, nor
5 did we find any clothing."

6 Then on December 15 -- December 15 -- 1969,
7 how fortuitous that a television news crew from Channel 7
8 finds these exhibits.

9 A full crew, incidentally, King Baggott, a
10 cameraman, Eddie Baker, a sound man, and lo and behold,
11 they even have got a reporter to go on the air, Al Wyman.
12 And they find this group of clothing at the bottom of
13 Benedict Canyon some place off the road, at the first
14 wide spot in the road as you come up Benedict Canyon Drive
15 and turn.

16 Do you believe that? Do you believe that the
17 Los Angeles Police Department diligently searched the area
18 of Benedict Canyon for any instrumentalities of this
19 offense, including knives, guns, any kind of weapon,
20 clothing?

21 So important was this search that they utilized
22 other bodies. They incorporated and enticed some Explorer
23 Scouts apparently to walk up and down those hills and to
24 search for any disposed of instrumentality of this offense.

25 And they do it not once, McGann testifies,
26 they do it on several occasions.

12a-2

1 Then a television news crew finds some clothes
2 at the bottom of the canyon.

3 I am sure -- there is only one thing I am
4 surprised at in retrospect almost, and that is that it
5 wasn't found by a movie crew, and that it wasn't put on
6 Cinemascope with sound.

7 A television news crew finds the clothing
8 that the prosecution alleges was worn by these defendants,
9 three and a half months after these offenses were committed.

10 Are we to believe that?

11 Then they have a terribly difficult time
12 attempting to determine whether or not there is actually
13 any blood on the clothing, and everybody started playing
14 a little game with you called "Blood, No Blood, benzidine,
15 animal, human."

16 But let's recall that the testimony of their
17 experts is that, first, a test, a typical test is performed
18 to determine the presence or absence of mammalary blood,
19 period.

20 The test only determines whether or not there
21 is blood. That only indicates that in a broad generic
22 category it is animal or mammal's blood.

23 Further tests must be performed to determine
24 whether or not there is a human precipitant present in
25 order to determine whether or not it is human blood.

26 And not one of these experts, not one of them,

12a-3

1 is willing to state under oath that there is human blood,
2 unless they can have a positive scientific result on their
3 human precipitant test.

4 Exhibit 51, a pair of Sears-Roebuck Levi-type
5 pants. Positive for blood. It received a positive benzidine.
6 Not positive for animal blood. Not positive for human blood.

7 52. A black T-shirt containing a Sears-Roebuck
8 label. Negative for human blood. Negative for animal
9 blood. Only one area gave a positive benzidine.

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1 53. A white T-shirt. Negative for
2 animal blood. Positive for human blood, type B. Positive
3 Benzidine on all the areas circled.

4 On 53, a trace of human blood type B was found.

5 How many people in America have type B blood?
6 How many people in the State of California have type B blood?
7 How many people in Los Angeles County have type B blood?

8 There was no sub-typing of this blood.

9 54. A heavy blue T-shirt with a pocket on the
10 left front bearing a Penney's Towncraft label. Benzidine
11 negative.

12 55. Black denim pants with Towncraft label.
13 No Benzidine. No blood.

14 56. Denim trousers, Diamond Brand label.
15 No Benzidine. No blood.

16 I find it almost incredulous that a
17 television news camera crew would find, if we assume that
18 these are the clothing worn by the killers, I find it
19 incredulous that they found it as opposed to the police
20 department.

21 There are a number of inferences, I suppose, we
22 could draw.

23 Inference number one is that that clothing
24 wasn't there when the police looked for it.

25 Inference number two is that it was there and
26 the police overlooked it. That doesn't seem to make much

1 sense because the police apparently were diligent in their
2 efforts. Not only did they look themselves, but they
3 actually had other people look with them.

4 The clothing was found in an accessible spot.
5 The first wide spot in the road, and the first natural
6 point, we are told, where somebody would discard such
7 instrumentalities of the crime.

8 If, in fact, you believe that these were the
9 items of clothing worn by the defendants, what makes you
10 think it is?

11 Because on one item of clothing there happened
12 to appear B blood?

13 What is so peculiar about finding five items
14 of clothing in Los Angeles? Is there any item of this
15 clothing that is terribly peculiar or distinctive?

16 A Sears-Roebuck Levi type pants. How many
17 thousands of pairs of pants do you suppose there are?

18 A black T-shirt containing a Sears-Roebuck
19 label? How many Sears-Roebuck black T-shirts are there?

20 A white T-shirt? There must be 10,000,000
21 white T-shirts.

22 Heavy blue T-shirt with pocket on the left
23 front bearing a Penney's Towncraft label. Black denim
24 pants with a Towncraft label.

25 Is there anything peculiar about that item of
26 circumstantial evidence? Can you say that that item of

1 circumstantial evidence points unerringly to somebody's
2 guilt?

3 Can you use, in your mind, that item of
4 circumstantial evidence and say to yourself, or say to your
5 fellow jurors, that it points unequivocally to somebody's
6 guilt?

7 Or are there other reasonable hypotheses that
8 are just as consistent with innocence as they are with
9 guilt, and the clothes in themselves prove absolutely
10 nothing.

11 Do they corroborate Linda Kasabian?

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1 Does this clothing independently tend to connect
2 the defendants with the commission of the offense? The
3 answer to that is no.

4 Does in some other fashion -- do these items
5 of clothing support the testimony of Linda Kasabian?
6 Perhaps they do; they would seem to.

7 Linda Kasabian says they threw the clothes over
8 the side at a point in space shortly after she left Cielo
9 Drive.

10 Maybe Linda Kasabian put them there. The
11 clothes were not found until December 15th. But the clothes
12 were found, and that supports Linda Kasabian's testimony,
13 where are the missing knives she testified to? Some of
14 this evidence you simply cannot go anywhere from.

15 This rope, throughout this case we have talked
16 about this rope, and some sort of rope that Manson had in
17 his dune buggy.

18 This is apparently a nylon three-strand standard
19 rope or line.

20 There is nothing that appears to be terribly
21 distinctive or peculiar about this rope except, perhaps,
22 that this length of rope would be expensive, as opposed
23 to jute rope.

24 Now, as a matter of fact, some witnesses say
25 that Manson was enamored of a gold nylon rope. This is
26 obviously not a gold rope.

1 What they want you to believe is that because
2 Manson in the course of living at the Spahn Ranch had
3 a nylon rope, in order to tow dune buggies, or had a rope
4 behind his seat in his dune buggy, that it was a length
5 of that rope that was cut off and taken by the defendants
6 to the Cielo Avenue address.

7 And Danny DeCarlo actually testified that he
8 went with Charles Manson to the Jack Frost War Surplus
9 Store in Santa Monica, California and purchased a similar
10 type rope.

11 Where is Jack Frost or any one of Jack Frost's
12 assistants? I believe DeCarlo testified that Manson
13 purchased 150 yards of rope -- or 150 feet, excuse me,
14 of rope.

15 That strikes me that that is a rather significant
16 purchase to make.

17 Charles Manson strikes me as a rather distinc-
18 tive looking individual.

19 It also strikes me that businesses are likely
20 to keep records. It would seem although it is entirely
21 possible that it just did not occur at all, it would seem
22 that in the event Manson bought a rope from that place at
23 that time, that there would have been witnesses here to
24 testify that -- they would identify Manson and say during
25 the summer of 1969, maybe they'd have a receipt or a
26 date or a time, and someone would say "I remember it because

1 it was an awful lot of rope."

2 Nobody like that has come in here.

3 They put Danny DeCarlo on to testify that he
4 purchased a similar type rope, and at its very best ,
5 the most you can draw from that evidence is that it was
6 a similar type rope.

7 How many thousands or millions of feet of this
8 rope do you suppose is produced by way of standard manufacture
9 in the United States every year, and how many thousands of
10 yards or feet of this rope, similar type rope, is existing
11 in Los Angeles County today?

12 How many pieces of leather laces -- how many
13 yards, feet -- I keep remembering those things in my
14 geography book, if all the rawhide and leather laces
15 manufactured in the United States, and prominently displayed
16 in Los Angeles County, were laid end to end, they would
17 go around the entire universe 12 times.

18 This is a very ordinary piece of rawhide lace.
19 Every piece of rawhide shoelace you have seen in this case,
20 it's been referred to as a thong, is an ordinary piece of
21 leather that is obviously of standard manufacture.

22 The width, circumference and diameter is
23 relatively consistent throughout the length of the rope.
24 You can take a look at it and you can tell it was obviously
25 cut in a standard fashion.

26 Now, experts in this case have testified that

1 in some situations they are able to match up a hair, but
2 they are not able to match up a piece of leather lace.

3 They are unable to tell whether it came from
4 the same cow or the same hide.

5 They are unable to form any chemical or
6 scientific or physical test to determine whether it is a
7 part of some greater whole.

8 An ordinary average piece of leather lace,
9 and they want you to convince somebody because he happens
10 to wear one of these around his neck occasionally, and one
11 of the victims in this case was tied up with a leather thong.

12 In kidnapping cases, frequently you find witnesses,
13 or victims that have been tied with adhesive tape, their
14 hands are put behind them and they are secured with adhesive
15 tape, and it is just as preposterous to charge some salesman
16 from Johnson & Johnson who sells adhesive tape, or some
17 citizen who has adhesive tape in his cabinet, with tying
18 up some kidnapping victim, as it is to attempt to convict
19 Charles Manson on the basis of some leather lace or thong.

20 If you are going to look at circumstantial
21 evidence like this, it must point unerringly to somebody's
22 guilt.

23 This is the wildest, grossest kind of specula-
24 tion.

25 Here is the theory: Manson is a hippie; Manson
26 wears leather things with fringes; Manson wears leather

shoes; Manson therefore has leather laces, or Manson therefore wears leather thongs, although you heard a considerable amount of testimony about the number of people in Los Angeles County, particularly young people, who wear leather laces or leather thongs or leather fringes.

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1 But the theory is because he wore them, it is
2 his leather laces that are around the hands of Leno La
3 Bianca. That is absurd!

4 There were, I suppose, a number of witnesses
5 that could have been called in this case who would have
6 substantiated any one of a number of these witnesses,
7 so that you would not have to become involved in this
8 obvious credibility determination of all these witnesses.

9 Actually every witness who testified in this
10 case with the exception of the police officers or with the
11 exception of the independent persons like the Coroner and
12 the independent witnesses like -- well, I can't think of
13 an example, or a number of them, many witnesses, though,
14 almost all of the witnesses who talked about or attempted
15 to talk about any really substantial inculpatory material,
16 any really substantial incriminating material, were witnesses
17 whose very credibility was in issue.

18 You have to carefully determine whether Linda
19 Kasabian was telling the truth. Her credibility is in
20 issue in this case. You know that as well as I do.

21 Every single one of these disaffected Family
22 members, their credibility is in issue.

23 Every single one of the witnesses in this case
24 without whom you cannot convict anybody in this case,
25 their credibility is in issue.

26 There could have been some independent witnesses

1 that would have substantiated much of what these witnesses
2 said.

3 I know that because at least occasionally the
4 witnesses happened to mention that some other person was
5 present upon whom we could call to determine whether or
6 not the witness on the witness stand was telling the
7 truth.

8 The Joe Sages, the Paul Rosenbergs.

9 Let's take Linda Kasabian, for example. She
10 said that on the night of August the 8th that Squeaky
11 helped her get her clothes.

12 Well, let's bring Squeaky in here. Is the
13 prosecution adverse to bringing in Family members? They
14 did not blush at all; they put those witnesses on the stand
15 and vouch for their credibility, called them by their first
16 names. It was Linda and Juan and Paul and Brooks.

17 It was Stephanie. They don't have any problem.
18 They will put Family members up on that witness stand.
19 Linda Kasabian testified that Brenda McCann helped her
20 search for a driver's license and a set of clothes.

21 Where is Brenda McCann?

22 Larry Jones, allegedly, got Linda Kasabian a
23 knife. He would verify her story that she came to him one
24 night and asked for a knife. Where is Larry Jones?

25 If Larry Jones is not around or if Squeaky is not around
26 or Brenda McCann is not around, that evidence is admissible as

1 well.

2 Evidence could have been produced that these
3 people were no longer in existence or no longer available
4 to court process or subpoena.

5 DEFENDANT MANSON: (From the holding room.)

6 They are all in jail.

7 MR. FITZGERALD: They chose not to do that. They
8 chose instead to put these witnesses on unsubstantiated and
9 uncorroborated.

10 They chose to put these witnesses on the witness
11 stand, and they ask you to accept their testimony and their
12 demeanor, without any substantiation whatsoever.

13 These witnesses testified from postures of
14 obvious bias, motive. Many were bitter, hostile and angry.

15 Many of these witnesses, in terms of their
16 memory, if it existed at all it was vague and poor.
17 Frequently it was totally non-existent.

18 There was absolutely no foundation for much of
19 their testimony. They don't remember times; they don't
20 remember dates; they don't remember persons present.

21 The sum total of which is that you must believe
22 them, themselves.

23 In order, ostensibly, to prove a conspiracy,
24 the prosecution brought in evidence that Charles Manson
25 forced people to engage in sexual orgies.

26 The evidentiary import of that testimony is

1 peculiar because we are supposed to believe that Manson
2 had total control; Manson exercised total control by
3 forcing people into sexual relationships against their will,
4 the point being that he exercised power over people.

5 Now, obviously, when you start introducing
6 evidence about sex orgies, you run the risk of really
7 assassinating somebody's character, and you really run the
8 risk of defaming and slandering somebody, and you run the
9 risk that the prejudicial effect of the evidence is going
10 to outweigh any evidentiary value it has.

11 I am sure when you heard the evidence about a
12 sex orgy you did not immediately think to yourself, "Ah hah,
13 this illustrates Manson's power!"

14 What you said to yourself, I'm sure, is -- I'm
15 sure some of you said, I'm sure some of you ran through your
16 own moral, social, political and sexual standards, and
17 maybe perhaps some of you were revolted.

18 Perhaps some of you were disdainful. Perhaps
19 some of you were ambivalent.

20 But I am sure some of you were sort of angry
21 about the whole thing.

22 Okay, if you are going to prove it, prove it.
23 They did not even prove it. They put Linda Kasabian on
24 the witness stand to say that she made love with Snake, and
25 she made love with this person, Clem, or something.

26 Snake testified in this case. Why didn't they

1 ask her the question, "Did you make love with Linda Kasabian
2 in an orgy?"

3 Just ask her the question. They chose not to
4 ask her the question. Obviously they chose not to ask her
5 the question because she is not going to say she was in a
6 sex orgy with Linda Kasabian.

7 We constantly were involved in the sexual
8 area in this case.

9 Barbara Hoyt testified that Juan Flynn, that she
10 was forced to orally copulate the penis of Juan Flynn; not
11 only was she forced to do it in Barker Ranch in Inyo County;
12 she was forced to do it at the Spahn Ranch sometime earlier,
13 and she did it because she was afraid of Manson.

14 Manson ordered her into this perversion, which
15 she would not have committed without Manson's power.

16 Juan Flynn testified, didn't he? For a long
17 time he testified in this case. Why didn't they ask
18 Juan Flynn if that in fact happened.

19 If you are going to use that testimony at all
20 in attempting to convict Charles Manson or any of the
21 defendants in this case, you are going to be forced to
22 believe that testimony solely on the basis of Barbara
23 Hoyt.

24 You are not going to be allowed to have at
25 least Juan Flynn say he did it.

26 And I suspect if there was any -- if it happened,

folks, Juan Flynn would have said it happened.

But Juan Flynn said the reverse, if you believe him. Juan Flynn said he did not have anything to do with those girls under any circumstances at any time.

Juan Flynn said that he did not want to risk getting any disease. He did not want to have anything to do with them whatsoever.

So, in evaluating the testimony of these witnesses, please do this:

Please consider their ability to recollect, to communicate and to perceive those events about which they testified.

Consider their use of hallucinogenic and psychedelic drugs.

Consider their use of drugs that are designed to distort reality and to mix reality and fantasy.

Take into consideration the fact that many of these drugs, particularly in the amounts and in the dosages they were used, and from the sources from which they were obtained, have a tendency to artificially induce insanity.

13b fls.

13b1

1 Take into consideration the memory of these
2 people.³

3 Take into consideration the exactness with
4 which they testified.

5 Take into consideration their demeanor.

6 Take into consideration their attitudes when
7 they testified.

8 Take into consideration any bias, interest or
9 motive any of these witnesses had to testify in this case.

10 Take into consideration the fact that they have
11 admitted on previous occasions that they have been untruth-
12 ful.

13 Take into consideration that in the past some of
14 these witnesses have committed perjury.

15 Take into consideration that many of these
16 witnesses have a cavalier and casual attitude toward the
17 truth, and to this entire proceeding in general.

18 Take into consideration the total social and
19 cultural milieu from which these defendants and these
20 witnesses spring.

21 Attempt to evaluate their conduct in testimony
22 by objective standards. Ask yourselves, when did they step
23 forward with the information they have about this case?
24 When did they contact the police authorities?

25 Was it only after pressure was put on them or
26 was it only after they felt they could make some money or

they could pompous themselves?

1 Take into consideration also that some of these
2 witnesses have deliberately falsified aspects of their
3 testimony and deliberately lied to you, and ask yourselves as
4 to each one of these witnesses whether you would in fact
5 invest some of your hard-earned money on their testimony.
6 If you can't, it's just like Linda Kasabian, if you can't --
7 if you can't, if you won't, if you don't have that feeling
8 of relative certainty about their testimony that you would
9 be willing to order your daily affairs based upon their
10 word, you obviously cannot use their word to convict human
11 beings of, probably, the worst offense imaginable.

12 Would you take the word of any witness in this
13 case and upon the basis of that word regulate any human
14 conduct of yours? Maybe not even borrowing money, would
15 you make any human decision in your daily life based on the
16 testimony of these witnesses?

17 If you don't have that feeling of relative
18 certainty about the convincing force of their testimony,
19 please don't use them against these human beings.

20 Now, I'm going to close my argument. I really
21 essentially have no more remarks to make about the evidence
22 or about the defendants. I think perhaps before I close
23 that it might be appropriate to make some remarks about the
24 paradoxical man, Charles Manson, the man who was able to
25 apparently allow, I guess -- I don't know how, quite how to
26

say it.

This case essentially has not been the People of the State of California vs. Patricia Krenwinkel, Susan Atkins or Leslie Van Houten. It's really been the case of the People of the State of California vs. Charles Manson, and because they had absolutely no evidence against Charles Manson they had to reach, and in reaching they tried to put on evidence about his philosophy, his life style, his love, his lack of love, his pretended deity, his actual deity.

It was something that was classically inappropriate, it seems to me, in a court of law.

As you go through this -- as you went through this very difficult trial, and you tried to sift out the hard, decent, reliable, the competent evidence, it is extremely difficult.

What you do, you are constantly coming across very emotive pieces of evidence.

Manson's pretended philosophies.

Manson's hatred toward this; Manson's hatred towards that.

And it appears to me that Gregg Jakobson was the only witness in this case to have the intellectual honesty to quote Charles Manson, assuming his philosophies and his ramblings are important and relevant.

Gregg Jakobson was the only man who had the

1 intellectual honesty to say to you, "Ladies and gentlemen,
2 this is what I recall Manson saying," rather than the
3 parade of witnesses who dealt so cavalierly with Manson's
4 philosophies and Manson's attitudes and Manson's ideas.

5 The people who used their own words rather than
6 his.

7 That if I had to sum it all up I would have to
8 say, "So what? So what?"

9 Charles Manson, like every other citizen, like
10 you and I, is entitled to his own opinions and his opinions
11 are not that bizarre and that peculiar.

12 Much of what I heard from that witness stand
13 seemed to me to make some sense. I am not racially
14 prejudiced. From what I heard from that witness stand it
15 is difficult for me to determine if Manson is racially
16 prejudiced.

17 He sounds more like a separatist to me. He
18 sounds like somebody who is interested in the separation of
19 blacks and whites. What a horrendous philosophy that is!

20 George Wallace campaigned on it and received
21 22 per cent of the vote or something, a substantial number
22 of people in America feel the same way.

23 But so what? He is entitled to his point of
24 view. Maybe he's got reasons for his point of view.

25 Maybe he's got reasons for worrying about
26 young girls on the street who are being victimized in
the Haight-Asbury. So what?

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1 His attitudes, his philosophies, have absolutely
2 nothing to do with this case.

3 The only thing that we are concerned with is
4 evidence, and decent, competent, reliable evidence.

5 Now, the prosecution has an opportunity to
6 speak after I do.

7 The prosecution opens their argument and the
8 prosecution closes their argument, and I will not have an
9 opportunity to answer whatever the prosecutor says to you
10 about any of the remarks I have made.

11 I can only ask that you attempt to analyze his
12 arguments and determine whether or not they are consistent
13 with the facts and the evidence as you know them, that
14 came from the witness stand.

15 Also, I would like, sort of, I feel very
16 uncomfortable doing this, but I'd like to thank all of
17 you for the really honest and decent attention that you have
18 given us throughout this entire case. And I really mean it.
19 And I'd like to thank you on behalf of the defendants,
20 regardless of what you might think of the defendants.

21 It has been a very, very long, very, very
22 difficult trial for everybody involved, and it was hard
23 for you, and it is going to be extremely difficult for you
24 to make certain evaluations and certain determinations of
25 the evidence in this case.

26 I don't think that there is ever, in some of your

14-2

1 lives, going to be a decision as important as you are going
2 to make now, and as far as we are concerned, that decision
3 couldn't be in the hands of a better people.

4 In evaluating the evidence, all I can do is
5 sort of beg you to bear in mind that you can only --
6 only -- and you are probably getting sick of me saying it --
7 that you can only convict these defendants on evidence.
8 You can't convict them on conjecture and speculation, and
9 you can't convict them on attitudes.

10 Just thank you very much. You really gave a
11 significant portion of your lives for us, and we deeply
12 and sincerely appreciate it.

13 I'd also like to apologize to you if during the
14 course of this case I have treated any witness unkindly,
15 or I have asked questions you didn't think were appropriate
16 or proper, or I have been unkind or discourteous to the
17 Court, or to anybody here.

18 I apologize, and I am sure that if I did,
19 or any of the other defense attorneys did, that you won't
20 hold it against our clients.

21 Hold it against us.

22 It is difficult to make decisions if you are
23 a lawyer, just like if you are anybody else. There is
24 nothing special about us. Some decisions are hard to make.
25 But I am here to make decisions, I guess, and I have made
26 some decisions.

Hold me responsible for those decisions.

Don't hold my client responsible for those decisions.

I'd like to believe that I was in control of this lawsuit insofar as Patricia Krenwinkel was concerned. I'd like to believe that I did, at all times, what I felt was in the best interest of my client.

I made decisions. Don't hold those decisions against Patricia Krenwinkel.

14a fls.

14a-1

1 There is an issue here about Patricia Krenwinkel
2 submitting to a handwriting exemplar, to printing certain
3 words ten times in the alphabet.

4 On the advice of her attorney, she didn't
5 execute those handwriting exemplars.

6 Hold that against me. I made that decision.

7 I think I had good reasons for making that
8 decision, and I think that it would be unethical and in-
9 appropriate for me to tell you what those reasons were.
10 But I made it and I am not sorry for it.

11 I also made decisions about witnesses, about
12 defenses in this case, and I am not sorry about those.
13 Blame me if you like.

14 Lastly and in conclusion, I simply want to
15 implore you to, each one of you individually, analyze this
16 evidence.

17 Now, you ladies and gentlemen particularly have
18 almost lived together, in the nice sense of that word, for
19 six or seven months. You have been in intimate daily con-
20 tact with one another every hour of the day except when you
21 sleep. You go to and from the hotel together, you sit here
22 together, you share common burdens together.

23 You like one another, I am sure, and it is going
24 to be difficult if the time comes for you to disagree with
25 your fellow juror, with the nice guy or woman sitting next
26 to you. It is going to be hard. There is going to be a

1 tremendous pressure on you to compromise your opinions and
2 compromise your ideas. And you can't do it.

3 There is not a defendant in this case who can
4 be convicted without the opinion of each one of you. Start-
5 ing with juror number one and going right through juror
6 number twelve, if one juror says no, no one in this case can
7 be convicted.

8 And don't say to yourself that there were 11
9 others or ten others or four others. It could not happen
10 without you.

11 And you, each one of you, are going to have to
12 live with it. You are not going to forget this experience.
13 Never. Never. You are going to live with your decision the
14 rest of your life.

15 And if you are going to convict these defendants,
16 have the courage to convict them. But if you are going to
17 convict them, make absolutely sure that the prosecution has
18 absolutely demonstrated to you their guilt on each and
19 every count beyond a reasonable doubt.

20 If they haven't, it is your sworn duty to dis-
21 agree.

22 You have got to disagree.

23 Thank you.

24 THE COURT: Mr. Shinn, do you care to argue next?

25 MR. SHINN: Yes, your Honor.

26 Your Honor, defense counsel, Deputy District
Attorneys, and ladies and gentlemen of the jury.

1 I believe Mr. Fitzgerald has covered the
2 defense argument pretty well and I am going to confine my
3 arguments to the witnesses that testified against Susan
4 Atkins, and I am not going to stand up here for four days
5 like the District Attorney did and parrot the testimony and
6 the cross-examination in the trial.

7 I feel that most of you have taken notes all
8 during the trial, and I don't feel that I should give you a
9 re-run as to what every witness said and the cross-
10 examination.

14b