

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

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

Defendants.

169

No. A253156

REPORTERS' DAILY TRANSCRIPT

Friday, January 15, 1971

Monday, January 18, 1971

APPEARANCES:

For the People: VINCENT T. BUGLIOSI,
DONALD A. MUSICH,
STEPHEN RUSSELL KAY,
DEPUTY DISTRICT ATTORNEYS

For Deft. Manson: I. A. KANAREK, Esq.

For Deft. Atkins: DAYE SHINN, Esq.

For Deft. Van Houten: ~~RONALD HUGHES, Esq.~~

For Deft. Krenwinkel: MAXWELL KEITH, Esq.
PAUL FITZGERALD, Esq.

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

1 LOS ANGELES, CALIFORNIA, FRIDAY, JANUARY 15, 1971

2 9:05 A.M.

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4 (The following proceedings were had in open
5 court in the presence and hearing of the jury, all counsel
6 with the exception of Mr. Hughes being present, the
7 defendants not being physically present:)

8 THE COURT: All counsel and jurors are present.

9 You may continue, Mr. Bugliosi.

10 MR. BUGLIOSI: Thank you, your Honor.

11 Good morning, ladies and gentlemen of the jury.

12 When we left off yesterday I was discussing
13 the many faces of Charles Manson and the fact that he him-
14 self has not shown his face of murder in this courtroom,
15 but the evidence that came from that witness stand has
16 shown it for you.

17 Some of you folks may say to yourself that there
18 was testimony in this case that Manson loved animals.
19 You recall, he did not want De Carlo to shoot at the bird.
20 He got very angry at Hannum for killing that rattlesnake.

21 You might say to yourself, well, if he loved
22 animals how in the world could he have ordered seven savage
23 murders of human beings? Is there any inconsistency to
24 this?

25 Well, at first blush one would think yes, there
26 is an inconsistency, at first blush. But when you to stop

1 to think about it, not really. It is not uncommon at all.

2 By way of illustration, by way of illustration,
3 a classic example is Adolph Hitler, ^{the} the little Corporal's
4 Third Reich wrote one of the darkest, ugliest chapters in
5 human history, yet Adolph Hitler frequently said the more
6 he got to know human beings the more he loved animals.

7 While his ovens were spitting out fire and
8 operating at optimum capacity around the clock, at Auschwitz,
9 ^{Buchenwald, Treblinka and Chelmo, the} Buchtenwald, Pelsen, ^{stark} horrible smell of burning human flesh
10 pervading the countryside for miles around, Adolph Hitler,
11 ^{inconceivable} esconced in the green, rarefied, serene atmosphere of
12 ^{his chateau} Brechtessgarden, high in the ^{Quarstein} Alps, was very solicitous over
13 the health of his dog, Blondie, and,
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1 ~~And~~ historians say, even the health of the
2 pets belonging to his sychophantic coterie of bootlickers,
3 Goering, Goebbels and Himmler.

4 When most people die, the effect that they had
5 on mankind, for the most part, dies with them. A quarter
6 of a century after Hitler's death, Europe, in fact the
7 entire world, is still cleaning up the debris after him.

8 So ~~when~~ when Charles Manson loves animals but
9 thinks nothing of snuffing out the lives of seven precious
10 human beings, he is in good company, ~~like~~ ^{like} Adolph Hitler.

11 What evidence did we offer that proves Manson's
12 guilt for these murders beyond a reasonable doubt?

13 No. 1, I have already gone over the testimony of
14 Linda Kasabian in considerable depth.

15 Her testimony clearly and ~~equivocally~~ ^{unequivocally} proves
16 that Charles Manson masterminded and ordered these seven
17 murders.

18 Linda was with Manson on both nights, ladies
19 and gentlemen.

20 Charlie Manson might be good at creepy-crawling ~~if~~ ^{so}
21 that no one can see him, but on these two nights of murder,
22 he was within plain view of Linda Kasabian. She saw his
23 conduct, she heard his words. She took the witness stand
24 and she told you everything that Manson did and said in
25 her presence in sending his robots out on his
26 mission of murder on the first night, and everything he

1 did and said when they returned from his mission of murder.

2 She also told you everything he did and said
3 on the second night when Manson accompanied his ^{robot} robot on
4 his second mission of murder.

5 Since we know, since we know -- and I repeat
6 that -- ^{since} we know that Linda Kasabian told the truth, we
7 thereby know that Charles Manson ordered these seven
8 murders.

9 Besides Linda Kasabian's testimony, what other
10 testimony do we have against Charles Manson?

11 Ladies and gentlemen, this trial literally
12 overflowed -- overflowed -- with evidence against Charles
13 Manson.

14 If it is possible, even though there is a
15 tremendous amount of evidence against his co-defendants,
16 if it is possible, there is even more evidence against
17 Manson.

18 Let's very briefly discuss this other evidence,
19 evidence which is totally independent of Linda Kasabian's
20 testimony.

21 No. 2, the rope,

22 Danny DeCarlo testified that in June of 1969,
23 as you recall, Manson bought a hundred and fifty feet of
24 white three-strand nylon rope at the Jack Frost store in
25 Santa Monica.

26 DeCarlo identified this rope -- and this is the

1 Tate- Sebring rope -- identified this rope as looking just
2 like the rope that Manson bought.

3 This is the Tate-Sebring rope, the rope that
4 was tied around Sharon and Jay's neck.

5 In fact, DeCarlo used this precise type of
6 rope in the Coast Guard on his PT boat.

7 DeCarlo testified that Manson used to keep
8 the rope behind the front seat of his dune buggy depicted
9 in People's 58.

10 Ruby Pearl also testified that the Tate-Sebring
11 rope was the same rope that Manson brought to the ranch
12 in early summer of 1969.

13 She recalls holding the rope in his hands,
14 and she recalls that Manson showed the rope to George
15 Spahn, the proprietor of the ranch.

16 She also testified that Manson kept the rope
17 behind the front seat of his dune buggy.

18 Juan Flynn also identified the Tate-Sebring
19 rope, or the rope that Charles Manson brought to the Spahn
20 Ranch.

21 Flynn even recalled using the rope to tow a
22 dune buggy to Olancha.

23 Flynn also said that Manson used to keep this
24 rope behind the front seat of his dune buggy.

25 Flynn said he used this exact type of rope
26 when he went mountain climbing.

1 The defense says this rope, People's 41, is
2 basically like any other rope.

3 Well, obviously, there are other ropes like
4 that, but it is not that common a rope.

5 No. 1, witnesses ^{testify} testify that that is not the
6 type of rope that was used out at Spahn Ranch for regular
7 ranch work. It is just too expensive.

8 Moreover, nylon rope certainly is not the most
9 common type of rope. I believe hemp is the most common
10 type of rope.

3 fls.

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1 Also, this rope, inasmuch as it was used by the
2 Coast Guard on their PT boats, and it is used for mountain
3 climbing, obviously is much stronger than the average rope.

4 Also keep this in mind, this is very important:
5 De Carlo, Pearl and Flynn all testified that the rope they
6 saw out at Spahn Ranch that Manson brought to the Ranch was
7 white, three-strand, nylon rope, right down to the number
8 of strands.

9 And it turns out that the Tate-Sebring rope also
10 has three strands, and of course is white and nylon.

11 All three witnesses, especially Pearl and
12 Flynn, felt very strongly that that rope, People's 41,
13 was the rope they saw out at Spahn Ranch.

14 Keep one further point in mind, all three of
15 these witnesses are much more familiar with ropes than
16 the average person.

17 Ruby Pearl works at a ranch where, of course,
18 ropes are common; and Flynn, as I said, used this rope in
19 mountain climbing, and De Carlo used it on his PT boat.

20 Now, we obviously cannot be sure that this rope,
21 right here, is ^{the} a rope that Manson brought to the Spahn
22 Ranch. We cannot prove that beyond a reasonable doubt,
23 obviously, ~~We~~ don't have to. We have got so much other
24 evidence proving his guilt beyond a reasonable doubt.

25 There is no way of proving for sure that this is
26 the rope, but the likelihood is certainly great that this

1 is the rope inasmuch as there is so much other evidence
2 irresistably pointing to Charles Manson's guilt.

3 You can almost say that if this is not the rope~~s~~
4 that Manson brought to the Spahn Ranch, it is a coincidence.

5 You can almost say it is a coincidence if the Tate-
6 Sebring rope was not the rope that Manson brought to the
7 Spahn Ranch.

8 Number three, the revolver.

9 As we have already discussed in great depth, we
10 have conclusively proven that, number one, this is the
11 revolver that was used to murder Steven Parent and Voityck
12 Frykowski and Jay Sebring. We have proven that beyond a
13 reasonable doubt and, number two, by the shell casings
14 analysis we have proven that this revolver came from Spahn
15 Ranch.

16 Now, the question is, to whom did it belong?

17 Well, the defense argues that many people used
18 this firearm at the Spahn Ranch, even Tex Watson.

19 Well, that might be true, but apparently the
20 revolver belongs to Charles Manson.

21 Mr. Kanarek said that the only evidence there is
22 to connect Mr. Manson with this revolver is the fact that
23 he fired it.

24 Well, there is a little more evidence than that.

25 You recall Thomas Walleman identified this
26 revolver as looking like the revolver that Manson had on

1 his person when he, Walleman, went up to Franklin
2 Boulevard in early July, 1969, to that apartment house.

3 Juan Flynn testified that he saw Manson fire this
4 revolver.

5 Flynn further testified, and this is important,
6 that it was his understanding that Manson got this revolver
7 on a trade -- that was Flynn's testimony.

8 Danny De Carlo testified that this .22 caliber
9 revolver was kept in the bunk house.

10 He testified that Manson fired several of the
11 firearms, but the one that he fired the most, the one that
12 was his favorite firearm is People's 40, the murder weapon.

13 And, as you know, De Carlo knew this revolver so
14 well that in November of '69, before the Tate detectives
15 even came into possession of this revolver, De Carlo drew
16 a sketch of the revolver and, of course, it matches People's
17 40 to a T.

18 In June of 1969 Manson told De Carlo that he,
19 Manson, had got this revolver on a trade for Danny De Carlo's
20 truck.

21 So Flynn and De Carlo both testified that Manson
22 had gotten this revolver on a trade. In other words, it
23 apparently belonged to Charles Manson.

24 The fact that other people used the revolver
25 certainly does not mean that it didn't belong to Charles
26 Manson.

1. He got the revolver on a trade. It was his
2. favorite firearm, and furthermore, De Carlo testified that
3. not only did Manson used to fire this firearm, De Carlo
4. testified that Manson used to carry this revolver around
5. with him in a holster at Spahn Ranch.

6. Now, the defense argued that even if the rope
7. and revolver came from Spahn Ranch, they did not belong to
8. Manson because everyone in the Family used and shared
9. everything.

10. Well, everyone may have used and shared other
11. people's things at the ranch, in a communal type existence.
12. But this does not mean that items of personal property
13. could not belong to different members of the Family.

14. There was no evidence that came from that
15. witness stand that there was some rule in the Family that
16. no one could own personal property.

17. Can you imagine Manson living up to such a rule?
18. The head man, the boss; he couldn't own an item of personal
19. property! That is ridiculous.

3a-1

1 You recall that Linda testified for instance,
2 that the girls in the Family made Manson a long, black
3 cape and gave it to him. So certainly he owned that cape.

4 And this dune buggy here, many witnesses --
5 many witnesses -- DeCarlo himself came right out and said
6 that this was Charles Manson's dune buggy; he did not say
7 it was the dune buggy of the Family; he said "This is
8 Charles Manson's dune buggy."

9 Juan Flynn testified that he heard Manson tell
10 Tex Watson that he wanted Watson to make him a dune buggy;
11 it was going to be his dune buggy and no one else could use
12 it; if they wanted a dune buggy they would have to get their
13 own.

14 You could own personal property out at Spahn
15 Ranch. The fact that other people used it and shared it
16 does not negate the fact that someone could own the
17 property.

18 Several witnesses testified that this particular
19 sword, right here, the sword that is shown at the side of
20 the dune buggy, belonged to Charles Manson, at least he
21 always kept it at the side of his dune buggy.

22 And this rope right here he always kept behind
23 the front seat of his dune buggy -- his dune buggy.

24 Now, what is the significance of the fact that
25 the Tate-Sebring rope and that revolver most likely
26 belonged to Charles Manson?

3a-2

1 Well, since Manson was the dictatorial ruler
2 of the Family, ladies and gentlemen, it is not too likely
3 that three of his slaves, Tex Watson, Susan Atkins and
4 Patricia Krenwinkel would take the revolver and the rope
5 without, No. 1, Manson knowing about it, and, No. 2, knowing
6 the purpose for which it was going to be used.

7 After all, they certainly must have known that
8 Charles Manson, if they did not get his consent, would not
9 be too happy if they used this revolver and then threw it
10 away over the side of a hill, and left 43 feet of
11 expensive rope of his at the Tate residence.

12 So the clear inference is that besides Charles
13 Manson sending these people out on a mission of murder which
14 we have proven beyond a reasonable doubt, the probability
15 is certainly great that he also furnished them with that
16 rope and that revolver.

17 The rope is corroborative evidence, the revolver
18 is corroborative evidence, if you want to think in terms of
19 corroboration.

20 No. 4, on the night of the Tate murders you
21 recall Barbara Hoyt testified that after dinner Charles
22 Manson called Sadie, and either Katie or Linda out of the
23 back house, we don't know what he said to them, but it's
24 obvious that this was the night he was sending them off
25 on his mission of murder. He undoubtedly gave them
26 instructions.

3a-3

1 A half hour or so later, you recall, Barbara
2 Hoyt went up to the front of the ranch, this is the night
3 of the Tate murders.

4 She had those three sets of dark clothing;
5 she had those three sets of dark clothing; she saw Manson
6 on the boardwalk and Manson said "The group has already
7 left." This is Barbara Hoyt's testimony.

8 Of course it is totally consistent with Linda
9 Kasabian's testimony.

10 No. 5, John Swartz testified that somewhere
11 around a week and a half or so before the raid, August
12 16, 1969, he did not know the exact time, but unquestionably
13 it was around the time of the Tate-La Bianca murders,
14 somewhere around that time, one night, Manson asked him
15 to use his 1959 Ford.

16 Do you recall that? This is Johnny Swartz's
17 testimony now.

18 He said Manson came up to him and asked him
19 to use the '59 Ford, and he got the '59 Ford.

20 This is right around the time of the Tate-
21 La Bianca murders.

22 Swartz further testified that around the same
23 time, the same time, around the same time, one morning,
24 Manson told him that the previous night, the '59 Ford had
25 been taken without asking him because Manson did not want
26 to wake him up.

1 What other inference can there be, of course,
2 but that these two particular nights about which Johnny
3 Swartz was testifying are the nights of the Tate-La Bianca
4 murders, I mean, Linda Kasabian testified that Swartz's car
5 was taken on those two nights.

6 No. 6, Juan Flynn testified of course that
7 one night, one week before August 16th, he sees Manson,
8 Tex, Clem, Sadie, Katie, Leslie and Linda drive off from
9 Spahn Ranch in Swartz's car, Manson is the driver.

10 Linda testified that on the night of the La
11 Bianca murders, which undoubtedly this was, those seven
12 people drove off in Swartz's car and she said that Manson
13 was the driver.

14 Here we have Juan Flynn's testimony totally
15 consistent with Linda Kasabian's testimony.

16 Now, Mr. Kanarek says that Flynn told Sartuche
17 that the car was a Plymouth, and that is all that Mr. Kanarek
18 said, and he went on to some other point.

4 fls.

4-1

1 Well, that is not completely true. It is a
2 truncated version, an abbreviated version of that conver-
3 sation.

4 I am going to give you the rest of that
5 conversation.

6 The testimony that came from that stand is that
7 Juan Flynn at first said it was a Plymouth, but immedi-
8 ately thereafter Sergeant Sartuche asked him this question:

9 "Do you remember whose car that was?"

10 In other words, talking about the Plymouth,
11 apparently.

12 And Juan Flynn answered -- listen to this --
13 "A Plymouth or a yellow Ford. There was the yellow Ford
14 there at the time. That was Johnny Swartz's car."

15 And Juan candidly admitted on the witness stand
16 that it was an error on his part when he first said Plymouth.
17 But obviously, he corrected it almost immediately and
18 mentioned the '59 Ford.

19 Juan Flynn is a human being, he is not a computer.
20 Human beings make mistakes. That is why they put erasers
21 on pencils.

22 But Mr. Kanarek would not accept any mistakes
23 from any witnesses that were called to that witness stand.

24 Juan Flynn testified that he is positive now,
25 looking back, thinking about it, that it was a '59 Ford.

26 And we know it was a '59 Ford because

1 Linda Kasabian testified that the '59 Ford was used on these
2 two nights.

3 And Swartz's testimony also confirms the fact
4 that it was the '59 yellow Ford that was used on these two
5 nights.

6 Number seven. Manson used to wear leather thongs
7 around his neck identical to the thongs tied around Leno
8 La Bianca's wrists.

9 Danny De Carlo and Ruby Pearl both testified that
10 the thongs found around Leno's wrists -- we showed them the
11 thongs -- were the same type of thongs that Manson used to
12 wear around his neck out at Spahn Ranch.

13 And the leather thongs found on Manson's clothing
14 up in Independence in November of '69, People's 75 and 95,
15 are identical to the thongs found around Leno La Bianca's
16 wrists.

17 Mr. Kanarek argued that there are thousands
18 upon thousands of thongs just like this in Los Angeles
19 County.

20 Well, I still say: Thongs come in different
21 colors and thicknesses. But apart from that, and much
22 more important than that -- that is almost an irrelevant
23 point -- apart from that, you can't look at this thong
24 evidence in a vacuum. You have to look at it in conjunction
25 with all of the other evidence.

26 And I repeat that. When you go back to that jury

1 room, you have got to look at all of the evidence. You
2 can't single out one particular particle of evidence and
3 say: Does this prove something beyond a reasonable doubt?

4 It doesn't have to, ^{although} ~~although~~ there are many
5 items of evidence in this case that all by themselves ^{do} prove
6 guilt beyond a reasonable doubt. The People have no burden
7 to prove guilt beyond a reasonable doubt with every speck
8 of evidence we offer. If that were the case, the trial
9 would be over after the first hour.
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1 We can't help it if there is so much evidence
2 proving the guilt of these defendants.

3 It is not our fault. We put on all of the
4 evidence.

5 Here we have a situation where there is a
6 massive amount of direct and circumstantial evidence
7 pointing toward the guilt of Charles Manson. Lo and behold,
8 one of the victims, Leno La Bianca, has leather thongs tied
9 around his wrists. And wouldn't you know that the very
10 person against whom there is this massive amount of
11 evidence, used to wear leather thongs around his neck just
12 like those leather thongs.

13 That is the important point. I grant Mr.
14 Kanarek, if you look at the thong evidence in a vacuum,
15 it is not that important. But when you look at it in
16 conjunction with all of the other evidence, it has
17 considerable circumstantial evidence of guilt.

18 No. 8. Here in court Manson made a slitting
19 of the throat motion to Linda Kasabian at the start of
20 her testimony concerning these two nights of murder. ✓
21 Obviously, he wanted to silence her by threatening her.

22 MR. KANAREK: Your Honor, if I may, I will object
23 to that on the ground -- this is the basis of my objection--
24 that Officer Gutierrez testified --

25 THE COURT: I don't want the argument, Mr. Kanarek.
26 Just state the objection.

1 MR. KANAREK: The objection is, your Honor, that
2 Mr. Bugliosi is not stating what the record reflects that
3 Officer Gutierrez answered when Mr. Bugliosi first asked him
4 the question.

5 The record does not show a slitting of the
6 throat movement. It shows a movement across the chin.

7 THE COURT: The objection is overruled.

8 You may proceed.

9 MR. BUGLIOSI: Why did Charles Manson want to silence
10 Linda Kasabian?

11 Because Manson knew that Linda knew exactly what
12 happened on these two nights, and he didn't want her to
13 tell you folks about it.

14 You 12 people are the last people in the world
15 that Charles Manson wants to know about these two nights
16 of murder.

17 In other words, Charles Manson attempted to
18 suppress evidence against himself by intimidating a witness.
19 And his Honor, Judge Older, will give you an instruction
20 that evidence that a defendant attempted to suppress
21 evidence against himself by intimidating a witness can be
22 considered by you as circumstantial evidence showing a
23 consciousness of guilt.

24 Points 9, 10 and 11.

25 All of them, when considered in conjunction
26 with each other, show a consciousness of guilt.

No. 9.

Dianne Lake testified that at some time before the Grand Jury in this case, Charles Manson told her not to say anything to the authorities.

No. 10. On August the 16th, 1969, just one week after the Tate-La Blanca murders, just one week later, six in the morning, there is the raid at Spahn Ranch.

And it wasn't the Normandie invasion that Mr. Kanarek spoke about. There is this raid at Spahn Ranch.

4b fls.

4b-1

1 Where is Charles Manson? He is hiding beneath
2 one of the buildings there. They had to flush him out by
3 pulling him by his hair.

4 Where were the other people? Well, the other
5 people were sleeping at the ranch, or those that were
6 up, were up and around. But Charlie Manson is hiding under-
7 neath that building.

8 Now, Mr. Kanarek feels that, well, this was the
9 Normandie Invasion and it was normal for Charlie to hide
10 under the building.

11 How come the other people weren't hiding like
12 that?

13 It wasn't because Charlie was afraid of police
14 per se. It wasn't because of that. Because on July the
15 28th, 1969, before these murders, he didn't hide from
16 Deputies Grap and Olmstead at Santa Susana Pass Road. He
17 didn't hide from them then. But that was before the
18 murders.

19 His conduct on August the 16th arguably shows a
20 consciousness of guilt.

21 Number ^{seven}~~seven~~. Even Manson's dramatic change in
22 demeanor after these murders is evidence against him.

23 Gregg Jakobson saw Manson two or three weeks
24 after the Tate-La Bianca murders.

25 Jakobson observed: "The only thing I can compare
26 it to, that I have seen cats that have been caught in cages,

1 like bobcats, and that is what I can compare it to. The
2 electricity was almost pouring out of him. His hair was
3 on end. His eyes were wild. He was like an animal in a
4 cage."

5 Something happened. Something happened. Some-
6 thing happened to make Manson be looking and acting like
7 that.

8 It wasn't because any waitress gave him a straw-
9 berry rather than a chocolate milkshake at some Dairy
10 Queen, ladies and gentlemen, that he was acting like that.
11 Something happened. Something happened. Something happened
12 to make Charlie Manson be acting like that, for Gregg
13 Jakobson to notice this dramatic change in his demeanor.

14 And if Linda Kasabian's testimony, and all this
15 other evidence against Manson, wasn't enough, Manson
16 actually confessed to all these murders to Juan Flynn.

17 Point number 12. In a reckless moment, when he
18 temporarily forgot to watch his words, he put that knife at
19 Juan Flynn's throat and he says, "You SOB, don't you know
20 I am the one that is doing all these killings?"

21 Of course, Mr. Kanarek said that maybe Manson was
22 talking about the killings ⁱⁿ of Viet-Nam.

23 I am not going to exalt or dignify that by even
24 answering that.

25 Please don't forget, please don't forget, that
26 on December the 19th, 1969, in Shoshone, California,

1 Juan Flynn told Officer Dave Steuber of the California
2 Highway Patrol out of Fresno the same identical thing that
3 Juan Flynn testified to on that witness stand.
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1 We played the tape recording in court. You
2 remember that.

3 Now, at the time Officer Steuber played the
4 tape recording of Mr. Flynn's statement to him about Manson's
5 confession, Judge Older gave you the following instruction.

6 MR. KANAREK: Your Honor, I believe your Honor is
7 covering that by a jury instruction. I think this is
8 improper.

9 THE COURT: If you are making an objection, state
10 it, Mr. Kanarek.

11 MR. KANAREK: Yes.

12 THE COURT: What is the objection?

13 MR. KANAREK: The objection is that I believe that
14 your Honor is covering that by a jury instruction, and
15 it would be improper for Mr. Bugliosi to read that instruc-
16 tion.

17 THE COURT: I don't know what he is going to do yet,
18 Mr. Kanarek.

19 MR. KANAREK: I believe he is going to read the
20 instruction that your Honor gave at that time, and I
21 believe we discussed this, and it is going to be covered
22 by a jury instruction.

23 THE COURT: There is an instruction on that subject.

24 MR. BUGLIOSI: Judge Older gave you an instruction,
25 ladies and gentlemen, that you could only consider Juan
26 Flynn's testimony, or Juan Flynn's statement to Dave Steuber,

4c-2

1 for a limited purpose.

2 Judge Older, after I conclude my argument to
3 you, will give you the following instructions:

4 "The Court has previously admonished
5 you to consider the tape recorded statement of
6 Juan Flynn introduced through the testimony of
7 Officer Dave Steuber for a limited purpose only.
8 You are now instructed to disregard that previous
9 instruction."

10 That is the instruction that his Honor will
11 give you after I conclude my argument.

12 In other words, you are now free to consider
13 the statement as evidence of the truth of the matters
14 contained within the statement.

15 Now, Charlie Manson wasn't only referring,
16 ladies and gentlemen, to the Tate murders when he made
17 that statement ^{to} ~~of~~ Juan Flynn.

18 He was also referring to the La Bianca murders,
19 because Juan Flynn testified that Manson made that
20 statement to him two or three days after the night that
21 he saw the seven people drive off from Spahn Ranch.
22 Of course, that would be after the La Bianca murders.

23 So, when Manson confessed, he was confessing
24 after the Tate murders, but also after the La Bianca
25 murders.

26 You know, Charlie really didn't have to tell

1 us. He really didn't have to tell us by his confession
2 to Juan Flynn that he was behind these murders. There
3 is so much evidence that he is the one that masterminded
4 these murders that that confession was just like icing on
5 the cake.

6 It couldn't possibly be any clearer, even
7 without that confession, that he and he alone ordered these
8 seven murders.

9 Of course, Manson's confession, all by itself,
10 without any other evidence, is enough to convict him of
11 all seven counts of murder.

12 Point No. 13. The population of Los Angeles
13 County, I believe, is over 7 million people. I don't
14 know how many homes there are in this vast metropolis,
15 but with 7 million people it would seem that 1 million
16 homes would be a fair estimate. Talking in round figures
17 now. 1 million homes, 7 million people.

18 You folks can ask yourself: Out of all the
19 years you have lived in Los Angeles -- some of you have
20 probably lived here 25 or 30 years, some of you are
21 probably native Angelenos -- out of all the years that you
22 have lived in Los Angeles, how many homes in all that time
23 have you been to?

24 It is ^{probably} not that many. A hundred and fifty,
25 200, 300, 400, 450, 500?

26 Probably not that many, when you really stop
to think about it.

4d-1

1 Other than door-to-door salesmen, of
2 course, who enter literally thousands of homes, must of us
3 have a rather small circle of friends with whom we socialize.

4 I have lived in Los Angeles for 13 years. I
5 don't think I have been in more than a hundred homes in
6 Los Angeles.

7 Let's talk about Charlie Manson. Paul Watkins
8 testified that Manson got out of prison in 1967, went up
9 to Haight-Asbury, started the embryo of his Family up in
10 Haight-Asbury, got a bus and started traveling up and down
11 the State.

12 Now, we don't know when Manson arrived in
13 Los Angeles, but it appears it was some time around the
14 Spring of 1968 when he spent two weeks at Dennis Wilson's
15 home.

16 You recall Brooks Posten testified to that.

17 In early summer, 1969, Manson and his Family
18 moved to -- the early summer of '68 -- Manson and his
19 Family moved to Spahn Ranch where they remained until late
20 August and early September, 1969, and then they went up to
21 Barker Ranch in Death Valley.

22 So, it appears that Manson probably was in
23 Los Angeles County for a year or a little more than a year.
24 It is not very long.

25 And during that period of time, most of it was
26 spent living a communal type existence out at Spahn Ranch.

1 Now, during that one-year period, is it likely --
2 just drawing inferences -- is it likely that Charles Manson
3 was at the homes or on the premises of more than five, ten,
4 15 people, or residences?

5 Let's be generous with Charlie; 20, 25; let's
6 say 50 in one year. Even though he is living at Spahn
7 Ranch, let's say he had been on the premises or visited
8 friends at 50 homes.

9 A handful anyway. Just a handful when you are
10 talking about a million homes.

11 On the evenings of August the 9th and 10th, 1969,
12 the Tate-La Bianca murders took place at two out of those
13 1,000,000 homes. Wouldn't you know, ladies and gentlemen,
14 that along with all the other evidence against Charles
15 Manson, out of the 1,000,000 or so homes in Los Angeles
16 County, of the two homes where these murders took place,
17 Charles Manson just happened to have been to the Tate
18 residence on two occasions, and right next door to the
19 La Bianca residence on several occasions.

20 With Charles Manson probably only having been to
21 a handful out of ^{the} ~~a~~ million or so homes in Los Angeles County,
22 the probabilities against it being a coincidence -- I
23 repeat -- the probabilities against it being a coincidence
24 that these murders occurred at two of the residences that
25 he was either directly or indirectly connected with are
26 so astronomically high as to be totally unworthy of your

consideration.

5-1

1 It is not a coincidence, ladies and gentlemen,
2 that Manson had previously been on the Tate premises on
3 two occasions and right next door to the La Bianca residence
4 on several occasions.

5 It is not a "just one of those things" type of
6 a coincidence. Charles Manson only wants you to believe
7 that it is a coincidence.

8 Point No. 13: Motive.

9 Mr. Kanarek said "Whatever Manson's philosophy
10 is, he is not on trial for it. He is on trial for murder."
11 Also Mr. Kanarek says "What does Mr. Manson's philosophy of
12 life have to do with connecting Manson to these murders?"

13 Mr. Fitzgerald said essentially the same thing
14 as Mr. Kanarek, saying there was no connection between
15 Manson's philosophies and these murders.

16 Well, I would agree with Mr. Kanarek and Mr.
17 Fitzgerald if Manson's philosophies on life were totally
18 unrelated to these murders.

19 But it just so happens that Charles Manson's
20 philosophies on life and the very motives for these
21 murders are inextricably interwoven with each other, in
22 fact, they are one and the same.

23 Manson's motives for these murders, including
24 the motive of Helter Skelter, is very strong evidence of
25 his guilt.

26 Judge Older will give you this instruction on

1 motive:

2 "Motive is not an element of the
3 crime charged and need not be shown.

4 "However, you may consider motive
5 or lack of motive as a circumstance in this
6 case.

7 "Presence of motive may tend to
8 establish guilt. Absence of motive may tend to
9 establish innocence.

10 "You will therefore give its presence
11 or absence, as the case may be, the weight to
12 which you find it to be entitled."

13 Now, as you can see, the prosecution does not
14 have the burden of offering one single solitary speck of
15 evidence as to the motive these defendants had in committing
16 these murders. We only have the burden of proving that
17 they committed these murders. We do not have the burden
18 of proving why they committed these murders.

19 Legally speaking, motive is never a part of the
20 People's case. What I am trying to say is this, ladies and
21 gentlemen, ^{we} we offered considerable evidence of Manson's
22 motives for these murders, ~~but~~ ^{just} just assume for the sake
23 of argument that you never believed any of the motive
24 evidence or even if you did believe it to a certain extent,
25 you were not satisfied beyond a reasonable doubt that we
26 proved Manson's motives for these murders.

1 That would not mean that Manson was entitled to
2 a not guilty verdict, for the simple reason that we never
3 had any reason to prove motive in the first place.

4 Even if you never believed any of our evidence
5 on motive, because there is such an overwhelming amount of
6 other evidence proving guilt, we are still entitled to
7 a guilty verdict.

8 In other words, we only have the burden of
9 proving ~~guilty~~ ^{guilt} beyond a reasonable doubt; we do not have
10 the burden of proving motive beyond a reasonable doubt.

11 If we don't have this burden, why put on
12 evidence of motive? For the simple reason that evidence of
13 Manson's motives for these murders ^{is} just strong additional
14 evidence of his guilt, it's just additional evidence of
15 his guilt.

16 I want you folks to keep one thing in mind,
17 now, when I discuss Manson's philosophies on life, which
18 Mr. Kanarek and Mr. Fitzgerald say have nothing to do with
19 these murders.

20 These murders were incredibly bizarre.

21 Now, I hate to keep using that word, bizarre,
22 but it ~~fits~~ ^{fits} these murders to a T. They were bizarre,
23 strange.

24 Since these murders were very bizarre, the man
25 who masterminded them, Charles Manson, likewise had a
26 strange and bizarre mind. It was Manson's strange and

1 bizarre mind, ~~It~~^{It} was Manson's strange and bizarre mind and
2 his strange and bizarre philosophy on life that led him
3 irresistibly to these murders.

4 Helter Skelter -- Helter Skelter.

5 Gregg Jakobson and Brooks Poston said before
6 the Beatles white album came out Charlie used to say the
7 "Blank is coming down," using the gutter vernacular ^{for repetition}.

8 Then when the album came out he said "Helter
9 Skelter is coming down," ^{as} the testimony in this trial
10 showed, ladies and gentlemen, Manson had a fanatical
11 obsession and mania with Helter Skelter.

12 It was an integral part of his vocabulary;
13 wherever he went he said "Helter Skelter is coming down."

14 He spoke of it constantly, ^{as} Paul Watkins said,
15 listen to this, Paul Watkins, an intimate of Charlie Manson,
16 he thought Charlie was God, he was a hard-core member of
17 the Family, one of Manson's lieutenants, and look at what
18 Paul Watkins said:

19 "Helter Skelter seemed to be the main topic
20 with Charlie!" ✓

21 "Helter Skelter seemed to be the main topic
22 with Charlie!"

23 Now, as I have stated in my opening argument,
24 Manson only got the term, Helter Skelter, from the Beatles.
25 He did not get the idea. The lyrics of the songs in the
26 Beatles album merely provided Manson with some type of

1 support for philosophies he already had. It gave him
 2 ammunition. It gave him cannon fodder when he spoke to
 3 his sheep.

4 Can't you just hear Charlie Manson, ladies and
 5 gentlemen, trying to get someone to join his nomadic tribe?

6 ~~based~~ ^{Based} on the combined testimony of Gregg Jakobson, Bruce
 7 Poston and Paul Watkins and other witnesses, ~~it is~~ ^{it probably went}
 8 ~~probably~~ something like this:

9 "See here" -- he is trying to proselyte
 10 someone -- "in this song Helter Skelter the Beatles are
 11 saying that Helter Skelter is going to come down fast,"
 12 in the song, Blackbird, well, you know, the Beatles are
 13 talking about blackie, and he is saying that blackie should
 14 rise up against the white piggies.

15 And in this song piggies here now, you know,
 16 the Beatles are talking about the establishment and the
 17 Beatles say that the black man should rise up and give
 18 those piggies a damn good whacking.

19 "The Beatles are tuned in, guys, ~~they~~ ^{They} are
 20 talking right to me when they are saying those words,
 21 ~~and~~ ^{And} the song, Revolution 9, now, you know the Beatles
 22 are talking about Revelation 9. You all know about
 23 Revelation 9, that is Armageddon, the last final destruc-
 24 tive war."

25 "Helter Skelter is coming down fast, man;
 26 get with it; ^{you} better be in the bottomless pit when it comes

1 down because when Helter Skelter comes down, it's going to
 2 come down fast, and if you are not in the desert with us,
 3 blackie is going to get you too, brother."

4 Can't you just hear him, ladies and gentlemen?

5 ^{It's} The white man's karma, man. Blackie is going
 6 to kill every white man alive, except you and me, brother.
 7 ~~We are~~ ^{Were} going to be at the bottom of that pit.

8 "J. G. says there is a pit out in the desert.
 9 Read Revelation 9, And J. G. doesn't lie.

10 ~~"This is"~~ "What is going to happen when blackie
 11 takes over this country?"

12 "Well, man, he ain't going to know how to run ~~the~~
 13 ~~country~~ ^{country} ~~nothing~~ no how; blackie only knows what the white man
 14 told him and the white man never told blackie how to run
 15 this piggie country. He only told blackie how to clean
 16 the streets and pick cotton. So blackie is going to have
 17 to turn to us, brother, to bail him out.

18 "We will be the only ones left after Helter
 19 Skelter; he's got to, brother, blackie will have to turn
 20 to us and when he does, ^{well} you know, we will just pat blackie
 21 on his kinky hair and kick blackie on his black rear end
 22 and send him on his way, cleaning streets and picking
 23 cotton.. We can't let blackie stay with us ^{and make} ~~making~~ love
 24 to him; if we did that, we would eventually end up making
 25 love to ourselves; that would be our karma.

26 ^{"Well, we}

~~we~~ send blackie on his way, ~~and~~ we will have it

1 all to ourselves.

2 "Helter Skelter is coming down. Open ^{up} your eyes
3 and look around, ~~and it is~~ ^{and when she does, she's} going to come down, ~~it is~~ going
4 to come down fast.

5 "Come along with me, brother, it's the only
6 way."

7 It probably went something like that.

8 Of course, Charlie can say it a lot better than
9 I can. I am not an actor and I wasn't there, but it
5a fls. 10 probably went something like that.

5a

Charles Manson is a ^{megalo}~~maniac~~ ^{mania} who had delusions of greatness and hungered for great power.

In his warped, frenzied mind, helter skelter was going to be the vehicle of death by which he ~~was~~ ^{was} to unlimited power. Jakobson testified that to prepare for helter skelter, in the early summer of 1969, Manson actually started to accumulate firearms, vehicles and money, so he and his Family could escape to the desert, so that when helter skelter was taking place on the streets of every American city, he and his Family were going to be safe.

Charles Manson was literally dry washing his hands for helter skelter to start. He could not wait for it to start because in his twisted, warped mind, his Family and particularly he were going to be the ultimate beneficiaries of a black-white war.

But as we learned from Paul Watkins and Juan Flynn, as spring wore into summer, 1969, Charlie became impatient with the black man. They were not starting helter skelter as he had constantly predicted, so Charles Manson, in his feverish egomania and megalomania, in his insatiable thirst for power, fortified by his deep-seated anti-establishment hatred and his intense obsession with violent death, said, "I've got to show blackie how to do it."

Going back just a little bit, Manson told Gregg Jakobson that helter skelter would start by the black man ripping off some white families by cutting them up badly.

1 Posten testified that in February of 1969
2 Manson told the Family that helter skelter would start
3 when "the real blacks would come out of the ghettos and
4 do an atrocious crime in the richer sections of
5 Los Angeles. They would do an atrocious murder, stabbing,
6 killing, cutting bodies to pieces, smearing blood on the
7 walls, writing the words "pigs" on the wall."

8 And I asked him what the word pigs would be
9 written in and he said that Manson said with the victims'
10 blood.

11 So in February of 1969 Manson spoke of atrocious
12 murders being committed in the richer sections of
13 Los Angeles by stabbing and cutting the victims to pieces.

14 This is exactly and precisely what Manson ordered
15 his zombies to do in August of 1969.

16 Manson went even further, not just the cutting
17 and the stabbing, but he said the word "pig" was going to
18 be written in blood on the walls.

19 Pig was written on the front door of the Tate
20 residence, ^{at} the La Bianca residence it was written on
21 the wall, the living room wall, "Death to pigs."

22 In early 1969 Manson told Paul Watkins that
23 helter skelter would start when some spade -- he said
24 spades, he meant black people, some spade from Watts
25 would come up into the rich piggy district of Beverly
26 Hills or Bel-Air and wipe some white families off by

1 cutting up their bodies and writing some things on the wall
2 in blood.

3 He said the murders would be so super-atrocious
4 that they would make the white man really mad.

5 Note that the Tate residence on Cielo Drive is
6 located between Beverly Hills and Bel-Air.

7 Manson told Watkins that Helter Skelter would
8 start, in other words, these things would happen, in the
9 summer of 1969.

10 Well, ladies and gentlemen, in the summer of
11 1969, what Manson told Watkins is exactly, is, precisely
12 what happened, with just one exception, ^{Charlie} ~~blackie~~ did not
13 commit these murders; Charlie did.

14 And Manson even provided for that one exception,
15 because in late May and early June of 1969 Watkins testi-
16 fied that Manson told him that he was going to have
17 to commit these atrocious murders for the black man.

18 In other words, he was going to have to go into
19 the rich piggy district to commit these murders for the
20 black man.

21 Now, Watkins knew that Manson intended to do
22 exactly what he said he was going to do; he knew that
23 helter skelter was in the wind out at Spahn Ranch.

24 ^{And even} ~~Even~~ though he thought Charles Manson was God,
25 and he loved Charles Manson, he took off like a big ^{feared} ~~text~~
26 bird, a day or two later, he didn't want to be around when

1 these atrocious murders were being committed by Manson and
2 the Family.

3 Juan Flynn testified that in July, 1969, just
4 one month before these murders, Manson told him, Bruce
5 Davis and Clem Tufts on the boardwalk at Spahn Ranch that
6 he had come down to it, and the only way he could show
7 the black man and the pigs was to go down there and kill
8 ~~the~~ whole bunch of f-u-c-k-i-n-g pigs.

9 Dianne Lake testified that in late July and
10 early August, right around the time of these murders, she
11 testified that Manson spoke to the entire family several
12 times, including Tex Watson and these three female defen-
13 dants, and said, "We have to be willing to kill pigs to
14 help the black man start helter skelter."

15 And around this ^{same} period of time, Dianne Lake
16 testified that Manson said several times, "I am going to
17 have to start the revolution."

18 Again, as I say, it would be nice if ^{we} ~~he~~ could
19 take shorthand.

20 I will try to slow down a little bit.

21 Just two months, just two months after Manson
22 told Watkins that he, Charles Manson, was going to have
23 to commit these -- he told Watkins that he, Charles Manson,
24 was going to have to commit these atrocious murders for the
25 black man, just one month after he told Juan Flynn that he
26 had come down to it, and the only way he ^{could} ~~show~~ show the black

man and the pigs was to go down there and kill some pigs, *just*

~~Just~~ a week or so after he told Dianne Lake and the other members of the Family, "We are going to have to kill pigs to show the black man how to do it, to help the black man start helter skelter," and he also said, "I am going to have to start the revolution,"

5b

5b-1

1 Charles Manson ordered the seven Tate-La Bianca
2 murders, ^{and} ~~and~~ these seven murders, ladies and gentlemen,
3 were committed in the exact, precise fashion that Manson
4 told Posten and Watkins they would be committed, right
5 down to the word "pigs" being written in blood at the
6 scene of these murders.

7 It just couldn't possibly be any clearer that
8 Charles Manson masterminded these murders.

9 ^{and} ~~when~~ Linda Kasabian testified, and based on the
10 strength of her testimony, there is no reason to dis-
11 believe anything that she said, ^{that} ~~and~~ on the very afternoon of
12 the Tate murders Manson said, "Now is the time for helter
13 skelter."

14 Seven precious human beings were brutally and
15 savagely murdered by Manson's robots, just to carry out
16 Charles Manson's mad and wild dream of helter skelter.

17 Charlie told everyone he just had to show blackie
18 how to do it.

19 In fact, those are the exact words he used
20 when he was driving away from the La Bianca residence on
21 the freeway. He told Linda:

22 "We've got to show blackie how to do it."

23 "Helter skelter is coming down fast; the piggies,
24 Revelation 9, the bottomless pit."

25 Crazy? Far out? Strange? Bizarre? I will
26 stipulate to that.

1 But look at these murders, look at these murders.
2 Perhaps the most bizarre murders ever committed.

3 Not just a man, Tex Watson, but three young
4 women, Susan Atkins, Patricia Krenwinkel, Leslie Van Houten,
5 dressed in black, armed with sharp knives, entering the
6 ~~residence~~ ^{residence} of total strangers in the middle of the night
7 and brutally and savagely butchering them to death, and
8 then proceeding to write pig, death to pigs, rise^{and} helter
9 skelter in the victims' blood on the door, the walls,
10 the refrigerator.

11 Sure the helter skelter motive is far out and
12 bizarre. Of course it is, but it just happens to have been
13 the principal motive for these murders, and keep this
14 further point in mind:

15 These murders, as incredibly bizarre as these
16 murders are and were, certainly are not likely to have
17 the garden variety type of motive that one would expect
18 to find contained within the pages of a conventional text
19 book on police science.

20 In all sincerity, you can almost say that if the
21 motive for these murders had been something like robbery,
22 that motive would have been even more bizarre than helter
23 skelter.

24 I mean, why murder seven people for their money?
25 Why would murder be necessary? There are literally
26 hundreds of armed robberies every day in Los Angeles,

1 yet the percentage in which killings take place is very
2 low.

3 And even if murders were necessary, why the
4 overkill? Why did Voityok Frykowski have to be stabbed 51
5 times? Rosemary La Bianca 41 times?

6 And ^{when this} ~~then~~ writing on the walls, the door and
7 refrigerator in the victims' blood!

8 ^{What} I am trying to say, ladies and gentlemen, ^{is} that
9 for murders as strange and bizarre as these, one would almost
10 expect, one would almost expect that the motive is going
11 to be equally bizarre.

12 ^{Defense} ~~As~~ counsel say, the helter skelter motive is
13 absurd. I agree with them in the abstract, ^{but it just happens to} ~~they happen to~~
14 fit these murders to a T.

15 Furthermore, helter skelter is printed in blood
16 on the refrigerator door of the La Bianca residence. I
17 mean, what could possibly be any clearer? It's right on
18 the refrigerator door. I told you that as part of my
19 closing argument I was going to state the obvious, which
20 human beings don't want to concern themselves with. I
21 am stating the obvious now.

22 We did not pick this helter skelter theory out
23 of the air and arbitrarily attach it to these defendants.
24 Don't forget that obvious fact.

25 Witnesses took that stand and told you about
26 this helter skelter philosophy of Manson's. Now, if you

1 want to think in terms of corroboration; if you want to
2 think in those terms, again, Manson's motives ⁱⁿ these
3 murders -- I am not through talking about the motive yet --
4 there are other motives -- his motives for these murders
5 was independent of Linda Kasabian's testimony, it connected
6 Manson with these murders and therefore corroborated Linda
7 Kasabian's testimony.

8 The defense contend that there is no evidence
9 that Manson wanted to frame the black people for these
10 murders. Again, I say they are simply not looking at that
11 evidence.

12 On the night of the La Bianca murders, Manson
13 gives Rosemary La Bianca's wallet to Linda Kasabian, tells
14 her to leave it in that gasoline station, he says he hopes
15 a black ~~man~~ picks it up, uses the credit card and therefore,
16 of course, gets caught, and the white community will think
17 black people committed these murders.

18 The wallet incident alone, that incident alone,
19 proves that Manson was trying to frame the black people
20 for these murders.

21 Although we know that there were many items of
22 personal property inside ^{the} ~~that~~ La Bianca residence which
23 were easily accessible, they were valuable, which Manson
24 could easily have taken, Linda Kasabian testified that
25 the only item of personal property she saw Manson bring
26 back to that car was that wallet, which, of course,

1 contained credit cards^{and} Rosemary La Bianca's identification
2 by way of her driver's license.

3 Manson obviously knew if he were going to pin
4 these murders on the black man, he was going to have to put
5 them in possession of some items of personal property that
6 was traceable back to the victims.

7 Credit cards were ideal for that purpose.

8 Jewelry would not be.

9 The defense argues that proof that Manson wasn't
10 trying to frame the black people was he had Linda leave
11 the wallet in the gas station in Sylmar.

6-1

1 Mr. Kanarek argued that Sylmar was a white
2 area.

3 The fact that Sylmar is a white area came out
4 on Ronald Hughes' cross-examination of Charles Koenig.

5 You remember, Mr. Hughes asked Koenig: Isn't
6 it true that Sylmar is a predominantly white area? And
7 Mr. Koenig said yes.

8 In other words, why didn't Manson leave the
9 wallet in Watts or, as the defense counsel said, drive down
10 Venice Boulevard and near the ocean leave the wallet in
11 a black area down there?

12 Well, let's look at that closely now.

13 Manson obviously realized that he had to get
14 rid of that wallet immediately since if he were caught
15 with the wallet on his person or in the car, that would have
16 been the end of the ball game for him that night --
17 immediately.

18 Driving to a place like Watts, ladies and
19 gentlemen -- try to follow me closely on this -- driving
20 to a place like Watts, or way out towards Venice near the
21 ocean, and leaving the wallet there, in other words,
22 driving there and then leaving the wallet as opposed to
23 dropping off the wallet earlier, would have necessitated
24 Charles Manson driving on the surface streets of this city,
25 because I don't believe -- I don't know -- but I don't
26 think any freeway leads directly to Watts or Venice. I am

6-2

1 pretty sure about that.

2 Now, taking surface streets would immeasurably
3 increase the likelihood of being stopped by the police.

4 Now, there are freeways which go, of course,
5 ~~in~~ in the vicinity of Watts or Venice, but you have got to
6 get off the freeway and drive for a considerable distance
7 on the surface streets also.

8 The chances of being stopped by the police,
9 ladies and gentlemen, on a freeway is nowhere near as great
10 as being stopped on the surface streets of this city.

11 On the surface streets, apart from traffic
12 violations, the police could have pulled up next to Manson
13 and the other three people at a stop light, at a stop sign,
14 thought they looked suspicious, pulled them aside, and
15 searched the car.

16 So, what does Manson do?

17 What does Manson do?

18 This freeway vis-a-vis surface streets compari-
19 son. He immediately gets on the first freeway available
20 near the La Bianca residence, the Golden State Freeway.
21 He gets on a freeway right away and disposes of the wallet
22 the first available place once he gets off the freeway,
23 the gasoline station in Sylmar.

24 He gets on the first freeway available, and as
25 soon as he gets off the freeway he leaves the wallet.

26 I think this showed that Manson had no desire

6-3

1 to be driving around with stop lights and stop signs on
2 the streets of this city.

3 Furthermore, even forgetting about the surface
4 streets as opposed to driving on the freeways, forgetting
5 about that, who said that Charles Manson knew that Sylmar
6 was a predominantly white area? Who said that?

7 The fact that it was a predominantly white
8 area is totally irrelevant. We are only concerned with
9 Charles Manson's state of mind.

6a fls.

1 He told Linda that he hoped a black man would
2 find that wallet.

3 So, obviously, he thought Sylmar was in a black
4 area. Probably he either thought it was in a totally
5 black area, or a combined black-white area.

6 If he thought it was in a combined black-white
7 area, Manson's estimation of black people was so low he
8 probably thought that only they would stop to look in
9 hidden places in a rest-room.

10 Whether Sylmar is black or white is totally
11 irrelevant. We are only concerned with Charles Manson's
12 state of mind. And he tells Linda that he wants a black
13 person to find it.

14 So, obviously, he thought it was in a black
15 area.

16 THE COURT: We will take our recess at this time, Mr.
17 Bugliosi.

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

21 The court will recess for 15 minutes.

22 (Recess.)

23 THE COURT: All counsel and jurors are present.

24 You may continue, Mr. Bugliosi.

25 MR. BUGLIOSI: Thank you, your Honor.

26 We were talking about Charlie Manson's low

1 estimation of black people, that only they would look into
2 a hidden place in a rest-room.

3 Not only that, Charles Manson very, very
4 probably believed that the person who cleaned -- who
5 cleaned that rest-room -- cleaned that rest-room, scrubbed
6 the dirt, was going to be a Negro.

7 And don't forget, of course, that Sylmar is
8 right next to Pacoima, and Sergeant Patchett testified that
9 Pacoima is ~~a~~ ^{the} Negro community of the San Fernando Valley.

10 Pacoima is immediately south of Sylmar.

11 So, as Manson was driving northbound on the
12 Golden State Freeway, he would have had to have passed the
13 Pacoima off-ramps. The Pacoima off-ramps would have been
14 right before where Manson actually got off the freeway.

15 Having just been in Los Angeles, probably for
16 a year or so, he probably never even heard of Sylmar.
17 Pacoima is much more well known than Sylmar. There is a
18 very strong likelihood that he thought he was in Pacoima.
19 He probably thought Sylmar was some street off-ramp for
20 Pacoima.

21 Keep one further point in mind. Planting the
22 wallet for a black person to find it was ~~more~~ ^{most} likely not
23 the only way that Charles Manson intended to frame the black
24 man for these murders.

25 Manson probably felt that even leaving the words
26 "Pig," "Rise," and "Helter Skelter," at the murder scene

1 would lead the white man to believe that black people had
2 committed these murders.

3 I say that for this reason. Those words, ladies
4 and gentlemen, meant one thing and one thing only to Charles
5 Manson: That the black man was going to rise up and murder
6 the white pigs.

7 It is rather common, of course, for human beings
8 to be so caught up and so engrossed in something, as Charles
9 Manson obviously was with Helter Skelter, that they
10 unconsciously think that everyone else feels the same way
11 they do and everyone else is keeping time ~~with~~ the same
12 drummer they are. So, Manson, because of his fanatical
13 obsession with Helter Skelter, may have believed that when
14 the police and the authorities saw these words at the
15 scene they would automatically think the killers were black
16 people.

6b fls.

6b-1

1 To Charles Manson, those words, which he
2 literally lived with, were synonymous with blacks killing
3 whites. He may have unconsciously assumed that the mere
4 placing of those words at the scene would be tantamount
5 to saying the killers are black people.

6 Now, mind you -- mind you -- it is obvious that
7 Charles Manson's belief that he could actually start a
8 black-white war by killing these seven white Caucasians is
9 ridiculous. It is absurd.

10 It is equally obvious that even assuming that the
11 white community thought that black people committed these
12 murders, the likelihood of their turning against the
13 black man is extremely remote.

14 However, even though these things are
15 obvious, it is totally immaterial. We are only concerned,
16 ladies and gentlemen, with Charles Manson's state of mind.

17 No matter how unwarranted the basis for his
18 beliefs were, if he did, in fact, have these beliefs --
19 which the evidence clearly and unequivocally shows he did
20 have -- that is all that we are concerned with. We are
21 not concerned with reality in the abstract. We are *only*
22 concerned with Charles Manson's reality.

23 Now, you may say to yourself that even if Manson
24 did have these strange beliefs, couldn't he have found a
25 better way to attempt to start a black-white civil war?

26 Well, we are not here, ladies and gentlemen, to

1 give Charles Manson an A, B, C or D on the quality of his ~~effort~~ ^{effort}. ✓
2 ~~effort~~.

3 Anyone who would order these murders is not a
4 rational person. They might be cunning and devious, but
5 they are not rational.

6 Since these murders were not rational and the
7 man who masterminded them was not rational, why should we
8 expect that the method Charles Manson selected to frame
9 the black man would be rational?

10 We are dealing with a man with a crazed, frenzied,
11 warped, twisted mind. To expect such a man to act in a
12 reasonable fashion is itself an unreasonable expectation.

13 Moreover, when you really stop to think about it,
14 if you were trying to frame black people for these murders,
15 what could you do? Leave a note or a letter at the scene
16 that black people committed these murders? Or as Mr.
17 Kanarek and Mr. Fitzgerald suggested, a picture of Cassius
18 Clay or Martin Luther King, or a copy of the Los Angeles
19 Sentinel?

20 Why, even a two-year-old would recognize that
21 ploy. That would be a ploy that would be so obvious that
22 even a two-year-old could see it was a frameup.

23 Keep one final point in mind. We never said
24 Manson felt positive he could start any black-white war.
25 We only said he made an effort to do so.

26 By way of footnote, since we are dealing with the

1 strange and the unusual and the bizarre in these murders,
2 let me make this passing observation for whatever it is
3 worth.

4 Mr. Kanarek says that this sword right here had
5 nothing to do with these murders. He said: What
6 connection does this sword have to do with these murders?

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1 Let me make this passing observation, and keep
2 in mind that when I make this observation, look at it in
3 the context of the fact that these are incredibly bizarre
4 murders and we are dealing with a man who is incredibly
5 bizarre himself.

6 We know that Charles Manson was very familiar
7 with the Book of Revelations. Not just Revelations 9,
8 the 9th chapter of Revelations, but also Revelations 7, the
9 seventh chapter.

10 How do we know that? Because Revelations 7
11 refers to the 12 Tribes of Israel consisting of 144,000
12 people. And Charles Manson told Brooks Posten that during
13 helter skelter, when he and his Family would be in the
14 bottomless pit, the Family would grow to 144,000 people.

15 Not only Revelations 9 now, but Revelations 7.

16 The Book of Revelations is also called the
17 Apocalypse, which means the last final war between men on
18 the face of this earth.

19 You have all heard of the four horsemen of the
20 Apocalypse, war, strife, famine and pestilence, the four
21 horsemen of the Apocalypse.

22 In Revelations 6, the sixth chapter of
23 Revelations, let's look at this now. Besides the word
24 "war," which is the first horseman of the Apocalypse,
25 besides the word "war" being carved on Leno La Bianca's
26 stomach -- this is the first horseman -- under the second

1 horseman "strife" there is this language in the Bible:

2 "And there went forth another horse, a red one, and to him
3 who was sitting on it, it was given to take peace from
4 this earth, and that men should kill one another, and
5 there was given him a great sword."

6 Of course, Manson's concept of helter skelter
7 involved men killing one another in a great civil war,
8 and on the night of the La Bianca murders, ladies and
9 gentlemen, Charlie Manson had this large sword with him.

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1 Now, I don't know how common it is to wear
2 leather thongs in our society, but you just don't walk
3 around with a pirate sword nowadays. ✓

4 Under the horseman, pestilence, there is this
5 language in Revelation 6:

6 "I saw and beheld a pale green horse,
7 and he who was sitting on it, his name was death,
8 and hell was following him and there was given him
9 power over the four parts of the earth to kill with
10 a sword, with famine and with death and with the
11 beasts of the earth."

12 Now, although Charles Manson never used the
13 word, Apocalypse, in his conversations with Gregg Jakobson,
14 as I said, the Book of Revelations is also called the
15 Apocalypse, and Charles Manson did use the word Armageddon,
16 which is another Biblical term for the last final war,
17 the last destructive war between ~~men~~^{men} on the face of this
18 earth, Armageddon and Apocalypse are synonomous with each
19 other, and the ~~war~~^{word Armageddon}, ladies and gentlemen, is contained
20 within Revelations 16, the 16th Chapter of Revelations.

21 I believe there are 72 books in the Bible,
22 so I am talking about chapters. This is just chapters
23 within one book.

24 So Revelations 6, 7, 9 and 16 are within a
25 few pages of each other.

26 In view of the incredibly strange, unusual,

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1 bizarre nature of these murders, it is not unreasonable
2 to believe that in Charles Manson's twisted mind his
3 Helter Skelter was the Bible's apocalypse. ✓

4 That is, the last final war and bloodshed among
5 men on the face of this earth.

6 And that Charles Manson thought in terms of
7 the apocalypse or Armageddon being of his own family's
8 making. ^{Paraphrase} There is a further point which is extremely
9 powerful evidence against Charles Manson and these
10 defendants, and which although related to the motive, the
11 question of motive really does not even have to be considered.

12 I keep going back to these words, I have to go
13 back to them because that is the evidence in this case,
14 the word pig is printed in blood at the Tate residence and
15 also at the La Bianca residence.

16 Death to pigs, Helter Skelter, rise were printed
17 in blood at the La Bianca residence.

18 War was carved on Leno's stomach at the La
19 Bianca residence.

20 Mr. Kanarek said "None of the words which were
21 printed in blood are tied in with Mr. Manson or any of
22 these defendants."

23 Now, I ask you this: Where on the face of this
24 earth, be it Cleveland, Ohio, Auckland, New Zealand, ^{Portsmouth,}
25 Iceland, Hamburg, Germany -- I don't care where you want ^{to go,}
26 where do you think you can find another person or group of ✓

1 persons who, like these defendants, have a fanatical
2 obsession with not just one of these words but all four?

3 Let's look at the four words, pig, Helter
4 Skelter--and I want to consider Helter Skelter^{or} just one
5 word -- pig, Helter Skelter, rise and war.

6 Let's look at these four words, ladies and
7 gentlemen, because the killers somehow associated those
8 words with murder; because the killers obviously are the
9 ones who left those words at the scene.

10 The killers did not leave the scene of the
11 murders and then some blue bird ~~came~~^{came} through the window
12 and ~~print~~^{printed} those words.

13 It is the People's contention that these
14 defendants and only these defendants would have left those
15 four words at the murder scene.

16 We know what those four words meant to Charles
17 Manson and these defendants:

18 Pigs: the white establishment who deserved
19 a damn good whacking. ✓

20 Helter Skelter: the black-white revolution,
21 the black-white war, and of course when Manson spoke of
22 Helter Skelter he said the black man was going to rise up
23 against the white man.

24 With respect to the word, war, of course, part
25 of Manson's every-day speech was the black-white war.

26 Let's look at the word, pig, printed in blood

1 at the Tate and La Bianca residences.

2 The Tate-La Bianca murders were not the first
3 murders in history, and unfortunately, they are not going to
4 be the last. There have been thousands upon thousands of
5 other murders prior to the Tate-La Bianca murders.

6 But just using your good old fashioned common
7 sense, at the scene of how many of those murders would you
8 imagine that the word, pig, would be printed in the victim's
9 blood at the scene?

10 Maybe you have heard of it before; I never have.

11 But there possibly has been another murder in
12 history where the word "pig" was printed in blood at the
13 scene of a murder. I say that because the word, pig,
14 expresses contempt, hatred, detestation, and obviously
15 killers normally hate their victims.

16 So even though the word, pig, being found
17 printed in blood at the scene of a murder is extremely
18 unusual, extremely bizarre, perhaps unprecedented, perhaps
19 possibly it has happened before because, as I say, the
20 word pig is associated with hatred, ^{and} hatred, ^{with} murder.

21 So possibly, just possibly, there is a killer
22 or group of killers other than these defendants who would
23 murder seven people and leave the word "pig" printed in
24 blood at the murder scene.

25 Let's look at the word "war."

26 It was carved on Mr. La Bianca's stomach. It

1 would seem that word would be even less likely than the
2 word, pig, to be found at the scene of a murder. The like-
3 lihood that it has ever happened before is very remote.

4 War refers to killings, of course, but certainly
5 it refers to conflicts between nations when thousands of
6 people are killed.

7 I believe in the Second World War some estimates
8 say 50 million people. The word "war" certainly has no
9 applicability to the killing of two civilians inside their
10 residence during peace time.

11 But since war is associated with violence,
12 maybe -- just maybe -- there is a person or group of persons
13 other than these defendants who would commit a murder and
14 leave the word "war" at the scene of the murder.

15 I guess it's possible.

16 So let us assume there is a group of persons
17 somewhere who would not only leave the word "pig" at the
18 scene, but the word "war."

19 But, ladies and gentlemen of the jury, I ask
20 you, what in the world do the words "rise" and "Helter
21 Skelter" have to do with murder?

22 Do you really think there has ever been another
23 murder in history where those words were left at the scene?

24 The word "rise" has as much to do with murder
25 as ~~the word~~ ^{"early"} or "basketball" or "dandelion."

26 The word "rise" has absolutely nothing to do with

1 murder, except to Charles Manson and these defendants.

2 To Manson the word rise meant the black man
3 rising up against the white man and murdering the entire
4 white race,

5 According to Jakobson and Poston and Watkins,
6 Manson himself used the word "rise."

7 That was one of Charlie's words, "rise."

8 When Manson used to play the Beatles song,
9 Revolution 9, which incidentally has no lyrics, I don't know
10 if you want to play it back in the jury room; it is the
11 most horrendous sound I ever heard in my life.

12 If you want to play the song I'm sure Judge
13 Older will get you some type of a machine back there to play
14 it on.

15 Poston testified that when the Family used to
16 play the song, Revolution 9, which has no words, Charlie
17 Manson used to say "I hear the word 'rise' in the back-
18 ground."

19 *No one.*
20 ~~no~~ else could hear it but Charlie could. He
21 said "Can't you hear that word 'rise' back there amidst
22 the machinegun fire?"

23 The word "rise" has an immense significance
24 to Charles Manson, and it is very obvious why it was
25 printed in blood at the La Bianca residence.

26 What in the world do the words ~~Helter Skelter~~
and rise have to do with brutal, senseless murders other

1 than what Charles Manson and Charles Manson alone was
2 obsessed with?

3 The words "pig", "war", "rise" and "Helter Skelter"
4 and the particular unique significance that Charles Manson
5 placed on them, were an integral part of the daily life of
6 Manson and his Family.

7 It was so much a part of their life that the
8 words, Helter Skelter, were printed on a jug at Spahn Ranch,
9 on a cabinet door at Spahn Ranch, on a ~~mirror~~ ^{mirror} on the wall
10 at Spahn Ranch.

11 "Pig, war, rise, Helter Skelter" were a part of
12 their religion, a religion of death, blood, murder.

13 These are the same words that were left at the
14 scene of these murders.

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1 In summary, on this point: When these defen-
2 dants printed those four words at these murder scenes, not
3 only did they leave their motive, they left their
4 identification for the world to see.

5 Even if we never had Linda Kasabian's testimony --
6 throw her testimony out of the window; throw the con-
7 fessions out of the window; the revolver, the shell
8 casings, the rope, the fingerprints -- throw all of that
9 out of the window,

10 When you find four incredibly bizarre words
11 like this printed in blood at the murder scene and you
12 come across a group of people whose way of life, whose
13 religion is composed of those words, and it is so obvious
14 that no other person or group of persons on the face of
15 this earth, number one, ^{have} an obsession with all four of these
16 words and, number two, associate these four words with
17 murder, ^{now}

18 ~~no~~ reasonable man can help but believe that that
19 group has to be, absolutely has to be responsible for
20 these murders.

21 Charles Manson gave the religion of helter
22 skelter to his Family. They did not give it to him.

23 Certainly none of you folks believe that these
24 three female defendants or Tex Watson, the dune buggy
25 mechanic, gave this religion of helter skelter to
26 Charles Manson.

1 Brooks Posten testified that he had never
2 heard that word used in the Family until Charlie Manson
3 introduced the term.

4 Manson not only was the undisputed leader and
5 ruler of the Family, he was the lecturer, the teacher, the
6 educator, the instructor.

7 He was the one that held court at dinnertime
8 every night, and the Family listened quietly and intently
9 to everything he said, never uttering a word.

10 The members of his Family, including Tex Watson
11 and these three female defendants, were his pupils, his
12 students.

13 Helter Skelter was a philosophy of violence and
14 death that he preached to them.

15 When Watson, Atkins and Krenwinkel left the
16 word "pig" at the Tate residence, and the following night
17 when Watson, Krenwinkel and Van Houten left the words
18 "death to pigs, rise, helter skelter," and "war" at the
19 La Bianca residence, they left the fingerprints of their
20 master, Charles Manson, at the scene.

21 All I've got left (indicating); we are at the end
22 of the tunnel. If I finish by noon, I believe Judge Older
23 probably will instruct you this afternoon.

24 Helter Skelter was Manson's main motive for these
25 murders, but I don't believe it was the only one.

26 Another motive was Manson's extreme anti-
establishment hatred state of mind. He was against

1 wealthy people, churches, education, our system of
2 government.

3 He was against the establishment for a very
4 personal reason also, ladies and gentlemen.

5 You see, Charles Manson is a frustrated singer-
6 guitarist, the evidence showed that he wanted to record
7 his songs commercially.

8 Charlie even wanted to make a movie; Charlie
9 went Hollywood.

10 In fact, Ruby Pearl said when the group pulled
11 in at the Spahn Ranch in 1968 there was "Hollywood
12 Productions" on the bus, or something like that.

13 Mr. Kanarek said Gregg Jakobson testified that
14 he did record Manson, but Jakobson went on to testify that
15 he did not record Manson commercially.

16 Apparently there were just tapes of Manson in a
17 recording studio.

18 Terry Melcher, the former ^{occupant} ~~occupant~~ of the Tate
19 residence rejected Charles Manson's efforts to have him
20 record him commercially.

21 Manson did his level best to impress Terry, but
22 Terry was not interested. He did not record Manson.

23 All Terry did was give Manson \$50, tell him all
24 about the obstacles there were to recording, did an
25 about-face and took off, leaving Charlie where he was before,
26 with Squeaky, Snake, Gypsy and the rest of the Family.

1 Again, in a less subtle fashion, Hatami literally booted
2 Manson off the Tate premises on March 23, 1969, the day
3 before Sharon flew to Rome.

4 Hatami's confrontation with Manson was an un-
5 friendly, abrasive confrontation.

6 Since the former occupant of the Tate residence
7 had subtly rejected him and since Hatami had treated him
8 shabbily and brusquely, Manson could not help but feel
9 that the Tate residence was symbolic of the establishment
10 to him, particularly the establishment's rejection of him.

11 Mr. Fitzgerald said, "Why didn't Manson kill
12 Melcher?"

13 Mr. Kanarek argued that Manson knew that Melcher
14 lived in Malibu, so why ~~wasn't~~^{didn't} the murders committed at
15 Melcher's home in Malibu.

16 Manson's primary motive for these murders was
17 helter skelter. A supplementary motive was to strike back
18 at the Establishment.

19 Manson said Helter Skelter was to start with the
20 atrocious murders of white families in the Beverly Hills
21 area, and killing Melcher alone by himself in his home in
22 Malibu at the beach certainly would not serve to start
23 helter skelter, at least not in Charlie's mind.

24 On August 8th, there is no evidence that
25 Manson knew who lived at the Tate residence or how many people
26 lived there, but he did know one thing. He did know that it

1 was in a rather exclusive area of town, and that the home
2 was an expensive home.

3 So Manson knew that whoever lived there most
4 likely were people of easy circumstances who were members
5 of the establishment.

6 If three people happened to be at the Tate
7 residence that night, three people would have been
8 murdered; if eight people were there, eight people would
9 have been murdered.

10 In fact, Susan Atkins told Virginia Graham it
11 didn't make any difference who was at the Tate residence
12 that night, they were all going to be killed.

13 Not only was Manson striking back at the
14 establishment on the night of the Tatemurders, but
15 indirectly he was striking back at Terry Melcher personally.

16 By ordering a mass murder at Melcher's former
17 residence, Manson obviously knew that Melcher's realization
18 that these murders took place at a residence in which he
19 lived just a couple of months earlier would literally
20 paralyze Melcher with fear, and

21 ~~And~~ certainly, when Melcher found out that
22 Manson was being charged with these murders, ~~and~~ ^{you} recall
23 on cross-examination of Melcher he was asked the question:

24 "When you left Charlie for the last time
25 in May at the Spahn Ranch did you think Charlie
26 was your friend?"

1 And Melcher answered:

2 "I thought so."

3 By italicizing the word "thought," the
4 obvious inference being that his original impression was an
5 erroneous one in light of the subsequent murders.

6 Again, on the evening of August 9, 1969, Charles
7 Manson probably never knew who lived at the residence
8 located at 3301 Waverly Drive. There is no evidence he knew
9 these people or how many people were going to be inside
10 until after he, himself, went in there.

11 But the ~~La Bianca~~ ^{La Bianca} also, of course, were members
12 of the establishment.

13 Leno La Bianca was the ~~president~~ ^{resident} and chief
14 stockholder of the Gateway Markets.

15 Manson knew that the residence was in a very nice
16 area of town, in fact, right next door to the La Bianca
17 residence is this very large walled-in estate.

18 So he knew that whoever lived there most likely
19 were members of the establishment.

20 Contrary to what Mr. Keith said, Manson wasn't
21 only searching for millionaires. Manson considered many people
22 to be members of the establishment. They didn't have to be
23 millionaires or wealthy or rich people, but certainly
24 people ~~in~~ ^{of} easy circumstances.

25 ~~You can~~ ^{So just} look at the prospective victims that
26 night, ~~the~~ ^{the} two homes in Pasadena. You saw a photograph of

1 one of them, a very nice home; the church in Pasadena.

2 The Will Rogers area of Los Angeles is in a
3 very fashionable area of town. The driver of the white
4 sports car.

5 Even the actor in Venice, you remember Manson
6 said to Linda, what about that actor, isn't he a piggy?

7 To Manson "piggy" meant establishment. ✓

8 Charlie didn't go down to Skid Row, ladies and
9 gentlemen, looking for his victims.

10 Why did he select these two particular
11 residences? Well, with an incredibly bizarre and wild
12 over-all motive of helter skelter, it didn't make any
13 particular difference to Charles Manson who the precise
14 victims were. That was irrelevant.

15 They qualified, as it were, if they were white
16 people and members of the establishment.

17 Since these were his only requirements, choosing
18 residences he was familiar with--he had been to the Tate
19 residence and right next door to the La Bianca residence--
20 obviously it seemed the easiest thing for him to do.

21 Particularly, when one of the ~~residence~~^{residences}, the
22 Tate residence, was a residence where he had been treated
23 rather shabbily and whose former occupant had rejected him.

24 We know that Charles Manson hated the establish-
25 ment. He hated their showy, ornate homes; he hated their
26 luxurious, affluent life style.

1 If the expensive and plush Tate residence did
2 not classically represent to Charles Manson the establishment
3 and all of the obstacles to success he had dreamed of, no
4 residence ever would.

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1 Helter Skelter and Manson's desire to strike
2 out at the establishment ~~was~~^{was} not the only motive Manson
3 had for these murders. There was also his hatred for
4 human beings and his lust and passion for violent death.

5 You don't order the brutal, savage murder of
6 human beings because you love them or like them or even ~~like~~
7 neutral toward them.

8 Manson knows how horrible death is, ladies
9 and gentlemen. That is why he is fighting for his life
10 right now. ✓

11 If he thought death was as beautiful as he
12 preached to his Family, he wouldn't be fighting for his
13 life right now.

14 He knows that death is the ultimate harm.
15 He knows that a violent death and being brutally murdered
16 is the worst crime that can befall any human being.

17 So, in order to have ordered these murders,
18 he had to have hated the victims. Not by name, but because
19 they were human beings.

20 Manson conned his followers into believing that
21 he was a man of peace and love.

22 He has got to be one of the biggest phonies
23 ever to come down the plank, and he knows it.

24 What does the word "love" mean to Charles Manson?

25 He proved what he meant by the word "love."
26 He proved it to the world. He meant death, hatred, murder.

1 As you know, the dictionary has secondary
2 meanings of many words.

3 (Pause.)

4 I don't blame them for coming in, but it is
5 somewhat distracting.

6 The dictionary has secondary definitions of
7 many words, and now and then the secondary definition,
8 paradoxically enough, is the antonym, that is, the complete
9 opposite, of the primary definition.

10 One word that comes to my mind is the word
11 "peculiar."

12 The primary definition of the word peculiar
13 is: odd, uncommon.

14 There is a secondary definition of the word
15 peculiar, and that means common.

16 For example: That is a figure of speech that
17 is common or peculiar to Texans.

18 Perhaps these murders and this trial will give
19 birth to a new and additional definition of the word
20 love, Charles Manson's meaning, which, of course, is the
21 exact opposite of how you and I and the present dictionaries
22 define the word love.

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You know something, ladies and gentlemen.

Charles Manson's reverse definition of love is totally consistent with everything else he preached to his Family.

You remember: When you kill someone, you are actually killing yourself. And other similar riddles.

Charles Manson preached love, but so tragically for the seven victims in this case, to Charles Manson, the word love meant murder.

The seven victims in this case, as I said in my opening argument, could have lived very well without Charles Manson's type of love.

Another motive related to Manson's hatred for human beings was his insatiable passion for death.

No human being could have ordered these seven murders without a passion for death. Death.

Manson's whole life style was caught up in the concept of death.

He told Danny De Carlo that one shouldn't be afraid to die, and death meant nothing.

He told De Carlo that he would rather kill a human being than a bird.

He told Hannum he would rather kill people than animals.

He told Posten to kill the sheriff in Shoshone. He was always threatening to kill Juan Flynn.

He told Dianne Lake he was going to kill her.

1 He was constantly telling Posten and Watkins and
2 other members of the Family: Die, die.

3 Manson told Jakobson that there was no such thing
4 as good or bad, right or wrong.

5 He went on to say that death was beautiful and
6 it was not wrong to kill a fellow human being.

7 He told Watkins: Every one has got to die sooner
8 or later because death is peace, and in order for the world's
9 karma to be complete, everyone has got to die. So, you
10 are actually doing someone a favor by knocking them off,
11 by killing them. One way or the other, everyone has to
12 die. You either have to do it in your head or out in the
13 street.

14 He also told Watkins: In order to love someone,
15 you must be willing to kill them, and you must be willing
16 to have them kill you.

17 An every day part of his vocabulary was the word
18 helter skelter, which referred to violent death -- of
19 other human beings.

20 So, on a day-to-day, week-to-week, month-to-month
21 basis, when Charlie Manson spoke of helter skelter, he
22 was talking about death.

23 Even the hideout from civilization where he went
24 after these murders was on the shadowy perimeters of Death
25 Valley.

26 He had a preoccupation with Revelations 9, which

1 is a tale of violent mass death and destruction.

2 You recall Manson told others that Revelations 9
3 laid down the whole trip, the destiny of the world.

4 In other words, Manson adopted, clung to and
5 cited that story of mankind which spoke of death.

6 As Paul Watkins said, ladies and gentlemen,
7 "Death is Charlie's trip." "Death is Charlie's trip."

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1 It took someone with a sick and morbid lust
2 and passion and preoccupation with death to order these
3 seven savage murders.

4 Charles Manson's morbid state of mind, his
5 extreme anti-establishment hatred, his philosophy of
6 Helter Skelter, were the precise ingredients which caused
7 him to commit these murders.

8 These seven murders and the circumstances
9 surrounding them are completely consistent with Charles
10 Manson and his philosophy on life.

11 If one were to scour the face of this globe for
12 a human being with a state of mind that was more tailor-
13 made for these murders, one would come upon Charles Manson.

14 Charles Manson and the seven Tate-La Bianca
15 murders are synonymous.

16 Manson probably slept very well, ladies and
17 gentlemen, on the nights of August the 9th and 10th, 1969.

18 After all, he knew that even if the murders
19 did not start Helter Skelter, as he hoped they would,
20 the mission of murder he had sent his robots out on was
21 not a wasted mission. After all, in his mind, he had at
22 least viciously struck out at the establishment and he had
23 gotten himself seven pigs. And to Charles Manson, that
24 wasn't bad for two nights work.

25 The final piece of evidence against Charles
26 Manson, and one of the very, very most powerful blocks of

8b-2

1 evidence against him at this trial, was his total and
2 complete domination of his Family, including the actual
3 killers, Tex, Susan, Patricia and Leslie.

4 Manson's total domination over Tex Watson,
5 Susan Atkins, Patricia Krenwinkel and Leslie Van Houten,
6 the people who the evidence shows were the actual killers,
7 is powerful circumstantial evidence that on the two nights
8 in question he was also dominating and directing everything
9 they did.

10 Therefore, if you want to think in terms of
11 corroboration, Manson's domination over the actual killers
12 is evidence, which is independent of Linda's testimony,
13 which certainly connects him with these murders, since
14 he dominated the actual killers, and, therefore, corroborates
15 Linda's testimony.

16 Mr. Kanarek said this: These three female
17 defendants are a pretty independent lot, and Watson was
18 his own man, and whenever he did something it was because
19 he had the desire to do so. Watson had a lot of influence
20 and he acted freely and voluntarily. Where is the evidence
21 to prove that Manson dominated Watson or these defendants
22 to the point where they were robots?

23 Where is the evidence? Well, I counted 238
24 places in the transcript -- don't worry, I am not going
25 to give you these 238 places -- I counted 238 places in
26 the transcript where witnesses testified to Manson's

8b-3q

1 domination over the Family, including Tex Watson and these
2 three female defendants.

3 Not once -- not once -- did any witness testify
4 to anything which even remotely suggested that someone
5 other than Charles Manson was the leader of this Family,
6 or that there was no leader and everyone was equal.

8c fls.

8c-1

1 I will just give you a very few of these 238
2 examples, and most of these came from people who actually
3 lived with Charles Manson and were members of his Family.

4 Linda testified at Page 4,839:

5 "Well, we lived together as one family, as
6 a family who lives together, a mother and a
7 father and child, but we were just all one and
8 Charlie was the head."

9 Elsewhere, Linda testified to the sex orgy and
10 to Manson having the young girl in the center of the
11 circle and taking off her clothes and kicking her and
12 hitting her in the face.

13 Then Linda testified that Charlie told Bobby
14 Beausoleil to make love to her. And he told everybody to
15 touch her and kiss her and make love to her. And every-
16 body did.

17 "Did anyone who was present touch this
18 girl before Charlie told them to do it?

19 "No."

20 Then after, Charlie told them to touch the girl.

21 "Then Charlie told everybody to make love
22 to everybody."

23 Linda testified that all three female defendants
24 and Tex Watson were present and participated in the orgy.

25 Elsewhere this question was asked of Linda:

26 "Did you ever see or observe any member of

1 "the Family refuse to do anything that Manson
2 told him or her to do?

3 "No, nobody did. We always wanted to
4 do anything and everything for him."

5 Page 5,547. Linda referred to the Family as
6 Manson's family.

7 Page 5,600. Linda said, "We never questioned
8 Charlie. The girls used to always tell me, 'We
9 never question Charlie. We know that what he is doing is
10 right.'"

11 "Also, the girls worshiped him, you know. They
12 just would die to do anything for him."

13 In discussing why she went along on the second
14 night, she testified:

15 "Charlie told me to, and you never tell

16 Charlie no. You do it."

17 Several witnesses, including Linda and Danny
18 testified that at dinnertime Manson did almost all the
19 talking, and no one would say anything unless he spoke to
20 them first.

21 John Swartz testified that when he referred to
22 the Family, he would say Charlie and the girls, or
23 Charlie and the boys.

24 De Carlo testified that these three female
25 defendants told him that Charlie knew all and saw all.

26 When I asked De Carlo when the Family would eat

1 at night, he answered:

2 "Well, Charlie would get us all together
3 and sit down and eat chow.

4 "Do you ever recall the Family eating
5 before he got the group together?

6 "No."

7 Several witnesses, including De Carlo, testified
8 that Tex Watson always obeyed Manson.

9 Sergeant Olmstead testified to the July 28th
10 incident.

11 "Manson told me that the people had
12 scattered into the hills around us and that,
13 at that time, there were guns trained on us
14 from the hills around us, and on his command
15 we could be wiped out."

8d

8d-1

1 Barbara Hoyt testified that at Meyers Ranch
2 in September of '69 Manson angrily woke her, Kitty Lute-
3 singer and Tex Watson up and bawled them out for going to
4 sleep before him. He even struck Kitty Lutesinger in the
5 face.

6 Juan Flynn said that Manson told him "Go down
7 to the creek and make love to my girls."

8 A question of Gregg Jakobson: "Did he ever
9 say whose Family it was?"

10 "Yes, it was his Family."

11 Jakobson also testified that Charlie was the
12 obvious head of the Family, and of course you would have
13 to give yourself up to him if you were a member of the
14 Family.

15 Jakobson testified to the dinner down by the
16 campfire, and said Charlie would sit on a rock in the
17 center of the assemblage and everyone else would be seated
18 around him in a circle.

19 Up on a rock all by himself.

20 Melcher testified that when he went to the
21 ranch, "I was impressed by Charlie's strength and the
22 obvious leadership he had over these people. It was an
23 obvious thing."

24 Poston testified that when Charlie would be
25 around, things would be like when a school teacher comes
26 back to class. People would have to snap back into the

8d-2

1 part that they were playing.

2 Poston also testified -- so did Barbara Hoyt
3 and Stephanie Schram -- that whenever the Family moved
4 anywhere, Manson made the decision to move.

5 I asked Paul Watkins how one could become a
6 member of the Family?

7 "You just give everything completely up.

8 "To whom?

9 "To Charlie."

10 Watkins also testified:

11 "Everything that I did in the Family,
12 every action I made, every thought I thought,
13 was towards giving up to Charlie, was submitting
14 my will to Charlie's."

15 Poston and Watkins testified, and so did Linda,
16 that they thought Charlie was Jesus Christ.

17 Dianne Lake testified that every morning Manson
18 would get the entire Family together in a circle and tell
19 the girls and the men, including Watson and these three
20 female defendants, what he wanted each of them to do that
21 day, including where to ~~be~~ and where to stay out of.

22 I can go on and on, but I am not going to go
23 any further. These are just illustrative examples of the
24 238 places in the transcript.

25 Even here in court, right before your eyes, ✓
26 one day Manson comes into court with an X on his forehead,

1 and the next day the three female defendants have X's on
2 their foreheads.

3 Call Manson what you want, ladies and gentlemen,
4 but there is no question ^{that} ~~but~~ he was the leader, the
5 patriarch, the overlord, the commander in chief, the
6 king, the dictatorial ruler and maharajah of a bootlicking
7 band of nomadic vagabonds who call themselves the Family.

8e fls.

8e-1

1 Spahn Ranch, or wherever the Family happened to
2 be, was Charles Manson's domain. He ruled his Family in a
3 fashion much more ^{total} ~~totally~~ and ^{complete} ~~completely~~ than the kings of
4 history, ^{the} yes, the kings of history, ruled their kingdoms, ^{the}
5 or the head of a household today governs his family.

6 And the throne upon which Charles Manson sat
7 was not a crowded throne. Only he occupied that throne.

8 And there were no heir apparents. After all,
9 in the minds of his subjects, who could ever succeed Jesus
10 Christ?

11 Now, Linda's testimony was direct evidence
12 that Charles Manson masterminded these murders. So, we
13 have conclusive evidence of Manson's masterminding them
14 by the eyewitness testimony of someone who was actually
15 there both nights, Linda Kasabian.

16 But even if Linda Kasabian never testified,
17 there still would be no question that Charles Manson
18 directed these murders.

19 Why do I say this? For the simple reason,
20 ladies and gentlemen, that it is totally inconceivable
21 that Tex Watson, Susan Atkins, Patricia Krenwinkel and
22 Leslie Van Houten, all of whom were living with Charles
23 Manson as members of his Family and were his followers
24 and were slavishly obedient to him, would get together
25 behind his back and go out and commit these seven savage
26 murders without his being behind them.

1 To believe that they would commit these
2 murders without Manson's directions would be to totally
3 reject common sense and our human experiences. Especially
4 in view of the fact that on the first night they go to the
5 Tate residence where Manson had been, and the second night
6 they go to the La Bianca residence, which is right next
7 door to where Manson had also been.

8 Inasmuch as he was the total, complete ruler
9 of his Family, not only is it unrealistic, it is totally
10 unthinkable that Watson, Atkins, Krenwinkel and Van Houten,
11 living totally under his total domination, slaves of Manson
12 in every sense of the word, would get together and murder
13 ~~the~~ ^{these} seven human beings without his guidance, directions
14 and orders.

15 Watson, the simple-minded dune buggy mechanic
16 whom Gregg Jakobson called a puppydog, an automaton, ~~even~~ ^{even}
17 Danny DeCarlo, who no one ~~would~~ ^{will} ever accuse of being
18 a mental giant, said Tex Watson never even had an opinion
19 on anything; why, Manson wouldn't even let Tex Watson
20 go to sleep at night before him, much less go out ^{on his own} and
21 commit seven of the most horrendous murders imaginable.

8M f fls.

8f-1

1 What I am saying is that with respect to
2 Manson ordering these murders, we didn't need Linda
3 Kasabian's testimony. It was nice to have, but it wasn't
4 necessary.

5 Certain things are so clear and obvious in
6 life that a child can see and understand them.

7 One of them is that based on ^{the} ~~this~~ evidence? ^{in this way}
8 Manson ordered the seven Tate-La Bianca murders.

9 Linda Kasabian only articulated on that witness
10 stand and gave direct evidence of something that was
11 already unmistakably clear.

12 Ladies and gentlemen of the jury, although the
13 law only requires, as you know, that the testimony of an
14 accomplice be corroborated by slight evidence, we offered
15 an enormous, overwhelming amount of evidence corroborating
16 Linda Kasabian's testimony.

17 But much more importantly -- much more
18 importantly -- we offered a massive amount of evidence
19 against each defendant, and that evidence proves, beyond
20 all doubt, to the exclusion of all reasonable doubt,
21 that these defendants committed these murders.

22 Finally, I will make some closing observations,
23 and we can go out to lunch and come back and Judge Older
24 will instruct you on the law.

25 The defendants and their attorneys may be
26 hoping for miracles, but I ~~will~~ tell them that 12 reasonable

1 men and women chosen from this community heard the
2 evidence in this case, and they are not going to base
3 their verdict on a Perry Mason script. They are going to
4 base their verdict on the cold, hard, ugly facts that
5 came from that witness stand under oath.

6 Earle Stanley Gardner isn't here to help Paul
7 Fitzgerald, Irving Kanarek, Daye Shinn and Maxwell Keith.

8 There is not one tiny grain of evidence, not
9 one microscopic speck of evidence, that anyone had any
10 reason to mercilessly slaughter these seven victims, other
11 than the incredibly bizarre reasons that Charles Manson
12 and his subjects had.

13 With respect to the prosecution witnesses in
14 this case, ladies and gentlemen, keep this in mind. Other
15 than Linda Kasabian, no prosecution witness got anything
16 out of taking that witness stand and testifying.

17 And with respect to Linda Kasabian, we have
18 already discussed in great depth how we know that she told
19 the truth.

20 And also keep in mind that all of the testimony
21 of the other prosecution witnesses was 100 percent consis-
22 tent with each other. I have already given you countless
23 examples of that.

24 These prosecution witnesses, people like
25 Gregg Jakobson, Paul Watkins, Brooks Poston, Dianne Lake,
26 Danny DeCarlo, Juan Flynn, had no reason under the stars

*To take**offer*

1 ~~for~~-taking that witness stand and ~~offering~~ damaging
2 evidence against Manson and his co-defendants other than
3 a moral obligation to tell the truth.

4 They took that witness stand because they had
5 the courage -- and I use the word advisedly -- they had
6 to courage to get up there and tell the truth.

7 The truth, ladies and gentlemen of the jury,
8 the truth, is very, very difficult to smother and suppress.

9 You can call on your own human experience for
10 that. The truth has a way about it of seeping to the
11 surface. The chemistry of the truth is to emerge for a
12 breath of fresh air.

8g fls.

8g-1

1 The prosecution witnesses had the courage to
2 get up there and tell the truth.

3 People like Juan Flynn are in fear of their
4 lives at the hands of Charles Manson.

5 He testified that Manson threatened him with
6 his life many times. Even now he testified that he fears
7 Manson's "reach."

8 Being in fear of his life at the hands of
9 Charles Manson, the very last thing in the world he would
10 do would be to get up there and lie about Charles Manson.

11 To believe that someone like Juan Flynn would
12 take that stand and testify falsely against a man whom he
13 is in deathly fear of when he has absolutely nothing to
14 gain by it, is simply inconceivable.

15 (Charles Manson, ladies and gentlemen,) a man-
16 who has had the infinite humility, if you will, to refer
17 to himself as Jesus Christ, / said that he had the power to
18 give life. On the nights of the Tate-La Bianca murders,
19 he thought he had the concomitant right to take human life.

20 He never had the right, but he did it anyway.

21 On the hot summer night of August the 8th,
22 1969, Charles Manson, the ^{Mexican} Mephistophelian guru who raped
23 and bastardized the minds of all those who gave themselves
24 so totally to him, sent out from the fires of hell at
25 Spahn Ranch three heartless, blood-thirsty robots and,
26 unfortunately, ^{for him} one human being, the little hippie girl,

Linda Kasabian.

The photographs of the victims show how very well Watson, Atkins and Krenwinkel carried out their master's, Charles Manson's, mission of murder.

Movie director Roman Polanski, Sharon Tate's husband, himself could never have conceived a more monstrous, macabre, nightmarish scene of human terror and masacre.

To do what they did, Watson, Atkins and Krenwinkel had the minds and the hearts of the wildest animals in the jungle. They had an insatiable hunger for the merciless and barbaric death of human beings, an unquenchable thirst for their ^{life-blood} ~~lives blood~~.

What ^{resulted} ~~they did~~ was perhaps the most inhuman, nightmarish, horror-filled hour of savage murder and human slaughter in the recorded annals of crime.

As the helpless, defenseless victims begged and screamed out into the night for their lives, their life blood gushed out of their bodies, forming rivers of gore.

Ladies and gentlemen, if they could have, I am sure that Watson, Atkins and Krenwinkel would gladly have swum in that river of blood, ^{and with 500 armies} ~~with ecstatic~~ ecstasy on their faces.

Susan Atkins, the Vampira, actually tasted Sharon's blood.

1 Because Charles Manson made a mistake and sent
2 out one human being, Linda Kasabian, on this mission of
3 murder, we all sat here and listened in this courtroom to
4 Linda tell us in her own words about the unbelievable
5 horror that she witnessed, ^{and} ~~and~~ because she is a human
6 being and not a savage, she cried, and she cried hard
7 when she told you of the brutal murders that she saw with
8 her own eyes.

9 The very next night, Leslie Van Houten joined
10 the group of murderers, and it was poor Leno and Rosemary
11 La Bianca who were brutally butchered to death to satisfy
12 Charles Manson's homicidal madness.

9 fls.

9-1
1 As I said in my opening argument, ^{under} the laws of
2 this State and nation these defendants were entitled to
3 have their day in court, they have got that.

4 They are also entitled to be tried by a fair and
5 impartial jury, and have a fair trial. They got that, too,
6 That is all that they are entitled to.

7 Since they committed these seven savage, senseless
8 murders, the People of the State of California are entitled
9 to a guilty verdict.

10 The defendants did everything possible, ladies
11 and gentlemen, to escape liability for these ghastly murders.

12 Among other things they employed the ink bag of
13 the octopus.

14 But the evidence that came from that witness
15 stand under oath during this very long trial focused a
16 very bright, penetrating spotlight on these two dark,
17 black nights of murder, and what we saw, ladies and
18 gentlemen, was a ~~horrible~~ ^{chilling} horrifying, monstrous, almost
19 unearthly conspiracy to commit a wanton orgy of murder.

20 A conspiracy whose participants, Charles Manson
21 and his co-defendants, were blinded by the glare of the
22 spotlight, and who sought to cover their eyes, and scurry
23 off into the sanctuary of other dark places.

24 But our system of law, ladies and gentlemen, is
25 predicated on the concept of justice which means that when
26 you violate the law you have to pay for your crime.

1 Ladies and gentlemen of the jury, we have beheld
2 the form of the retreating octopus, ~~and we~~^{we} have brought these
3 defendants back to face justice.

4 You folks are 12 reasonable men and women. This
5 is why we selected you as jurors on this case, for that
6 very reason.

7 Not only was this an exceedingly strong case of
8 direct evidence against these defendants, but the prosecu-
9 tion's case literally overflowed with circumstantial
10 evidence against them.

11 Based on the evidence that came from that
12 witness stand, not only isn't there any reasonable doubt
13 of their guilt, which is our only burden, there is
14 absolutely no doubt whatsoever of their guilt.

15 The prosecution put on a monumental amount of
16 evidence against these defendants, much of it scientific,
17 all of it conclusively proving that these defendants
18 committed these murders.

19 As sure as night follows day, as sure as I am
20 standing here, these defendants are guilty. I turn you
21 over to your good common sense in evaluating the testimony
22 and the evidence that you heard in this case.

23 ~~In this case, ladies~~ and gentlemen, the prosecution
24 did its job in gathering and presenting the evidence.

25 The witnesses did their job by taking that
26 witness stand and testifying under oath.

1 Now you folks are the last link in the chain of
2 justice.

3 I respectfully ask that you come back into this
4 courtroom after your deliberations and say, "We, the jury
5 in the above-entitled action, find the defendants Charles
6 Manson, Susan Atkins and Patricia Krenwinkel guilty of
7 murder as charged in Counts I through VII of the
8 indictment, and we find it to be murder in the first
9 degree.

10 And we find defendant Leslie Van Houten to be
11 guilty of murder as charged in Counts VI and VII of the
12 indictment, and we find it to be murder in the first degree.

13 And we further find defendants Charles Manson,
14 Susan Atkins, Patricia Krenwinkel and Leslie Van Houten ~~are~~
15 guilty of the crime of conspiracy to commit murder as
16 charged in Count number VIII of the indictment.

17 Ladies and gentlemen of the jury, Sharon Tate,
18 Abigail Folger, Voltyck Frykowski, Jay Sebring, Steven
19 Parent, Leno La Bianca, Rosemary La Bianca are not here
20 with us now in this courtroom, but from their graves they
21 cry out for justice. Justice can only be served by coming
22 back to this courtroom with a verdict of guilty.

23 It has been a very, very long trial; I don't have
24 to tell you that, ^{you} ~~you~~ know it just as well or better than I.

25 This trial has been an enormous imposition on all
26 of your personal, private lives.

1 On behalf of the People of the State of California
2 I want to thank you very much for the patience and
3 attention you have shown throughout these entire
4 proceedings.

5 You have been an ^{exemplary} jury. The plaintiff
6 at this trial is the People of the State of California.
7 I have all the confidence in the world that you won't
8 let them down.

9 Thank you very much.

10 THE COURT: We will recess at this time until 1:45
11 this afternoon, ladies and gentlemen, remember the
12 admonition.

13 I will see counsel in chambers, please.
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9a-1

1 (The following proceedings were had in the
2 chambers of the court outside the presence of the jury,
3 all counsel with the exception of Mr. Hughes being present.)

4 THE COURT: Let the record show all counsel are
5 present.

6 MR. KAY: We received no copies of the requested
7 instructions.

8 (Mr. Fitzgerald gives copies to all attorneys.)

9 MR. KAY: A last minute blizzard of instructions.

10 MR. FITZGERALD: Three is a blizzard?

11 THE COURT: What was the last requested instruction?

12 MR. KAY: 129, Mr. Keith's instruction on mere
13 presence.

14 THE CLERK: The last one was 129, your Honor.

15 THE COURT: The special requested instruction starts
16 out:

17 "Either the presence of the defendant,"
18 et cetera, will be Defendants' Special Instruction 130.

19 The next one cites People vs. Hill and starts
20 out "Mere presence."

21 It will be 131.

22 The requested instruction again cites People
23 vs. Hill and starts out "Evidence that the person was in
24 the company," will be numbered 132.

25 And the fourth requested instruction, starting
26 out "A confession is an intended acknowledgement of guilt,"

1 will be 133.

2 Do the People have any comments?

3 MR. KAY: We have just received them.

4 THE COURT: Let's take them up in chronological
5 and numerical order.

6 MR. BUGLIOSI: Shall we discuss 130 first?

7 THE COURT: Yes.

8 MR. BUGLIOSI: Our position on that is that if the
9 Court was not going to give the mere presence instruction,
10 a fortiori, this instruction should not be given. I think
11 it is an a fortiori situation.

12 I think instructions on aiding and abetting
13 adequately cover the situation, and I particularly am not
14 pleased with an instruction coming in after argument which
15 prevents me from addressing myself to it during argument.

16 I would have objected to this instruction even
17 before argument, but certainly now -- certainly now. I
18 have already concluded my argument. I never had an
19 opportunity to address myself to it.

20 In any event, aiding and abetting covers the
21 situation, I mean, the instructions that the Court is
22 presently going to give adequately covers the situation.

23 THE COURT: Does anyone want to be heard?

24 MR. KANAREK: Join in the requested instruction, your
25 Honor.

26 MR. FITZGERALD: They were drawn up in the name of

1 everybody.

2 THE COURT: The subject is adequately covered by the
3 instructions I propose to give, and 130 will be refused.

4 131, any comment?

5 MR. BUGLIOSI: That is the same, mere presence instruc-
6 tion, your Honor.

7 Again, the Court rejected it before argument,
8 a fortiori, after argument I could not address myself to
9 it, I certainly would ask the Court to reject it.

10 It is adequately covered by the present aiding
11 and abetting instruction.

12 THE COURT: Does anyone wish to be heard other than
13 Mr. Bugliosi?

14 131 will be refused.

15 132, any comment?

16 MR. KANAREK: Also submit that.

17 THE COURT: I assume all of these are being requested
18 by all defendants.

19 MR. FITZGERALD: I just told Mr. Kanarek that three
20 times, your Honor.

21 MR. KANAREK: That's correct.

22 THE COURT: I had assumed that.

23 MR. KANAREK: That's correct.

24 THE COURT: Although it doesn't state so.

25 MR. KANAREK: I was responding to the Court. Your
26 Honor said --

1 THE COURT: I asked if you had any comment.

2 MR. KANAREK: Submit it, that is my comment.

3 MR. FITZGERALD: Please be quiet.

4 THE COURT: I think it is adequately covered. I am
5 talking about 132 now, and I also think that this is
6 ambiguous, I don't know what "associated" means.

7 I suppose you can associate with a person so
8 as to be an aider and abettor, or a conspirator, or not
9 guilty.

10 I don't know what it means.

11 In any event, it is covered by other instruc-
12 tions, and it will be refused.

13 133. Any comment?

14 MR. BUGLIOSI: It is covered elsewhere, your Honor,
15 with particularity in the other instructions the Court is
16 going to give.

17 MR. KANAREK: It is not, your Honor, it is not covered;
18 that is the point.

19 The instructions do not --

20 MR. BUGLIOSI: It is confusing, too.

21 MR. KANAREK: It is not confusing.

22 MR. KAY: It is confusing: "In all its elements,"
23 what does "In all its elements" mean?

24 Because Mr. Kanarek said one thing in his
25 argument and Mr. Bugliosi said another, I think this
26 would serve to completely confuse the jury.

1 Also we have the instructions already covering
2 confessions and admissions.

3 MR. KANAREK: Not so, your Honor, that is the point.

4 The one that is purportedly defining a confession,
5 where the admission and the confession are supposedly defined
6 in the same piece of paper, does not specify what is the
7 law.

8 In other words, there is a difference between
9 second degree murder and first degree murder, and therefore
10 a confession to second degree might and is in fact different
11 than first degree because the elements are different.

12 Otherwise the jury does not have that sophisticated
13 point, and that is what the prosecution wants, they want
14 these -- what we as lawyers would agree -- are admissions;
15 they want them to be considered confessions.

16 Well, maybe they should be considered confessions,
17 if all of the elements are present, but we are entitled,
18 and we allege it is a fundamental denial of due process
19 under the Fourteenth Amendment and equal protection clause
20 under the Fourteenth Amendment when state action is
21 involved, this is state action, the District Attorney's
22 office, to argue that these are confessions.

23 We should at least have the intellectual
24 discipline in the jury room where they would have to go
25 through and determine if each element is present.

0-1
1 THE COURT: Mr. Kanarek, the instructions I propose
2 to give set out in meticulous and precise detail all of the
3 elements of all of the offenses and the definitions the
4 jury has to know.

5 They have to find those things before they can
6 make a finding of guilty in any particular offense.

7 MR. KANAREK: In the area of confessions that is not
8 done, your Honor.

9 THE COURT: I believe it is done.

10 MR. KANAREK: Pardon?

11 THE COURT: I believe it is done. In analyzing a
12 statement made by the defendant, or alleged to have been
13 made by a defense they will have to apply the rules as
14 given to them by the Court and decide whether or not it is
15 a confession, and if it is a confession, a confession of
16 what.

17 MR. KANAREK: Well, your Honor, I respectfully --

18 THE COURT: It is no different from all of the other
19 decisions they have to make in arriving at their findings,
20 if they are able to.

21 MR. KANAREK: As I say your Honor is the one to decide,
22 but clearly we allege this is a violation and a denial
23 of a fair trial because of the large place in this trial
24 of confessions.

25 I think they should be told so they would go
26 through the discipline, I think it is incumbent in

1 connection with a fair trial that they go through the
2 discipline of analyzing a statement and saying, "Where is
3 the premeditation? Where is the malice aforethought?"
4 Everything that is required that we know when a police
5 officer, for instance, takes the confession, they go through
6 and they get the ingredients, the facts from which the legal
7 conclusion could be made.

8 Therefore, this jury being a jury of lay people,
9 the instructions do not include the discipline, we are
10 suggesting. It does not require the jury to go through the
11 discipline of determining that all elements are present.

12 For instance, that one they are basing on Mr.
13 Manson, where he supposedly said, "Who do you think is
14 responsible for these killings?"

15 If we were going to test this by first-degree
16 murder, where is the premeditation? Is that in that state-
17 ment?

18 Where is the malice aforethought? Where are the
19 ascertained people?

20 Now, if the jury doesn't do that, they cannot
21 possibly, your Honor, analyze that statement and determine,
22 say, the difference between first-degree murder and second-
23 degree murder, and an admission.

24 That would not be done; it will be done in just a
25 cavalier way, is what the prosecution wants. In other
26 words, they want these things to be considered confessions

1 so they can get the result that they want.

2 But we think that a fair trial requires that the
3 jury go through that discipline and all that this says is
4 exactly that.

5 THE COURT: I think the instructions would require
6 them to go through that discipline as I have already
7 indicated.

8 All of the things they are required to do are
9 fully covered by the instructions.

10 133 will be refused. 133 is ambiguous, but in any
11 event it will be refused.

12 All right, gentlemen?

13 MR. KAY: Your Honor, we have one point here about an
14 instruction, No. 65 in the instructions, CALJIC 6.20.

15 MR. BUGLIOSI: The one on withdrawal, your Honor.

16 The Court, when we were discussing instructions,
17 said it was not going to give the withdrawal instruction
18 because there is no evidence anyone intended to withdraw.

19 We notice that it is still there.

20 I remember the Court's discussion, that the
21 Court was not going to give it because there simply was no
22 evidence that anyone tried to get out of the conspiracy;
23 yet it is still in the group of papers there.

24 THE COURT: Well, I am going to give it. I know we
25 had lengthy discussions about it.

26 MR. BUGLIOSI: I thought the Court had concluded since

1 no one had --

2 THE COURT: I have changed my mind several times in
3 several instances. I don't remember what the last change
4 was except it is obvious I intended to give it because I
5 included it in the proposed instructions.

6 I know there are arguments pro and con, but I
7 think viewing all of the evidence that it should be given.

8 MR. FITZGERALD: I have a matter I wanted to bring to
9 the attention of the Court. I realize it is a late date,
10 and I certainly realize it is a late hour, but for the last
11 two days I have been trying to draft an instruction that
12 would cover some sort of instruction to the jury in regard
13 to the photographs they are going to receive of the
14 decedents.

15 Now, there is a jury instruction, a standard
16 CALJIC jury instruction of a general nature, your Honor,
17 that refers to duties of the jury, and it says they are
18 not to be influenced by passion or prejudice against
19 them, nor by pity for them.

20 THE COURT: That is 1.00.

21 MR. FITZGERALD: Of course, during the course of the
22 prosecution's argument, I think on two occasions there was
23 reference to looking at the photographs to see the
24 defendants' handiwork which, in essence, for the purposes
25 of these discussions anyway, is an appeal, sort of, to
26 passion or prejudice.

1 It would be one thing if they first determined
2 guilt, and then in the penalty phase they decide to look at
3 the pictures in aggravation of the offense.

4 The point of all this is, I wonder if your
5 Honor could just say a few words to the jury about the
6 legitimate uses of the gruesome or inflammatory photographs?

7 You let them in because you feel they are proper,
8 and I take it you feel that there are proper inferences
9 that can be drawn from them.

10 I wonder if you would just make a comment some-
11 how -- I cannot phrase it or draft it properly.
12 I tried about 14 times to do it.

13 You might say some words about the photographs.
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1 THE COURT: I appreciate your expression of confidence
2 in my ability to do what you say you cannot do, Mr. Fitz-
3 gerald. It seems to me it's already covered by the first
4 instruction I will give them.

5 MR. FITZGERALD: Mr. Shinn actually put in an instruc-
6 tion on the photograph thing, requested instruction No. 98.
7 It was rejected. I tried his. I didn't have too much luck
8 there either.

9 THE COURT: The photographs were objected to, the
10 objections were overruled and they were received as
11 evidence in the case because I felt that they are relevant,
12 material probative evidence.

13 Now, the fact that they also happen in addition
14 to contain evidence of blood and wounds, and so forth,
15 is unfortunate, but I don't see how you can get around
16 that in a case of this kind. That is why we have an
17 old fashioned prejudice type of instruction.

18 I cannot instruct them not to look at the
19 photographs during the guilt phase. If I believed that,
20 I would not have let them in.

21 MR. FITZGERALD: I understand that.

22 THE COURT: So I don't know what the answer is.

23 In this kind of a case there is going to be
24 some gruesome evidence, no question about it, or there
25 may be some gruesome evidence.

26 But my finding that the probative value outweighs

1 any possible prejudicial effect, I believe that, I don't
2 think there is any answer to your question other than the
3 instructions already being given.

4 MR. KAY: Your Honor, I have one suggestion to make
5 which your Honor probably has already thought of, but I
6 know it was employed in the Sirhan case, and I think it
7 would be proper in this case, to keep decorum in the
8 courtroom, that is to have the Sheriff's personnel advised,
9 the press and the spectators, that nobody is to leave the
10 courtroom, so they don't stumble all over each other and
11 run to their phones until after the verdicts have been
12 given by the jury, until after the jury is polled.

13 That way they will all have an even chance and
14 won't turn the courtroom into a circus.

15 THE COURT: I have been giving some consideration
16 to that.

17 I will give further consideration to it in
18 view of the fact there are so many possible verdicts and
19 verdict forms.

20 I may actually want to leave the bench and
21 come in here with these forms and look them over before
22 they are read by the Clerk, just to make sure that they
23 all are in proper form and signed and dated, and I might
24 overlook something up there at the bench, going through
25 verdicts for eight counts and for four defendants.

26 I want to make sure they are organized in some

1 intelligible form for the Clerk if he has to read them.

2 But I agree, I don't want spectators, counsel,
3 Sheriff's representatives or the media representatives
4 to stand up en masse and create a sea of confusion when
5 the first verdict is read, whatever it may be.

6 MR. KAY: And, your Honor, it is also the position of
7 the People, we would want the defendants to be present.

8 THE COURT: Well, that is another.

9 MR. FITZGERALD: We do too.

10 THE COURT: That is another point I have considered
11 carefully. I think they certainly should be present, and
12 I am going to have them present when we come in.

13 An aspect of that problem is whether they should
14 be brought in singly and the verdict as to individual
15 defendants be read, or whether they should all be there
16 at the same time.

17 I don't suppose it really makes any difference,
18 but I think probably they all should be present, and as long
19 as they don't disrupt the proceedings they will remain.

20 MR. FITZGERALD: Thank you.

21 THE COURT: But if there is a disruption, after all
22 the disruption we have had so far it isn't going to take much
23 to convince me that is what they intend to do, then they
24 are going to have to be removed, and of course they will
25 be put back in their rooms again where they can hear.

26 I certainly would prefer to have them present, and

1 that is the way we will start out.

2 MR. KANAREK: Your Honor, in connection with the
3 contempt concerning me, I would welcome your Honor to
4 read the several pages prior to that, because I think your
5 Honor will see rather than being disruptive at all, Mr.
6 Bugliosi made an allegation to certain arguments that Mr.
7 Keith and I made and he did not include marijuana, only
8 LSD.

9 He attributed/^acertain argument to me. I think
10 it will show I was respectful to the Court.

11 The Court told me to do something; I said
12 "Very well, your Honor."

13 But I would like to have counsel also, your
14 Honor, in connection with that.

15 THE COURT: Do you have the page citation?

16 MR. KANAREK: Yes, your Honor, I think it is around
17 187, 21187 or something like that.

18 THE COURT: I'm not going to do it right now.

19 MR. KANAREK: I would welcome knowing your Honor's
20 intent in connection with that contempt because I certainly
21 did not intend to disrupt at all, but I refer your Honor
22 to the Gallagher case, and the Hallinan case where lawyers
23 actually --

24 THE COURT: What you said was:

25 "Your Honor, may he include marijuana in that
26 issue?"

1 MR. KANAREK: Yes, right, your Honor, and if your
2 Honor will see, he attributed to Mr. Keith and me language
3 in the several pages preceding, your Honor, wherein this
4 was not so.

5 We did not limit our argument to LSD.

6 THE COURT: I find that difficult to construe as an
7 objection, Mr. Kanarek.

8 MR. KANAREK: Well, your Honor, I would take the
9 witness stand and testify under oath, your Honor, that that
10 is so, because if you look at it --

11 THE COURT: I am looking at it.

12 The last thing that Mr. Bugliosi said before your
13 remark was -- I'm reading just the latter part of the
14 sentence:

15 "And inasmuch as one or more of you folks
16 might be concerned about the fact that the star
17 witness for the prosecution did ingest a considerable
18 amount of LSD, I will briefly address myself to
19 the LSD issue."

20 MR. KANAREK: Yes.

21 THE COURT: "MR. KANAREK: Your Honor, may he include
22 marijuana in that issue?"
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1 MR. KANAREK: Yes, your Honor, what I had in mind were
2 his utterances just before that, he spoke and attributed to
3 Mr. Keith and me arguments wherein we only spoke of LSD,
4 but we didn't, we spoke of both marijuana and LSD.

5 THE COURT: I will consider this further and I will
6 go back and read several pages preceding this exchange.

7 MR. KANAREK: May I inquire as to your Honor's intent
8 in connection to that?

9 THE COURT: I haven't made up my mind yet. You asked
10 me to go back and read it. I said I would do it.

11 MR. KANAREK: Thank you, your Honor.

12 MR. KEITH: Before we adjourn, out of an abundance of
13 caution I think I have done this before, but I would like
14 the record to show that I object very strongly to the
15 second paragraph of CALJIC 33.34 which is Page 55 of the
16 instructions referring to, "You must assume that each of
17 the defendants was of sound mind for the purposes of the
18 case on trial."

19 I think we took it up before, but it isn't quite
20 clear; it doesn't help me at all.

21 MR. BUGLIOSI: The problem is I have already told that
22 to the jury; then if the Court doesn't give that instruction
23 it's going to look kind of bad.

24 MR. KEITH: I think it's very bad law in the light of
25 present day evolution of the law.

26 THE COURT: Maybe the jury won't believe it.

1 MR. KEITH: I don't want to argue the matter.

2 MR. KANAREK: May I join in Mr. Keith's comments?

3 THE COURT: You may all join in the objection.

4 MR. FITZGERALD: Thank you, your Honor.

5 THE COURT: The objection is overruled.

6 All right, 145, gentlemen, I don't think it's
7 going to take more than about 40 minutes to read these
8 instructions. Some of them are quite short.

9 One other thing, while you are here, now, when
10 the jury once retires, I know you gentlemen don't want to
11 hang around here; you have other things to do. But you must
12 recognize that there is a good possibility that the jury --
13 I guess there is a good possibility of anything. They can
14 arrive at a verdict quickly or they can take a long time.

15 There is a possibility they may want evidence
16 read back. They may have questions of some kind which I
17 will require them through their foreman to give to the
18 bailiff in writing.

19 But in any event, obviously I have to be able
20 to have you available back in the courtroom on fairly short
21 notice and I would think about 30 minutes would be not
22 unreasonable.

23 I realize this poses some problems, but on the
24 other hand, let's face it, the case is not over just because
25 it has been submitted to the jury.

26 MR. FITZGERALD: In that connection we wonder if it is

1 possible or if your Honor would consider not bringing the
2 female defendants here to the Hall of Justice every day.

3 If you would leave them at Sybil Brand on the same
4 sort of call system?

5 THE COURT: I think so, yes. I don't see any necessity
6 to bring them here every day.

7 MR. FITZGERALD: It is our request that they be over
8 there, if possible.

9 THE COURT: Certainly until something happens there is
10 no need for them to be here.

11 MR. FITZGERALD: Right. Frequently where when juries
12 deliberate --

13 THE COURT: Do any of you have any comment about the
14 30-minutes on-call status?

15 MR. KAY: Does that go for Saturday also?

16 THE COURT: I don't think on Saturday. I think every-
17 body is entitled to a little more -- I'm going to have them
18 deliberate on Saturday.

19 MR. KEITH: Not Sunday, though.

20 THE COURT: Not Sunday.

21 MR. BUGLIOSI: Are they going to come here to
22 deliberate, or at the hotel?

23 THE COURT: Yes, here.

24 MR. FITZGERALD: Here, we object to their deliberating
25 at the hotel.

26 THE COURT: They won't deliberate anywhere else but in

1 the jury room with all the security protection.

2 But on Saturday if they have a question they will
3 just have to wait until Monday, or a verdict.

4 MR. FITZGERALD: In reply to your inquiry, I think
5 that 30 minutes is certainly reasonable from one point of
6 view, it's unreasonable from another point of view.

7 I won't have any problem, I don't think, getting
8 here. My office is not that far away.

9 Shinn's office is at 3860 South Crenshaw Boulevard
10 and Mr. Kanarek is out in the middle of the San Fernando
11 Valley, 1721 Van Nuys Boulevard.

12 I am simply talking about transportation.
13 45 minutes is probably a little more realistic. I think
14 you are going to have trouble getting us here in 30 minutes.

15 MR. BUGLIOSI: I will be at my home in Glendale.

16 THE COURT: You are retiring?

17 MR. BUGLIOSI: I have a lot of other work to do and
18 I cannot ever get any of it done down here.

19 But I probably can get here in 30 minutes.
20 It takes quite a while to drive in from Glendale.

21 THE COURT: Let's make it 45 minutes, but if we make
22 it any longer than that we are going to waste a whole day
23 just getting people together.

24 MR. KAY: Does that go for Saturday or for every day?

25 THE COURT: Every day.

26 Saturday I just won't count on being able to get

1 you down.

2 MR. SHINN: I was thinking sometimes if I am not
3 available, can I send my associate down?

4 THE COURT: I think we probably should have an
5 exception. If they have a verdict on Saturday perhaps we
6 should.

7 MR. FITZGERALD: You might not want them to deliberate
8 next Saturday. You might feel by next Saturday if they are
9 still deliberating and they deliberated six days in a row,
10 you might decide to give them two days off next week.

11 The only Saturday we are dealing with immediately
12 is tomorrow.

13 THE COURT: I would do this, I think if you gentlemen
14 will check in by telephone the first thing every morning,
15 it could save a great deal of time.

16 If the clerk has to go looking for you, that
17 poses kind of a problem, no telling where you may be.

18 If you will check in with him, say between a
19 quarter to 9:00 and a quarter after 9:00, that is a half-
20 hour period, then if we do have a request, if we do have
21 a verdict, or something that requires your attention, you
22 will know about it at the beginning of the day.

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1 So, I will put that in the form of an order,
2 and counsel will check in by telephone every day, except
3 Sunday, between 8:45 a.m. and 9:15 a.m., by telephone
4 with the Clerk.

5 THE CLERK: Your Honor, Saturday?

6 MR. KEITH: Will the Clerk be here tomorrow?

7 MR. KAY: The jury will be deliberating.

8 THE COURT: I think we are going to have to.

9 But until further notice, check in every day,
10 except Sunday, between 8:45 a.m. and 9:15 a.m.

11 MR. KEITH: Is the switchboard open in the courthouse?

12 THE COURT: And on Monday through --

13 Is it?

14 THE CLERK: I don't know. They have a direct number.
15 I will find out.

16 THE COURT: Do you have a direct line?

17 THE CLERK: I will have to check.

18 MR. KEITH: We can send a carrier pigeon.

19 THE COURT: Let's forget about Saturday. It poses
20 too many problems.

21 Monday through Friday, make your telephone
22 check, and be on no more than 45 minutes call. That is,
23 getting to the courtroom within 45 minutes.

24 MR. KAY: So, if the jury has a verdict on Saturday,
25 we will hold it over to Monday?

26 MR. MUSICH: I think you will call us in that event.

1 THE COURT: In any event, I want the Clerk to have
2 your telephone numbers where you can be reached during
3 all daylight hours.

4 MR. BUGLIOSI: I was thinking, your Honor, in a case
5 of immeasurably less magnitude, when a jury reaches a
6 verdict on Saturday, everybody comes down on Saturday.

7 THE COURT: I would prefer to do it that way.

8 The fact that we don't have a telephone check-in
9 doesn't preclude us from taking the verdict.

10 As long as the Clerk has your numbers, if we
11 have a verdict on Saturday, you will be called.

12 MR. BUGLIOSI: Yes.

13 I think so.

14 THE COURT: Is there any doubt about what has just
15 been said?

16 MR. KANAREK: Furnish Mr. Darrow with the numbers?
17 Is that it?

18 Furnish Mr. Darrow with our number where we can
19 be reached at any time?

20 MR. MUSICH: What about the motions pending for
21 Monday?

22 THE COURT: We still have the motions pending on
23 Monday at 9:00 o'clock.

24 MR. KEITH: Could we reconvene at 2:00 instead of
25 1:45?

26 THE COURT: Since you have another one on file, I

1 will probably have to put that over because no one has
2 had a chance to prepare anything in opposition.

3 MR. FITZGERALD: Right.

4 I should have changed the date on that, but
5 because they were so similar, I didn't.

6 They didn't really have much notice.

7 You can put them both over.

8 THE COURT: You can appear on Monday and we can
9 continue them down the week sometime.

10 MR. FITZGERALD: Yes.

11 As a matter of fact, as the one most familiar
12 with the motion, I prepared them in most respects, if these
13 gentlemen don't want to appear on Monday, I will be happy
14 to appear for you for the purpose of continuing it to some
15 convenient date.

16 THE COURT: It is agreeable with me. Is it agreeable
17 with you?

18 MR. SHINN: Yes.

19 MR. KEITH: Agreeable.

20 MR. KANAREK: Yes.

21 MR. KEITH: May we reconvene at 2:00 instead of
22 1:45?

23 THE COURT: All right. 2:00 o'clock.

24 (Whereupon at 12:30 o'clock p.m. the court
25 was in recess.)
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LOS ANGELES, CALIFORNIA, FRIDAY, JANUARY 15, 1971

2:05 P.M.

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

THE COURT: All counsel and jurors are present.

Ladies and gentlemen of the jury:

It is my duty to instruct you in the law that applies to this case and you must follow the law as I state it to you.

As jurors it is your exclusive duty to decide all questions of facts submitted to you and for that purpose to determine the effect and value of the evidence.

In performing this duty you must not be influenced by pity for a defendant or by passion or prejudice against them.

You must not be biased against a defendant because he has been arrested for this offense or because a charge has been filed against him, or because he has been brought to trial. None of these facts is evidence of his guilt and you must not infer or speculate from any or all of them that he is more likely to be guilty than innocent.

In determining whether the defendant is guilty or not guilty, you must be governed solely by the evidence received in this trial and the law as stated to you by the

1 Court. You must not be governed by mere sentiment,
2 conjecture, sympathy passion, prejudice, public opinion,
3 or public feeling. Both the People and the defendant have a
4 right to expect that you will conscientiously consider and
5 weigh the evidence and apply the law of the case, and that
6 you will reach a just verdict regardless of what the
7 consequences of such a verdict may be.
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1 If the court has repeated any rule, direction
2 or idea, or stated the same in varying ways, no emphasis
3 was intended and you must not draw any inference therefrom.
4 You are not to single out any certain sentence or any
5 individual point or instruction and ignore the others. You
6 are to consider all the instructions as a whole and are to
7 regard each in the light of all the others.

8 The order in which the instructions are given has
9 no significance as to their relative importance.
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1 You must not consider as evidence any statement of
2 counsel made during the trial; however, if counsel for
3 the parties have stipulated to any fact, or any fact has
4 been admitted by counsel, you will regard that fact as
5 being conclusively proved as to the party or parties
6 making the stipulation or admission.

7 A "stipulation" is an agreement between attorneys
8 as to matters relating to the trial.

9 As to any question to which an objection was
10 sustained, you must not speculate as to what the answer might
11 have been or as to the reason for the objection.

12 You must never speculate to be true any
13 insituation suggested by a question asked a witness.

14 A question is not evidence and may be considered only as it
15 supplies meaning to the answer.

16 You must not consider for any purpose any offer
17 of evidence that was rejected, or any evidence that was
18 stricken out by the court; such matter is to be treated
19 as though you had never heard of it.

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1 The masculine form as used in these instructions
2 applies equally to a female person.
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1 The word "defendant" as used in these instructions,
2 applies equally to each defendant in this case except as
3 you may be otherwise instructed.
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1 The testimony of a witness, a writing, a
2 material object, or anything presented to the senses
3 offered to prove the existence or nonexistence of a fact is
4 either direct or circumstantial evidence.

5 Direct evidence means evidence that directly
6 proves a fact, without an inference, and which in itself,
7 if true, conclusively establishes that fact.

8 Circumstantial evidence means evidence that
9 proves a fact from which an inference of the existence of
10 another fact may be drawn.

11 An inference is a deduction of fact that may
12 logically and reasonably be drawn from another fact or
13 group of facts established by the evidence.

14 It is not necessary that facts be proved by
15 direct evidence. They may be proved also by circumstantial
16 evidence or by a combination of direct evidence and
17 circumstantial evidence. Both direct evidence and circum-
18 stantial evidence are acceptable as a means of proof.
19 Neither is entitled to any greater weight than the other.
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1 You are not permitted to find a defendant guilty
2 of any crime charged against him based on circumstantial
3 evidence unless the proved circumstances are not only
4 consistent with the theory that that defendant is guilty
5 of the crime, but cannot be reconciled with any other
6 rational conclusion, and each fact which is essential to
7 complete a set of circumstances necessary to establish that
8 defendant's guilt has been proved beyond a reasonable doubt.

9 Also, if the evidence as to any particular count
10 is susceptible of two reasonable interpretations, one of
11 which points to a defendant's guilt and the other to his
12 innocence, it is your duty to adopt that interpretation which
13 points to his innocence, and reject the other which points
14 to his guilt.

15 You will notice that the second paragraph of
16 this instruction applies only when both of the interpretations
17 appear to you to be reasonable. If, on the other hand, one
18 of the interpretations appears to you to be reasonable and
19 the other to be unreasonable, it would be your duty to adopt
20 the reasonable interpretation and to reject the unreasonable
21 interpretation.

1 Evidence that a defendant attempted to suppress
2 evidence against himself in any manner, such as by the
3 intimidation of a witness, may be considered by you as a
4 circumstance tending to show a consciousness of guilt.
5 However, such evidence is not sufficient in itself to
6 prove guilt and its weight and significance, if any, are
7 matters for your consideration.
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1 It is permissible to prove that the defendant
2 Patricia Krenwinkel was ordered by the Court to make
3 certain handwriting exemplars during the trial and that she
4 failed to make such exemplars. Defendant Patricia
5 Krenwinkel stated to the Court that her refusal to make
6 such exemplars was based upon the advice of her attorney.
7 The Court advised her in open court outside the jury's
8 presence that she had no legal right to refuse, that she
9 had an absolute right to make such exemplars notwithstanding
10 her attorney's advice to the contrary, and that her failure
11 to make such exemplars might be the subject of argument
12 to the jury by the prosecution and an instruction to the
13 jury by the Court. The fact that she failed to comply with
14 the order to make such exemplars is not sufficient standing
15 alone and by itself to establish the guilt of Patricia
16 Krenwinkel, but is a fact which if proven may be considered
17 by you in the light of all other proven facts in deciding
18 the question of guilt or innocence in accordance with all
19 of the Court's instructions to you. Whether or not such
20 conduct shows a consciousness of guilt and the significance
21 to be attached to such a circumstance are matters for your
22 determination.

23 You are not to consider such circumstance in
24 connection with any defendant other than Patricia
25 Krenwinkel.
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1 Evidence has been admitted as against one or
2 more of the defendants, but denied admission as against
3 the others.

4 At the time this evidence was admitted you were
5 admonished that it could not be considered by you as
6 against the other defendants.

7 You are again instructed that you must not
8 consider such evidence as against the other defendants.

9 Your verdict as to each defendant must be
10 rendered as if he were being tried separately.

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1 Certain evidence was admitted for a limited
2 purpose.

3 At the time this evidence was admitted you were
4 admonished that it could not be considered by you for any
5 purpose other than the limited purpose for which it was
6 admitted.

7 You are again instructed that you must not
8 consider such evidence for any purpose except the limited
9 purpose for which it was admitted.

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1 The Court has previously admonished you to
2 consider the tape recorded statement of Juan Flynn, intro-
3 duced through the testimony of Officer Dave Steuber,
4 for a limited purpose only.

5 You are now instructed to disregard that
6 previous instruction.

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1 Juan Flynn, a witness in this case, has
2 testified about an incident that allegedly took place
3 prior to his testifying here in court in which he
4 received two notes: Note No. 1 began "How many changes
5 does it take to make one big change, or does it take ten
6 little changes to make one big change...." And Note No. 2
7 began "This is an indictment on your life because it is
8 coming down, and when in the course of human events...."

9 At the time this alleged incident was testified
10 to, you were admonished that it was to be considered by
11 you only in determining the state of mind of the witness
12 Juan Flynn if you determined that such an incident took
13 place.

14 You are instructed that you may not consider
15 this evidence for any other purpose.
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12-4

1 Linda Kasabian, a witness in this case, has
2 testified to a statement allegedly made by "Gypsy", also
3 known a Catherine Share, about the character and
4 personality of Charles Manson as well as life in the
5 Family.

6 You are hereby instructed that you may consider
7 such evidence only in determining the state of mind of
8 Linda Kasabian at the time "Gypsy" allegedly made such
9 statement and for no other purpose.
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Linda Kasabian, a witness in this case, has testified to statements made by her to two young hitchhikers on or about August 12 to August 15, 1969.

This evidence has been received for the sole purpose of determining, if necessary, the state of mind of witness Linda Kasabian at the time the statements were made.

12-6

Neither side is required to call as witnesses
all person who may have been present at any of the
events disclosed by the evidence or who may appear to have
some knowledge of these events, or to produce all objects
or documents mentioned or suggested by the evidence.

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1 Every person who testifies under oath is a
2 witness. You are the sole and exclusive judges of the
3 credibility of the witnesses who have testified in this
4 case. In determining the credibility of a witness you may
5 consider any matter that has a tendency in reason to prove
6 or disprove the truthfulness of his testimony, including
7 but not limited to the following:

8 His demeanor while testifying and the manner
9 in which he testifies;

10 The character of his testimony;

11 The extent of his capacity to perceive, to
12 recollect, or to communicate any matter about which he
13 testifies;

14 The extent of his opportunity to perceive
15 any matter about which he testifies;

16 His character for honesty or veracity or
17 their opposites;

18 The existence or non-existence of a bias,
19 interest, or other motive;

20 A statement previously made by him that is
21 consistent with his testimony;

22 A statement made by him that is inconsistent
23 with any part of his testimony.

24 The existence or non-existence of any facts
25 testified to by him;

26 His attitude toward the action in which he

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1 testifies or towards the giving of testimony;

2 His admission of untruthfulness;

3 His prior conviction of a felony.

-12a fls. 4

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1 A witness willfully false in one material
2 part of his testimony is to be distrusted in others.
3 You may reject the whole testimony of a witness who
4 willfully has testified falsely as to a material point,
5 unless from all the evidence you shall believe the
6 probability of truth favors his testimony in other
7 particulars.

8 However, discrepancies in a witness' testimony
9 or between his testimony and that of others, if there were
10 any, do not necessarily mean that the witness should be
11 discredited. Failure of recollection is a common
12 experience; and innocent misrecollection is not uncommon.
13 It is a fact, also, that two persons witnessing an
14 incident or a transaction often will see or hear it
15 differently. Whether a discrepancy pertains to a fact of
16 importance or only to a trivial detail should be considered
17 in weighing its significance.

1 You are not bound to decide in conformity
2 with the testimony of a number of witnesses, which does
3 not produce conviction in your mind, as against the
4 testimony of a lesser number or other evidence, which
5 appeals to your mind with more convincing force.

6 This does not mean that you are at liberty
7 to disregard the testimony of the greater number of
8 witnesses from caprice or prejudice, or from a desire to
9 favor one side as against the other. It does mean that you
10 are not to decide an issue by the simple process of
11 counting the number of witnesses who have testified
12 on the opposing sides. It means that the final test
13 is not in the relative number of witnesses, but in the
14 relative convincing force of the evidence.

1 The fact that a witness had been convicted of
2 a felony, if such be a fact, may be considered by you
3 only for the purpose of determining the credibility of
4 that witness. The fact of such a conviction does not
5 necessarily destroy or impair the witnesses' credibility.
6 It is one of the circumstances that you may take into
7 consideration in weighing the testimony of such a witness.
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1 Motive is not an element of the crime charged
2 and need not be shown. However, you may consider motive
3 or lack of motive as a circumstance in this case. Presence
4 of motive may tend to establish guilt.

5 Absence of motive may tend to establish
6 innocence. You will therefore give its presence or
7 absence, as the case may be, the weight to which you find
8 it to be entitled.

1 A statement by a defendant other than at his
2 trial may be either an admission or a confession.

3 An admission is a statement by a defendant,
4 which by itself is not sufficient to warrant an inference
5 of guilt, but which tends to prove guilt when considered
6 with the rest of the evidence.

7 A confession is a statement by a defendant
8 which discloses his intentional participation in the
9 criminal act for which he is on trial and which discloses
10 his guilt of that crime.

11 You are the exclusive judges as to whether an
12 admission or a confession was made by any defendant and
13 if the statement is true in whole or in part. If you should
14 find that such statement is entirely untrue, you must
15 reject it. If you find it is true in part, you may
16 consider that part which you find to be true.

17 Evidence of an oral admission or an oral
18 confession of a defendant ought to be viewed with caution.

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1 No person may be convicted of a criminal
2 offense unless there is some proof of each element of the
3 crime independent of any confession or admission made by
4 him outside of this trial.

5 The identity of the person who is alleged to
6 have committed a crime is not an element of the crime.
7 Such identity may be established by an admission or
8 a confession.

1 A person is qualified to testify as an expert
2 if he has special knowledge, skill, experience, training,
3 or education sufficient to qualify him as an expert on
4 the subject to which his testimony relates.

5 Duly qualified experts may give their opinions
6 on questions in controversy at a trial.

7 To assist you in deciding such questions,
8 you may consider the opinion with the reasons given for
9 it, if any, by the expert who gives the opinion.

10 You may also consider the qualifications and
11 the credibility of the expert.

12 In resolving any conflict that may exist in the
13 testimony of expert witnesses, you should weigh the opinion
14 of one expert against that of another. In doing this, you
15 should consider the relative qualifications and credibility
16 of the expert witnesses, as well as the reasons for each
17 opinion and the facts and other matters upon which it
18 was based.

19 You are not bound to accept an expert opinion
20 as conclusive, but should give to it the weight to which
21 you find it to be entitled. You may disregard any such
22 opinion if you find it to be unreasonable.

13 fls.

1 In determining the weight to be given to an
2 opinion expressed by any witness who did not testify as an
3 expert witness, you should consider his credibility, the
4 extent of his opportunity to perceive the matters upon
5 which his opinion is based and the reasons, if any, given
6 for it. You are not required to accept such an opinion
7 but should give it the weight, if any, to which you find
8 it entitled.

1 In examining an expert witness, counsel may
2 propound to him a type of question known in the law as a
3 hypothetical question. By such a question the witness is
4 asked to assume to be true a hypothetical state of facts,
5 and to give an opinion based on that assumption.

6 In permitting such a question, the Court does
7 not rule, and does not necessarily find that all the assumed
8 facts have been proved. It only determines that those assumed
9 facts are within the probable or possible range of the
10 evidence. It is for you, the jury, to find from all the
11 evidence whether or not the facts assumed in a hypothetical
12 question have been proved, and if you should find that
13 any assumption in such a question has not been proved, you
14 are to determine the effect of that failure of proof on the
15 value and weight of the expert opinion based on the
16 assumption.

1 A defendant in a criminal action is presumed to
2 be innocent until the contrary is proved, and in case of
3 a reasonable doubt whether his guilt is satisfactorily
4 shown, he is entitled to an acquittal. This
5 presumption places upon the State the burden of proving him
6 guilty beyond a reasonable doubt..

7 Reasonably doubt is defined as follows: It is
8 not a mere possible doubt, because everything relating
9 to human affairs, and depending on moral evidence, is open
10 to some possible or imaginary doubt. It is that state
11 of the case which, after the entire comparison and
12 consideration of all the evidence, leaves the minds of
13 the jurors in that condition that they cannot say they
14 feel an abiding conviction, to a moral certainty, of the
15 truth of the charge.
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1 Evidence that on some former occasion a witness
2 made a statement or statements that were consistent or
3 inconsistent with his testimony in this trial may be
4 considered by you as evidence of the truth of the facts as
5 stated by the witness on such former occasion.

6 However, you are not bound to accept such state-
7 ment or statements to be truthful in whole or in part, but
8 you should give to them the weight to which you find them
9 to be entitled.

1 It is a constitutional right of a defendant in a
2 criminal trial that he may not be compelled to testify.
3 Thus the decision as to whether he should testify is left
4 to the defendant, acting with the advice and the assistance
5 of his attorney. You must not draw any inference of guilt
6 from the fact that he does not testify, nor should this
7 fact be discussed by you or enter into your deliberations
8 in any way.

1 In deciding whether or not to testify, the
2 defendant may choose to rely on the state of the evidence
3 and upon the failure, if any, of the People to prove every
4 essential element of the charge against him, and no lack
5 of testimony on defendant's part will supply a failure of
6 proof by the People so as to support by itself a finding
7 against him on any such essential element.
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1 All persons concerned in the commission of a crime
2 who either directly and actively commit the act constituting
3 the offense or who knowingly and with criminal intent aid
4 and abet in its commission or, whether present or not, who
5 advise and encourage its commission, are regarded by the
6 law as principals in the crime thus committed and are
7 equally guilty thereof.
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1 A person aids and abets the commission of a crime
2 if he knowingly and with criminal intent aids, promotes,
3 encourages or instigates by act or advice, or by act and
4 advice, the commission of such crime.
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1 A conviction cannot be had upon the testimony of
2 an accomplice unless it is corroborated by such other
3 evidence as shall tend to connect the defendant with the
4 commission of the offense.
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1 Corroborative evidence is evidence of some act or
2 fact related to the offense which, if believed, by itself and
3 without any aid, interpretation or direction from the
4 testimony of the accomplice, tends to connect the defendant
5 with the commission of the offense charged.

6 However, it is not necessary that the corroborative
7 evidence be sufficient in itself to establish every element
8 of the offense charged, or that it corroborate every fact
9 to which the accomplice testifies. The evidence required
10 to corroborate the testimony of an accomplice is
11 sufficient if it tends to connect the defendant with the
12 commission of the crime in such a way as may reasonably
13 satisfy the jury that the witness who must be corroborated
14 is telling the truth.

15 It is not necessary that the evidence used to
16 corroborate the testimony of an accomplice prove indepen-
17 dently that the defendant is guilty of the offense.
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1 Evidence corroborating the testimony of an
2 accomplice need not connect the defendant with the
3 commission of the offense beyond a reasonable doubt.

4 In determining whether an accomplice has been
5 corroborated, you must first assume the testimony of the
6 accomplice has been removed from the case. You must then
7 determine whether there is any remaining evidence
8 standing by itself or in conjunction with any other
9 remaining evidence which tends to connect the defendant
10 with the commission of the offense.

11 If there is not such independent evidence which
12 tends to connect defendant with the commission of the
13 offense, the testimony of the accomplice is not corroborated.

14 If there is such independent evidence which you
15 believe, then the testimony of the accomplice is
16 corroborated.

1 If the crimes of murder or conspiracy to commit
2 murder, the commission of which is charged against the
3 defendants, were committed by anyone, the witness Linda
4 Kasabian was an accomplice as a matter of law and her
5 testimony is subject to the rule requiring corroboration.
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1 The testimony of an accomplice ought to be
2 viewed with distrust. This does not mean that you may
3 arbitrarily disregard such testimony, but you should give
4 to it the weight to which you find it to be entitled after
5 examining it with care and caution and in the light of all
6 the evidence in the case.

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You are instructed that evidence sufficient to corroborate the testimony of an accomplice may be slight and entitled to little consideration when standing alone.

The evidence is sufficient even though slight if it tends to connect the defendant with the commission of the crime.

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1 You are instructed that the evidence required
2 to corroborate the testimony of an accomplice may be
3 either circumstantial or direct.
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1 Murder is the unlawful killing of a human
2 being, with malice aforethought.

3 "Malice" may be either express or implied.

4 Malice is express when there is manifested
5 an intention unlawfully to kill a human being.

6 Malice is implied when the killing results
7 from an act involving a high degree of probability that
8 it will result in death, which act is done for a base,
9 antisocial purpose and with a wanton disregard for human
10 life or when the killing is a direct causal result of the
11 perpetration or the attempt to perpetrate a felony
12 inherently dangerous to human life.

13 The mental state constituting malice afore-
14 thought does not necessarily require any ill will or
15 hatred of the person killed.

16 "Aforethought" does not imply deliberation or
17 the lapse of considerable time. It only means that the
18 required mental state must precede rather than follow
19 the act.
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1 All murder which is perpetrated by any kind
2 of willful, deliberate and premeditated killing with
3 malice aforethought is murder of the first degree.

4 The word "deliberate" means formed or arrived
5 at or determined upon as a result of careful thought and
6 weighing of considerations for and against the proposed
7 course of action. The word "premeditated" means considered
8 beforehand.

9 If you find that the killing was preceded and
10 accompanied by a clear, deliberate intent on the part
11 of the defendant to kill, which was the result of
12 deliberation and premeditation, so that it must have been
13 formed upon pre-existing reflection and not under a
14 sudden heat of passion or other condition precluding the
15 idea of deliberation, it is murder of the first degree.

16 The law does not undertake to measure in
17 units of time the length of the period during which the
18 thought must be pondered before it can ripen into an
19 intent to kill which is truly deliberate and premeditated.
20 The time will vary with different individuals and under
21 varying circumstances. The true test is not the duration
22 of time, but rather the extent of the reflection. A
23 cold, calculated judgment and decision may be arrived at
24 in a short period of time, but a mere unconsidered and
25 rash impulse, even though it include an intent to kill,
26 is not such deliberation and premeditation as will fix

14-5

1 an unlawful killing as murder of the first degree.

2 To constitute a deliberate and premeditated
3 killing, the slayer must weigh and consider the question
4 of killing and the reasons for and against such a choice
5 and, having in mind the consequences, he decides to
6 and does kill.

1 The unlawful killing of a human being, whether
2 intentional, unintentional or accidental, which occurs as
3 the result of the commission or attempt to commit the crime
4 of burglary or robbery, and where there was in the mind of
5 the perpetrator the specific intent to commit such crime
6 or crimes, is murder of the first degree.

7 The specific intent to commit burglary or
8 robbery and the commission or attempt to commit such crime
9 or crimes must be proved beyond a reasonable doubt.

10 14a fls.

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1 Every person who enters any house with the
2 specific intent to steal, take and carry away the
3 personal property of another of any value with the
4 specific intent to deprive the owner permanently of his
5 personal
6 /property is guilty of burglary.

7 The essence of a burglary is entering such a
8 place with such specific intent, and the crime of
9 burglary is complete as soon as the entry is made,
10 regardless of whether the intent thereafter is carried out.
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1 Robbery is the taking of personal property of
2 any value in the possession of another, from his person or
3 immediate presence, and against his will, accomplished by
4 means of force or fear and with the specific intent
5 permanently to deprive the owner of his property.
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1 If a human being is killed by any one of several
2 persons engaged in the perpetration of, or attempt to
3 perpetrate, the crime of burglary or robbery, all persons
4 who either directly and actively commit the act constituting
5 such crime or who knowingly and with criminal intent aid and
6 abet in its commission or, whether present or not, who
7 advise and encourage its commission, are guilty of murder
8 of the first degree, whether the killing is intentional,
9 unintentional, or accidental.

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1 Under the Court's instructions to you a finding
2 that any defendant is guilty of murder in the first degree
3 as to Counts I through VII, inclusive, must be based upon
4 either a willful, deliberate and premeditated killing with
5 malice aforethought, or a killing which occurred as the
6 result of the commission or attempt to commit the crime of
7 burglary or robbery, as these types of murder are defined
8 elsewhere in these instructions. The jury must be unani-
9 mous as to the degree of murder if you find any defendant
10 guilty of murder. The jury need not be unanimous as to
11 which of those two types of murder a finding of murder in
12 the first degree is based upon.

1 Murder of the second degree is the unlawful
2 killing of a human being with malice aforethought when there
3 is manifested an intention unlawfully to kill a human being
4 but the evidence is insufficient to establish deliberation
5 and premeditation.
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1 In the crimes charged in Counts I through VII,
2 inclusive, of the indictment, there must exist a union or
3 joint operation of act or conduct and a certain specific
4 intent.

5 In the crime of murder, there must exist in the
6 mind of the perpetrator the requisite specific intent for
7 each type of murder as set forth in the definitions of
8 those offenses elsewhere in these instructions, and unless
9 such intent so exists that crime is not committed.

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1 The specific intent with which an act is done may
2 be manifested by the circumstances surrounding its commission.
3 But you may not find a defendant guilty of a willful, deliber-
4 erate, premeditated murder of the first degree unless the
5 proved circumstances not only are consistent with the
6 hypothesis that he had the specific intent to kill a human
7 being with malice aforethought which was the result of
8 deliberation and premeditation as those terms are defined
9 elsewhere in these instructions but are irreconcilable with
10 any other rational conclusion.

11 Also, if the evidence as to such specific intent
12 is susceptible of two reasonable interpretations, one of which
13 points to the existence thereof and the other to the
14 absence thereof, you must adopt that interpretation which
15 points to its absence. If, on the other hand, one
16 interpretation of the evidence as to such specific intent
17 appears to you to be reasonable and the other interpretation
18 to be unreasonable, it would be your duty to accept the
19 reasonable interpretation and to reject the unreasonable.
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1 The specific intent with which an act is done
2 may be manifested by the circumstances surrounding its
3 commission. But you may not find any defendant guilty of
4 any of the offenses charged in Counts I through VII,
5 inclusive, based upon the unlawful killing of a human
6 being occurring as a result of the commission or attempt to
7 commit the crime of burglary or robbery, as distinguished
8 from wilful, deliberate and premeditated murder of the
9 first degree or unpremeditated murder of the second degree,
10 as those types of murder are defined elsewhere in these
11 instructions, unless the proved circumstances not only are
12 consistent with the hypothesis that he had the specific
13 intent to steal, take and carry away the personal property
14 of another of any value with the specific intent to
15 deprive the owner permanently of his property, but are
16 irreconcilable with any other rational conclusion.

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1 Also, if the evidence as to such specific
2 intent is susceptible of two reasonable interpretations,
3 one of which points to the existence thereof and the other
4 to the absence thereof, you must adopt that interpretation
5 which points to its absence.

6 If, on the other hand, one interpretation of the
7 evidence as to such specific intent appears to you to be
8 reasonable and the other interpretation to be unreasonable,
9 it would be your duty to accept the reasonable interpreta-
10 tion and to reject the unreasonable.

15-2

1 The specific intent with which an act is done
2 may be manifested by the circumstances surrounding its
3 commission. But you may not find a defendant guilty of
4 murder in the second degree unless the proof circumstances
5 not only are consistent with the hypothesis that he had
6 the specific intent to kill a human being with malice
7 forethought but are irreconcilable with any other rational
8 conclusion.

9 Also, if the evidence as to such specific
10 intent is susceptible of two reasonable interpretations,
11 one of which points to the existence thereof and the other
12 to the absence thereof, you must adopt that interpretation
13 which points to its absence.

14 If, on the other hand, one interpretation of
15 the evidence as to such specific intent appears to you
16 to be reasonable and the other interpretation to be
17 unreasonable, it would be your duty to accept the reasonable
18 interpretation and to reject the unreasonable.

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1 Murder is classified into two degrees, and if
2 you should find any defendant guilty of murder, it will be
3 your duty to determine and state in your verdict whether
4 you find the murder to be of the first or second degree.
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1 If you are convinced beyond a reasonable
2 doubt that the crime of murder has been committed by a
3 defendant, but you have a reasonable doubt whether such
4 murder was of the first or the second degree, you must
5 give to such defendant the benefit of that doubt and return
6 a verdict fixing the murder as of the second degree.
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1 Before you may return a verdict in this case,
2 you must agree unanimously not only as to whether a
3 defendant is guilty or not guilty, but also, if you should
4 find him guilty of an unlawful killing you must agree
5 unanimously as to whether he is guilty of murder of the
6 first degree or murder of the second degree.

15-6

1 The intent with which an act is done is shown
2 by the circumstances attending the act, the manner in
3 which it is done, the means used and the soundness of mind
4 and discretion of the person committing the act.

5 For the purposes of the case on trial, you
6 must assume that each of the defendants was of sound mind
7 at the time of his alleged conduct which, it is charged,
8 constituted the crimes described in the indictment.

15-7

1 A conspiracy is an agreement between two or
2 more persons to commit any crime, and with the specific
3 intent to commit such crime, followed by an overt act
4 committed in this state by one or more of the parties for
5 the purpose of accomplishing the object of the agreement.
6 Conspiracy is a crime.

7 In order to find a defendant guilty of
8 conspiracy, in addition to proof of the unlawful agreement,
9 there must be proof of the commission of at least one of
10 the overt acts alleged in the indictments. It is not
11 necessary to the guilt of any particular defendant that he
12 himself committed the overt act, if he was one of the
13 conspirators when such an act was committed.

14 The term "overt act" means any step taken or
15 act committed by one or more of the conspirators which
16 goes beyond mere planning or agreement to commit a public
17 offense and which step or act is done in furtherance of
18 the accomplishment of the object of the conspiracy.
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1 Each member of a conspiracy is liable for each
2 act and bound by each declaration of every other member of
3 the conspiracy if said act or said declaration is in
4 furtherance of the object of the conspiracy.

5 The act of one conspirator pursuant to or in
6 furtherance of the common design of the conspiracy is the
7 act of all conspirators. Every conspirator is legally
8 responsible for an act of a co-conspirator that follows as
9 one of the probable and natural consequences of the object
10 of the conspiracy even though it was not intended as a part
11 of the original plan and even though he was not present at
12 the time of the commission of such act.

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1 To be an overt act, the step taken or act
2 committed need not, in and of itself, constitute the
3 crime or even an intent to commit the crime which is the
4 ultimate object of the conspiracy. Nor is it required
5 that such step or act, in and of itself, be a criminal or
6 an unlawful act.
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1 It is not necessary in proving a conspiracy
2 to show a meeting of the alleged conspirators or the
3 making of an express or formal agreement. The formation
4 and existence of a conspiracy may be inferred from all
5 circumstances tending to show the common intent and may be
6 proved in the same way as any other fact may be proved,
7 either by direct testimony of the fact or by circumstantial
8 evidence, or by both direct and circumstantial evidence.
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Evidence that a person was in the company of
or associated with one or more other persons alleged or
proved to have been members of a conspiracy is not, in
itself, sufficient to prove that such person was a member
of the alleged conspiracy.

15-12

1 No act or declaration of a conspirator that
2 is an independent product of his own mind and is outside
3 the common design and not a furtherance of that design is
4 binding upon his co-conspirators, and they are not criminally
5 liable for any such act.

1 Where a conspirator commits an act which is
2 neither in furtherance of the object of the conspiracy
3 nor the natural and probable consequence of an attempt to
4 attain that object, he alone is responsible for and is
5 bound by that act, and no responsibility therefor attaches
6 to any of his confederates.
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1 The act or declaration of a person who is not
2 a member of a conspiracy is not binding upon the members of
3 the conspiracy, if any, even though it is an act which
4 tended to promote the object of the alleged conspiracy.
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1 Evidence of the commission of an act which
2 furthered the purpose of an alleged conspiracy is not,
3 in itself, sufficient to prove that the person committing
4 the act was a member of such conspiracy.
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1 Every person who joins a criminal conspiracy
2 after its formation and who adopts its purposes and objects,
3 is liable for and bound by the acts and declarations of
4 other members of the conspiracy done and made during the
5 time that he is a member and in pursuance of furtherance
6 of the conspiracy.

7 A person who joins a conspiracy after its
8 formation is not liable or bound by the acts of the
9 co-conspirators or for any crime committed by the co-con-
10 spirators before such person joins and becomes a member of
11 the conspiracy.

12 Evidence of any acts or declarations of other
13 conspirators prior to the time such person becomes a member
14 of the conspiracy may be considered by you in determining
15 the nature, objectives and purposes of the conspiracy, but
16 for no other purpose.

.6 fls.

16-1

1 Any member of a conspiracy may withdraw from and
2 cease to be a party to the conspiracy, but his liability for
3 the acts of his conconspirators continues until he
4 effectively withdraws from the conspiracy.

5 In order to effectively withdraw from a
6 conspiracy, there must be an affirmative and bona fide
7 rejection or repudiation of the conspiracy which must be
8 communicated to the other conspirators of whom he has
9 knowledge.

10 If a member of a conspiracy has effectively
11 withdraw from the conspiracy he is not thereafter liable
12 for any act of the coconspirators committed subsequent to
13 his withdrawal from the conspiracy, but he is not relieved
14 of responsibility for the acts of his co-conspirators
15 committed while he was a member.

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1 In Count VIII the defendants are charged with
2 conspiracy to commit murder in violation of Sections 182.1
3 and 187, Penal Code of California, a felony, as follows:

4 That on or about the 8th through the 10th day
5 August, 1969, at and in the County of Los Angeles, State of
6 California, Charles Manson, Charles Watson, Patricia
7 Krenwinkel, Susan Atkins, Linda Kasabian, and Leslie
8 Sankston (whose true name is Leslie Van Houten), the said
9 defendants, did willfully, unlawfully, feloniously and
10 knowingly conspire, combine, confederate and agree together
11 to commit the crime of murder, a violation of Section 187,
12 Penal Code of California, a felony.

13 It is alleged that the following were overt acts
14 which were committed in this state by one or more of the
15 defendants for the purpose of furthering the object of
16 the conspiracy:

17 OVERT ACT NO. 1

18 That on or about August 8, 1969, the said
19 defendants, Charles Watson, Patricia Krenwinkel, Susan
20 Atkins and Linda Kasabian did travel to the vicinity of
21 10050 Cielo Drive in the City and County of Los Angeles.

22 OVERT ACT NO. II

23 That on or about August 8, 1969, the defendants,
24 Charles Watson, Patricia Krenwinkel and Susan Atkins did
25 enter the residence at 10050 Cielo Drive, City and County
26 of Los Angeles.

OVERT ACT NO. III

That on or about August 10, 1969, the defendants, Charles Manson, Charles Watson, Patricia Krenwinkel, Susan Atkins, Linda Kasabian and Leslie Sankston (whose true name is Leslie Van Houten) did travel to the vicinity of 3301 Waverly Drive, City and County of Los Angeles.

OVERT ACT NO. IV

That on or about August 10, 1969, the defendants, Charles Manson, Charles Watson, Patricia Krenwinkel and Leslie Sankston (whose true name is Leslie Van Houten) did enter the residence at 3301 Waverly Drive, City and County of Los Angeles.

1. The defendants are also charged with the
2. commission of the following public offenses:

3. COUNT I

4. That on or about the 9th day of August, 1969, at
5. and in the County of Los Angeles, State of California, the
6. said defendants, Charles Manson, Charles Watson,
7. Patricia Krenwinkel, Susan Atkins, and Linda Kasabian
8. did willfully, unlawfully, feloniously and with malice
9. aforethought murder Abigail Anne Folger, a human being.

10. COUNT II

11. That on or about the 9th day of August, 1969, at
12. and in the County of Los Angeles, State of California, the
13. said defendants, Charles Manson, Charles Watson, Patricia
14. Krenwinkel, Susan Atkins and Linda Kasabian did willfully,
15. unlawfully, feloniously and with malice aforethought murder
16. Voityek Frykowski, a human being.

16a-1

1 Count III. That on or about the 9th day of
2 August, 1969, at and in the County of Los Angeles, State of
3 California, the said defendants, Charles Manson, Charles
4 Watson, Patricia Krenwinkel, Susan Atkins and Linda Kasa-
5 bian did willfully, unlawfully, feloniously and with
6 malice aforethought murder Steven Earl Parent, a human
7 being.

8 Count IV. That on or about the 9th day of
9 August, 1969, at and in the County of Los Angeles, State
10 of California, the said defendants, Charles Manson,
11 Charles Watson, Patricia Krenwinkel, Susan Atkins and
12 Linda Kasabian did willfully, unlawfully, feloniously and with
13 malice aforethought murder Sharon Marie Polanski, a human
14 being.

15 Count V. That on or about the 9th day of
16 August, 1969, at and in the County of Los Angeles, State
17 of California, the said defendants, Charles Manson,
18 Charles Watson, Patricia Krenwinkel, Susan Atkins and
19 Linda Kasabian did willfully, unlawfully, feloniously
20 and with malice aforethought murder Thomas John Sebring,
21 a human being.

22 Count VI. That on or about the 10th day of
23 August, 1969, at and in the County of Los Angeles, State
24 of California, the said defendants, Charles Manson, Charles
25 Watson, Patricia Krenwinkel, Leslie Sangston (whose true
26 name is Leslie Van Houten), Linda Kasabian and Susan

1 Atkins did willfully, unlawfully, feloniously and with
2 malice aforethought murder Leno A. La Bianca, a human
3 being.

4 Count VII.

5 That on or about the 10th day of August, 1969,
6 at and in the County of Los Angeles, State of California,
7 the said defendants, Charles Manson, Charles Watson,
8 Patricia Krenwinkel, Leslie Sangston (whose true name is
9 Leslie Van Houten), Linda Kasabian and Susan Atkins did
10 willfully, unlawfully, feloniously and with malice
11 aforethought murder Rosemary La Bianca, a human being.
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1 In the crime charged in Count VIII of the
2 indictment, there must exist a union or joint operation
3 of acts or conduct and a certain specific intent.

4 In the crime of conspiring to commit murder,
5 there must exist in the mind of the perpetrator the
6 specific intent to commit murder of the first degree by
7 means of a willful, deliberate and premeditated killing
8 with malice aforethought, as that type of murder is
9 defined elsewhere in these instructions, and unless such
10 intent so exists that crime is not committed.

1 The specific intent with which an act is done
2 may be manifested by the circumstances surrounding its
3 commission. But you may not find any defendant guilty of
4 the offense of conspiracy to commit murder charged in
5 Count VIII unless the proved circumstances not only are
6 consistent with the hypothesis that he had the specific
7 intent to commit murder of the first degree by means of a
8 willful, deliberate and premeditated killing with malice
9 aforethought, as that type of murder is defined elsewhere
10 in these instructions, but are irreconcilable with any
11 other rational conclusion.

12 Also, if the evidence as to such specific
13 intent is susceptible of two reasonable interpretations,
14 one of which points to the existence thereof and the other
15 to the absence thereof, you must adopt that interpretation
16 which points to its absence.

17 If, on the other hand, one interpretation of
18 the evidence as to such specific intent appears to you to
19 be reasonable and the other interpretation to be unreason-
20 able, it would be your duty to accept the reasonable
21 interpretation and to reject the unreasonable.

17 fls.

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1 The intent with which an act is done is shown
2 by the circumstances attending the act, the manner in which
3 it is done, the means used, and the soundness of mind and
4 discretion of the person committing the act.

5 For the purposes of the case on trial, you must
6 assume that each defendant was of sound mind at the time of
7 his alleged conduct which, it is charged, constituted the
8 crime described in the indictment.
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1 In this case, you must decide separately whether
2 each of the several defendants is guilty or not guilty of
3 each of the offenses charged against him. If you cannot
4 agree upon verdicts as to all the defendants, but do agree
5 upon a verdict as to one or more of them, you must render a
6 verdict as to the one or more upon which you agree.

1 Each count charges a separate and distinct
2 offense. You must decide each count separately on the
3 evidence and the law applicable to it, uninfluenced by your
4 decision as to any other count. Each defendant may be
5 convicted or acquitted on any or all of the offenses
6 charged against him.

7 Your finding as to each defendant charged on each
8 count must be stated in a separate verdict.
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1 As to Count VIII of the indictment each defendant
2 in this case is individually entitled to, and must receive,
3 your determination whether he was a member of the alleged
4 conspiracy. As to each defendant you must determine
5 whether he was a conspirator by deciding whether he
6 wilfully, intentionally and knowingly joined with any other
7 or others in the alleged conspiracy.

1. I have not intended by anything I have said or
2. done, or by any questions that I may have asked, to intimate
3. or suggest what you should find to be the facts on any
4. questions submitted to you, or that I believe or disbelieve
5. any witness.

6. If anything I have done or said has seemed to so
7. indicate, you will disregard it and form your own opinion.
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1 You have been instructed as to all the rules of
2 law that may be necessary for you to reach a verdict.
3 Whether some of the instructions will apply will depend
4 upon your determination of the facts. You will disregard any
5 instruction which applies to a state of facts which you
6 determine does not exist. You must not conclude from the
7 fact that an instruction has been given that the court is
8 expressing any opinion as to the facts.

1 Both the People and the defendant are entitled to
2 the individual opinion of each juror.

3 It is the duty of each of you to consider the
4 evidence for the purpose of arriving at a verdict if
5 you can do so. Each of you must decide the case for your-
6 self, but should do so only after a discussion of the
7 evidence and instructions with the other jurors.

8 You should not hesitate to change an opinion if
9 you are convinced it is erroneous. However, you should not
10 be influenced to decide any question in a particular way
11 because a majority of the jurors, or any of them, favor
12 such a decision.

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1 The attitude and conduct of jurors at the
2 beginning of their deliberations are matters of considerable
3 importance. It is rarely productive of good for a juror at
4 the outset to make an emphatic expression of his opinion on
5 the case or to state how he intends to vote. When one does
6 that at the beginning, his sense of pride may be aroused
7 and he may hesitate to change his position even if shown
8 that it is wrong. Remember that you are not partisans
9 or advocates in this matter, but are judges.

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1 In your deliberations the subject of penalty
2 or punishment is not to be discussed or considered by you.

3 If you return a verdict of guilty of murder
4 in the first degree as to any particular count or a
5 verdict of guilty of conspiracy to commit murder as alleged
6 in Count VIII, then the matter of punishment as to those
7 counts will be considered and determined in a separate
8 proceeding.

9 If you return a verdict of guilty of murder in
10 the second degree as to any count, the matter of penalty
11 or punishment as to that count will be determined in the
12 manner provided by law.

18-3

1 Did you wish to approach the bench?

2 MR. BUGLIOSI: Yes.

3 THE COURT: Very well.

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

7 MR. BUGLIOSI: Your Honor, I certainly apologize
8 to the Court for this, but apparently it was an oversight
9 on our part. But as far as I know, on reasonable doubt,
10 isn't there supposed to be some instruction on telling
11 the jury what "moral certainty" is?

12 On every jury case I ever tried, they have
13 been told that absolute certainty is not required.

14 I know there is an instruction on that.

15 THE COURT: The old reasonable doubt instruction did
16 contain an extra paragraph which is not in the present
17 CALJIC instruction. It is not required.

18 MR. BUGLIOSI: The jury doesn't know what moral
19 certainty is, and I would ask the Court to give it.

20 I really think it is crucial that they be
21 told that absolute certainty is not required and to be
22 told what moral certainty is.

23 In fact, I even argued to the jury that you
24 would give that instruction, and I apologize, but I just
25 assumed you would.

26 In the last jury case I had, they did have an

1 instruction on moral certainty.

2 Moral certainty is such a vague term that the
3 jury is not going to have any way of knowing what it
4 means, if the Court tells the jury that it is simply that
5 degree of proof which produces the conviction in an
6 unprejudiced mind, it would be very helpful to the jury.

7 A brief statement that absolute certainty is
8 not required -- I argued it to the jury -- it was an over-
9 sight on my part. I just assumed it was still necessary.

10 I would request that the Court give that
11 instruction. It is crucial. It goes to the very heart
12 of the case.

13 Just by the instruction alone, I don't think
14 they will really understand what degree of proof is
15 necessary, and they are going to be particularly confused
16 in view of the argument that I made to them telling them
17 that you would give them certain instructions that are
18a fls 18 not there.

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1 THE COURT: I don't know that that is going to
2 bother them.

3 MR. FITZGERALD: I am going to object to a change.

4 I submitted six instructions on reasonable
5 doubt and presumption of innocence, all of which you
6 argued and very successfully convinced the Judge not to
7 give an instruction which we considered to be the law,
8 People vs. Hall.

9 MR. BUGLIOSI: Near certainty?

10 MR. FITZGERALD: Yes.

11 You actively participated in the discussion on
12 the instruction of the reasonable certainty and you con-
13 vinced the Judge to reject each instruction that we sub-
14 mitted, and you sided with the Judge in giving the
15 CALJIC on reasonable doubt and presumption of innocence.

16 MR. BUGLIOSI: All I am saying is for the Judge just
17 to define the term to the jury.

18 THE COURT: Of course, this does say "any possible
19 doubt."

20 MR. BUGLIOSI: Moral certainty doesn't tell the jury
21 that we don't have to prove it to an absolute certainty.

22 THE COURT: It does. It says reasonable doubt is not
23 all possible or imaginary doubt.

24 It is just another way of saying it.

25 MR. BUGLIOSI: The point is, the whole name of the
26 game is for the People to prove guilt beyond a reasonable
doubt.

1 There are many cases that stand for the proposition
2 that the jury has to be told in as clear language as
3 possible what this means.

4 This instruction on absolute certainty and moral
5 certainty is just explanatory.

6 I think it is incumbent upon the Court to explain
7 to these lay people what these terms mean.

8 We have given them instruction after instruction,
9 for instance, on accomplices, maybe 15 instructions, and
10 here, on reasonable doubt, which is the whole case, there
11 is only one instruction.

1 MR. FITZGERALD: I tried to stop that.

2 MR. BUGLIOSI: I beg the Court to give more than one
3 instruction on reasonable doubt.

4 THE COURT: Of course it's not how many; it's whether
5 it is understood by the jury.

6 MR. BUGLIOSI: I agree, your Honor, but it would be
7 much clearer to tell them this moral certainty is that
8 degree of proof which produces conviction that unprejudiced
9 minds --

10 MR. FITZGERALD: That is no more the law than People
11 vs. Hall,

12 You successfully convinced this Court that People
13 vs. Hall was not the --

14 MR. BUGLIOSI: What is your point? I am just asking
15 the Court to explain to the jury --

16 MR. FITZGERALD: I participated in a discussion about
17 moral certainty and I argued it was vague and the Court
18 argued that moral certainty had a definition every juror
19 knew.

20 I wanted to modify that instruction.

21 MR. BUGLIOSI: I don't quite get it. All I am saying
22 is he should tell the jury what moral certainty means.
23 I don't get your point. I am just asking for an instruction,
24 for the Court to tell the jury what moral certainty means.

25 THE COURT: I don't really think they need any
26 further instruction. I can't imagine they would not

1 know what moral certainty is.

2 MR. FITZGERALD: I will stipulate you can give the
3 instruction on near certainty.

4 MR. BUGLIOSI: I can only say, your Honor, that the
5 main issue in this case is not accomplice, but guilt, and
6 many, many instructions are given on accomplices.

7 This is the whole ballgame right here, and I
8 would ask that just a couple more instructions be given.
9 I don't see any harm.

10 I can't see any harm in telling the jury that
11 absolute certainty is not required, and telling the jury
12 what moral certainty is.

13 There is no way in the world that an appellate
14 court can reverse a conviction if the Court gives that.

15 It is given in marijuana cases. It is given in
16 all cases. It's been given in this case.

17 I don't know what moral certainty means by itself.

18 THE COURT: You have to read it in connection with all
19 of the other instructions, Mr. Bugliosi, and all the rest
20 with this instruction.

21 MR. KEITH: To do so now, there are three prosecutors
22 over there, they have been here seven months, they come up
23 with an additional instruction.

24 THE COURT: I was presented with more instructions
25 this noon by the defendants.

26 MR. KEITH: Which you rejected. But now --

1 MR. FITZGERALD: If there really was any question,
2 because you denied analogous instructions --

3 THE COURT: That is beside the point. The point is
4 you could hardly complain about late instructions.
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1 MR. BUGLIOSI: I don't see any harm. That is the
2 point.

3 MR. KAY: This is a portion of the old CALJIC
4 instruction.

5 MR. BUGLIOSI: If there were some harm, I could see
6 it.

7 THE COURT: It is not a matter of harm. It is a
8 matter of necessity.

9 MR. BUGLIOSI: It has been in there for years, your
10 Honor.

11 THE COURT: I don't think it requires it, Mr. Bugliosi.
12 I really don't.

13 I don't think the drafters of the CALJIC
14 instructions required it or they would have put it in the
15 new edition. It wasn't required.

16 MR. BUGLIOSI: I just assumed it was still in there.

17 THE COURT: I won't make that statement categorically.

18 MR. BUGLIOSI: Could we look at the old CALJIC?

19 THE COURT: We are going to wind this up.

20 They have been told by every counsel in this
21 case and numerous what reasonable doubt is. They are told
22 again in this instruction. They are told what reasonable
23 certainty is.

24 I don't think there is any ambiguity, and I
25 don't think there is any necessity for it.

26 (Whereupon all counsel return to their respective

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1 places at counsel table and the following proceedings
2 occur in open court within the presence and hearing of
3 the jury.)

4 THE COURT: You shall now retire and select one
5 of your number to act as foreman who will preside over
6 your deliberations.

7 In order to reach a verdict, all 12 jurors
8 must agree to the decision. As soon as all of you have
9 agreed upon a verdict, you shall have it dated and signed
10 by your foreman and then shall return with it to this room.

11 The Clerk will swear the bailiffs.

12 THE CLERK: The bailiffs will please rise.

13 DEFENDANT MANSON: (From the holding tank.) Tell
14 them why we couldn't put on a defense, old man. ✓

15 THE CLERK: Would you raise your right hands, please.

16 You and each of you do solemnly swear that you
17 will take charge of the jury and keep them together until
18 otherwise instructed by the Court, that you will not speak
19 to them yourselves nor allow anyone else to speak to them
20 on matters connected with the case except upon order of
21 the Court, and when they have agreed upon a verdict, you will
22 return them into the courtroom, so help you God?

23 FIVE BAILIFFS: I do.

24 THE CLERK: And further, you do solemnly swear that
25 you will take charge of the alternate jurors and keep them
26 apart from the jury while they are deliberating on the

1 cause unless otherwise ordered by the Court, so help you
2 God?

3 FIVE BAILIFFS: I do.

4 THE COURT: You may escort the jury to the jury room.

5 (Whereupon at 3:20 o'clock p.m. the jury
6 retires for deliberations.)

7 THE COURT: Counsel approach the bench, please.
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21 fls.

1 THE COURT: I still have this matter of Mr. Kanarek's,
2 my finding yesterday he was in contempt, not that I need
3 the rest of you here, but I do intend to take it up this
4 afternoon.

5 Before you left, I wanted to tell you, Mr. Kanarek,
6 that we will take a recess at this time and then we will
7 resume.

8 MR. BUGLIOSI: Is it necessary for counsel to be
9 present?

10 THE COURT: Not unless you want to.

11 MR. KANAREK: I engaged Mr. Silver to represent me in
12 this, your Honor. Can I have him present?

13 THE COURT: You may have him present, Mr. Kanarek, but
14 I remind you again, this is a situation, the only one I
15 know of, I may be mistaken, but in any event it is a
16 situation which the law permits the Court to handle in a
17 summary manner under the Code of Civil Procedure, and that
18 is the way I intend to do it, this being a direct contempt.

19 If it were an indirect contempt, then, of course,
20 there would have to be a hearing to permit you to put on
21 whatever defense you wanted to.

22 But in a direct contempt, committed in the
23 immediate view and presence of the Court, it may be handled
24 in a summary fashion.

25 MR. KANAREK: I understand. I think it is hybrid or
26 indirect, in that --

1 THE COURT: In answer to your question, he may be
2 present in the courtroom just as anyone else can be
3 present in the courtroom, but we are not going to turn this
4 into some kind of an evidentiary hearing.

5 MR. KANAREK: The reason I asked your Honor to read
6 it over, is so we can present to the Court, I think, argu-
7 ment and points and authorities, that it is indirect and/or
8 hybrid, because of counsel's state of mind.

9 THE COURT: It will not be put over; it will be taken
10 up immediately after the recess.

11 MR. KANAREK: Has your Honor made up his mind?
12 Because I don't want to -- I feel the jurors will find out
13 about it regardless -- I mean --

14 THE COURT: They won't find out about it from me.

15 MR. KANAREK: I know not from your Honor intentionally.

16 THE COURT: The jury is still sequestered. They
17 won't find out about it any more than they found out about
18 the other instances.

19 MR. KANAREK: Your Honor allowed Mr. Bugliosi, where
20 he really got into a diatribe with the Court, your Honor
21 allowed him an alternate of a fine or jail, and I think
22 that reading the record in this matter shows that I -- your
23 Honor said to do something and I said, "Very well, your
24 Honor," and I sat down and I addressed the Court.

25 I asked the Court -- my state of mind was as I
26 have indicated, that Mr. Bugliosi had deliberately left out

1 the marijuana aspect when he alluded to my previous
2 argument.

3 He was deliberately deluding the jury.

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1 THE COURT: I have read the transcript. I went back
2 a number of pages and I read the entire situation.

3 There was not a shadow of doubt in my mind as
4 to what occurred and what you intended, and what in fact
5 happened.

6 This was no impulsive, spontaneous outburst.
7 It was a carefully calculated interruption.

8 It was not an objection, it was not a motion,
9 it was a gratuitous comment.

10 MR. KANAREK: How would I know what he was going to
11 argue?

12 THE COURT: Solely for the purpose of interrupting
13 the argument and disrupting the jury. That is what it
14 amounted to.

15 We will take the recess at this time.

16 (Recess.)

23 fls. 16

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(The following proceedings were had in open court outside the presence of the jury and the defendants, all defense counsel being present except Mr. Hughes:)

MR. KANAREK: I wonder if I might approach the bench with the reporter?

THE COURT: I see no reason why we cannot conduct this in open court, Mr. Kanarek.

MR. KANAREK: Because I believe, your Honor, I have an obligation to the defendant Manson in this case, and I believe that the publicity, there is no necessity for whatever publicity has already taken place to be amplified by this at this time, your Honor, that is why I want to make an argument to the Court.

THE COURT: The jury is sequestered, Mr. Kanarek.

MR. KANAREK: As your Honor well know, it is our position, not only mine but co-counsel who are here, Mr. Fitzgerald, Mr. Daye Shinn and Mr. Keith, it is our position that the jury, although the jury is sequestered, that these matters come to their attention.

THE COURT: I am familiar with your position.

Now, if you care to state something, you may do so.

MR. KANAREK: Yes, your Honor.

THE COURT: Let the record first show that the reason we are here, that I ordered you to be here, is in connection with the finding of contempt I made

1 yesterday.

2 MR. KANAREK: Yes, sir, I understand. I first would
3 like to exercise the Sixth Amendment right to counsel.

4 It is incredible of belief to me if someone
5 is entitled to have a lawyer on a parking ticket or an
6 infraction that doesn't even involve going to jail, it is
7 incredible to me to believe that the law would not
8 allow me a lawyer in the posture of this case, and these
9 times, for me to have an attorney.

10 I have informed your Honor that Mr. Phil
11 Silver is an attorney I retained in connection with this
12 matter.

13 I allege it is a violation of the Sixth
14 Amendment right to counsel, which is protected by the
15 due process clause of the Fourteenth Amendment and as
16 incorporated by reference, for your Honor not to grant me
17 the right to counsel at the very inception, I believe a
18 lawyer is entitled to constitutional rights just as anyone
19 else.

20 I believe that since the Court is acting as
21 both prosecutor and jurist, as judge in this case, it is
22 my believe that your Honor would have the obligation to
23 give me my constitutional rights, that I have a right to
24 remain silent -- the rights I am sure your Honor is
25 familiar with, because your Honor does have that function.

26 The way your Honor conceives this statute or

1 this body of law, your Honor has the dual role which is
2 an unenviable one of being both prosecutor and judge,
3 and therefore it would seem that a defendant, or someone
4 who has the potential of going into custody should be
5 entitled to have his constitutional rights, the right to
6 remain silent, and all of that, the right to an attorney.

7 THE COURT: You may remain silent if you like,
8 Mr. Kanarek?

9 MR. KANAREK: Yes, I understand, your Honor, but
10 your Honor has refused a continuance to allow -- or the
11 time involved to allow counsel to be here, for Mr. Silver
12 to be here.

13 THE COURT: It is not a question of time. As you
14 well know, Mr. Kanarek, the Code of Civil Procedure,
15 and I am looking now at Section 1211, states as follows:

16 "When a contempt is committed in the
17 immediate view and presence of the Court or the
18 judge in chambers, he may be punished summarily."

19 That means summarily.

20 MR. KANAREK: I understand.

21 THE COURT: All right, that is the kind of proceed-
22 ing we are having now.

23 MR. KANAREK: But, your Honor, the Constitution of
24 the State of California and the Federal Constitution
25 supersedes the statute, and if the statute is in conflict --

26 THE COURT: Unfortunately the law is against you on

1 that. The cases are against you.

2 MR. KANAREK: Well, your Honor --

3 THE COURT: You may stop right now, Mr. Kanarek, I
4 know what your argument is; I understand it; I don't agree
5 with it.

6 MR. KANAREK: How could your Honor know it completely
7 unless your Honor listens to it?

8 THE COURT: I have heard it before.

9 MR. KANAREK: Well, your Honor, I believe furthermore
10 if I may, I believe furthermore that -- and the reason I
11 ask for a continuance, there are a couple of reasons.

12 First, this is in the nature of a misdemeanor
13 and there is a certain time period after a misdemeanor
14 occurs, that is, after someone has been adjudicated guilty--

15 THE COURT: This is not a misdemeanor, it is a
16 civil contempt.

17 MR. KANAREK: The punishment is certainly in the
18 nature of a misdemeanor punishment, and there is a certain
19 time period before which and after which -- that is, there
20 is a certain time span during which a defendant is
21 entitled to a stay when he is convicted of disturbing the
22 peace or jaywalking or whatever it may be, where he can
23 go to jail.

24 The most minimal of penal offenses allows him
25 in the misdemeanor court to have a stay of execution
26 pending, so that he can do something after he has been

1 found guilty, before judgment is rendered, and I think it
2 certainly is analogous here that this should be allowed.

3 THE COURT: I am going to give you a short stay.

4 MR. KANAREK: But, your Honor, allowing me counsel,
5 maybe counsel would convince you --

6 THE COURT: Mr. Kanarek, I understand your point,
7 sir, I heard your argument, I understand it now; I heard
8 it before; I understood it then.

9 The law is against you, sir. I don't agree
10 with you.

11 MR. KANAREK: Well, your Honor, if I may point
12 out another matter to the Court.

13 THE COURT: All right.

14 MR. KANAREK: In connection with the case in chief,
15 it is my belief that your Honor at this time by making
16 this matter, bringing this to the fore, and focusing
17 on it unnecessarily, because I am not leaving California,
18 and I am not leaving this planet, as Mr. Bugliosi as
19 referred to, the earth, I am not going anywhere, and I
20 think your Honor is well aware of that.

21 If your Honor wishes, your Honor can even set
22 bail to guarantee that.

23 But the thing that I would like to convince the
24 Court of is in the posture of this case at this time I
25 allege that having these contempt proceedings at this time
26 denies Mr. Manson the right to effective counsel that he

1 is guaranteed by the Sixth Amendment.

2 Also it denies him the right to a fair public
3 trial because all of this is going to create horrendous
4 publicity, more publicity, and all of this is in violation
5 of the due process clause of the Fourteenth Amendment and
6 due protection of the law under the Fourteenth Amendment,
7 under People vs. Grovedi, a litigant is entitled to time
8 to prepare.

9 Now, recognizing, and I'm sure as I have said
10 before, I do not challenge the integrity of this Court,
11 but I do believe the emotions of the Court are involved
12 after a trial of this length, where your Honor and I have
13 had this amount of disagreement, it is an almost impossible
14 burden for your Honor to be objective concerning me.

15 Your Honor has certain attitudes concerning me
16 that your Honor has. Therefore if we look at the adminis-
17 tration of justice, it seems to me that an impartial
18 magistrate, if our law does not provide for it, which it
19 purportedly does not, according to the Code -- it should,
20 and failure to so provide is a violation of due process
21 under the Fourteenth Amendment, a fair trial and a fair
22 hearing.

23 How could your Honor with the differences of
24 opinion that we have had for six months or so, how could
25 your Honor be objective?

26 Your Honor certainly agrees that he is flesh

1 and blood like all of us, and therefore the way to look
2 at this judicially, the way to go into it, and come to a
3 fair fact-finding result is for your Honor to grant the
4 stay, allow me to have counsel, call in the County Counsel.

5 The County Counsel is very very effective; they
6 can call all the witnesses they want; they can produce all
7 the circumstantial and direct evidence, put it before an
8 impartial magistrate.

9 THE COURT: Mr. Kanarek, I have heard enough. I
10 have heard enough, sir.

11 MR. KANAREK: Your Honor, then, is ordering me not
12 to speak further?

13 THE COURT: That's right.

14 Yesterday, January 14th, at page 21,189 of
15 the transcript, lines 7 and 8 you interrupted the prosecu-
16 tor's closing argument to the jury with a frivolous,
17 gratuitous comment, after you had repeatedly been instructed
18 and warned the day before by the Court not to interrupt and
19 disrupt his argument, unless making an objection or motion
20 in good faith.

21 The Court's warnings to you are set forth in
22 various places from page 20,898 to 20,912, and in various
23 other places in the transcript.

24 For that conduct the judge adjudges you to be
25 in direct contempt of court and sentences you to pay a
26 fine of \$100 and, failing the payment of said fine, you are

1 to spend two days in the County Jail.

2 Payment of the fine is stayed to 10:00 o'clock
3 tomorrow morning.

4 You are ordered to appear tomorrow morning at
5 10:00 a.m. and pay this fine or surrender yourself in the
6 custody of the Sheriff in furtherance of this sentence.

7 This court is now adjourned until 9:00 a.m.
8 Monday morning.

9 (Whereupon an adjournment was taken until
10 9:00 o'clock a.m., Monday, January 18, 1971)

LOS ANGELES, CALIFORNIA, MONDAY, JANUARY 18, 1971

9:00 A.M.

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THE COURT: Is the representative from the County Counsel's office here?

MR. FITZGERALD: Apparently they are not going to handle it, the District Attorney's Office is. Mr. Musick is here.

THE COURT: I will call that matter first.

People against Hanson and others.

MR. FITZGERALD: Paul Fitzgerald appearing on behalf of Patricia Arachinkel and also appearing for Irving Kanarek, attorney for Charles Lanson, on behalf of Dave Sainn, counsel for Susan Atkins, and for Maxwell Keith on behalf of Leslie Van Houten.

If the Court please, we would like to continue the matter until Friday.

In the event that the jury is still deliberating, we could set it at 9:45, if the Court please. In the event they have concluded their deliberations and the subsequent penalty phase is in process, we could set it at 9:45, or whatever the Court please.

MR. BARKER: Lee Barker for the County Counsel's office.

MR. FITZGERALD: I am sorry. Mr. Musick told me on Friday it was going to be the District Attorney.

1 MR. MUSICH: That was my understanding.

2 THE COURT: Is Friday agreeable with all counsel?

3 MR. MUSICH: Yes, your Honor.

4 MR. BARKER: Your Honor, we would prefer, if possible,
5 some date later than Friday. Preferably Monday, if possible.

6 MR. FITZGERALD: That is agreeable.

7 MR. MUSICH: Agreeable with the People.

8 MR. BARKER: Any time after Friday.

9 THE COURT: Is 9:00 o'clock agreeable?

10 MR. FITZGERALD: Agreeable.

11 THE COURT: Monday, January 25th at 9:00 a.m.

12 MR. BARKER: Thank you.

13 MR. FITZGERALD: Thank you, your Honor.

14 THE COURT: On both motions.

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1 (The following proceedings were had in open
2 court in the absence of the defendants and the jury,
3 Mr. Kay and Mr. Musich the only counsel present:)

4 MR. KAY: Your Honor, we have three witnesses here
5 today we would want ordered back three weeks from today:

6 Katie Luteringer, Mark Arneson, John Puhek.

7 THE COURT: Each of you is ordered to return to this
8 courtroom on January 25th, at 9:00 a.m. without further
9 order, notice or subpoena.

10 MR. KAY: And, your Honor, may we have a bench warrant
11 issued and held for Alan Springer. He is the fourth witness
12 and I understand he is in custody this morning.

13 THE COURT: Until when?

14 MR. KAY: Next Wednesday.

15 THE COURT: A bench warrant will be held for Alan
16 Springer until January 25th, at 9:00 a.m.

17 Thank you very much.
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1 (The following proceedings were had in the
2 chambers of the court at 11:40 a.m., out of the presence
3 of the jury and the defendants, all counsel with the
4 exception of Mr. Bugliosi and Mr. Hughes being present:)

5 THE COURT: All counsel are present except Mr.
6 Bugliosi.

7 Is it all right if we proceed in his absence?

8 MR. KAY: Yes, he has our exhibit list and he is
9 bringing it down.

10 He has a list of both the prosecution and
11 defense exhibits. I understand that might be an issue.

12 THE COURT: Yes, we have had a request from the foreman
13 of the jury, Mr. Tubick.

14 First they want a list of the exhibit identifi-
15 cation. Apparently their notes do not completely indicate
16 to them what each particular exhibit number is.

17 I imagine this refers to the photographs
18 primarily, possibly of certain persons who were photographed
19 who appear in certain of the photographic exhibits, perhaps
20 the places, also.

21 I think perhaps the simplest way to handle it
22 would be if counsel could just agree on a list.

23 It doesn't have to be anything extensive, just if
24 the photograph happens to be of a person, the name of the
25 person and the exhibit number.

26 is
If it/a place, just what the place is, without

1 going into a description or explanation.

2 They also ask for a record player which I under-
3 stand we have obtained. ✓

4 MR. KAY: Yes, the District Attorney's Office has
5 provided that. We have given that to Mr. Darrow.

6 THE COURT: That would apply, I assume, that the
7 Beatle album. That is the only record.

8 MR. FITZGERALD: I've got certain problems with that,
9 with the record player.

10 Mr. Bugliosi mentioned in his opening remarks
11 to the jury that he hoped Judge Older would provide
12 a phonograph player for them during their deliberations,
13 yet he made no attempt during the course of the trial to
14 have it played.

15 Now the jury has a list of the lyrics, but the
16 lyrics, many of them, are almost indiscernible on the
17 record, and the record of course contains sound effects,
18 and things that are not contained in the written-out lyrics
19 that the prosecution introduced into evidence.

20 Furthermore, we have no way of controlling their
21 use of the record player. They may, for example, play
22 one line of a song over and over again.

23 They may play one song over and over again.

24 In effect, I think what is happening is the
25 jury is receiving evidence out of the courtroom, and if
26 your Honor does decide that notwithstanding the remarks of

1 counsel that they will be allowed to use the record player,
2 maybe we ought to bring them down and have them listen to
3 it in open court. That way we can control what they are
4 listening to.

5 Otherwise the record is just completely devoid
6 of what is going on.

7 MR. KAY: I can see no need to control what they are
8 doing with the record.

9 The record has been introduced into evidence,
10 and Mr. Bugliosi's remarks were not in the hope that the
11 Court would provide them with a record player and play the
12 record, but if they wanted to hear the record -- he did not
13 suggest they listen to the record -- but if they wanted to,
14 that they ask the Court.

15 The record is an exhibit. I heard no objections
16 from defense counsel when it was introduced -- the fact
17 they wanted them to have it played.

18 THE COURT: Mr. Kanarek also at one point said if they
19 wanted to listen to the record, he was sure Judge Older would
20 provide them with a record player, or something to that
21 effect.

22 MR. KEITH: I join Mr. Fitzgerald's remarks. I do
23 believe that the jury should hear the entire album instead
24 of, as Mr. Fitzgerald points out, excerpts from a particular
25 song or a particular song only.

26 From my understanding of the case, such as it is,

1 I think it might make a difference.

2 MR. KANAREK: I might say this, your Honor, I object
3 to the use of the record --

4 What I say is this: It is my position the
5 People have an obligation to put on their case. The fact
6 that I think the Court is going to let them hear the
7 record does not mean that I approve of the procedure, and
8 I don't approve of the procedure, the helter skelter
9 aspect.

10 There is an integration of the lyric with the
11 words. The prosecution did not put it on in their case in
12 chief.

13 I will object. It is a denial to the right of
14 effective counsel.

15 THE COURT: I was referring to your argument,
16 Mr. Kanarek, in which you took just the opposite position.

17 You were encouraging the jury, in effect, to
18 ask the Court for a record player. That is the way I
19 understood it.

20 MR. KANAREK: Well, your Honor, you see, we are on the
21 horns of a dilemma, knowing the propensities of man, so to
22 speak, the bare record there, I know that the jury is going
23 to want to hear it.

24 But I believe the case is fatal as far as the
25 prosecution is concerned with the emphasis they put on
26 helter skelter.

1 This is my argument to the Court, and the Court is
2 the one to rule.

3 It is my position that it is a denial to the
4 effective right of counsel under the Sixth Amendment, due
5 process picks up the Sixth Amendment right to effective
6 counsel and equal protection -- pardon me. I'll start over.

7 The due process clause of the Fourteenth
8 Amendment picks up the Sixth Amendment, and the Fourteenth
9 Amendment also has an equal protection clause in it, and I
10 allege those rights, those constitutional rights -- and
11 furthermore I allege due process under California law,
12 in that the prosecution did not play that record in open
13 court.

14 Not playing it in open court, the record is a
15 mere exhibit, and so the prosecution has an obligation to
16 prove their case.

17 They did not prove the helter skelter aspect of
18 it. They did not put the record on in open court, and I
19 will object to the Court --

20 THE COURT: How is that any different from, say,
21 introducing a contract in a case without reading it to the
22 jury before they go into a jury room?

23 MR. FITZGERALD: It is more analogous to a tape that
24 is introduced but not played in open court, then you give
25 them a tape recorder and allow them to play it back in the
26 jury room.

1 If one of the defense counsel has misled the jury
2 into thinking they are going to listen to the record, that
3 is a very unfortunate thing.

4 Maybe we can solve the whole problem by simply
5 handling it like we do the re-reading of the testimony:

6 Set the record player up in open court and play it,
7 when we can all be here for the taking of the evidence,
8 because the record itself is different from the lyrics.
9 It contains material in addition to the lyrics. It is not
10 simply a matter where they can simply listen to the
11 lyrics.

12 (Mr. Bugliosi has entered the chambers.)
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1 MR. BUGLIOSI: What album do they want to hear,
2 Revolution 9 has no lyrics.

3 MR. FITZGERALD: They have gunshots.

4 MR. BUGLIOSI: They do have lyrics to the other songs.

5 MR. FITZGERALD: Right.

6 MR. KANAREK: I did not mislead the jury.

7 It is my belief that this Court would allow them
8 to do that, that is what my belief is, and that is my
9 argument. I certainly don't foster it by stating what,
10 for instance, Green vs. California -- your Honor ruled
11 in that direction in connection with Juan Flynn.

12 I still believe that Johnson is good law in
13 California, but nevertheless your Honor is doing it. I
14 believe the Court is going to offer them -- is going to let
15 them use the record player, but it is my belief, and the
16 People cannot put on evidence, we rested the case, we have
17 made argument.

18 The People did not put any of the Beatle album on
19 during the course of the trial, therefore it is my belief
20 that the Beatle album cannot be used.

21 MR. BUGLIOSI: We introduced it into evidence.

22 MR. KANAREK: You did not play the lyrics.

23 MR. BUGLIOSI: But the album is there.

24 MR. KANAREK: You are dealing with the integration of
25 the lyrics and the music, and we have a right to cross-
26 examine on that.

1 But we would have a right, perhaps, even to put
2 on a defense in connection with whatever -- because your
3 helter skelter is such a big portion of your case, it is
4 my belief that your case fails because you did not put that
5 -- because you did not put the album into evidence and did
6 not play it before the jury while the evidence was being
7 taken.

8 It is my belief and I allege that it is a fatal
9 defect as far as your case is concerned.

10 I will object to it being played. I object to
11 the jury being given a record player.

12 MR. BUGLIOSI: Well, they have that revolver back
13 there; what if they wanted to disassemble it, do you think
14 they could do it back there even though we did not do it
15 in court?

16 MR. FITZGERALD: I think so, sure.

17 MR. BUGLIOSI: I think they can listen to that album.

18 THE COURT: As I pointed out, Mr. Bugliosi, before you
19 arrived, Mr. Kanarek during his argument encouraged the
20 jury to ask the Court for a record player for the album.

21 He was not objecting at that time.

22 MR. KANAREK: I objected to the album going into evidence.
23 I only did what I believed this Court is going to do.

24 I don't like to take on the Court in front of the
25 jury.

26 THE COURT: You were volunteering my services and

1 assistance without consulting with me, Mr. Kanarek, is what
2 you were doing.

3 MR. KANAREK: I believed that that is what occurred.

4 I would ask this, also, I would ask the Court to
5 order everybody in this courtroom not to discuss with the
6 press anything that we are saying here because somehow, no
7 matter what happens in chambers, it ends up in the newspaper,
8 and I would ask the Court most respectfully to order us all
9 not to discuss anything that happens in chambers so that
10 the jury will --

11 THE COURT: That has been under the publicity order
12 since the first day of the trial.

13 MR. KANAREK: I agree, your Honor, but these matters
14 do get out to the press.

15 THE COURT: You let me know how that occurs, Mr.
16 Kanarek. I will assure you I will do something about it.

17 MR. KANAREK: Well, I am reluctant to be a tattletale,
18 your Honor.

19 THE COURT: I can only find out by finding out about
20 it.

21 MR. KANAREK: My function is not to -- I don't like to
22 be a --

23 THE COURT: Then why are you mentioning it?

24 MR. KANAREK: Because I believe it is very important.

25 THE COURT: What would you suggest if you are not
26 willing to tell me who the culprit is, what do you suggest

1 I do?

2 MR. KANAREK: I would ask your Honor to -- to use the
3 power and prestige of the Court to inform all counsel that
4 the publicity order is still in effect.

5 I have no desire to put any counsel on the spot
6 per se.

7 THE COURT: You brought the subject up, Mr. Kanarek,
8 I did not initiate it.

9 MR. KANAREK: I am doing it by way of emphasis.
10 I mean, I love my co-counsel --

11 THE COURT: The order is still in effect, if there is
12 any doubt in anybody's mind.

13 MR. KAY: To get back to the subject on hand, I wonder
14 if it might not be easier for all concerned if your Honor
15 asked the jury to specify which exhibit numbers they were
16 confused about, and then instead of having to make up a
17 long list of about three hundred exhibits, maybe they have
18 only questions about two or three exhibit numbers.

19 THE COURT: That sounds like a reasonable suggestion.

20 MR. FITZGERALD: I also have a suggestion that might
21 save counsel a tremendous amount of time.

22 It is unlikely we are going to be able to agree
23 among ourselves as to a description of anything. I hope
24 that is not the case. I hope we can agree but I don't
25 think we will.

26 THE COURT: You cannot agree to a photograph showing

1 something?

2 MR. FITZGERALD: We will try, but we have been through
3 this before, I mean, getting stipulations in this case has
4 been extremely difficult.

5 I just wanted to point out that the clerk has a
6 list of all of the exhibits.

7 THE CLERK: Thank you, Mr. Fitzgerald, but I wouldn't
8 possibly try to tell counsel what an exhibit is when you
9 cannot agree among yourselves.

10 MR. FITZGERALD: We have a legal description of them
11 for the purpose of the Court, which is an impartial body.

12 That is the reason I suggest that your offices
13 be offered, not because I think your description is better
14 or worse.

15 THE COURT: To me it is ridiculous to think that you
16 gentlemen cannot sit down and, say/^{take}a picture of a certain
17 person and say this purports to represent so and so, or if
18 it represents a piece of geography, to say this is a photo-
19 graph of the vicinity or something or other.

20 MR. FITZGERALD: That may be true. Certainly I would
21 agree and everybody would agree that Exhibit 1 is a picture
22 of Sharon Tate in life, okay.

23 But if you think Mr. Kanarek will stipulate as to
24 some leather thongs or anything like that, any of the
25 problem exhibits, and there are about 78 of them, and
26 obviously if the jury just needs a statement, "These are

1 leather thongs," they have got the leather thongs in front
2 of them.
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1 THE COURT: We can easily ask them to segregate those
2 exhibits that they wish to have identified.

3 MR. FITZGERALD: Good.

4 THE COURT: Have them brought here and we will find
5 out what it is.

6 MR. FITZGERALD: Great.

7 THE COURT: Maybe it can be done in five minutes.
8 On the other hand it may take more time.

9 MR. FITZGERALD: Terrific.

10 MR. KANAREK: If I just may make a slight point.

11 I do then object to any of the playing, to
12 the sending of the record player, any playing of the record.

13 THE COURT: Let's do one thing at a time, Mr. Kanarek.
14 Now we are talking about Exhibit identification.

15 Will you do that, Mr. Murray, tell the foreman
16 to set aside and segregate those exhibits on which they
17 wish some identification.

18 THE BAILIFF: Shall they do it now? They will be
19 going to lunch in about three minutes.

20 THE COURT: Well, they can start.

21 (The bailiff leaves the chambers of the court.)

22 THE COURT: Now, on the record player --

23 MR. MUSICH: Your Honor, there is testimony to the
24 effect that records identical to that were played; there
25 are lyrics of the songs in evidence.

26 THE COURT: I think Mr. Fitzgerald's suggestion is

2c-2

1 probably a good one, we can ask the jury what they want to
2 hear, and then bring them down and play it for them, play
3 it once instead of giving them the recorder.

4 MR. KAY: What if after they play it down here they
5 go up and deliberate longer, and they say "We want to hear
6 the song again"?

7 THE COURT: Highly unlikely. If they do, we will
8 play it again.

9 MR. BUGLIOSI: It is hard to tell what the lyrics
10 are from the record. I played some of them; it's really
11 a hodge-podge, a wild sound. It is not a clear record.

12 MR. SHINN: And also, your Honor, there are rumors
13 around that some of these Beatles' records, your Honor,
14 you put it on a record and play it a different way and
15 there is a message coming out, your Honor.

16 THE COURT: What do you mean "in a different way"?

17 MR. SHINN: There are rumors around, if you take it
18 by hand and just swing it around, there is a message
19 coming through. That is a rumor among the young kids,
20 that is what I heard.

21 I think they should play it in open court
22 so they won't fool around with the record, your Honor.

23 THE COURT: You think what?

24 MR. SHINN: It is better to play it in open court
25 where we all will be present so they won't fool around
26 with the record.

c-3

1 THE COURT: The third request is the request to
2 visit the Tate and La Bianca residences and areas at night.

3 MR. BUGLIOSI: Is that right! The jury wants to go
4 out there!

5 THE COURT: I'm very much opposed to that.

6 MR. FITZGERALD: Well, of course we took a position
7 on the record that I don't think any of us are willing to
8 abrogate, that we go to the scene.

9 We of course at the time we made the request,
10 we did not request that we go at night.

11 To go at night, of course, would more approxi-
12 mately duplicate the scene on the night of the homicide.

13 To go during the daytime, although as my
14 recollection is when we defense attorneys made the motion
15 we did not specify it was at night.

16 In my knowledge of the law -- my knowledge of
17 the law in the area -- is limited. I don't know if a jury
18 can go to visit a scene after the evidence is closed.

19 MR. KEITH: It sounds like a reasonable request if
20 it were made during the trial.

21 MR. FITZGERALD: We made it and it was denied.

22 MR. KANAREK: May I make a motion -- I make a
23 motion, your Honor, No. 1, I make a motion that all of the
24 evidence, all of the testimony that was admitted into
25 evidence go into the jury room so that they can have the
26 benefit of all of the evidence.

2c-4

1 THE COURT: What makes you think that it hasn't?

2 MR. KANAREK: I am talking about the transcripts,
3 your Honor, the transcripts.

4 THE COURT: Let's not waste our time.

5 MR. KANAREK: This shows their lack of ability to
6 remember, your Honor, and I reiterate that motion.

7 Failure to do that denies a fair trial under
8 the Fourteenth Amendment with a case six months long.

9 THE COURT: Failure to remember what? Are there
10 things in the record they never heard?

11 MR. KANAREK: I am talking now about the exhibits,
12 your Honor.

13 For instance, they don't remember the number
14 of the exhibits, all kinds of things like that.

15 The human mind cannot possibly --

16 THE BAILIFF: Judge, they said it would take them
17 quite a while, but this is an example of what they mean.
18 They sent these two pictures down here. They assumed
19 that this is probably where a body was, but they don't
20 know what these letters mean.

21 There is another one right here, a line drawn
22 between these two houses. They would like to know the
23 significance of that. They don't know.

24 MR. BUGLIOSI: That's why I always like to write
25 names on the exhibits, and so forth.

26 MR. KAY: I think those markings are described in

2c-5

1 the record, so the record would have to be read to them
2 rather than counsel stipulating.

3 MR. FITZGERALD: We would have to rerecross-examination
4 as to the matter as well.

5 MR. KEITH: We certainly cannot stipulate this is
6 where Patricia Krenwinkel came over the wall, can we?

7 MR. BUGLIOSI: I know where these are; the second
8 place Voityck Frykowski ended up.

9 This is Linda Kasabian; this is Abigail Folger.

10 This is where Frykowski was at first, then from
11 here he went to here, VF-2.

12 But this is why it is advisable to write out
13 the exhibits.

14 I did not do this.

15 THE COURT: We are just going to have to segregate
16 all of the exhibits, get them together and then we will
17 have to work out a method of answering their questions.

18 THE BAILIFF: Would you want the photos sent down
19 as they examine them?

20 THE COURT: I don't think we need all of this on
21 the record, this is just conversation.

22 I don't need your comment after every sentence
23 of mine, Mr. Kanarek.

24 MR. KANAREK: I hope your Honor recognizes --

25 THE COURT: Your silence can start right now. We
26 go off the record at this point.

3 fls.

(Discussion off the record.)

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2 1:55 P.M.

3 ---O---

4 (The following proceedings were had in the
5 chambers of the court, all counsel with the exception of
6 Mr. Hughes being present:)

7 THE COURT: We can stay off the record while we have
8 our informal discussion.

9 (Off-the-record discussion, after which the
10 following proceedings were had on the record.)

11 THE COURT: All right, now, we will go on the record.

12 I will indicate what the requests have been,
13 and you can state your respective arguments, pro and con;
14 then we will go from there.

15 All counsel are present.

16 Continuing our discussion of this morning,
17 gentlemen, about the request from the foreman of the jury:

18 The third item requested is a view of the
19 premises, the Tate and La Bianca premises, and the area at
20 night.

21 Do you wish to be heard, Mr. Fitzgerald?

22 MR. FITZGERALD: If it please your Honor, on behalf of
23 all counsel, I might indicate for the record --

24 MR. KANAREK: Well, your Honor, as to this, Mr.
25 Fitzgerald is speaking for himself.

26 MR. KEITH: I am joining.

1 MR. SHINN: I am joining.

2 THE COURT: You will be given a chance, Mr. Kanarek.

3 MR. KANAREK: Yes, as to this point he is not speaking
4 for me, as to this point.

5 THE COURT: All right.

6 MR. FITZGERALD: It has been suggested in an off-the-
7 record discussion that for the jury to proceed to the
8 scene would be to receive evidence, albeit simply a view,
9 and assuming that is the case, for the purposes of argument,
10 the defendants and each of them with the exception of
11 Charles Manson, by Irving Kanarek, would move to reopen
12 so that the jury might be allowed to view the scene as
13 provided in the Penal Code.

14 All of us feel that the jury has expressed a
15 firm desire to view the scene, and that that would be
16 helpful in determining the factual issues.

17 We feel that there has been a considerable amount
18 of evidence that has put into issue various aspects that
19 could be determined by a physical view of the scene.

20 The prosecution has introduced numerous photo-
21 graphs, both color, and black-and-white, illustrating
22 various aspects of both the Tate scene and the La Bianca
23 scene.

24 We feel that one major aspect that could be, or
25 apparently could be cleared up by a view of the scene
26 would be the relative illumination at both crime scenes.

1 Linda Kasabian has testified that she viewed,
2 among others, Patricia Krenwinkel chasing Abigail Folger
3 down the lawn.

4 At the Tate residence she also viewed one of the
5 decedents, Voityck Frykowski, near death as a result of
6 stab wounds near some shrubbery.

7 There has been some testimony that the blood of
8 Sharon Tate and Jay Sebring was actually found outside the
9 house.

10 There had been photographs introduced of
11 police officers pointing to various physical objects. People's
12 Exhibit No. 8 is a scale-drawing to minute detail of the
13 entire Tate estate.

14 There has been considerable controversy about the
15 proximity of the adjoining guest house to the main house,
16 its acoustical relationship as well as its optical
17 relationship.

18 There has been testimony that Manson, in March of
19 1969, actually went to the Tate house on a visit and proceeded
20 down a pathway.

21 Insofar as the La Bianca scene is concerned, it
22 has been alleged that while 3301 Waverly Drive is in the
23 City of Los Angeles on a city block, it's actually been
24 alleged that it is a remote home, set far back from the
25 street. It is bordered on the right by the former Earl
26 C. Anthony estate.

1 It is bordered on the left by the Harold True
2 residence.

3 Danny Galindo, an LAPD officer, testified that he
4 searched the Harold True location and the outside of the
5 La Blanca residence, looking for murder weapons.

6 There has been testimony that there was a long
7 driveway, apparently into which some of the defendants dis-
8 appeared on a foggy night.

9 There was testimony about the length of time it
10 would take the defendants to traverse the driveway and
11 go into the house.

12 Linda Kasabian testified that -- one view of the
13 evidence is that she smoked one-third of a Pall Mall
14 cigarette; another view of the evidence is she smoked
15 three-quarters of a Pall Mall cigarette.

16 There have been aerial overviews of the house
17 and the estate, and we think it would be very helpful if
18 the jury could go to the location and put all of these
19 things in a frame of reference.

20 THE COURT: Do any other defense counsel wish to
21 be heard on that?

22 MR. KANAREK: Yes, your Honor.

23 MR. KEITH: No, I think Mr. Fitzgerald stated it
24 adequately and I will join with him in his motion to reopen.

25 MR. KANAREK: Now, I would like to join with
26 Mr. Fitzgerald's comments as far as they have gone.

1 The reason I did not want to join previously was
2 because I did not know exactly what he was going to say.

3 But I will join in his comments as far as they
4 have gone, and I would just like to add another point,
5 that is, there was testimony, for instance, by Linda
6 Kasabian that Mr. Manson was gone only several minutes.

7 But in addition to joining with Mr. Fitzgerald's
8 comments I would like to include in the request and the
9 motion to reopen a motion that/^{we}then argue, be allowed to
10 argue this new evidence before the jury further, and that
11 we be allowed to interrogate Linda Kasabian at the scene.

12 We asked -- we asked -- when Linda Kasabian was
13 on the stand, we made a motion to interrogate her at the
14 scene, and I believe your Honor denied that motion, and
15 that is why I am saying as far as it went I join in Mr.
16 Fitzgerald's comments.

17 I don't believe they went far enough, and my
18 addition, as I have indicated,^{is}/a motion to reopen, but in
19 addition a motion to argue the new evidence, and the new
20 addition to interrogate Linda Kasabian at the scene, with
21 the court reporters' presence as provided by the Penal Code.

22 In other words, convene the Court at the scene of
23 the Tate and the scene of the La Bianca residences.

24 MR. SHINN: I wish to join in Mr. Fitzgerald's comments
25 and motions.

26 THE COURT: Very well.

 MR. BUGLIOSI: People object.

1 The taking of evidence has come to an end.

2 I agree with Mr. Kanarek, actually, if we go out
3 to the scene we just about have to call Linda back here,
4 call other witnesses, call Altobelli to the stand, all kinds
5 of things. We would open a bag of worms.

6 MR. KAY: At the La Bianca house, who will know what
7 the lighting conditions are around there except Linda
8 Masabian? The two La Biancas are dead; the lighting might
9 have been changed considerably in a year and a half since
10 the murders.

11 MR. KANAREK: This could be ascertained by the City
12 Engineers, the City records.

13 MR. KAY: Do they know if lights were on at Harold
14 True's house?

15 MR. BUGLIOSI: I think the taking of evidence is over
16 with, your Honor. We object to reopening the case, as it
17 were, at this late date, because if we did reopen it I
18 agree with Mr. Kanarek, you would almost have to say we would
19 have to reargue those particular issues to the jury.

20 It is just too late. It is one second past mid-
21 night now, and I think the photographs and the testimony
22 adequately cover the murder scene.

23 It would be unprecedented to reopen the case at
24 this late date and open up all types of unforeseen
25 problems.
26

2e-1

1 MR. KEITH: We must remember this is at the request
2 of the jury.

3 THE COURT: That's right. Let's not forget that.

4 MR. MUSICH: The one problem, too, the request as
5 to both locations might seem out of curiosity. They might
6 just want to see the scene of the crime.

7 THE COURT: My recollection is the state of the
8 record is now, and this is subject to correction, as
9 I have indicated to counsel, I am not certain this is
10 exactly the way it happened, but my recollection is that
11 somewhere either during or after the testimony of Linda
12 Kasabian one or more of the parties requested a view of
13 the premises, and the motion was denied without prejudice
14 to renew it at some later date in the trial after the jury
15 had heard all of the evidence.

16 Of course, if my statement is correct, there
17 was no renewal by any party of their request for a view
18 of the premises.

19 But entirely apart from that, now I am faced
20 with a request from the jury for a view of the premises.
21 It is not a request for a view of any specific portion.

22 The exact words are:

23 "Request visits to Tate-La Bianca residence --
24 r-e-s-i-d-e-n-t-s, and area at night."

25 Now, we have had extensive photographic coverage,
26 both aerial and on the ground, both interior and exterior

2e-2

1 shots from a number of different angles and distances from
2 both of these scenes, and all of the related buildings and
3 grounds.

4 There have been, as I say, aerial photographs
5 showing the scenes; there have been detailed diagrams, and
6 there have been maps showing the streets and relative
7 locations of the streets, houses, and so forth.

8 I cannot really see what possible help a
9 visit to the scene could be for the jury, particularly in
10 view of the fact that -- while I suppose it would be
11 theoretical possible to duplicate the conditions existing
12 on the night of these crimes, I know of no way we would
13 know when that was accomplished.

14 MR. KANAREK: May I be excused for just a moment,
15 your Honor?

16 THE COURT: So that if we took the jury to the scene
17 at night as they requested we might very well be showing
18 them a scene that did not exist on the night of the alleged
19 crimes, and I think it would simply open up many many
20 problems. It would not really be helpful.

21 I can understand the jury; they have been sitting
22 here for six months listening to evidence. Unquestionably
23 they are curious; they would like to see it; I would, too.
24 I have never been there either. I would like to see it just
25 as a matter of curiosity.

26 But I don't think it would help me a bit if I

2e-3

1 were deciding the case, in view of all the testimony in
2 the case and all of the exhibits.

3 So because I think it might very well be
4 misleading and tend to confuse the jury without in any
5 way assisting them, I am going to deny their request and
6 your motions to reopen.

7 Now, we will play the record.

8 Did you get the request, Mr. Murray?

9 THE BAILIFF: Yes, your Honor, they want to hear
10 four of them.

11 MR. FITZGERALD: I can give you an estimate of the
12 time.

13 THE COURT: There is a possible solution to this,
14 I don't suppose any of us want to sit for an hour and a
15 half listening to the Beatles; I wouldn't want to listen
16 to them for 30 seconds.

17 MR. KANAREK: I would like to be present.

18 THE COURT: If you gentlemen could stipulate the
19 record could be played through just once to the jury --

20 MR. KEITH: Without counsel being present?

21 THE COURT: Without counsel or the Court being
22 present.

23 MR. KANAREK: I would welcome being present.

24 THE COURT: You can be present if you want to.

25 MR. KANAREK: I see what you mean, all right.

26 THE COURT: Anyone who did not want to could be

2e-4

1 excused.

2 MR. KEITH: Well --

3 MR. SHINN: In other words, your Honor will play it
4 in court and not upstairs, is that correct?

5 THE COURT: If anyone is going to be present other
6 than the jury, it will have to be done in open court.

7 MR. KANAREK: Your Honor, I do make the motion in
8 view of your Honor's not acceding to the jury's request,
9 the jury themselves having requested these matters, I do
10 make a motion for a mistrial.

11 THE COURT: Denied.

12 MR. FITZGERALD: Okay now, I will add these up.

13 MR. KANAREK: Your Honor, in the interest of completion,
14 Mr. Murray kindly brought to our room here this morning
15 People's Exhibit 4, People's Exhibit 251 and People's Exhibit
16 100.

17 That is, 251 was an envelope I believe;
18 People's Exhibit 4 and People's Exhibit 100, concerning
19 which there was colloquy, are pictures.

20 Is that a fair statement, your Honor? I don't
21 believe the record revealed what Mr. Murray did bring to us
22 at the jury's request.

23 THE COURT: I don't think it makes any difference,
24 but the jury is now segregating any of the exhibits they
25 wish to have further identified, which would include those
26 three.

2e-5

1 MR. BUGLIOSI: Are we going to handle the exhibit
2 problem after the playing of the record, is that going to
3 be done now or after the album?

4 THE COURT: They are apparently not ready yet; they
5 are going through the exhibits now, trying to segregate
6 them.

7 Is that correct, Mr. Murray?

8 THE BAILIFF: Yes.

9 MR. BUGLIOSI: We will have to come back tomorrow
10 morning because it is 2:20 now.

11 MR. FITZGERALD: Eighty-three point ten minutes.

12 THE CLERK: That is without change of the records.

13 MR. FITZGERALD: I am talking about four sides, two
14 sides of each record.

15 THE COURT: Can we arrive at any stipulation between
16 counsel as to any portions of those records that you don't
17 think have any relation or bearing to the case?

18 MR. KEITH: Not as far as I am concerned, you can't.

19 MR. FITZGERALD: I agree with Mr. Keith. The problem
20 is, there was specific testimony to some specific songs.

21 There was also general testimony as to the
22 album itself.

23 There was a considerable amount of general
24 testimony, as a matter of fact, as to when the double
25 album was released, and the fact that Manson and all the
26 Family members listened to it repeatedly, and so on.

1 It is an unusual musical experience, your Honor.

2 MR. BUGLIOSI: We have got five songs, I think, that
3 should be played only.

4 THE COURT: Counsel apparently cannot agree. The
5 jury had requested all of them.

6 MR. KAY: Another problem is, when you play the album,
7 either the Court or somebody is going to have to tell them
8 which song is which, as they go down the album.

9 Some of those words, I understand, are pretty
10 unintelligible.

11 Those can be taken off the record before,
12 and a list made up, probably six songs on a side, say
13 "You are now on band No. 1; this song is --

14 "This song, band No. 2 is this song."

15 Otherwise it might be confusing to them, or
16 more confusing to them.

17 MR. KEITH: Also the problem with counsel not having
18 to be present, if some counsel stay and other counsel leave,
19 it will look to the jury as if counsel that have left are
20 not very interested in these proceedings.

21 I would rather have an order that we all go or
22 we all have to stay.

23 MR. BUGLIOSI: I agree. Either all of us should be
24 here or none of us should be here.

25 I would make a motion that the Court excuse
26 all of us. I don't see why we have to suffer through 83

minutes of this horrendous album music.

What is the basic objection to having the record player going to the jury room and have them listen themselves?

MR. KAY: As long as they play the whole album, the objection before was that defense counsel did not want them to play it.

If they play it for them in open court, why not play it up in the jury room?

MR. BUGLIOSI: If they want to hear a certain song over again, they can play it over.

2f fls.

2f-1
1 MR. FITZGERALD: Right. I think contrary to some of
2 the obligations of my fellow counsel, once they hear the
3 whole thing in open court, if they want to rehear anything
4 else then I think it is just like a piece of evidence.

5 They can replay portions of it or whatever.
6 But I think until we have that --

7 THE COURT: Have what, I don't follow you.

8 MR. FITZGERALD: I think there is new material here.
9 I think that we ought to at least hear it all played in
10 open court.

11 MR. KAY: What difference does it make what they are
12 going to hear as long as we are going to play the whole
13 album?

14 MR. KEITH: I don't know.

15 MR. BUGLIOSI: Our hearing isn't necessary any more,
16 Paul, we can't argue about it.

17 MR. FITZGERALD: Correct, I just want to be present
18 when the jury takes evidence, that's all.

19 But I will do this, as Mr. Kanarek has said
20 numerous times, I don't question the integrity of the
21 Court:

22 If you all want to leave, I will leave with you
23 and let the Court suffer through it.

24 MR. BUGLIOSI: Thanks a lot. I have heard it several
25 times. The Judge maybe hasn't.

26 THE COURT: I can assure you I haven't, and I am not

1 anxious to.

2 Let's go off the record for just a moment.

3 (Whereupon, there was an off-the-record discussion
4 after which the following proceedings were had on the
5 record:)

6 THE COURT: Let's go back on the record.

7 With respect to the request of the jury for a
8 record player, which apparently and obviously is for the
9 purpose of permitting them to play the Beatles album which
10 is in evidence -- what is that exhibit?

11 MR. BUGLIOSI: 266 is the album and 267, the lyrics.

12 THE COURT: I understand that all counsel except
13 Mr. Kanarek are willing to stipulate that the bailiff may
14 take a record player into the jury room and play the record
15 without any comment, conversation or anything other than
16 playing the record.

17 I think he should be permitted to just read the
18 titles of the songs from the label on the record, but with-
19 out any comment or conversation about it.

20 MR. KANAREK: I think that is an imposition on Mr.
21 Murray.

22 THE COURT: Just a moment, Mr. Kanarek, we will let
23 Mr. Murray worry about that.

24 It is my understanding that all of you except
25 Mr. Kanarek agree that may be done, providing that the
26 bailiff plays the record through in its entirety first, and

1 then if the jury wants to go back and hear any particular
2 portion, that portion will be replayed again without any
3 comment, interpretation or conversation from the bailiff
4 with any member of the jury regarding the record.

5 MR. FITZGERALD: Correct, it is so agreed.

6 THE COURT: So agreed, Mr. Keith?

7 MR. KEITH: Yes.

8 MR. SHINN: So agreed.

9 THE COURT: Do the prosecution so agree?

10 MR. BUGLIOSI: Yes.

11 THE COURT: Mr. Kanarek, I understand you do not
12 agree.

13 MR. KANAREK: That is correct, your Honor, it is my
14 belief actually in that regard, if I may -- first of all,
15 there is a case on point and -- there is an exact case on
16 point and the reason it is an imposition on Mr. Murray,
17 the case holds that the Court cannot use the bailiff to
18 carry out its instructions in connection with the case
19 itself.

20 The bailiff cannot participate in getting
21 evidence to the jury, and I can show you -- it is a case
22 that Mr. Lavine, Morris Lavine -- I forget the name of the
23 case, it was reversed on that theory. The Court did much
24 less than the Court is asking Mr. Murray to do, if your
25 Honor will give me a moment, it is a case, I think, of
26 some years ago.

1 MR. BUGLIOSI: It was not Croved1?

2 MR. KANAREK: No, it's not. If I may --

3 THE COURT: If you may what?

4 MR. KANAREK: May I use Witkin's Criminal Procedure?

5 MR. BUGLIOSI: You are not talking about the Sears
6 case, are you, Irving?

7 MR. KANAREK: No.

8 MR. BUGLIOSI: Even if we were in open court, the
9 bailiff would probably have to play it. Someone would have
10 to spin the record.

11 MR. SHINN: Why not have the jurors play it?

12 MR. FITZGERALD: Inasmuch as they have People's
13 Exhibit 267, it is a very simple project for them to read
14 titles of the song and lyrics right along with listening to
15 it.

16 MR. KAY: As long as they know the order of the songs
17 on the album, that is the only thing.

18 MR. FITZGERALD: I assume the lyrics are in order,

19 MR. KAY: I don't know.

20 (Off the record discussion.)

21 THE COURT: Let's go back on the record now, and state
22 what we are going to do..

23 With respect to the playing of the Beattle album,
24 and the jury's request for a record player, I propose to
25 have the jury brought back into court and advise them that
26 they will be furnished with a record player; that the

1 bailliff will be instructed to play the Beatles album
2 through once in its entirety without any comment or
3 conversation with any of the jurors, between the bailliff
4 and any of the jurors, and that thereafter if the jury
5 wants any particular portion of the album played that he
6 will then go back and play the portion that they request.

7 And upon completion of that, without any comment
8 whatever with the jury, he will then bring the record
9 player out of the jury room and leave the room himself.

10 Do I understand that all counsel are in agreement
11 with that except Mr. Kanarek?

12 Is that correct?

13 MR. FITZGERALD: That is correct.

14 MR. SHINN: That is correct.

15 MR. KEITH: That is correct.

16 MR. KANAREK: That is correct.

17 THE COURT: Now, Mr. Kanarek, do you wish to make an
18 objection?

19 MR. KANAREK: Yes, your Honor. I object on the
20 grounds that the People have rested their case.

21 The People have made extended reference to the
22 Beatle album, and that it was played at the Spahn Ranch a
23 great number of times.

24 It is my position that your Honor allowing the
25 record to be played at this time, that your Honor is putting
26 before the jury evidence after the case has rested; that

1 the integration of the words and the music in the Beatle
2 album is not presentable in evidence before the jury.

3 It did not take place in open court. The album
4 going into evidence was merely -- was a physical object to
5 show the existence of the Beatle album.

6 As I say, there was no playing of the album in open
7 court, therefore what your Honor is doing is, your Honor
8 is now, while the jury is deliberating, your Honor is
9 allowing new evidence to go before the jury.

10 Now, therefore, it is improper because the
11 People have rested, for your Honor to allow this.

12 It is a denial of a fair trial and right to
13 effective counsel under the Sixth Amendment which is
14 incorporated into the due process clause of the Fourteenth
15 Amendment, and it is a denial of equal protection in that
16 counsel have not had the opportunity to argue the meaning
17 to the jury.

18 We have not had the opportunity to try to convince
19 the jury that the exhortations, or whatever is set out in
20 musical form on the album upon which the prosecution laid
21 such great store, all of that is not in part of our argu-
22 ment.

23 We could have made extended argument concerning
24 it, and so could the prosecution; they could argue what
25 the words mean and what the music means, if it had gone on
26 while the people were putting on their case.

1 But they did not put that into evidence; they
2 did not play the record.

3 Not having played the record, the words, the music,
4 that which comes out of the record when you put it on a
5 record player is not in evidence before the jury during
6 the course of the trial and, as I say, it is a denial of
7 a fair trial.

8 I would have liked very much to have argued to
9 the jury that the words and music here are words and music
10 that those people at the ranch could have heard independently
11 of Mr. Manson.

12 With Helter Skelter all over the ranch, and I
13 firmly believe this, it is not just a matter of argument, I
14 believe that Mr. Watson and Susan Atkins and Patricia
15 Krenwinkel and and Linda Kasabian, having heard the
16 Beatles and whatever at Spahn Ranch, when Mr. Manson was
17 not even present, acted on their own, and I sincerely
18 believe they acted on their own, and whatever they had to do
19 with Helter Skelter and the Beatles album came about because
20 of what they heard.

21 And I had no way of arguing that to the jury.

6-1

1 THE COURT: Well, Mr. Kanarek, let's get a few things
2 straight.

3 First of all you had an opportunity any time
4 you wanted to to play that record which was in evidence
5 either by yourself or to the jury.

6 If you want to do that, and you certainly had
7 the right to argue anything about the Beatles, and the
8 testimony about the Beatles, and the lyrics which are in
9 evidence, the album itself.

10 That was entirely up to you. I see no difference
11 between this, as I said off the record in our discussion,
12 between this and the very common example of a lawyer putting
13 into evidence during the course of a trial a rather lengthy
14 document which he does not read to the jury, simply a
15 foundation is laid and it goes into evidence and then the
16 jury takes it into the jury room and reads it during their
17 deliberations.

18 I see no difference whatever between that and
19 this.

20 MR. KANAREK: Your Honor is --

21 THE COURT: I don't want to belabor the point. I
22 think you have made your record and I have no desire to
23 prolong the discussion.

24 MR. KANAREK: In view of your Honor's A doing this,
25 I would ask for a mistrial in connection with what your
26 Honor is going to do with this record.

2g-6

1 THE COURT: The motion will be denied. Let's have
2 the jury brought down.

3 Have they had a recess or anything this after-
4 noon?

5 THE BAILIFF: No, your Honor.

6 THE COURT: Why don't we give them a break. How long
7 will they need?

8 THE BAILIFF: Ten minutes.

9 THE COURT: All right, then, we will have them brought
10 back down into court.

11 I will tell them I am going to deny their
12 request to visit the two premises.

13 I will tell them about the record playing, then
14 we will send them back upstairs again.

15 MR. FITZGERALD: Why don't you also ask the jury about
16 setting aside the problem exhibits?

17 THE COURT: Yes, yes, I will.

18 MR. BUGLIOSI: After we do that are we coming back
19 into chambers?

20 THE COURT: Not unless they already have segregated
21 the exhibits.

22 They won't have time to listen to the album
23 and get to the exhibits today.

24 MR. KANAREK: Your Honor, may the record reflect
25 that your Honor did read People vs. Weatherford, a California
26 Supreme Court case.

2g-3

(The following proceedings were had in open court in the presence and hearing of the jury, all counsel and all jurors being present, the defendants not being physically present:)

THE COURT: All counsel and jurors are present.

MR. KANAREK: Before your Honor proceeds may we approach the bench briefly, your Honor.

THE COURT: We will take it up afterward, Mr. Kanarek.

Mr. Tubick, I have received from the bailiff your request for certain matters and I considered all of these requests and discussed them with all counsel.

With respect to the first request, a list of the exhibit identifications, if you will make a list of the exhibits to which you wish some additional information, and segregate those, and give them to the bailiff, we will then consider that.

With respect to the playing of the album I will instruct one of the bailiffs to take a record player into the jury room and play the album in its entirety without any conversation between the bailiff and any juror; and if any of you then wish to hear any portions of it again, after it has been played through in its entirety, he will again play those portions requested, and without any conversation between any juror and the bailiff regarding the matter.

With respect to the request for visits to

1 the Tate-La Bianca residences, I have discussed that matter
2 with counsel and I have decided to deny that request.

3 You may escort the jury back to the jury room,
4 and the alternate jurors to their room.

5 MR. KANAREK: May we approach the bench?

6 THE COURT: Very well.

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

9 MR. KANAREK: Your Honor, I will object -- may the
10 record reflect that the record player is still in the
11 courtroom and the court still has the power to rescind
12 what I deem to be an illegal order.

13 THE COURT: You have already made your objection,
14 Mr. Kanarek. I don't want to hear it again and I don't
15 want to clutter the record with repeated objections.

16 Now, we spent a great deal of time both this
17 morning and this afternoon in chambers.

18 This court is now in recess.

19 MR. BUGLIOSI: Does the Court want us back tomorrow
20 morning then?

21 THE COURT: I think there is no need for you to stay
22 around any further this afternoon, and instead of having
23 the Clerk have to call you in the morning I will just ask
24 you all to be here, say, at 9:45 in the morning.

25 MR. FITZGERALD: Well --

26 THE COURT: By then the jury should have segregated

1 the exhibits that they want any further information about.

2 So we will adjourn until 9:45.

3 (Whereupon an adjournment was taken until

4 9:45 o'clock a.m. of the following day,

5 Tuesday, January 19, 1971.)