

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.

195

No. A253156

REPORTERS' DAILY TRANSCRIPT

Friday, March 5, 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:

~~XXXXXXXXXXXX~~
MAXWELL KEITH, Esq.

For Deft. Krenwinkel:

PAUL FITZGERALD, Esq.

VOLUME 195

PAGES 25576 to 25784

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

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I N D E X

DEFENDANTS' WITNESSES: DIRECT CROSS REDIRECT RECROSS

CABALLERO, Richard 25577S
 25737F
 25757Ka

E X H I B I T S

DEFENDANTS': FOR IDENTIFICATION IN EVIDENCE

VV - Beverly Hills National
 Bank statement 25700

WW - Document 25704

LOS ANGELES, CALIFORNIA, FRIDAY, MARCH 5, 1971

10:14 o'clock a.m.

- - - - -

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

Call your next witness.

MR. SHINN: Mr. Caballero, your Honor.

THE CLERK: Would you raise your right hand, please. Would you please repeat after me.

I do solemnly swear --

THE WITNESS: I do solemnly swear --

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

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

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

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

THE CLERK: -- before this court --

THE WITNESS: -- before this court --

THE CLERK: -- shall be the truth --

THE WITNESS: -- shall be the truth --

THE CLERK: -- the whole truth --

THE WITNESS: -- the whole truth --

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

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

THE CLERK: -- so help me God.

THE WITNESS: -- so help me God.

THE CLERK: Would you be seated, please. Would you

1 please state and spell your name.

2 THE WITNESS: Richard Caballero, C-a-b-a-l-l-e-r-o.

3
4 RICHARD CABALLERO,

5 a witness called by and on behalf of the defendants, was
6 examined and testified as follows:

7 MR. SHINN: May I proceed, your Honor?

8 THE COURT: Yes, you may.

9
10 DIRECT EXAMINATION

11 BY MR. SHINN:

12 Q Mr. Caballero, do you know Miss Susan Atkins?

13 A Yes, I do.

14 Q And at one time did you represent Miss Atkins
15 in two matters?

16 A Yes, I did.

17 Q I mean, I am talking about criminal matters now.

18 A Yes.

19 Q One was the Hinman matter?

20 A That's correct.

21 Q Were you court appointed or private counsel?

22 A Court appointed.

23 Q That means that the County pays your fees,
24 correct?

25 A If I file a declaration for fees, that means
26 the County pays my fees, yes.

1 Q Automatically an attorney appointed usually
2 files for fees, correct?

3 A Yes, that's correct.

4 Q Did you represent Miss Atkins as her counsel
5 in a different matter, another criminal matter?

6 A The Tate-La Bianca matter.

7 Q Yes, getting back to the Hinman matter, what
8 date were you appointed for that case?

9 A I believe it was a day or two, maybe the day
10 before Thanksgiving of 1969.

2 fls.

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1 Q Would that be on or about, say, the 26th or
2 27th of November?

3 A Whenever Thanksgiving fell that year, a day
4 or two before that.

5 Q And what judge appointed you in that case?

6 A Judge Clinco in Santa Monica.

7 Q That is in Santa Monica?

8 A That is correct.

9 Q Now, when were you appointed for the Tate-
10 La Bianca case?

11 A At the time of the arraignment on the Grand
12 Jury charges in this case, whatever date that was.

13 Q Do you know what judge appointed you in that
14 case?

15 A Judge Keene, William B. Keene.

16 Q That is in Department 100?

17 A That is correct.

18 Q Now, prior to your appointment by Judge Keene
19 in the Tate-La Bianca case, did you have any conversation
20 with Judge Keene?

21 A Before my appointment?

22 Q Yes.

23 Regarding Miss Atkins.

24 A I believe that on the very day of the appoint-
25 ment, we were called into chambers in Department 100 with
26 other counsel, and some discussion was had as to whether

1 I represented her in Hinman, and, as such, that I would
2 be appointed on this case.

3 I believe that is so. I can't be sure whether
4 that came before or after, but on that day, on that
5 morning.

6 Q You don't know whether it was before your
7 appointment or after your appointment; is that correct?

8 A I think that morning, just before the judge
9 took the bench, he called all counsel in, and I believe --
10 I may be mistaken, but I believe -- he indicated at that
11 time that I would be appointed since I represented her on
12 the Hinman matter.

13 Q Now, this was after the Grand Jury hearing;
14 correct?

15 A Oh, yes.

16 Q And this is when she pled not guilty?

17 A That is correct.

18 Q The same day?

19 A Well, I don't know if we had the transcripts
20 that day or not.

21 Q Now, did you have any conversations with any
22 other judges before the appointment in the Tate-La Bianca
23 case?

24 A No.

25 Q Not with Judge Ritterband or Clinco?

26 A You mean conversations before my appointment?

1 Q I'm sorry. I meant in the Tate-La Bianca
2 matter.

3 No, the Hinman.

4 A You mean the Hinman case?

5 Q Yes, that's right.

6 A The answer is no.

7 Q Did you have any conversations with any judge
8 before your appointment to the Tate-La Bianca case?

9 A Other than what I just indicated to you.

10 Q That was the only judge you talked to?

11 A Yes.

12 Q Judge Keene then; is that correct?

13 A That is correct.

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1 Q Now, did you have any conversation with any
2 District Attorneys, Deputy District Attorneys, before
3 your appointment to the Tate-La Bianca case?

4 A Oh, yes.

5 Q When did this conversation take place?

6 A Oh, many conversations.

7 This was a running situation between the
8 District Attorney's Office and myself; bearing in mind
9 that I had already been appointed on the Hinman case, from
10 that appointment on, I and the District Attorney's
11 Office had many, many conversations.

12 Q I am now trying to narrow it down to the Tate-
13 La Bianca case.

14 A Yes.

15 Q Did you have a conversation with any Deputy
16 District Attorney or Mr. Younger concerning the Tate-La
17 Bianca case in regards to Susan Atkins before your appoint-
18 ment?

19 A Yes.

20 I am answering you yes, I had many conversa-
21 tions.

22 Q All right.

23 Okay.

24 Now, during these conversations that you had
25 with the District Attorney, did you have, in your possession,
26 information about the Tate-La Bianca case?

1 A Yes.

2 Q Now, when did you first receive this informa-
3 tion about the Tate-La Bianca case and regarding Susan
4 Atkins?

5 A Thanksgiving Eve, or I think it was Thanks-
6 giving Day.

7 Q 1969; correct?

8 A Yes.. In Sybil Brand, which is the Women's
9 detention facility.

10 Q Yes.

11 The jail.

12 A Go ahead.

13 Q In other words, when you went to Sybil Brand,
14 you saw Miss Atkins?

15 A Yes.

16 Q Was that the first time that you learned about
17 information about the Tate-La Bianca matter?

18 Did someone tell you prior to your going to
19 Sybil Brand Jail?

20 A No, that is the first time I heard of it.

21 Q When you walked into Sybil Brand that Thanks-
22 giving Day, was that the first time that you heard that
23 Miss Atkins may be involved in the Tate-La Bianca case?

24 A No.

25 You mean that she may be involved?

26 Q Yes.

A No.

Q Oh, you received prior information?

A No, the day that I was appointed in Santa Monica I went -- I was in Santa Monica, I got appointed; I went to look for the file to examine the District Attorney's file.

Q This is on the Hinman case you are talking about now?

A On the Hinman case, yes.

Q Yes.

A Someone mentioned, I believe it was the District Attorney, I don't recall who, someone said something to the effect they believed this is the same group that is involved in the Tate killings.

In essence I had that much knowledge when I went to see Susan for the first time in jail.

Q Okay, now, this information was received in Santa Monica, you say?

A That's correct.

Q Was it in the court or a District Attorney's office?

A This was, I believe, either in the corridor, the courtroom or in the District Attorney's office.

Q Could you recall what District Attorney you talked to?

A No.

Q You don't recall?

1 A No, it was just a passing comment.

2 Q Mr. Stovitz, Mr. Bugliosi?

3 A Mr. Bugliosi wasn't even there.

4 MR. SHINN: May I approach the witness, your Honor.

5 THE COURT: You may.

6 BY MR. SHINN:

7 Q Mr. Caballero, I have here a document dated
8 November -- I mean December 16, 1969, Department 100, and
9 I believe this is the minutes, the Clerk's minutes, and
10 I believe you stated that you were appointed on December
11 10th.

12 Now, maybe this will refresh your memory.
13 It is dated December 16th.

14 A No, I said I was appointed on the day that I
15 appeared in court here, and the defendants were arraigned
16 on the Grand Jury transcript.

17 They may not have been arraigned. I think
18 they may have been over to whatever date that was; that was
19 the date I was appointed.

20 Q You were not appointed on the date of December
21 16th, when she was arraigned and pled not guilty, is that
22 right? Is that correct?

23 A No, it says here "Counsel for the defendant
24 receives transcript of indictment in open court."

25 I believe that I was appointed before we even
26 got copies of the transcript, because it takes about ten

1 days normally to get a transcript from the Grand Jury.

2 In other words it was put over for me.

3 Q But you were then, you think, appointed on
4 or about December 10th, then, correct?

5 A Whatever day it was.

6 Q Now, when you received this information from
7 a Deputy District Attorney from Santa Monica regarding
8 Miss Atkins having some information about the Tate- La
9 Bianca case, was there conversation with this District
10 Attorney, a long conversation or a short conversation?

11 A No, Mr. Shinn.

12 Let me explain to you:

13 After the appointment, this was considered a
14 death penalty case in Santa Monica, and I had been appointed.

15 And I stepped out.

16 Now, I don't know if it was a District Attorney,
17 one of the sheriff's officers, or someone who commented to me
18 as I was going, or coming back from getting the District
19 Attorney's file to look at it, I don't even know if I got
20 to see it that day, someone said they think this group is
21 involved in the Tate murder case.

22 And it was a passing comment.

23 It could have been one of the sheriff's officers;
24 it could have been one of the District Attorneys.

25 It was someone there who said that to me,
26 because I remember subsequently the next day, when I had

1 a conversation with Susan and this came up, that then I
2 remembered the conversation.

3 Q Now, in Santa Monica when you heard this --

4 A Yes.

5 Q -- weren't you curious enough to stop that
6 person and try to get more information?

7 A No.

8 Q Did you hear about the Tate-La Bianca homicides
9 at that time?

10 A Sure.

11 Q And you were not curious enough to say "Hey, what
12 are you talking about?"

13 A No.

14 MR. BUGLIOSI: Argumentative.

15 MR. SHINN: Let me finish my question.

16 Your Honor, I was interrupted, your Honor.

17 THE COURT: The question was not whether he was
18 curious or not, but whether he did. He said he didn't.

19 MR. SHINN: May I approach the witness, your Honor?

20 THE COURT: You may.

21 BY MR. SHINN:

22 Q I have here a document dated December 10th,
23 1969, Department 100. This is the Clerk's Minute Order.

24 Now, looking at this, does it refresh your
25 memory you were in fact appointed on December 10th, 1969?

26 A It does not refresh my memory.

1 But I was appointed whatever date the court
2 appointed me here, and that Minute Order would obviously
3 speak of a date of December 10th.

4 I would assume from that Minute Order that
5 December 10th is the correct date.

6 Q Correct?

3a fls. 7 A But it does not refresh my memory.
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1 Q So now you heard someone talk about the
2 possibility of Miss Atkins knowing something about Tate-
3 La Bianca, is that correct?

4 A That's correct.

5 Q And did you dash out to Sybil Brand Institute
6 for Women to inquire?

7 A No.

8 Q When did you go out there after you heard the
9 information?

10 A The next day; I believe it was Thanksgiving, and
11 I went to Sybil Brand.

12 Q Did you in fact have a conversation with Miss
13 Atkins regarding the Tate-La Bianca?

14 A Yes.

15 Q And from that conversation you learned that she
16 did know or have information regarding the Tate-La Bianca
17 homicides?

18 THE WITNESS: Your Honor, I don't know what position I
19 am in now.

20 There has been no waiver of the attorney-
21 client privilege at this point and I therefore would refuse
22 to answer unless I get permission from Miss Atkins to answer
23 these questions.

24 MR. SHINN: Miss Atkins, will you waive the client-
25 attorney privilege?

26 (Whereupon, there was an off-the-record

1 consultation between Miss Atkins and Mr. Fitzgerald which was
2 joined by Mr. Shinn, after which the following proceedings
3 were had in open court:)

4 MR. BUGLIOSI: I think there already has been a
5 waiver, your Honor.

6 Susan Atkins has testified as to her conversations
7 with Mr. Caballero on the witness stand.

8 MR. SHINN: Your Honor, may we approach the bench, your
9 Honor, or shall I make my argument here as to her waiving,
10 your Honor?

11 I believe, your Honor, that since Miss Atkins
12 has already substantially told her story to the Grand Jury
13 and on the stand in open court, your Honor, I feel that
14 client-attorney privilege is no longer in existence, your
15 Honor.

16 MR. BUGLIOSI: I agree, your Honor.

17 MR. SHINN: Although she indicated to me she did not
18 want to waive, your Honor, at this time.

19 MR. BUGLIOSI: I think there already has been a waiver.

20 May we approach the bench and discuss this?

21 THE COURT: Very well.

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

24 MR. BUGLIOSI: Not only, as Mr. Shinn says, not only
25 has Susan testified on the witness stand to her Grand Jury
26 testimony, but I believe she already testified to the

1 conversation she had with Mr. Caballero.

2 MR. FITZGERALD: Correct.

3 MR. BUGLIOSI: So I think there has been a waiver,
4 your Honor, as a matter of law.

5 I don't think she has to actually articulate,
6 "I waive."

7 THE COURT: I am not sure that disposes of the
8 question, though.

9 What is this?

10 MR. SHINN: I don't know why all of a sudden she
11 changed her mind and said she did not want to waive, your
12 Honor, I don't know.

13 That is the first time I found out about it
14 this morning.

15 All along I thought she was going to waive.

16 THE COURT: Well, does she realize that I may not
17 permit Mr. Caballero to answer the question if she doesn't
18 waive?

19 MR. SHINN: I believe she understands that.

20 THE COURT: She is calling the witness through you.

21 MR. SHINN: That is correct, your Honor.

22 THE COURT: She is calling the witness.

23 Now, if I sustain Mr. Caballero, he doesn't
24 know anything about what is going on here; he is perfectly
25 right in asserting the privilege; he has an absolute duty
26 to assert the privilege.

1 MR. SHINN: I think the privilege belongs to the
2 client.

3 THE COURT: That's right. He has a duty to assert it
4 until it is waived, so he is doing exactly what he should
5 do.

6 Your client is calling the witness and refusing
7 to waive the privilege.

8 Does she realize if I sustain Mr. Caballero that
9 she doesn't have any witness?

10 MR. SHINN: But I thought, your Honor, I thought of
11 this a long time ago, the fact that she did already reveal
12 what she told.

13 THE COURT: To me this is just game playing.

14 MR. SHINN: For her?

15 THE COURT: Yes, it's just game playing on her part, and
16 I may just very well sustain Mr. Caballero.

17 After all, she is the one who called him. If
18 she doesn't want him to testify, that is perfectly all right
19 with me.

20 MR. KANAREK: If I may, your Honor, in connection with
21 Linda Kasabian, your Honor sustained -- and your Honor has
22 refused to strike her testimony and she used the attorney-
23 client privilege, supposedly --

24 THE COURT: I don't know what you are talking about,
25 Mr. Kanarek.

26 We are talking about something else now.

1 MR. KANAREK: Yes. It's equal protection of the law.

2 THE COURT: I don't want to hear anything about that.

3 We are talking about another problem now.

4 MR. SHINN: I think the fact she could testify
5 exactly what she told --

6 THE COURT: I am not in the position to decide whether
7 she waived or not when she tells me now she doesn't want to
8 waive, she is the one who called the witness, as far as I'm
9 concerned he can step down off the witness stand.

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1 MR. SHINN: I think the Court --

2 THE COURT: That is a decision she will have to
3 make. I am not going to make it for her.

4 MR. BUGLIOSI: Your Honor, by operation of law --

5 THE COURT: I don't see any reason why the Court
6 has to be placed in the position of having to make that
7 delicate judgment.

8 She is the one that called him.

9 MR. FITZGERALD: Could we just have a minute to
10 talk among ourselves?

11 THE COURT: Yes.

12 (Whereupon all counsel return to their respec-
13 tive places at the counsel table and the following proceed-
14 ings occur in open court:)

15 (All defense counsel and defendants confer.)

16 MR. SHINN: Your Honor, she has indicated that she
17 would waive the privilege, your Honor.

18 DEFENDANT ATKINS: I waive whatever rights that you
19 guys ain't giving me.

20 THE COURT: This may not be quite as humorous as
21 some of the participants seem to think it is.

22 Miss Atkins, you do have an attorney-client
23 privilege with respect to any communications between you
24 and Mr. Caballero.

25 Now, unless you waive that privilege, he has
26 an absolute duty to assert it and to stand on it for your

benefit.

Do you wish to give up that right and have him testify to conversations between you and him?

DEFENDANT ATKINS: Your Honor, all of you go up to the bench and talk, and all these things, it is all in motion, and I waive it all.

THE COURT: Just answer the question.

MISS ATKINS: I waive it all. I have no say so.

The man can say whatever he wants to say.

THE COURT: You do waive?

DEFENDANT ATKINS: Yes. I said I waived it.

THE COURT: You understood what I have said?

DEFENDANT ATKINS: Yes. Everything.

THE COURT: You are willing to give up that privilege?

DEFENDANT ATKINS: Yes.

THE COURT: All right.

MR. SHINN: May the last question be reread, your Honor? I have forgotten it.

THE COURT: Reframe it, Mr. Shinn.

BY MR. SHINN:

Q Now, in your conversation with Miss Atkins at Sybil Brand Jail, did she relate to you -- did she give you information regarding the Tate-La Bianca homicides?

A Yes, she did.

Q Now, before talking to Miss Atkins that day -- you don't know what day it was?

1 A I believe it was Thanksgiving Day, in the
2 evening, or late afternoon.

3 Q Now, before or prior to talking to Miss Atkins,
4 did you read any reports from, say, Roni Howard and
5 Virginia Graham?

6 A No.

7 Q Now, the only information you had was someone
8 said something in the Santa Monica Court regarding Susan
9 Atkins and the Tate-La Bianca matter; is that correct?

10 A That is correct.

11 Q And there was no other information you had at
12 that time?

13 A That is correct.

14 Q You later read a report of Roni Howard and
15 Virginia Graham?

16 A I don't know if I read it or it was read to me,
17 but subsequently I did get information about them, yes.

18 Q From the Police Department or from the District
19 Attorney's Office?

20 A From both. I think the District Attorney was
21 there, but the Police Department was the one that furnished
22 it to me.

23 Q You say the District Attorney was there?

24 A Yes.

25 Q Do you recall the name of the Deputy District
26 Attorney that was there?

1 A Yes. I have never been able to pronounce it,
2 but it is Bugliosi.

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1 Q And he did, in fact, have the reports of Roni
2 Howard and Virginia Graham?

3 A He was there, the police were there, and they had
4 reports before them, and they told me about these persons.

5 Q Now, was this in the D.A.'s Office?

6 A No. This was in the Los Angeles Police
7 Department.

8 Q Was this after you talked to Miss Atkins?

9 A That is correct.

10 Q Approximately how many days after you talked
11 to Miss Atkins?

12 A It was, I believe, the Sunday following that
13 Thursday.

14 Q On a Sunday?

15 A That is correct.

16 Q Do you recall who was present?

17 A About ten police officers and the District
18 Attorney.

19 Q When you say the District Attorney, you mean
20 just one District Attorney?

21 A Yes. Mr. Bugliosi.

22 Q Just Mr. Bugliosi?

23 A Yes.

24 Q You never heard any tapes of Roni Howard then?
25 Later?

26 A I don't believe so.

1 I don't recall if I read transcripts or it was
2 related to me or I heard tapes.

3 I don't believe I heard any tapes of Roni Howard.

4 Q Now, Paul Caruso. You know Paul Caruso, do you
5 not?

6 A Yes.

7 Q What relation is he to you? Is he an associate
8 or ---

9 A You can stop there. He is an associate.

10 Q He is your associate?

11 A That's right.

12 Q What does that mean?

13 A That means that my office is in his building,
14 I pay rent to him for my office, we associate in many cases,
15 especially criminal cases.

16 He will make appearances for me and I will make
17 appearances for him, but I have my independent practice and
18 he has his independent practice.

19 And if I handle a case for him, he pays me for
20 that.

21 Q Okay.

22 Now, in other words, your association with
23 Mr. Caruso is only to the extent of making continuances for
24 each other?

25 A No.

26 Q Or trying cases together?

1 A We have never tried a case together as such.
2 We have handled cases together where he will make an appear-
3 ance and I will make the next appearance.

4 But I will handle many cases for him, clients of
5 his, that I will handle from the beginning to the end, or
6 come in at the middle. We familiarize ourselves with the
7 criminal cases that each of us has so that we can be ready
8 to handle it if one is sick or one is unable to appear, so
9 the other one can take over the case.

10 It is a very close association.

11 Q Was Mr. Paul Caruso ever an associate of yours
12 concerning Miss Atkins?

13 A In the same manner which I have just indicated
14 to you, yes.

15 Q Was he ever attorney-of-record along with you
16 for Miss Atkins at any time regarding the Hinman case or the
17 La Bianca case?

18 A No.

19 Q Or Tate?

20 A No.

21 Q Now, when you had this conversation with
22 Miss Atkins for the first time regarding the Tate-La Bianca
23 homicides, did you take any notes?

24 A No.

25 Q Did you tape the conversation?

26 A No.

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1 Q Now, how long did this conversation last the
2 first time that you talked to Miss Atkins regarding the
3 Tate-La Bianca homicides?

4 A Oh, in the area of an hour, give or take a half
5 hour either way. An hour, probably a little more.

6 Q Did you subsequently tape any conversations
7 with Miss Atkins regarding the Tate-La Bianca case at
8 the Sybil Brand Institute for Women?

9 A Yes.

10 Q What date did you make the tapes?

11 A Did I subsequently tape the conversation?
12 Let me see if I understand your question.

13 Q At Sybil Brand.

14 A Oh, yes.

15 Q Do you know the approximate date you made the
16 first tape?

17 A At Sybil Brand?

18 Q Yes. At Sybil Brand now.

19 A Sometime I think in February of last year.

20 Q Now, was this tape recording about Miss Atkins
21 and the Tate-La Bianca homicides?

22 A That and other things.

23 Q When you say "other things," you mean other
24 criminal matters?

25 A Yes.

26 The police were investigating certain things and

there was the Hinman matter involved.

And also psychiatric -- the purpose of the tape at this point was to turn it over to a psychiatrist.

Q Okay.

Now, did you get any type of a court permission or a court order to take a tape recording in this?

A Yes.

Q And who issued that order?

A Whoever the judge was in charge of the case at this time.

If I am not mistaken, it was Judge Keene.

There should be an order in the file.

Q How many times did you tape Miss Atkins' conversation at Sybil Brand?

A Maybe four or five times. Three or four or five times.

Q Now, were these tapes -- the ones at Sybil Brand I am speaking of now -- were they ever turned over to the LAPD, the Los Angeles Police Department?

A No.

Q The Sheriff's Office or the District Attorney's Office?

A No.

Q Did they ever hear these tapes?

A No.

Q No one has heard these tapes?

1 Did Mr. Paul Caruso hear these tapes?

2 A No.

3 Q And these tapes are in your possession now?

4 A That is correct.

5 Q Now, you were a former Deputy District Attorney;
6 is that correct?

7 A That is correct.

8 Q And what years were you a former -- I mean a
9 Deputy District Attorney?

10 A Oh, for eight years starting in 1958 to 1965 --
11 in that area of time -- or '66, I am sorry.

12 Q Sometime in '66 you went into private practice;
13 is that correct?

14 A That is correct.

15 Q Now, during your employment as a Deputy District
16 Attorney, you met Evelle Younger; is that correct?

17 A That is correct.

18 Q The present Attorney General of the State of
19 California?

20 A Yes.

21 Q And you know him socially too?

22 A Well, when you say socially --

23 Q You have gone to parties with him before?

24 A I have never been to his home. I have been to
25 social affairs where he has been.

26 Q And you belonged to his EJY Club or something?

1 A The Evelle J. Younger Club.

2 Q You belonged to that at one time, did you not?

3 A Oh, yes.

4 Q Did you know Mr. Bugliosi here?

5 A Yes.

6 Q At that time, when you were a Deputy District
7 Attorney?

8 A You mean when I first met him?

9 Q Yes.

10 A Yes.

11 Q You worked together with Mr. Bugliosi in the
12 same office?

13 A We worked in the same office with about 300
14 lawyers, yes. ✓

15 Q You knew Mr. Bugliosi at that time?

16 A Yes.

17 Q Did you know him socially at that time? Did
18 you go out with him socially? Go to parties together?

19 A We may have had lunch on occasion. We never
20 went out socially to parties as such. We may have been
21 at the same association meetings. But never socially
22 in the sense of going out after hours.

23 Q Do you know Mr. Stovitz?

24 A Yes.

25 Q For how many years have you known Mr. Stovitz?

26 A For many years. Even before Mr. Bugliosi.

1 Q How long was he in the office before you left
2 the office?

3 A I don't know, but he was in the office before
4 I entered the office.

5 Q And do you know Mr. Leavy?

6 A J. Miller Leavy?

7 Q Yes.

8 A Oh, yes.

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Q You have known him for a pretty long time?

A Yes.

Q Socially and professionally?

A That is correct.

Q And the now District Attorney, Mr. Busch.

Have you known him for a long time?

A Yes.

Q When you dealt with these persons I just named, Mr. Younger, Mr. Bugliosi, Mr. Stovitz, Mr. Leavy, and Mr. Busch -- you have dealt with them before in the past, have you not?

A Yes.

Q Like when you were a Deputy District Attorney, you would have some kind of an agreement with a defense attorney and his client, you would have some kind of a deal and you would refer to these persons; correct?

A I would do what to these persons?

Q Would you take this agreement or the deal up to these persons and say: Listen, this man wants to cop out to Count I. Will you dismiss the rest of the counts?

MR. BUGLIOSI: That is irrelevant.

MR. SHINN: If your Honor please, I am going to tie it up.

THE COURT: Sustained.

MR. SHINN: Q Well, you, yourself, Mr. Caballero, as a deputy District Attorney, did make deals with

1 defense attorneys; correct?

2 MR. BUGLIOSI: Irrelevant.

3 THE COURT: Sustained.

4 MR. SHINN: I will tie it up, your Honor.

5 May I make an offer of proof?

6 THE COURT: Sustained, Mr. Shinn.

7 MR. SHINN: Q Now, you know Mr. Younger and Mr.
8 Bugliosi, Mr. Stovitz, Mr. Leavy, and Mr. Busch; correct?

9 A Yes.

10 Q And you have known them long enough to give us
11 your opinion as to their truth and veracity?

12 A Oh, I would vouch for their truth and veracity,
13 yes, very much so, as to all of them.

14 Q In other words, when you talked to them and made
15 an agreement with them, they have always kept their word in
16 the past; is that correct?

17 A It has been my experience, yes.

18 Q And they have never reneged, to your knowledge,
19 on an agreement before in the past; is that correct?

20 MR. BUGLIOSI: That is irrelevant.

21 THE COURT: Sustained.

22 Q BY MR. SHINN: You also have heard the phrase,
23 "There is always a first time," and you have used that phrase
24 before, have you not?

25 MR. BUGLIOSI: That is irrelevant, your Honor.

26 THE COURT: Sustained.

1 Q BY MR. SHINN: Now, you had an agreement
2 regarding Miss Atkins with Mr. Younger; is that correct?

3 A That is correct.

4 Q Now, do you know the approximate date of this
5 agreement, or the meeting?

6 A It was in the period of time of the Grand Jury
7 testimony. I just can't give you the exact date.

8 Q If I told you that the Grand Jury hearing was
9 held on December the 5th -- that would be a Friday -- would
10 that refresh your memory?

11 A Yes.

12 Then I would imagine the conversation was probably
13 that day or the day preceding; in that area of time.

14 Q Does December the 4th ring a bell, 1969?

15 A If you told me the Grand Jury commenced -- oh,
16 yes, December the 4th does ring a bell, insofar as I
17 know that was the day before she testified at the Grand
18 Jury.

19 Q Right.

20 Now, there was such a meeting; correct?

21 A Yes.

22 Q Now, who was present at this meeting?

23 A Mr. Younger, Mr. Bugliosi, Mr. Stovitz, Mr.
24 Caruso and myself.
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5-1

1 Q Now, did you set up this meeting or did someone
2 else set this meeting up?

3 A No, I believe that I had a conversation with
4 either Mr. Stovitz or Mr. Bugliosi regarding the fact that
5 I wanted to be sure that we understood what Susan's role would
6 be if she testified before the Grand Jury.

7 Either Mr. Bugliosi or Mr. Stovitz indicated
8 that they would have to, or they wanted to clear everything
9 with Mr. Younger because it was an important decision.

10 Q In other words, you had prior negotiations with
11 Mr. Bugliosi and Mr. Stovitz?

12 A That's correct.

13 Q Regarding Miss Atkins?

14 A Right.

15 Q And at that time did you have any valuable
16 information regarding Miss Atkins' participating in the
17 Tate-La Bianca murders?

18 A Yes.

19 Q Now, were these in tape form at this time,
20 now, or were they just statements?

21 A Well, I had conversations before and after,
22 but there was some information on tape, yes, which was
23 recorded on December 1st.

24 Q Well, now, December the 1st, you say you had
25 some tapes made, correct?

26 A That's right.

1 Q Now, this was at your office?

2 A At my office.

3 Q And Miss Atkins was brought down to your office?

4 A That's correct.

5 Q On a removal order?

6 A That's correct.

7 Q Now, prior to getting this removal order did you
8 have a conversation with anyone, say the Judge or the
9 District Attorney's Office?

10 A I had a conversation with the District Attorney's
11 Office. I did not have one with the Judge.

12 Q Well, do you recall what District Attorney you
13 talked to before signing this removal order, this affidavit
14 or removal order?

15 A I don't know if it was Stovitz or Bugliosi,
16 but one of the two.

17 Q Do you recall a conversation?

18 A Well, there wasn't much of a conversation.

19 I said I was going to bring her to my office.
20 I wanted to discuss things with her; I wanted to get all of
21 the facts of the killings because I represented her on the
22 Hinman case, and I wanted to get all of the facts.

23 I did not want to take notes, and I wanted it in
24 her words, and I wanted to use it all so, I told them, in
25 the event I put in an NGI, not guilty by reason of insanity
26 plea, in the future.

1 We had many discussions regarding her
2 cooperation or lack of cooperation.

3 So I said I would take it in my office.

4 Q Well, did you tell either Mr. Stovitz --
5 Did you tell Mr. Stovitz that the purpose of
6 taking Miss Atkins down to your office on December, I
7 believe the 2nd, 1969, was to take tapes?

8 A No, I don't know if I told him, but I believe
9 I did.

10 Q Tapes regarding the Tate-La Bianca homicides.

11 A I believe I did.

12 You see, at that time I was aware of and I knew
13 they were aware of her involvement in the Tate-La Bianca
14 matters.

15 MR. SHINN: May I approach the witness, your Honor?

16 THE COURT: You may.

17 Q BY MR. SHINN: I have here a document entitled,
18 "Request For Removal of Prisoner."

19 It's marked P-LL, and the date at the bottom is
20 December 1st, 1969.

21 Now, did you see this before, the original?

22 A Yes.

23 Q Is that your signature at the bottom?

24 A Yes, it is.

25 Q And is that -- and in Section 2 it says,
26 "The purpose of the removal."

1 A That's correct.

2 Q What does it state there?

3 A To be taken to office of Richard Caballero,
4 attorney-at-law, 425 South Beverly Drive, Beverly
5 Hills, for the purpose of an examination to assist deter-
6 mination of the plea to be entered in this matter.

7 The matter referred to, of course, is the
8 matter above, which is the Hinman murder.

9 Q Nothing is said about taping Miss Atkins'
10 testimony?

11 A No.

12 Q About the Tate-La Bianca, is that correct?

13 A That is correct.

14 Q Is there any reason for not typing that in for
15 the purpose of taking Miss Atkins down to your office was
16 also to tape Miss Atkins' statements regarding the Tate-
17 La Bianca homicides?

18 A No. There was no reason for it. It's just a
19 matter of a brief indication what you are going to do, not a
20 specific one.

21 Q At this December 2nd meeting was there a
22 discussion between you and Miss Atkins regarding the plea in
23 the Hinman matter?

24 MR. SHINN: Mr. Bugliosi just pointed out to me that
25 the correct date is December 1st, 1969 and not December 2nd,
26 1969.

I will make that correction for the record.

Q Now, prior to taking Miss Atkins down to your office on December 1st, I believe it was, 1969, did you discuss with Miss Atkins the purpose of you taking Miss Atkins down to your office?

A Yes.

Q Was there a discussion?

A Oh, yes.

Q And it was agreed by Miss Atkins that she would go down to your office?

A Yes.

Q And was there anything said about taping, to Miss Atkins, about the Tate-La Bianca homicide at that time?

A Yes, yes.

Q This was conveyed to Miss Atkins?

A Yes.

Q And did you tell Miss Atkins the purpose of these tapes -- I am speaking of the Tate-La Bianca homicide?

A Yes.

Q Did you tell her the purpose of these tapes?

A Yes.

Q Now, do you recall what you told Miss Atkins?

A Yes, I do.

You are dissociating the Hinman with the Tate-La Bianca in my conversation. I cannot do that.

Q I am trying to confine this right now to the Tate-La Bianca homicides, the tapes that were made.

5a-2

1 A I appreciate what you want to do, but if you
2 want an answer that is explicit and truthful, I will have
3 to give you the entire conversation.

4 MR. SHINN: May I talk to the witness for a second,
5 your Honor?

6 THE COURT: You may.

7 (Whereupon there was an off the record
8 discussion between Mr. Shinn and Mr. Caballero, after which
9 the following proceedings were had in open court.)

10 BY MR. SHINN:

11 Q Now, Mr. Caballero, was Miss Atkins ever
12 informed before these tapes were made in your office on
13 December 1st, 1969, was she ever informed that there was
14 a possibility to sell her story?

15 A Oh, no.

16 Q Not at that time?

17 A No, there was no possibility at that time
18 existing.

19 Q Okay, was there a later time in which you
20 informed Miss Atkins that there was a possibility to sell
21 her story, say, in a book form or magazine or newspaper
22 form?

23 A Yes.

24 Q Did you ever convey that message to her?

25 A Oh, yes, subsequently, yes.

26 Q Do you know the approximate date of that?

5a-3

1 A This would have been in the area of around
2 December 8th, either on that day or the day preceding the
3 Wednesday -- some conversation about it, and it was just
4 in that period of time, right around the time she signed the
5 contract.

6 Q Where did you tell her, in your office or at
7 Sybil Brand?

8 A No, this was at Sybil Brand, because both times
9 she was in my office -- she was in my office twice -- and
10 on each of those occasions there was no thought of a sale
11 of a story because that was not in the works at all.

12 Q You said December 8th. Now -- strike that.
13 Do you know Lawrence Schiller?

14 A Yes.

15 Q When did you first meet Lawrence Schiller?

16 A Either on the Friday of December the 5th or
17 on the Monday of December 8th.

18 Q And where was this meeting, in your office or
19 at his home?

20 A In Mr. Caruso's office, which is in the same
21 building where I have my office.

22 Q And that was the first time you met Lawrence
23 Schiller?

24 A Yes.

25 Q And that was through Mr. Caruso?

26 A That's correct.

5a-4

1 Q And at that first meeting was there a conversa-
2 tion regarding the possibility of a sale of Miss Atkins'
3 story?

4 A Oh, yes, that was what Mr. Schiller apparently
5 was there for.

6 Q When I'm talking about Miss Atkins' story,
7 I'm talking about her life plus her participation in the
8 Tate-La Bianca homicides, is that correct?

9 A That's correct.

10 Q And did you, Mr. Caruso, and Lawrence Schiller
11 come to some kind of an oral understanding at your first
12 meeting regarding Miss Atkins' story to be released?

13 A The oral understanding was that I would have to
14 get her permission, and then if we got her permission we
15 would do it.

16 There were other things discussed too that were
17 understood, if you want that also.

18 Q No, I'm just talking about the possibility of
19 selling Miss Atkins' story world-wide when you first met
20 Lawrence Schiller?

21 A No -- well, no, if that is what you want to
22 know.

23 Q Yes.

24 A Then, the oral understanding was it would not
25 be world-wide; it would not be domestic at all and would
26 be only overseas and it would be released the day preceding

1 the Grand Jury transcript being given to the attorneys.

2 It was my experience, as I have indicated
3 before, from the District Attorney's Office, and as a
4 private lawyer that ten days approximately after the Grand
5 Jury returns the indictment, the Grand Jury transcript is
6 made available, and made a matter of public record.

7 It was my understanding that Monday in this
8 court, I think it would be the 14th or the 16th, that Grand
9 Jury transcript would become a matter of public record.

10 None of us had any way of knowing of course
11 the judge would seal the transcript.

12 So with the understanding the story would go
13 overseas and overseas only and would be published within
14 24 hours prior to the Grand Jury transcript being a matter
15 of public record, and the same matter being contained in
16 the story that was contained in the transcript of the Grand
17 Jury, nothing different was going to be revealed.

18 It was with that understanding that deal was
19 entered into.

20 Q Was there any discussion by yourself, Paul
21 Caruso and Lawrence Schiller regarding the story possibly
22 coming back, say, from Europe, leaking back from Europe?

23 A No, here is what happened:

24 When he said it was only going to be published
25 in Europe, and I said, "Still I only want it within a 24-hour
26 period," there was a question of a time difference which would

1 make it maybe 24 hours plus 12, something like that.

2 And I said "What is to stop them here from
3 writing it?"

4 He said "Well, it is true they can pick up
5 that such a story was there, but they are only entitled
6 to a certain number of words that they can take from a
7 copyrighted story."

8 I think he told me 500 words or something like
9 that.

10 At that point I said "Well, by that time it
11 won't matter because the Grand Jury transcript will be a
12 matter of public record the next day, and all of this will
13 be out publicly."

14 Anyway, as you know from history, the judge then
15 seals the Grand Jury transcript and, you know -- in a sense
16 I don't mean he sealed it, he issued an order that it was
5b fls. 17 not to be made a matter of public record.
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1 Q But, Mr. Caballero, there was discussion, was
2 there not, as to the possibility that the story may leak
3 back into the United States and jeopardize Miss Atkins'
4 chance at the trial.

5 Wasn't that discussed?

6 A The first half, yes; the second part, no.

7 Q There was no discussion about Miss Atkins'
8 trial and possibly it might leak back, and her confession
9 may be used against her?

10 MR. BUGLIOSI: Compound.

11 THE COURT: Just a moment.

12 THE WITNESS: No, there was discussion --

13 THE COURT: Just a moment.

14 The objection is sustained.

15 Q BY MR. SHINN: Was there any talk of the
16 possibility that Miss Atkins' alleged confession may come
17 back to the United States?

18 A Yes, I just explained that to you.

19 Q There was talk, there was a possibility, you
20 knew that then, is that correct?

21 A Yes.

22 Q And that it would jeopardize Miss Atkins?

23 A No.

24 Q At her trial?

25 A No.

26 Q Why do you say no, Mr. Caballero?

1 A Because I knew it would not jeopardize her at
2 the trial.

3 Q How did you come to that conclusion?

4 A Because I had made a, as you put it, deal with
5 the District Attorney's Office.

6 Q Oh, I see, you felt, your state of mind was
7 such, then, Mr. Caballero, at the time you entered into the
8 negotiations to sell Miss Atkins' story with Lawrence
9 Schiller and Paul Caruso, your state of mind was such that
10 you would make a deal with the District Attorney's Office
11 regarding Miss Atkins' life?

12 A It had already been made.

13 Q What date was this deal made?

14 A It was -- let me put it this way:

15 It was more or less formalized and ratified
16 in Mr. Younger's Office on the 4th, but it had already been
17 decided upon prior to that between the District Attorney,
18 Mr. Bugliosi, Mr. Stovitz, and myself, primarily Mr.
19 Bugliosi, prior to that.

20 Q Wait a minute, I am losing you.

21 You said before you went to Mr. Younger's
22 Office --

23 A Yes.

24 Q -- you, Mr. Stovitz and Mr. Bugliosi had already
25 made an agreement regarding Susan Atkins' life.

26 A That's right, primarily with Mr. Bugliosi.

1 Q What date was this?

2 A This was in the running days of -- it was a
3 running kind of conversation and, of our understanding, in
4 which, you might say, all of this commenced the Sunday
5 following the Thanksgiving day that I had my conference
6 with Susan.

7 Q Now, do you recall the first meeting you had
8 with Mr. Bugliosi and Mr. Stovitz regarding Miss Atkins
9 then, the so-called deal?

10 A Mr. Shinn, just so that we can be clear.

11 I used the name, Mr. Bugliosi and Mr. Stovitz,
12 but many times the conversation was with one and not the
13 other; primarily with Mr. Bugliosi, though.

14 Now, you wanted to know when I first had a
15 conversation with Mr. Bugliosi?

16 Q Yes, regarding this agreement for Susan
17 Atkins.

18 A Yes.

19 Q Before you went to Younger's office?

20 A Oh, sure, all this began to take place, as I
21 say, the Sunday following the Thanksgiving Day that she
22 had told me certain things.

23 Q And at that time, then, all the information
24 you had was just your word that you heard from Miss Atkins,
25 correct? There were no tapes at that time?

26 A Oh, there were no tapes, no, none whatsoever.

1 Q In other words, Mr. Bugliosi just trusted you
2 as an attorney and a friend and a former deputy District
3 Attorney, that you did in fact possess this information,
4 is that correct?

5 A Oh, certainly, that is not uncommon.

6 Q Right, and you trusted each other?

7 A Oh, yes.

8 Q And then you finally decided to make a tape,
9 to back up your statement?

10 A No, not to back up my statement, for the purpose
11 of convenience, for the purpose of clarity, for the purpose of
12 using it in the event I entered a plea of not guilty by
13 reason of insanity, I needed the tapes for many reasons
14 such as those.

15 Q Okay, would it be fair to state, then,
16 Mr. Caballero, that when Mr. Bugliosi came down to your
17 office on December 4th, the night of December 4th, 1969,
18 would it be fair to state that in your mind already that a
19 deal has already been formulated regarding Miss Atkins'
20 life?

21 A Without question.

22 Q Without question?

23 A Without question.

24 Q Okay, now, what was the agreement you had with
25 Mr. Bugliosi or with Mr. Stovitz regarding this agreement
26 at that time?

1 A. That if Susan Atkins testified truthfully at the
2 Grand Jury as to her involvement in the Tate-La Bianca
3 murders, and continued to cooperate --

4 Well, she testified truthfully at the Grand Jury
5 about these matters, they would not seek the death penalty
6 on either the La Bianca murders, the Tate murders, or the
7 Hinman murders because you must remember I represented her
8 on Hinman, and that is how all this came about.

9 So in addition to that, at no time would her
10 testimony ever be used against her.

11 In other words, I could just go on, have the
12 trial, fight my case and if Roni Howard or the other girls
13 were not available, and they had no evidence, she could
14 have walked out of the courtroom if they did not have
15 corroboration because they could never use her testimony
16 against her.

17 In other words, she gave up no legal right.

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1 Q Your understanding then was if she testified
2 truthfully at the Grand Jury --

3 A Yes.

4 Q -- and an indictment was had as a result of
5 her testimony, that she had performed her part of the
6 agreement?

7 A No, an indictment did not have to follow.

8 If she merely did exactly that, got up there
9 and testified truthfully.

10 Q Regardless of an indictment or not, her part
11 was performed, she performed her part of the agreement
12 then?

13 A That's right. If the Grand Jury chose not to
14 agree with her or chose not to indict someone, that is up
15 to them, so long as she did her share is all that mattered.

16 Q Did Mr. Bugliosi ever tell you at any time after
17 the Grand Jury hearing, did Mr. Bugliosi contact you at any
18 time and tell you that the deal was off; Miss Atkins had
19 not testified 100 percent the truth?

20 A Not in those words. He did not contact me.

21 In my constant meetings with him and seeing him
22 at various meetings he did indicate to me on one occasion,
23 he said -- I had told him, I reaffirmed to him I did not
24 think she would be testifying at the trial, which was
25 something I indicated to him at a prior time.

26 Q But that was not part of the agreement at that

5c-2

1 time, was it?

2 A I appreciate that, I'm trying to answer your
3 question in view of the circumstances.

4 And he indicated to me, he said, "You know,
5 she did not testify entirely truthfully."

6 And I said, "Well, that is all a matter of
7 degree," or something like that.

8 I said, "That is all relative," I said, "Sub-
9 stantially she testified truthfully."

10 He said, "Oh, yes, substantially she did."

11 This was in essence my conversation with her.

12 Q When was this conversation, right after the
13 Grand Jury hearing?

14 A No, I cannot tell you if it was right after,
15 a week later or a month later.

16 You are asking me to recall many conversations
17 I had with Mr. Bugliosi.

18 Q Well, I'm talking right now about Miss Atkins'
19 deal you made with Mr. Bugliosi.

20 A Yes.

21 Q She finished testifying at the Grand Jury, and
22 your state of mind was such that she had performed her part
23 of the bargain?

24 A No question about that.

25 Q My question was, when did Mr. Bugliosi first
26 tell you that she did not perform -- fulfill her part of

5c-3

the bargaining.

A He did not tell me she did not fulfill her part of the bargaining -- oh, wait a moment.

No, very recently --

Q When you say recently, the last week?

A Very recently, the last week or so, I understand that Miss Atkins took the stand at some point and testified that she had lied at the Grand Jury.

In addition to that, when I was first subpoenaed here by you, Mr. Shinn, I learned for the first time from Mr. Bugliosi that Susan Atkins had filed an affidavit saying that she had lied at the Grand Jury.

At that point Mr. Bugliosi, when he pointed it out to me --

I said "I'm surprised. I did not know this."

And he said to me, "Well, I don't think she fulfilled her duty. I think she broke the deal."

6 fls.

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1 I said to him, "Well, you may be right, I
2 don't know."

3 Q Well --

4 A Then I was informed --

5 THE COURT: Just a moment.

6 Read the answer.

7 (The answer was read by the reporter.)

8 THE COURT: Had you completed your answer?

9 THE WITNESS: No.

10 Then I was informed again by Mr. Bugliosi, he
11 felt that they were no longer obligated to not ask for the
12 death penalty.

13 And I said: Well, I can see that as a matter
14 of interpretation, I said, but I feel -- in subsequent
15 conversations with him, I indicated to him that I felt
16 that she had substantially complied; she hadn't taken the
17 stand during the trial in chief and said that she lied;
18 and I still felt that she was entitled to the consideration
19 that we had originally agreed upon; but nevertheless it
20 was open to interpretation.

21 THE COURT: We will take our recess at this time.

22 Ladies and gentlemen, do not converse with
23 anyone or form or express any opinion regarding penalty
24 until that question is finally submitted to you.

25 The court will recess for 15 minutes.

26 (Recess.)

1 THE COURT: All parties, counsel and jurors are
2 present.

3 You may continue, Mr. Shinn.

4 MR. SHINN: Thank you, your Honor.

5 Q Mr. Caballero, you stated that you had a conver-
6 sation subsequent to Miss Atkins testifying at the Grand Jury
7 with Mr. Bugliosi; correct?

8 A Yes.

9 Q And that conversation took place, you said,
10 recently?

11 A Yes.

12 Q And I believe that is approximately about a
13 year and a couple of months after the Grand Jury hearing;
14 is that correct?

15 MR. BUGLIOSI: That is a misstatement.

16 He said he also had a discussion with me
17 shortly after the Grand Jury.

18 THE COURT: He is asking the question.

19 THE WITNESS: I didn't understand the question.

20 BY MR. SHINN:

21 Q You said that recently Mr. Bugliosi told you --
22 strike that.

23 Mr. Bugliosi stated that Miss Atkins' agreement,
24 I mean, the deal was not in good standing now; is that
25 correct?

26 A Yes.

1 Q But I believe you also testified this morning
2 that your state of mind was such that if Miss Atkins
3 testified truthfully at the Grand Jury, that she had
4 performed her part?

5 MR. BUGLIOSI: Well, that calls for a conclusion.

6 MR. SHINN: He said that.

7 MR. BUGLIOSI: The record speaks for itself.

8 THE COURT: If he has already said it, there is no
9 point in saying it again.

10 Are you re-asking the same question?

11 MR. SHINN: I will withdraw the question, your Honor.

12 Q At the time that you spoke to Mr. Bugliosi
13 recently regarding Miss Atkins' agreement, your state of
14 mind was such that she had performed her part of the
15 agreement; is that correct?

16 A As of the time I spoke to him, yes.

17 Q In other words, Mr. Bugliosi has never, or Mr.
18 Stovitz has never contacted you, after Miss Atkins testified
19 at the Grand Jury, that the deal was off; is that correct?

20 A That is correct.

7 fls.

7-1
1 Q So your state of mind was such that the deal
2 was still on?

3 A Yes, Mr. Shinn, when you took over the case,
4 whatever date that was, as you recall you were in my office,
5 I gave you the file.

6 Q Yes.

7 A At that point I sat you down and put on the
8 tape recorder and, as you recall, I told you at that time
9 what the deal was with the District Attorney's Office,
10 indicating to you, "Now you understand what your
11 responsibilities are from here on in; if something happens
12 to her, it's your responsibility."

13 Do you recall that?

14 Q I don't recall, Mr. Caballero.

15 A Well, as of that date I still felt that the
16 deal was on.

17 I tried to indicate that to you.

18 Q Even up to the time until recently when you
19 talked to Mr. Bugliosi, is that correct?

20 A Yes, yes.

21 THE COURT: By "that date," what did you mean,
22 Mr. Caballero?

23 THE WITNESS: I'm sorry, by that date I meant the
24 date I left the case as attorney of record and Mr. Shinn
25 took over.

26 THE COURT: Do you know what date that is?

1 MR. CABALLERO: No, I'm sorry, I don't; but it would
2 have been in March of 1970.

3 MR. SHINN: Yes, on or about March 11, 1970, I think.

4 Q Now, did Mr. Bugliosi or anyone from the
5 District Attorney's Office prior to December 4th, 1969,
6 meeting with Mr. Younger in his office, did they hear the
7 tapes of Miss Atkins?

8 A Prior to when?

9 Q You had a meeting with the District Attorney
10 in the District Attorney's Office on December 4, 1969 with
11 Younger, Stovitz and Bugliosi?

12 A Yes.

13 Q And Paul Caruso?

14 A Yes.

15 Q Now, prior to that meeting did the District
16 Attorney or anyone from the District Attorney's Office hear
17 these tapes from Miss Atkins?

18 A Yes, when you say "these tapes," as of the date
19 of December 4th, there was just one tape; it was the tape
20 that was recorded on December 1st.

21 Q In your office?

22 A Yes.

23 Now, on December 4th at the time when we spoke
24 to Mr. Younger, I don't know if Mr. Bugliosi had already
25 heard those tapes or whether he heard them later on that
26 day.

1 But when he arrived at my office that evening,
2 December 4th, to question -- to go over the questions that
3 he was going to ask Susan Atkins at the Grand Jury hearing,
4 he had heard the tape because he was using the tapes as a
5 basis for the questions.

6 Q Yes, but my question to you, Mr. Caballero, was,
7 do you know of your own knowledge whether or not Mr. Bugliosi
8 heard these tapes before coming to your office on December
9 4th?

10 A To that question the answer is yes, I do know.

11 Q When did he listen to these tapes?

12 A I explained to you. I don't know if he heard
13 them on December 4th just before we spoke to Mr. Younger, or
14 after, but he used them in preparation for his questioning.

15 Q Okay, now, did you at any time play this tape
16 for the Los Angeles Police Department in the presence of
17 Mr. Stovitz and Mr. Bugliosi?

18 A No.

19 Q You don't recall?

20 A No, I did not play it for them.
21 I gave it to them.

22 Q You gave it to them, the Sheriff or the LAPD?

23 A LAPD or to Mr. Bugliosi. I forget to who it
24 was. I don't know if I turned it over to Mr. Bugliosi in
25 the District Attorney's Office, or to one of his represen-
26 tatives at the Los Angeles Police Department, I don't know

1 where it was.

2 Q Well, were you present then at the LAPD when
3 Mr. Bugliosi and Mr. Stovitz, if you were present, heard
4 these tapes?

5 Were you present?

6 A No.

7 Q Now, you don't recall whether or not you turned
8 these tapes over to the LAPD, the Sheriff's Office, or to
9 the District Attorney's Office?

10 A It was not the Sheriff's. It was either to
11 Mr. Bugliosi, here in the District Attorney's Office, or
12 to Mr. Bugliosi at the Los Angeles Police Department, or to
13 one of his agents at the Los Angeles Police Department.

14 I don't recall to whom it was.

15 Q Okay, now, these tapes that you gave, was that
16 the only tapes you had or did you have copies of these tapes?

17 A The tape that I gave?

18 Q Yes.

19 A I don't know if at that moment -- because we
20 were pressed for time -- I don't know if I had as of that
21 moment made a copy of it.

22 I did subsequently make one copy to keep, and
23 I don't know whether I made the copy just prior to giving
24 them the tape or not.

25 I do recall my instructions were:

26 "Here, use it for your questioning; don't make

1 any copies; return it to me."

2 Q Okay, now, when you had handed these tapes
3 over to the District Attorney, if in fact you did -- did
4 you, or you don't recall?

5 A I believe I gave them to Mr. Bugliosi. I may
6 be mistaken.

7 Q Okay, at that time when you handed the tapes
8 over to Mr. Bugliosi was your state of mind such that a
9 deal for Miss Atkins' life had already been made?

10 A Oh, yes.

11 Q That even before Mr. Bugliosi heard the tapes,
12 when you handed the tapes over to Mr. Bugliosi?

13 A Yes.

14 Q And that was your understanding by Mr. Bugliosi?

15 A Yes.

16 Q That once he hears those tapes that the agreement
17 for Miss Atkins' life was already made, correct?

18 A Yes.

19 Q You see, even before he heard the tape, the
20 deal had been made.

21 A He was hearing the tape as part of the deal,
22 as part of the transaction.

23 I was now fulfilling my portion of it.

24 "Here is the tape, prepare it for the Grand
25 Jury."

8-1

1 Q Now, was there anything in writing as to your
2 agreement with Mr. Bugliosi at that time?

3 A No.

4 Q Was there any tape recordings made of your
5 conversation with Mr. Bugliosi at that time?

6 A No, not to my knowledge.

7 Q In other words, since you had dealt with Mr.
8 Bugliosi in the past, you felt that no writing was
9 necessary? Was that your state of mind?

10 A Yes.

11 Even if I hadn't dealt with him in the past,
12 any District Attorney that I deal with, I deal with that
13 way, I trust.

14 Q You trust and feel they would never renege in
15 the future?

16 A Oh, yes.

17 That has always been my experience.

18 Q All right.

19 Now, then, Mr. Bugliosi did come down to your
20 office; correct?

21 A Yes.

22 Q And I believe that was on or about December the
23 4th, 1969?

24 A December the 4th, that is correct.

25 Q Now, did you meet Mr. Bugliosi some place on
26 that day?

8-2

1 A I believe that I was here in this building on
2 a preliminary hearing. If that is the day we had the
3 conference with Judge Younger, then I believe that is so,
4 because I believe we had to cut the conference short
5 because I had to go to court.

6 If I am not mistaken, I met Mr. Bugliosi here
7 and we went together, or I met him at my office, but I
8 believe I drove him to my office.

9 THE COURT: You said Judge Younger.

10 Whom are you referring to?

11 THE WITNESS: I always refer to District Attorney
12 Younger as Judge Younger because he used to be a judge,
13 and I have always used that title with respect to him.

14 BY MR. SHINN:

15 Q Now, when Mr. Bugliosi went to your office,
16 he had already heard the tapes?

17 A That is correct.

18 Q You gave Mr. Bugliosi the tapes on or about
19 December the 1st or 2nd; is that right?

20 MR. BUGLIOSI: Assumes facts not in evidence.

21 He said he doesn't know whether he gave it to
22 me or the Police Department.

23 THE WITNESS: I gave it to Mr. Bugliosi or one of his
24 agents. I forget who I handed it to.

25 I thought it was Mr. Bugliosi. I may be mistaken.
26 It was done by prearrangement that he would get

8-3

1 the tapes.

2 BY MR. SHINN:

3 Q You knew Mr. Bugliosi had heard the tapes
4 before coming to your office?

5 A Yes. He told me so, and he came with his
6 notes all prepared.

7 Q Prior to Mr. Bugliosi going to your office,
8 you met with him and you drove down together; correct?

9 A I believe so.

10 Q You had dinner first and then went down?

11 A I think we had dinner with Susan in my office
12 because one of the things she sort of looked forward to
13 when she came to my office was that we would have dinner
14 other than Sybil Brand food.

15 Q On your way down to the office with Mr. Bugliosi,
16 was there a discussion as to Miss Atkins' testimony on the
17 tape?

18 A Yes.

19 Q Now, did Mr. Bugliosi tell you before going to
20 your office, on the way down to your office, did he tell
21 you, or say to you, that "I heard Miss Atkins' statement on
22 the tape and some of the statements are not true"?

23 Did Mr. Bugliosi ever reveal that to you?

24 A What he said was: I heard the statement and
25 there are some discrepancies that I want to try to clear
26 up.

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1 He indicated that he felt there were things
2 in the tape that did not follow the other evidence that
3 he had which indicated to the contrary.

8a fls.

4 And I said: Fine. We can ask her.
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Q Did he tell you in what area there were discrepancies?

A No.

Q You didn't discuss what areas?

A No.

Q Did he talk about Sharon Tate?

A Of course we talked about Sharon Tate.

Q I mean, was there a discussion about a discrepancy concerning Sharon Tate?

A No. No.

There was other conversations -- whether it was then or other times -- where there was a discrepancy regarding a statement that either Roni Graham or the other -- I forget her name --

Q Roni Howard?

A Roni Howard and Virginia Graham, one of them had indicated in her statement to the police a version a little different than that which Susan Atkins had related to us on the tape.

Q I mean, was it a discrepancy which was a big discrepancy and would, maybe, cancel the agreement that you had with him?

MR. BUGLIOSI: Calls for a conclusion.

THE COURT: Sustained.

MR. SHINN: Q Did Mr. Bugliosi say to you: I will have to straighten out the discrepancy before the

1 deal would be made?

2 Was there any discussion of that?

3 A No.

4 Q And you don't recall what area Mr. Bugliosi
5 said that the discrepancy was; is that correct?

6 A No.

7 He just said that there were some discrepancies.

8 And I said, "Well, go into it with her."

9 Q Then, at that time, Mr. Bugliosi didn't say,
10 "The deal is off now. I still want to talk to Miss Atkins."

11 Is that correct?

12 A That is correct.

13 Q Now, were you present when Mr. Bugliosi
14 questioned Miss Atkins? Were you in the same room?

15 A I was present during most of it.

16 There were a few occasions when I stepped out
17 of the room, but I was substantially there.

18 Q Now, did you have a conversation with Miss
19 Atkins alone before Mr. Bugliosi talked to Miss Atkins?

20 A Yes, I did.

21 Q For how long was the conversation?

22 A For about five minutes. Maybe a little less.

23 I recorded that conversation.

24 Q Did you tell Miss Atkins that Mr. Bugliosi
25 from the District Attorney's Office will be in your
26 office on December the 4th, 1969, before she went there?

1 A Oh, sure.

2 Q You told her?

3 A Oh, sure.

4 Q And did you tell her the purpose of Mr. Bugliosi
5 being there?

6 A Sure.

7 She knew she was going to be testifying before
8 the Grand Jury.

9 Q Did you advise Miss Atkins of her constitutional
10 rights before Mr. Bugliosi talked to her?

11 A You mean, what her rights were?

12 Q Yes. In the jail.

13 A You mean, just before he spoke to her?

14 Q Right.

15 A No.

16 We had already -- do you want an explanation of
17 that or just an answer?

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1 Q Yes.

2 A I represented Susan Atkins. I represented her
3 in the manner which I knew would best benefit her, from
4 my experience.

5 I told her what the problems were, what the
6 evidence was against her as it was related to me.

7 That included the Hinman case and the Tate- La
8 Bianca case.

9 And as a result of all this, I indicated to
10 her that there is no question in my mind but they were going
11 to seek the death penalty and that they would probably get
12 it.

13 I told her, "They have enough evidence to
14 convict you. You will be convicted."

15 Q Let me stop you right there, Mr. Caballero.

16 You said, at that time, before Miss Atkins
17 ever talked to Mr. Bugliosi, that you felt in your mind,
18 from all the facts -- I mean, this is even before Susan
19 Atkins made her appearance at the Grand Jury hearing -- you
20 felt, from the facts that you had before you, that she would
21 be convicted and probably get the gas chamber?

22 A Yes.

23 Q That is even before she related her testimony
24 at the Grand Jury?

25 A Without question.

26 Q Did you take into consideration Roni Howard's
statement and Virginia Graham's statement?

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A Yes, I certainly did.

Q And did you know, at that time, that they were ex-cons?

A Yes.

Q And that they had two prior felony convictions?

A I certainly did.

Q And you felt that they would be believable?

A That, plus in view of all the other evidence, yes.

Q And all the other evidence was members of the Family; correct?

A Oh, no.

You are forgetting that she confessed to police officers in the Hinman murder case also.

You are forgetting --

Q But that is --

A Do you want an answer?

Q That is not concerning the Tate-La Bianca case, is it, Mr. Caballero?

A Just a moment.

The names that she gave to Roni Howard and Virginia Graham were what led the police to find out whose palm print it was.

The information she gave about the La Bianca killings, information that the police had not revealed, things she knew that only the police knew.

1 Q But you knew, did you not, that Miss Atkins was
2 not at the La Bianca home, in the house?

3 A Yes.

4 Q Is that right?

5 A Yes.

6 I knew she had gone there.

7 Q Then the information that she picked up at the
8 La Bianca homicides would be hearsay; someone else told her;
9 right?

10 A Correct.

8c fls.

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1 Q So, you wouldn't know it was true.

2 A But not the information where she said she went
3 there. Not the information where she could have told and
4 knew what the circumstances were.

5 She spoke with the co-defendants about this.

6 Q So, now you felt that this would be the best
7 deal for Susan Atkins; correct?

8 A Yes.

9 Mr. Shinn, perhaps you lost the point.

10 It wasn't a question of giving up any rights
11 when she testified before the Grand Jury.

12 What you have to get in perspective simply is
13 this: Susan Atkins never gave up anything when she testi-
14 fied before the Grand Jury. She got everything in return
15 and gave up nothing.

16 Because they could not, as part of the deal,
17 ^{she} could not ever use whatever/told them against her.

18 They could not use any evidence she discovered
19 for them whenever we went on these forays out to the hills
20 against her.

21 They could not use any other evidence regarding
22 any other crimes against her.

23 All this was for her. She gave nothing up.
24 In exchange, she was able to go to trial, and if we had
25 been able to beat the trial, she would have won it and we
26 could have walked out of here.

1 MR. KANAREK: Your Honor, on that note, may we
2 approach the bench?

3 MR. BUGLIOSI: I don't know what "that note" is, your
4 Honor.

5 THE COURT: For what purpose?

6 MR. KANAREK: Well, your Honor, because I would like
7 to make --

8 THE COURT: Take it up later, Mr. Kanarek.

9 This is Mr. Shinn's examination.

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1 MR. KANAREK: I understand, your Honor, but I think
2 there is a point I wish to bring to the Court's attention.

3 THE COURT: We will take it up later.

4 Go ahead, Mr. Shinn.

5 BY MR. SHINN:

6 Q Mr. Caballero, at that time you were acting in
7 the best interests of your client, Miss Atkins, correct?

8 A At that time and at all times.

9 Q You were trying to save her life?

10 A That is correct.

11 Q You trusted a District Attorney and the State
12 of California to perform their part of the agreement, is
13 that correct?

14 A That is correct.

15 Q Now, did you discuss with Miss Atkins the
16 possibility that in the event that the District Attorney
17 would renege on their agreement, what would happen to her,
18 if she testified before the Grand Jury?

19 A I told her over and over again, and I have some
20 tape recordings on this also, that the District Attorney's
21 office would not use the evidence at the Grand Jury against
22 her.

23 I said that no matter what happened she stands
24 in the same footing that she stood when she first came to me.

25 My deal with the District Attorney's office was
26 very simple.

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1 That was the point I spoke to them about Susan
2 Atkins and we made our deal; there wasn't any other evidence
3 they would use against her other than that which came from
4 other sources, or what they already had.

5 So everything she offered was for her benefit.

6 Q Isn't it true, Mr. Caballero, as a result of
7 Miss Atkins' testimony, that an indictment was had?

8 MR. BUGLIOSI: That calls for a conclusion.

9 MR. SHINN: On all the defendants.

10 MR. BUGLIOSI: There could have been much other evidence,
11 your Honor.

12 MR. SHINN: If he knows.

13 THE COURT: This witness would not have any personal
14 knowledge of that.

15 The objection is sustained.

16 BY MR. SHINN:

17 Q Okay, after Miss Atkins testified at the Grand
18 Jury, an indictment was had, was it not?

19 A Yes.

20 Q Now, when Mr. Bugliosi was talking to Miss Atkins
21 in your office, you were present, is that correct?

22 A Yes.

23 Q Did he have any notes in front of him?

24 A Oh, yes, substantial notes, yes, sir.

25 Q He had all the questions written down, correct?

26 A Yes.

1 MR. SHINN: May I approach the witness, your Honor?

2 THE COURT: Yes.

3 BY MR. SHINN:

4 Q I have a document here, it is marked P-FF.

5 Did you see the original of this copy?

6 A I don't know.

7 Q Do they look similar to the type of note Mr.
8 Bugliosi had at your office?

9 A They could have been.

10 In other words, Mr. Bugliosi had notes on a yellow
11 tablet, handwritten.

12 Whether those are the notes, I don't know.

13 Q And did you ever see this document marked,
14 for identification, P-FF before?

15 A The document you are holding in your hand?

16 Q Yes.

17 A No, I don't believe so.

18 Q You never have seen this document, P-FF before?

19 A I don't think so.

20 Q Mr. Bugliosi never gave you a copy?

21 A A copy of what?

22 Q This document P-FF?

23 A I don't recall ever seeing that document.

24 Now, as I told you, Mr. Bugliosi made notes on
25 a yellow pad such as the one that is in front of him.

26 Q Yes, this is a copy of it?

1 A At the time he came to my office he presented me
2 with these questions.

3 He said "Here is what we are going to ask."

4 We went over them.

5 Q You went over the questions?

6 A Yes.

7 I looked at them and I said "Fine." That is all.
8 He was doing what I would have done had I been prosecuting
9 the case.

10 Q Now, did you read some of these questions that
11 Mr. Bugliosi had with him that day?

12 Do you recall some of the questions?

13 A I recall him asking the questions.

14 Q Okay, you heard the tapes of Miss Atkins, correct?

15 A Oh, yes, yes.

16 Q Now, when you saw some of these questions that
17 Mr. Bugliosi had --

18 A Yes.

19 Q -- did they look similar to the questions in the
20 tape you had?

21 A Oh, yes, yes, it was obvious he had gone over the
22 tape and made some questions, because there were some points
23 where he even said:

24 "Clarify this for me," this kind of thing, you
25 see.

26 Q In your tapes it had most of the answers and the

1 questions, correct?

2 A No, no.

3 Let's understand each other.

4 There was one tape, December 1st, that was the
5 only tape available to Mr. Bugliosi and that was the only
6 tape that was in existence when he came to my office.

7 That was a narration by Susan Atkins of her
8 role in these various killings.

9 We started off with the date and went to the
10 La Bianca one and then we ended up with the Hinman case.

11 It was this tape in narration form that Mr.
12 Bugliosi heard and from whence he made his notes and
13 questions.

14 There was nothing on the tapes in question and
15 answer, because there were very few questions put to her.

16 In that sense, I would ask her something in
17 general, or Mr. Caruso would, and then she would go on.

18 Q You stated you read some of the questions Mr.
19 Bugliosi had before him?

20 A Yes.

21 Q At that time Mr. Bugliosi said "There are some
22 discrepancies in this; I want to ask Miss Atkins" --

23 A No, coming in the car he said "There are some
24 discrepancies I want to clear up," and he did when he was
25 questioning her.

26 He said "Can you clarify this for me?" Or

1 "I couldn't understand this on the tape."
2

3 This kind of thing.
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5 Q After Mr. Bugliosi talked to Miss Atkins in your
6 office, what was that, approximately an hour and a half,
7 two hours?
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9 A It could have been that; it could have been
10 longer.
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1 Q Okay, after he got through talking to Miss
2 Atkins and had all the answers he wanted from Miss Atkins,
3 did you have a conversation with Mr. Bugliosi before he left?

4 A I don't know if he left first or Susan left
5 first. I was there until they both left, but I don't remember
6 who left first.

7 Q At that time did Mr. Bugliosi say to you,
8 "Miss Atkins is not telling the 100 per cent truth"?

9 A No.

10 Q No indication of that from Mr. Bugliosi?

11 A No.

12 Q Did he say to you he was satisfied with all of
13 the answers, now, that he got from Miss Atkins?

14 A He did not say that. He just said, "Fine,
15 thank you," -- I know where he went. He was on his way to
16 the Los Angeles Police Department to interview more
17 witnesses, and he kept telling them, "Please keep them there,"
18 something to that effect.

19 I believe he went to the Los Angeles Police
20 Department where he worked on after midnight with some other
21 witnesses.

22 Q Okay, now, before you introduced Miss Atkins to
23 Mr. Bugliosi --

24 A Yes.

25 Q -- Miss Atkins did not know Mr. Bugliosi before?

26 A That's correct.

1 Q Did she not say to you, "What is Mr. Bugliosi
2 from the District Attorney's Office doing here?"

3 A No.

4 Q You don't recall that?

5 A I know it was not said.

6 Q It was not said?

7 A No.

8 Q Was she surprised when you introduced Mr.
9 Bugliosi to her?

10 A No. Would you like an explanation?

11 Q I mean, to Miss Atkins at that time.

12 A No.

13 Q Was she happy?

14 A She may have been. She was not upset at all.

15 She was happy by the fact that she was in my
16 office. She seemed to be at that time willing to abide by
17 my advice.

18 What happened, Mr. Shinn, was she felt and
19 I felt once she testified before the Grand Jury, I would be
20 in the Grand Jury with her; we had planned it that way.
21 We had hoped I would be in there with her because she wanted
22 me there for moral support.

23 Now, in a later conversation with the District
24 Attorney's office and with J. Miller Leavy, we took out the
25 Penal Code books and we decided that even with their consent,
26 this Grand Jury could not allow me in the room with her.

1 It would vitiate the Grand Jury proceedings.

2 At that point I went to Sybil Brand and told her,
3 "I cannot be with you in there on that day, but don't worry,
4 I will introduce you to the District Attorney who will ask
5 you the questions; in fact, he will have a list of questions
6 he is going to ask you so you will hear every one of the
7 questions he is going to ask you before you go to the
8 Grand Jury room.

9 "I will be out in the hall. If there is any
10 question you want to talk about, you can ask them to stop
11 a moment, you want to come out, and they will permit you to
12 chat with me."

13 That is how Mr. Bugliosi came about to ask her
14 those questions.

15 THE COURT: Will counsel approach the bench, please?

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

18 THE COURT: We are about to take the noon recess.

19 You indicated you had something you wanted to
20 approach the bench about, Mr. Kanarek.

21 MR. KANAREK: Yes, your Honor.

22 I believe from this witness it is clear there
23 has been a violation of due process and equal protection as
24 to all of the other defendants, particularly Mr. Manson,
25 by the machinations of the District Attorney's Office
26 entering into an agreement that certain matters would not be

used.

That certain procedures would be followed.
This constitutes suppression of evidence.

That is why I want to assert at the earliest possible time, it is my assertion this constitutes a denial of due process under the Fourteenth Amendment, under Brady vs. Maryland.

THE COURT: What was suppressed there? I don't know what you're talking about.

MR. KANAREK: The agreement was that this information would never be used against Susan Atkins by the District Attorney's office.

MR. BUGLIOSI: If she did not testify at the trial we would never use that against her. That is in there, if she did not testify.

MR. KANAREK: Right, and in not using that against her you are then depriving the other defendants of evidence.

We have reason to believe there's been a failure, I believe there has been a failure of discovery on the part of the District Attorney's Office.

It is State action which puts it well squarely directly within the ambit of the cases.

State action in connection with a conspiracy to not only suborn perjury in connection with this last bit of testimony, not only to suborn perjury but also to deprive the defendants of evidence, of testimony, of a fair trial,

1 and I so allege at this time.

2 And I ask your Honor to conduct a hearing in
3 this regard based upon the equal protection of the laws of
4 the Fourteenth Amendment and the due process clause of the
5 Fourteenth Amendment.

6 This cavalier action of the District Attorney's
7 Office is fantastic, unbelievable.

8 THE COURT: Save your hyperbole for your briefs,
9 Mr. Kanarek.

10 Just confine yourself to the legal argument now.

11 MR. KANAREK: I ask that the jury be admonished not
12 to consider this testimony for any purpose.

13 I ask for a mistrial, not only on the penalty
14 phase but also the guilt or innocence phase.

15 THE COURT: Well, I don't have to hear argument from
16 the People to that.

17 The contentions are absurd in my opinion.

18 In the first place, if the People used the
19 evidence they cannot use it contrary to the agreement.

20 Even if it had been used, all that could be
21 done would be to implicate Mr. Manson.

22 MR. KANAREK: As a matter of discovery --

23 MR. BUGLIOSI: As a matter of discovery you got the
24 Grand Jury transcript.

25 MR. KANAREK: But we did not get the tape. That is
26 suppression of evidence.

1 THE COURT: The motion is denied.

2 (The following proceedings were had in open
3 court in the presence and hearing of the jury:)

4 THE COURT: We will take the noon recess.

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

8 The Court will recess until 1:45.

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10 (Whereupon, a recess was taken to reconvene
11 at 1:45 p.m., same day.)
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1 LOS ANGELES, CALIFORNIA, FRIDAY, MARCH 5, 1971

2 2:06 P.M.

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4 (The following proceedings were had in open
5 court. All defendants, counsel and jurors present:)

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

7 You may continue, Mr. Shinn.

8 MR. SHINN: Thank you, your Honor.

9
10 RICHARD CABALLERO,

11 the witness on the stand at the time of the recess, resumed
12 the stand and testified further as follows:

13
14 DIRECT EXAMINATION (CONTINUED)

15 BY MR. SHINN:

16 Q Mr. Caballero, at this meeting at the District
17 Attorney's Office with Mr. Younger, Mr. Bugliosi, Mr. Stovitz,
18 yourself, and I believe Mr. Caruso -- is that correct?

19 A That is correct.

20 Q Now, what was Paul Caruso's function at this
21 meeting? Was he representing Susan Atkins, or was he just
22 there because he knew Mr. Younger?

23 A As I have previously stated, Mr. Caruso is my
24 associate.

25 I had brought him into the case initially the day
26 that Susan Atkins came to my office on December 1st.

1 I introduced them, and I explained to her that
2 "this is my associate and he will be handling the matter
3 when I am not available."

4 I explained to Mr. Caruso the seriousness of the
5 offense, what was involved, that I had been court-appointed,
6 and that, in essence, I wanted his assistance.

7 And that is what he was doing there.

8 Q Now, when you say you wanted his assistance --

9 A Yes.

10 Q -- in what manner are you speaking of?

11 A In every manner.

12 First of all, to make appearances when I
13 couldn't make them.

14 Secondly, to pick his brain on matters that
15 may have come up. He has had a lot more experience than
16 I have had and he is an expert attorney, and I wanted to
17 have his advice and guidance throughout the entire matter.

18 Q Let me ask you this, Mr. Caballero. Has Mr.
19 Caruso, at any time, made an appearance for you on behalf of
20 Susan Atkins?

21 A It was never necessary.

22 There was one day, in Department 100, I believe,
23 where I was going to be late, and he was there. He got
24 there before me. I asked him to be there. But apparently
25 they didn't get to the case as early as I thought they would.
26 So, by the time I got there, it wasn't necessary for him to

1 stand in on my behalf.

2 Q In other words, he has never made any appearance
3 on your behalf for Miss Atkins; is that correct?

4 A In court, that is correct.

5 Q In other words, his only function that you know
6 of in representing Miss Atkins was at this meeting with
7 Mr. Younger?

8 A That is correct.

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1 Q Right?

2 (No response.)

3 Now, did Mr. Younger say anything in this
4 meeting, do you recall?

5 A Yes, he asked the District Attorneys, Stovitz
6 and Bugliosi, to explain the background, what happened,
7 what kind of commitments had been made.

8 He spoke very little other than every once in
9 a while to make an occasional inquiry.

10 I had originally asked for immunity for Susan
11 Atkins, and Mr. Bugliosi and Mr. Stovitz had indicated she
12 would not be given immunity.

13 I tried again to get it from Judge Younger,
14 and they indicated, no, they would not be granting immunity.

15 So we merely discussed what they would be
16 granting.

17 Q And this discussion, as to what they will be
18 granting, was there any discussion as to either second
19 degree or manslaughter or involuntary manslaughter?

20 A The discussion -- I don't know if it was held
21 there in the presence of Mr. Younger.

22 I had had as I indicated, many discussions with
23 Mr. Bugliosi, and one of the things that we had more or
24 less understood, in fact I think it is in the memo, it
25 indicates that the extent of any further concessions, or
26 however it is phrased, will depend upon her further

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1 cooperation.

2 Implicit in that was my conversation with Mr.
3 Bugliosi and Mr. Stovitz which indicates that we had more
4 or less understood if she did come through and testify at
5 the trial as distinguished from the Grand Jury, in all
6 probability she would get a second degree.

7 Q There was no discussion as to her getting
8 complete immunity in the event she did testify at the trial,
9 is that true?

10 A They told me affirmatively that they would not--
11 they were not going to grant her immunity.

12 Q And yet you had in your possession valuable
13 information regarding the Tate-La Bianca case, correct?

14 A Yes; they did too.

15 Q And the fact that the police were trying to
16 solve this case for four or five months without success?

17 A That's right.

18 Q You possessed valuable information which would
19 break this case, correct?

20 MR. BUGLIOSI: That calls for a conclusion.

21 THE COURT: Sustained.

22 BY MR. SHINN:

23 Q Did you have information regarding the Tate-
24 La Bianca case?

25 A That's correct.

26 Q Now, could you recall anything else that

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1 Mr. Younger said at that time regarding this agreement?

2 A He was primarily a sounding board; he didn't
3 speak much in the meeting other than to listen and to,
4 in a sense, ratify the understanding that I already had
5 with the District Attorney's office.

6 You see, if I'm not mistaken, what I wanted to
7 do was make sure that subsequent to meeting the District
8 Attorney, that someone in the highest position would not
9 say "I'm sorry, they did not have the authority to go that
10 far and make those commitments."

11 So, if I'm not mistaken, I asked for this
12 meeting because I wanted to get all this straightened out
13 in advance.

14 I knew what my commitment was. I knew they had
15 it and they would abide by it.

16 I wanted to get it ratified.

17 Q Was there any discussion as to Miss Atkins'
18 testimony before the Grand Jury. Was the word "truthfully"
19 mentioned?

20 A Yes, she would testify truthfully.

21 Q Was there any discussion by Mr. Bugliosi or
22 any of the Deputy District Attorneys, or by Mr. Younger
23 about 100 percent truth?

24 A That term was not used.

25 The term truthfully was used at that meeting.

26 Many times Mr. Bugliosi had spoken to me and

1 told me he wanted her to tell the complete truth, or "I
2 expect her to be truthful."

3 In my opinion she testified truthfully.

4 MR. BUGLIOSI: Motion to strike the last.

5 THE COURT: The last sentence will be stricken.
6 The jury is admonished to disregard it.

7 BY MR. SHINN:

8 Q Okay, was any notes taken at this meeting
9 by yourself or Mr. Paul Caruso?

10 A No, I took no notes.

11a fls.

1 Q Did you see whether or not the Deputy District
2 Attorneys were taking any notes?

3 A I didn't notice; they may have.

4 Q Okay, was there a court reporter present taking
5 notes?

6 A No, no.

7 Q Was there an electronic device --

8 A Not to my knowledge.

9 Q -- recording the conversation?

10 A Not to my knowledge.

11 Q How long did this meeting last approximately?

12 A It could have been anywhere from ten minutes
13 to twenty-five minutes.

14 I don't know, because I had to rush up from a
15 court and back down to the court as soon as they called.

16 Q Okay, now, was anything said by anyone in this
17 meeting that the substance of this meeting will be reduced
18 to writing?

19 A I don't know if someone mentioned to have a
20 memorandum made up of it.

21 I know a memorandum was made up by Mr. Stovitz
22 of the meeting.

23 MR. SHINN: May I approach the witness, your Honor?

24 THE COURT: You may.

25 BY MR. SHINN:

26 Q I have a document entitled Confidential Memo,

1 it's marked P-KK.

2 It is to Evelle J. Younger, District Attorney,
3 from Aaron Stovitz.

4 Subject, Susan Atkins. The date, December 4th,
5 1969.

6 I show you this.

7 Have you seen the original of this document?

8 A Yes, I have.

9 Q When did you first see the original of that
10 document?

11 A In Mr. Stovitz's office. I don't recall when
12 it was. It was sometime after the meeting.

13 Q Do you recall how much after the meeting, how
14 much time elapsed after the meeting, a month later, two
15 months later?

16 A It could have been a day, a week, a month later.

17 Q You don't recall?

18 A No, I was in constant touch with these gentle-
19 men. It could have been any one of those days.

20 Q But you read this memo?

21 A Yes.

22 Q And does this memo represent substantially what
23 went on at that meeting?

24 A Yes.

25 Q You read this memo carefully?

26 A I read it carefully at the time it was shown to
Q

1 me, I just perused it now.

2 Q And do you recall there is no statements about
3 100 percent truth?

4 A No.

5 Q It just said truthfully?

6 A That's right.

7 Q Is that correct?

8 A That's correct.

9 Q And when you saw this document you said Mr.
10 Stovitz showed you this document?

11 A That's correct.

12 Q Did you ask for a copy for your files?

13 A I don't -- there was a discussion as to whether
14 he had another copy.

15 I said "Do you have a copy for me?"

16 He said, "No, I will keep it in our file just
17 as a memo of our understanding. I just want you to look
18 it over to see what it was like."

19 I did not care whether I had a copy or not.

12 Fls.

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1 Q But you felt that Miss Atkins had already
2 performed at the Grand Jury; is that correct?

3 A Yes.

4 MR. BUGLIOSI: Calls for a conclusion.

5 THE COURT: Sustained.

6 MR. SHINN: This was after.

7 MR. BUGLIOSI: Motion to strike.

8 THE COURT: The answer is stricken and the jury is
9 admonished to disregard it.

10 Q BY MR. SHINN: This was after Susan Atkins
11 testified at the Grand Jury; is that correct?

12 A That I saw the memorandum?

13 Q Yes.

14 A Yes.

15 Q And the indictment was had; correct?

16 A Well, I don't know if the indictment had been
17 returned already, but it was after she had testified, yes.

18 Q Did you later, after the meeting with Mr. Younger,
19 did you, yourself, make any notes at your office at a later
20 time?

21 A About what?

22 Q About the meeting, what went on in the meeting,
23 for your own reference.

24 A No.

25 What I did was, I wrote down -- if you will let
26 me see the exhibit?

1 Q Yes.

2 A I wrote down a portion of it in my calendar
3 book.

4 (Mr. Shinn shows the exhibit to the witness.)

5 THE WITNESS: Which is Paragraph Number 2.

6 Q BY MR. SHINN: What does that paragraph Number 2
7 state?

8 A "In view of her past cooperation and in the
9 event that she testifies truthfully at the Grand Jury, the
10 prosecution would not seek the death penalty against her in
11 any of the three cases that are now known to the police,
12 namely, the Hinman murder, the Sharon Tate murder, and the
13 La Bianca murders."

14 That portion I wrote into my calendar.

15 Q Okay.

16 Now, when Mr. Stovitz showed you this memorandum,
17 did he, at that time, state to you that Miss Atkins did not
18 fulfill her part of the agreement?

19 A No.

20 Q Did Mr. Stovitz later tell you that Miss Atkins
21 didn't fulfill her part of the agreement?

22 A At some point later on, as I indicated, both
23 Mr. Bugliosi and Mr. Stovitz, either together or in
24 separate different conversations, at some time and place,
25 indicated to me that they felt she had not been completely
26 truthful.

1 Q And that was approximately what? A year after?

2 A No.

3 This was at some time -- it could have been a
4 month later, two months later. But it wasn't calling for
5 any response from me. It was merely that she hadn't been
6 completely truthful.

7 And I recall my response on each occasion was:
8 Yes, but she testified substantially to the truth.

9 And they said: Oh, yes.

10 There was no disagreement with that.

11 Q Was your state of mind, then, that the agreement
12 was still on?

13 A Oh, no question.

14 Q Did you ever confer with Miss Atkins regarding
15 this discrepancy in her testimony?

16 A No.

17 Q You felt that she told the truth?

18 MR. BUGLIOSI: Calls for a conclusion.

19 THE COURT: Sustained.

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1 Q Did Mr. Younger ever call you up and say that
2 the agreement with Miss Atkins is off?

3 A I never spoke to Mr. Younger about this case
4 after that one meeting in his office. I never spoke to
5 Mr. Younger about this case after that one meeting in his
6 office which, as I indicated, lasted anywhere from 10 to 25
7 minutes.

8 Q Now, getting back to the time when you taped
9 Miss Atkins' statement in your office.

10 That was December the 1st, 1969; correct?

11 A Yes.

12 Q Now, was one of the purposes of taping her
13 statement of the Tate-La Bianca homicides to possibly sell
14 this story eventually?

15 A No.

16 Q That never entered your mind?

17 A No.

18 Q When did you first talk to Lawrence Schiller?

19 A Either on the 5th of December, when I first met
20 him for the first time, or on the 8th.

21 It was either that Friday evening or that Monday
22 evening, I don't recall which.

23 Q Okay.

24 Now, prior to taping Miss Atkins' statement in
25 your office on December the 1st, you had no discussions with
26 Mr. Caruso or anyone else regarding the possible sale of

Susan Atkins' story; correct?

A. That is correct.

Q. Is that correct?

A. That is correct.

Q. When you met Lawrence Schiller for the first time -- I believe on, you stated, I think, December the 4th --

A. The 5th or the 8th.

Q. The 5th?

A. The 5th or the 8th.

Q. You stated, at that time, the idea came to you that there is a possible chance of selling the story; correct?

A. No.

They suggested the idea to me.

Q. Who is "they"?

A. Mr. Schiller.

Mr. Schiller apparently had called Mr. Caruso and asked Mr. Caruso if he could be introduced to me.

I arrived from court, or wherever I was that day, it was late, and that is where I met Mr. Schiller.

Q. Yes?

A. Mr. Caruso asked me if I would meet with Mr. Schiller, and I said, "Sure."

Q. In other words, Mr. Schiller asked you whether or not there was a possibility of selling the story of Miss Atkins' participation in the Tate-La Bianca homicides;

1 is that correct?

2 A In foreign countries.

3 Q In foreign countries?

4 A Yes.

5 Q Now, was that discussed? Foreign countries
6 was discussed with Lawrence Schiller and Paul Caruso?

7 A Yes.

8 Q Now, did Mr. Schiller tell you that there
9 would be a possibility that it may come back to the
10 United States?

11 A I asked: What is to prevent a story that is
12 put out in the foreign press to be picked up by the
13 press here as a news item?

14 He said: Well, that is true, that could happen,
15 but they are only allowed a certain amount of words.
16 And I believe he told me about 500 words.

17 However, in relation -- as I discussed
18 before -- with the date that the Grand Jury transcript would
19 have been a matter of public record in the normal course of
20 events, we were talking about a period of 24 hours. And the
21 story would have nothing in it apart from her background
22 than that which she had already testified to, which would
23 have been a matter of public record that Monday had the
24 Judge not indicated that he was ordering the transcript not
25 be released.

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12b-1

1 Q Well, in the past, as an attorney and as a
2 District Attorney, you have heard of instances where they
3 seal the Grand Jury transcript; correct?

4 A What do you mean by seal, so that we will under-
5 stand what we are talking about?

6 Q Well, like you just said, it would be sealed
7 and not made public.

8 A Earlier I said sealed, and I took back the word
9 sealed, and I said he would not release it.

10 The judge's order was that the transcript was
11 not to be released until every defendant had a copy.

12 One defendant was in another state. Mr. Watson
13 was in another state, and they wanted to wait until he
14 returned before it was released.

15 But to answer your question, I know of no case
16 in the past where the Grand Jury transcript was sealed.

17 There might have been, but I know of none.

18 Q You have heard of the Sirhan case, have you not?

19 A Yes.

20 Q In that case, was the transcript sealed?

21 A Not to my knowledge. I don't know that much
22 about the case.

23 Q Did you have in mind the possibility that in
24 the event that the story was sold by Lawrence Schiller,
25 that it may come back to the United States and jeopardize
26 your client's chances at the trial?

12b-2

1 A No.

2 Q Did that enter your mind?

3 A No, not at all.

4 I saw no jeopardy to my client whatsoever.

5 As a matter of fact, I welcomed the fact that
6 she was talking about it because it just helped to cement
7 my negotiations with the District Attorney's office.

8 Q In other words, you didn't care one way or
9 the other, in the event that Miss Atkins so-called alleged
10 confession came back into the United States for publica-
11 tion?

12 A No. When you say I didn't care --

13 You asked whether I cared that it would jeopar-
14 dize her.

15 Q Yes.

16 A That was what the full question was.

17 The answer is no, I knew it would not jeopardize
18 her, because I knew that anything she said concerning these
19 matters could not and would not be used against her. I
20 knew this.

21 So, she gave up nothing in exchange for getting
22 everything.

23 Q In other words, you were still looking out for
24 the interests of your client; is that correct?

25 A That is correct .

26 Q Because you were making a deal with the District

1 Attorney's office to save her life, and you felt that
2 nothing else would jeopardize it; correct?

3 A That's right. I knew it wouldn't.

4 Q You didn't take into consideration the fact
5 that the State of California, through the District
6 Attorney's office, may renege on the agreement?

7 A I took into consideration my experience and
8 my confidence that the District Attorney's office of the
9 County of Los Angeles do not renege on their agreements.

10 Q So that the possibility did not enter your
11 mind at that time?

12 A No. It didn't occur to me as a possibility.
13 It just occurred to me that it would not be so.

14 Q So, you talked to Lawrence Schiller now.
15 Did you turn these tapes over to Lawrence
16 Schiller?

17 A No.

18 Q Did he come to your office and transcribe these
19 tapes of Susan Atkins'?

20 A Yes.

21 Q What date was this?

22 A This would have been the evening after I
23 returned from Sybil Brand with a signed contract that I
24 entered into with Susan Atkins.

12c fls.

12c-1

1 Q Was this before the Grand Jury hearing or after
2 the Grand Jury hearing?

3 A This would have been after the Grand Jury
4 hearing.

5 Q Could you give us a more precise date?
6 The Grand Jury hearing was the 5th and the 8th,
7 I believe.

8 A Well, this would have been that evening.
9 If it was also on the 8th, this, I believe, was
10 the evening of the 8th.

11 Q Did you have a --

12 A It could have been the 9th. I think it was the
13 8th.

14 Q Did you have a contract -- at this time now when
15 Lawrence Schiller was transcribing the tapes --

16 Did you have a contract with Lawrence Schiller
17 at this point?

18 A Yes.

19 Q I have here a document marked for identification
20 P-QQ.

21 May I approach the witness, your Honor?

22 THE COURT: You may.

23 (Whereupon, Mr. Shinn approaches the witness.)

24 MR. SHINN: Q I show you a copy of this document.

25 Have you seen this document before?

26 A Yes.

1 Q This is the document that reduces into writing
2 your agreement with Lawrence Schiller?

3 A Yes.

4 That reduced into writing that which we had
5 previously agreed upon, yes.

6 Q And I show you the back page.

7 Is this the signature of Lawrence Schiller?

8 A It appears to be.

9 Q Did he sign that in front of you?

10 A I don't recall. I don't believe so.

11 Q This document is dated 12-9-69.

12 A That is correct.

13 Q Is that correct?

14 A Yes.

15 Q I see that --

16 THE COURT: What is the date?

17 MR. SHINN: 12-9-69, your Honor.

18 Q Now, I see "Paul Caruso, attorney-in-fact for
19 Susan Atkins."

20 Did he sign this document, if you know?

21 A I don't know whether we signed it or not.

22 Q You see "Richard Caballero, attorney-in-fact for
23 Susan Atkins."

24 Did you sign this document?

25 A I don't recall whether we signed it or not.

26 Q Do you know where the original of this document

1 is?

2 A I may have it. I don't know.

3 Q But you don't recall whether you and Paul Caruso
4 signed this document?

5 A No. All we wanted was Mr. Schiller's signature.

6 Q Now, do you recall the contents of this document,
7 the substance of it?

8 A In substance.

9 We had talked about it. He indicated that he
10 had form contracts for the sale of books, magazines, et
11 cetera.

12 I know that we rejected the first one for some
13 reason. I don't recall what it was.

14 Then he said, "Okay, I will return with another
15 one."

16 And the next day when I arrived, that is the
17 one that he had left there.

18 He had signed it, and that is what I was
19 concerned about, that he had signed it.

20 Q This contract was substantially for the release
21 of Miss Atkins' story; right?

22 A Yes.

23 It was authorization to Lawrence Schiller to
24 act on behalf of his corporation for that purpose, we
25 acting as her agents for this purpose.

26 Q Do you recall the release date in this contract

1 of the story?

2 A No, I don't.

3 Q Will you read this to refresh your memory?

4 (Pause while the witness reads.)

5 THE WITNESS: Yes. December 14, 1969.

6 Q BY MR. SHINN: That was the date of release
7 of Susan Atkins' story; correct?

8 A Yes.

9 Q Now, were you aware of the fact that there was a
10 gag order issued by Judge Keene on December the 10th?

11 A Yes.

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1 Q And the gag order prevented any information as
2 to the case being given to the public, correct?

3 A That is correct.

4 Q When did you first see this gag order of
5 Judge Keene's, December 10th?

6 A I believe on December 10th, the day he issued
7 it. I was in court.

8 If that was one of the days that we made court
9 appearances.

10 Q Did you see a copy of it?

11 A Yes, I was given a copy of it.

12 MR. SHINN: May I approach the witness, your Honor?

13 Q I have here an order re publicity, dated
14 December 10th signed by Judge William B. Keene. I show you
15 this document. Is this the document you referred to?

16 A Yes, it appears to be.

17 Q Then you knew there was a publicity gag order
18 on December 10th?

19 A Yes, I knew.

20 Q 1969?

21 A That's correct.

22 Q And you knew that you signed a contract on
23 December 9th with Lawrence Schiller and Paul Caruso to
24 release Susan Atkins' story on December 14, 1969, right?

25 A No, I knew that Mr. Schiller signed the contract
26 on December 9.

1 We entered the contract on December 8th.

2 Q On December 8th you were not aware of Judge
3 Keene's gag order of December 10th?

4 A That is correct.

5 Q When you found out on December 10th that Judge
6 Keene had issued a gag order -- right?

7 A Yes.

8 Q -- did you do anything to prevent Mr. Schiller
9 from releasing Miss Atkins' story?

10 A No, we had a slight discussion in which it was
11 agreed he had already bought the story. They had it. It
12 was theirs.

13 We did this before the gag order was out.
14 There was nothing more we could do.

15 Q Did you renege on the contract?

16 A No, that is not my policy.

17 Q Well, did you think if the story didn't --

18 I mean, if Miss Atkins' participation in the
19 Tate-La Bianca homicides was released that it might
20 jeopardize her?

21 A No, no, under no circumstances would it
22 jeopardize her.

23 Q I mean, that was your state of mind, that it
24 would not jeopardize her?

25 A That is right.

26 Q And you felt that at that point you were not

1 violating Judge Keene's gag order, is that correct?

2 A That is correct.

3 Q You did nothing to try to stop the story?

4 A That is correct.

5 Q Did you have a discussion with Mr. Paul Caruso
6 regarding the gag order?

7 A I think we had a slight discussion. It was not
8 a very detailed one and we contacted -- I think he tried to
9 contact Mr. Schiller to find out whether or not we would
10 forward him the provisions of that gag order, what
11 Mr. Schiller would want to do, whether he would want to in
12 effect not go through with it or something.

13 I don't know if the communication of it ever
14 got from one party to another.

15 But we were sufficiently of the understanding
16 and feeling that the story as such had been sold. It was now
17 Schiller's property and Schiller therefore, was not under
18 the rules of the gag order.

19 It was up to him now. He had the story; it
20 was sold to him.

21 We gave him nothing more than that which we
22 already had given him.

23 Q But is it not a fact, Mr. Caballero, that you
24 were going to participate in the proceeds of Mrs. Atkins'
25 story?

26 Doesn't that in a way make you feel that you

1 are in a way involved?

2 A No, I was receiving proceeds from the sale of
3 the story as such.

4 But the story was already sold to someone.

5 Q But it was not published yet, correct?

6 A That is correct.

7 MR. SHINN: May I approach the witness, your Honor?

8 Q I have here a document entitled Attorney-in-Fact,
9 dated December 8, 1969, and there is a signature of Susan
10 Denise Atkins.

11 Have you seen this document before?

12 A Yes.

13 Q Now, who prepared this document?

14 A I believe Mr. Schiller -- yes, Mr. Schiller.

15 Q He is not an attorney, is he?

16 A No.

17 Q Okay, now, when Miss Atkins signed this document --
18 is that her signature, by the way?

19 A Yes.

20 Q Susan Denise Atkins?

21 A Yes.

22 Q Did she sign this in front of you?

23 A Yes.

24 Q Now, when she signed this document was any of
25 this writing in there?

26 A Yes.

1 Q Before she signed it?

2 A No. When she signed it everything that you see
3 there was in there except the signature of the witnesses.
4 They signed after her.

5 Q And you know these witnesses?

6 A Yes.

7 Q Who are they?

8 A These were two clerks of the District Attorney's
9 Office, who were bringing down an affidavit for her signature
10 for the purpose of the extradition of some of the co-defen-
11 dants in this case.

12 And this was during the time she was cooperating
13 and signing affidavits indicating what her testimony would be,
14 so they could be extradited.

15 Q What is the first name, I cannot read that.

16 Do you recall the first name?

17 A No, I did not know them very well.

18 Q What does it look like to you?

19 A It looks like Gloria Beltzer.

20 Q What is the second one?

21 A Connie S., it looks like G-u-e-r-r-i-e-r-o.

22 Q Is it your statement that they were working for
23 the District Attorney's Office at that time?

24 A Yes.

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1 Q As what, Deputy District Attorneys?

2 A No, they were clerks, they were transporting
3 affidavits.

4 They were, I believe, from the extradition
5 section, and the affidavits were being signed by Susan
6 Atkins for the purpose of the extradition, I believe, of
7 two of the co-defendants in this case, one of which is
8 here and the other defendant, which is yet to be tried.

9 Q Did you know these two persons before they
10 signed?

11 A I think one of the two girls, I knew who she
12 was from the office. But I did not know the other one.

13 Q Okay, now, I see on top of this document, SDA.

14 A Yes.

15 Q Did you put that down?

16 A No.

17 Q Who put that down in your presence?

18 A Susan did.

19 Q Did you give her the pencil to sign it?

20 A Yes.

21 Q Your pencil?

22 A I don't know. There were a few pencils -- I
23 cannot tell you whether it was mine or not.

24 Let me look at that.

25 I don't know if it was hers or mine, we had
26 different pencils.

13a-2

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You see, the girls signed with a different pencil. I don't know which is which.

Q Who wrote this "25 percent to Schiller"?

A I did.

Q You wrote that? That is your handwriting?

A Only the initials are hers.

Q All right, now, SDA?

A Susan Denice Atkins.

Q Okay. "Of balance."

A Yes.

Q What does of balance mean?

A 25 percent to Schiller, the balance which would be 75 percent, 60 percent to undersigned, which is Susan Denice Atkins; 40 percent to attorneys, which are indicated in here as Caballero and Caruso.

Q And now I see in the middle of the page here some handwriting?

A Yes, that is my handwriting.

Q Now, was that inserted after she signed or before she signed?

A That was inserted at a time just before she signed and then she initialed it.

Q Okay, now, did you explain to her what this document was?

A Yes.

Q Do you recall what you said to her about this

13a-3

1 document?

2 A We discussed the fact that there would be the
3 sale of the story to the foreign press; we discussed about
4 her son, setting up a trust fund for her son.

5 We wondered what name we would use, because we
6 did not necessarily want people to know --

7 He had a name which is rather difficult to
8 pronounce, but which is distinctive enough that if we
9 used that name in the bank, people would know who the
10 trust account was for and where it came from.

11 We eventually chose a different name for the
12 child, which was a combination of names of persons she
13 knew.

14 Q Did you explain to Miss Atkins before she signed
15 this document that you and Paul Caruso was going to take
16 40 percent as her agents?

17 A We were going to take 40 percent of her share,
18 yes.

19 Q You explained that to her?

20 A Yes. She initialed it, yes.

21 Q Before she initialed it did you explain it?

22 A Yes.

23 Q In detail to her?

24 A Yes.

25 Q And she agreed to it?

26 A Yes.

13a-4

1 Q Did you in fact later have Miss Atkins sign
2 a so-called retainer agreement?

3 A Yes.

4 Q Before this retainer agreement was signed by
5 Miss Atkins, you were being paid by the County, correct?

6 A No.

7 Q You were not court appointed?

8 A I was a court-appointed attorney who would have
9 been paid by the County had I filed a declaration for
10 payment.

11 Q I mean before she signed this retainer agree-
12 ment which I will get into later.

13 You anticipated your fees coming from the
14 County, correct?

15 A That is correct.

16 MR. SHINN: May I approach the witness, your Honor.

17 Q I have a document entitled "Retainer Agreement."
18 It is marked for identification P-DD.

19 I show you this document. Have you seen the
20 original of the document before?

21 A Yes, I have.

22 Q Did you prepare this document?

23 A Yes, I did.

24 Q And you know the contents of this document?

25 A Yes, I do.

26 Q Now, I see another signature, Susan Denise

13a-5

1 Atkins at the bottom, did she sign that in your presence?

2 A Yes, she did.

3 Q And I see the signature --

4 I see your signature, Richard Caballero,
5 attorney.

6 Did you sign that in her presence?

7 A Yes, I did.

8 Q Now, did you explain this fully to Susan Atkins,
9 this document before she signed it?

10 A Yes, I did.

11 Q Did you tell her that you are going to -- by
12 the way, this contract was signed on January 22nd, is that
13 correct?

14 A Yes.

15 Q 1970?

16 A That's correct.

17 Q And about halfway -- halfway down in the
18 document it says --

19 Will you read that, I cannot read that -- this
20 paragraph here.

21 A When you say "halfway," you mean where the
22 body starts as indicated:

23 "As compensation for the services rendered
24 by the attorney" --

25 Q Yes, this was signed January 2nd, 1970?

26 A That's correct.

13a-6 1

2 Q This made it retroactive to November 26th,
3 1969, is that correct?

4 A That is correct.

5 Q Did you explain fully to Miss Atkins that
6 "I have some money for you but I want to take half of it;
7 I already got 40 percent of it; I'm going to take another
8 half," when you sign the document?

13b fls.8

9 A Yes, sir.
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13a-7

1 Q At that time how much money did Miss Atkins
2 have on account, do you recall?

3 A I don't recall, I gave you the bank records
4 and the amount, and the letter indicating how much money
5 was involved so you should have it in your records.

6 Q Yes.

7 A Now, do you want to know what I explained to
8 her?

9 Q Let's see the amount first.

10 I have here a copy of, I think, a checking
11 account from the Beverly Hills National Bank, and it is
12 titled "Paul Caruso, Richard Caballero, 425 South Beverly
13 Drive, Beverly Hills, California."

14 Have you seen this before?

15 A This appears to be the photocopies of some
16 of the statements in the account.

17 Q Yes. Now, I believe you gave me this when I
18 took over the case, correct?

19 A That may be so, yes.

20 Q And you examined the figures on these documents?

21 A Yes.

22 Q It is a three-page document, correct?

23 A Yes.

24 Q And what is this?

25 A This is the statement.

26 Q How much money went in and came out?

13b-8

1 A That is correct.

2 Q And this is only your share, Paul Caruso and
3 Richard Caballero?

4 A That's right.

5 Q It does not involve the 25 percent Lawrence
6 Schiller took?

7 A This would represent the amount of money put
8 into the account after 25 percent was taken out by Mr.
9 Schiller or his company, Pimlico, whatever the name was.

10 Q What was the last date on this, what is the
11 latest date on there?

12 A March 17th, 1970.

13 Q I refer you to the last page, what is the date on
14 that?

15 A 1/16/70.

16 Q Okay, now, at that time the total amount of
17 monies in the account, including Susan Atkins, would be
18 around \$55,247.83, according to the figures there?

19 A According to the figures that you had written
20 in ink here.

21 Q Yes.

22 A There is a figure; there is a figure there
23 written by someone.

24 Q By myself?

25 A Indicating \$55,247.87.

26 Q I got it from a total here, and back here.

1 Well, there was somewhere around \$55,000
2 in the account at that time, correct?

3 A Could very well have been.

4 Q Yes. So out of the 55,000 --

5 A That had gone through the account, not/^{that}was in
6 the account at that time.

7 Q That was deposited in the account, is that
8 correct?

9 A That's correct, yes.

10 Q So out of the 55,000 you and Mr. Paul Caruso
11 would get 40 percent of that, is that correct?

12 A That's correct.

13 Q That would be approximately \$22,000?

14 A That is about right.

15 Q So now that leaves Susan Atkins somewhere
16 around \$33,000, is that correct?

17 A That's correct.

18 Q So at the time she signed this agreement with
19 you you had in fact in her account \$33,000, correct?

20 A That's correct, approximately.

21 Q Just approximately?

22 A Yes.

23 Q So, did you tell Miss Atkins at the time she
24 signed this retainer agreement that "I took 22,000 already;
25 you have 33,000 left and I'm going to take half of that
26 and you will have left 16,000?"

1 A No.

2 Q Did you explain that to her?

3 A No.

4 Q Did you explain to her how much she had in the
5 account at that time?

6 A Do you want me to tell you what I explained
7 to her?

8 Q Yes, when she signed the agreement.

9 A Okay, fine.

10 Here's what happened.

11 I was a court-appointed counsel. Subsequent
12 to that we entered into this contract of approximately
13 December 8, wherein there was this contract with Lawrence
14 Schiller where monies would be coming in.

15 There was a lot of publicity about that with
16 fantastic figures, \$200,000, \$150,000, a half million
17 dollars, as a result of which some people felt she had
18 a lot of money put away and there was some question therefore,
19 if she had all this money she should not be entitled to
20 a court-appointed counsel.

21 It was indicated that she should therefore
22 retain her own counsel.

23 Now, she did at this time have some money as
24 you have just indicated which would no longer make her
25 indigent.

26 I went to see her and I told her she would no

1 longer be --

2 Q What date was it when you went to see her?

3 A Just prior to the signing of that contract,
4 sometime prior to that.

5 I explained to her she would no longer be
6 entitled to a court-appointed counsel because she now
7 does have funds, unlike when she was initially before the
8 court, at which time she would have had a Public Defender
9 but for a conflict.

10 Counsel was appointed, I explained to her the
11 procedures of court-appointed counsel.

12 I said she could now have counsel of her own
13 choosing.

14 I explained that to her.

15 I said "I will not file. You can either have
16 me or anyone," I said to her, "If you retain me and keep
17 me I will not file a declaration for attorney fees. I will
18 take my funds from you because you now have the money to
19 pay counsel and therefore you are not entitled to have
20 court-appointed counsel for you."

21 She agreed she would accept me as a counsel.

22 I explained to her as such we had no idea
23 whether she would be able to pay me for the amount of time
24 that would be required of this case, but what I would do is
25 I would just take a percentage of that portion which was
26 hers, it could have been less, it could have been more.

1 As it turns out, as you just indicated, there
2 was approximately \$32,000 in there. It came out to about
3 what, \$16,000?

4 This is the understanding we had.

5 We then went to court and in open court in
6 Santa Monica, and here in the Hall of Justice, she was
7 asked whether or not she wanted me as a private counsel.

8 I submitted a letter in both courts indicating
9 I would act as private counsel.

10 She in open court acknowledged that and
11 indicated that is what she wanted and that is what was
12 done.

13c fls.

18-1

1 Q Mr. Caballero, my question was initially did
2 you explain to Miss Atkins that she had now \$38,672 (sic)
3 in her account?

4 A I did not add it up that way.
5 Whatever was in there at the time.
6 We talked approximately about what would be
7 there.

8 I told her half of whatever her share was is
9 what I would take as my retainer, whether it was less or
10 more, the point being I had no idea how long the case would
11 take.

12 Her response was it was fine with her.

13 Then we talked about how the money for her son
14 would be handled and how we would handle that, and we
15 discussed a third person who might become a guardian for
16 her child.

17 Q You were good enough to save some money for her
18 son, you say?

19 MR. BUGLIOSI: Argumentative.

20 MR. SHINN: He said something about son, I am just
21 asking him.

22 THE COURT: Sustained.

23 Q BY MR. SHINN: Did you explain to her that
24 you already took 40 per cent on top and you were taking
25 half of hers?

26 A Yes.

Q And she agreed to it?

1 A Oh, yes.

2 Q Did you give her any figures of how much money
3 she had left over now?

4 A We did not know. We talked in approximate
5 figures.

6 Q What were the approximate figures you used at
7 that time?

8 A At that time, of her share there was approxi-
9 mately \$30,000 of her money there.

10 MR. SHINN: Your Honor, may this be marked next in
11 order, your Honor, Beverly Hills National Bank statement,
12 your Honor.

13 THE COURT: P-VV for identification.

14 MR. SHINN: What did you say, your Honor?

15 THE CLERK: Victor.

16 MR. SHINN: Thank you.

17 Q BY MR. SHINN: Now, you signed this agreement
18 with Lawrence Schiller on the 9th, correct?

19 A That's correct.

20 Q And you were court-appointed again on
21 December 10th by Judge Keene at the Tate-La Bianca, in
22 reference to Susan Atkins, correct?

23 A That's correct.

24 Q Did you advise the Court that there was a contract
25 that you signed with Lawrence Schiller, that there was a
26 possibility that Miss Atkins may come into some money so you

1 don't want to get court-appointed at that time?

2 A No.

3 Q You did not explain that to the Court?

4 A No.

5 Q But you knew at that time that from your talk
6 with Lawrence Schiller, and Paul Caruso, that moneys would
7 be coming in for Miss Atkins, is that correct?

8 A We hoped they would be coming in. We did not
9 know.

10 Q You talked millions?

11 A No one talked millions other than the press.

12 MR. SHINN: Your Honor, I have here a document
13 entitled "Escrow Instructions to Beverly Hills National
14 Bank," dated December 10, 1969.

15 Have you seen the original of this document
16 before?

17 A No.

18 Q You never saw this document before?

19 A No.

20 Q Do you see your signature down there?

21 A No.

22 Q You see a signature down there?

23 A Yes.

24 Q Whose signature is that?

25 A Mr. Caruso's.

26 Q Caruso. And underneath Mr. Caruso's signature

1 it says -- it has "Richard Caballero," on attorney-in-fact
2 to Susan Atkins.

3 A Typed in, yes.

4 Q You have never signed this document and you
5 never saw this document before?

6 A Not to my knowledge.

7 Q But this in fact the bank that is handling the
8 money for you now?

9 A Yes.

10 Q Regarding Susan Atkins' account?

11 A Yes.

12 Q And your statement is you have never seen
13 this document before and you have never signed this document
14 before?

15 A I don't ever recall seeing or signing it.

16 At the time there was an opening of the account
17 there were some documents sent for our signature.

18 I don't know whether Mr. Caruso signed them all.

19 I signed them, I know I signed a signature
20 card.

21 I don't recall ever seeing this. If I signed it,
22 I signed it. It is not in there.

23 Q Knowing Mr. Paul Caruso, does that appear to be
24 his signature?

25 A Yes.

26 Q It does?

1 A Yes.

2 Q And you don't recall whether or not you signed
3 this document?

4 A I don't recall. I don't believe I did. I
5 don't recall seeing it.

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1 Q This is the document which purports to divide
2 the money up; is that correct?

3 A I don't know what it purports to do.

4 Q Well, read it.

5 A All right.

6 (Pause while the witness reads,)

7 THE WITNESS: Yes, this appears to be instructions
8 to the bank as to what to do with the money.

9 MR. SHINN: Q In other words, how to divide the
10 money between Lawrence Schiller, yourself, Paul Caruso, and
11 Susan Atkins; right?

12 A That is correct.

13 MR. SHINN: May this be marked next in order, your
14 Honor?

15 THE COURT: P-WW.

16 MR. SHINN: Thank you.

17 Q Now, do you know a Jerry Cohen?

18 A Yes.

19 Q How long have you known Jerry Cohen?

20 A I met him once -- no, twice.

21 Q Do you know his occupation?

22 A He is a writer.

23 Q A writer for whom?

24 A A freelance writer.

25 Q Would the Los Angeles Times refresh your
26 memory?

IDX

1 A You mean, if I read the Los Angeles Times,
2 would it refresh my memory?

3 Q No.

4 Do you know whether he was a reporter from
5 the Los Angeles Times?

6 A I believe the first time I met him he was
7 introduced as such.

8 Q As a reporter for the Los Angeles Times?

9 A As a writer.

10 It is hard to explain. I met him once here in
11 this building as a person that was inquiring with the rest
12 of the press, interviewing me.

13 I knew he was from the Times, period.

14 That is the only time that I saw him until the
15 next time.

16 Q Before I get into Mr. Cohen, I have another
17 document here that has no title.

18 It states: "Letter from Richard Caballero to
19 Hon. Laurence Rittenband, Judge, Department Santa Monica
20 B, Los Angeles Superior Court, and Hon. William Keene,
21 Judge, Department 107."

22 Have you seen that document before?

23 MR. FITZGERALD: Does it have a date?

24 MR. SHINN: No date.

25 Q Have you seen that document before?

26 (Pause while the witness reads.)

1 THE WITNESS: Yes.

2 It appears to be -- this is a lot longer
3 photocopy -- I think this was an 8 x 10.

4 Q There is no date on there, Mr. Casillero.

5 Do you know the reason for there being no date
6 on this document?

7 A No, I don't know.

8 I probably have the original of whatever this
9 was taken from.

10 This appears to be something that someone typed
11 from a letter.

12 Q Did you see this document before, this complete
13 document?

14 A Never.

15 Q In other words, you didn't dictate this letter,
16 then?

17 A No, that is not what I said.

18 I never saw that document. I dictated the
19 letter that contains the substance of what is in there.

20 Q You saw the original of this, then?

21 A Yes.

22 I sent a letter with the substance of what is
23 in here to both Judge Bitterband and Judge Warner and
24 Judge Keene.

25 Okay?

26 Q Was it as complete as this?

1 A No.

2 Q Anything left out? Anything added?

3 A There would be no reason for me to write a
4 letter, "From Richard Caballero to Hon. Judge Rittenband."
5 This appears to be something someone typed from a letter of "
6 mine.

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1 Q So, you know nothing of this document?
2 A No.
3 Q Did you, in fact, send a letter to Judge
4 Rittenband and Judge Keene?
5 A Yes.
6 Q And is this the substance of the letter?
7 A Yes.
8 Q Word for word?
9 A It is the substance.
10 If you show me the letter, I will tell you if
11 it is word for word.
12 Q I don't have the letter.
13 Do you have the letter?
14 A Not with me.
15 Q Do you have it in your office?
16 A It is probably in the files.
17 Q Okay.
18 Now, getting back to Jerry Cohen.
19 You said you met Jerry Cohen?
20 A Yes.
21 Q He is from the Los Angeles Times -- at one time
22 he was a Los Angeles Times reporter?
23 A It was my understanding he was.
24 Q Now, when was the first time that you met Mr.
25 Jerry Cohen?
26 A In the corridor or in the courtroom or in the

14a-2

1 hallway or the press room, somewhere in this building,
2 when I was being interviewed regarding the Susan Atkins
3 matter.

4 Q Did you later take him in to see Susan Atkins?

5 A Yes.

6 Q What date was it, approximately?

7 A This would have been, I think, either the 9th
8 or the 10th.

9 Q You took Mr. Cohen of the Los Angeles Times
10 into the Sybil Brand jail to see Susan Atkins; correct?

11 A I took Mr. Cohen, who was represented to me
12 to be a free lance writer on leave from the Los Angeles
13 Times.

14 Q Yes.

15 A Okay?

16 Q Yes.

17 A All right.

18 Q To the Sybil Brand jail?

19 A Yes.

20 On behalf of Mr. Schiller.

21 Q To see Miss Atkins?

22 A That's right.

23 Q How did he enter? As a witness, a reporter,
24 or what?

25 A If I am not mistaken, I believe I filled out
26 an interview sheet that is required at Sybil Brand in

14a-3

1 which I indicated it was to interview Susan Denice Atkins
2 regarding future psychiatric testimony.

3 Something of that nature.

4 Q Are you saying that you sent Jerry Cohen in
5 to interview Susan Atkins for a future psychiatric
6 examination?

7 What did you say?

8 A I said that is how I filled out the slip.

9 Q Was that the purpose of the visit by Jerry
10 Cohen?

11 A It was a combination of things.

12 Q What combination of things?

13 A Mr. Schiller wanted to have a background story
14 of Susan Atkins in addition to the information that he
15 had regarding the various murders.

16 I explained to him that nothing more could
17 be said regarding the case itself because there was now
18 a gag order, and that as far as the murders are concerned,
19 there is no more information that was going to be given
20 out.

21 However, the background information, information
22 regarding background, I didn't object to.

23 He said he wanted to bring a court reporter in.

24 And I said that I didn't mind that because I
25 could utilize that myself when I present the original tape
26 and a transcript which we will take of her background to a

14a-4

1 psychiatrist, because I contemplated entering a plea of
2 not guilty by reason of insanity.

3 I told him that.

4 He said, fine, we will go into the jail and
5 take this background interview.

6 And when I met with him -- and I don't recall
7 if it was at the jail or my office -- it was for the
8 first time that I learned that instead of he coming in with
9 me, there was Mr. Jerry Cohen.

10 And I looked at him, and I said: "Aren't you
11 a news reporter?"

12 And he said: "No," he said, "I am, but I am
13 not working for the Times. This is a free lance writing
14 assignment of mine."

15 And I said, "Okay."

16 I explained to him, I wanted the background
17 information myself.

18 We had a court reporter there, and we entered.

19 Okay?

14b fls.

14b-1

1 Q Now, was this after your knowledge of the gag
2 order by Judge Keene of December 10, 1969?

3 A Yes.

4 That is why I would not permit them to go into
5 any of the facts of the crime.

6 As a matter of fact, when Susan Atkins first
7 came downstairs she started talking about the case, and I
8 subsequently had that paper removed and torn up because
9 they were not entitled to have that.

10 Q Now, do you know of your own knowledge whether
11 or not Jerry Cohen participated in the funds of the Susan
12 Atkins' story and all that?

13 A I can only assume that Mr. Schiller must have
14 paid him for his services.

15 He wasn't hired by me. He was representing
16 Mr. Schiller.

17 Q Okay.

18 So, now, Mr. Jerry Cohen, yourself, and a
19 court reporter -- you say a court reporter?

20 A Yes.

21 Q Do you know her name?

22 A No.

23 Q Would Miss Ambrosini refresh your memory?

24 A No.

25 Q Then Susan Atkins came down; correct?

26 A Correct.

1 Q How long was this conversation of Jerry Cohen's?

2 A I don't know,

3 Maybe anywhere from a half hour, 40 minutes to
4 an hour. In that area of time.

5 Q Who did most of the talking, you or Jerry Cohen?

6 A Susan.

7 Q Who asked most of the questions, you or Jerry
8 Cohen?

9 A Jerry Cohen.

10 Q You just sat there?

11 A Who?

12 Q You?

13 A Most of the time.

14 Q Now, did you have a conversation with Miss
15 Atkins before Jerry Cohen asked her any questions?

16 A No.

17 Q Was Miss Atkins curious to know what was going
18 on?

19 A Yes.

20 You see, when we arrived, I had already told
21 Susan prior to this that there would be background material
22 that we would need regarding her family, et cetera.

23 She was not aware what day it would be, and I
24 didn't know.

25 When we arrived, it was sort of a surprise to her
26 to see these people in the room where we interviewed her.

1 After we left, I stayed with her a short while
2 talking to her before I returned to the car.

3 Q Now, was the main purpose of taking Jerry Cohen
4 in there with a court reporter so that you could get
5 Susan Atkins' story so that you could sell it along with the
6 other statements?

7 Was that the main purpose?

8 A It was a dual purpose.

9 Q The main purpose primarily?

10 A It depends on what you mean by primarily.

11 It was serving a dual function so far as I was
12 concerned.

13 He was going to get background material that they
14 needed for the story. They had all the facts. This was only
15 background material.

16 Which I also wanted, I indicated to him, to
17 give to the psychiatrist.

18 So that was the dual purpose.

19 Q Now, at this time, if you remember, had Susan
20 Atkins entered a plea of not guilty by reason of insanity
21 already?

22 A No.

23 Q But you anticipated it?

24 A Oh, yes.

25 Q Did you, in fact, after getting Miss Atkins'
26 background story at Sybil Brand, did you, in fact, contact

1 a psychiatrist?

2 A Yes.

3 Q What is the name of that psychiatrist?

4 A I'd have to check my files.

5 I tried to reach -- one of the psychiatrists
6 that I tried to reach refused the case because he had
7 interviewed one of the young ladies here, one of the co-
8 defendants, for another attorney.

9 So, whoever he was -- I forget his name -- but
10 whoever that was, he was one.

11 Q Would you think for a moment, Mr. Caballero,
12 and give us the name of that psychiatrist?

13 A No. I could think for ten minutes and couldn't
14 tell you. I don't have the names with me.

15 The names were part of a list that I got from the
16 District Attorney's Office.

17 Q From the District Attorney's Office?

18 A Yes.

14c-1

1 Q You didn't have your own private psychiatrist
2 you could call?

3 A I didn't want that.

4 Q Did you, in fact, talk to this psychiatrist?

5 MR. BUGLIOSI: Irrelevant, your Honor.

6 THE WITNESS: I spoke to him very briefly on the
7 phone.

8 MR. BUGLIOSI: Irrelevant.

9 MR. SHINN: Your Honor, I think it goes to the issue
10 of whether or not she was effectively represented by
11 counsel.

12 MR. BUGLIOSI: That is irrelevant, your Honor.

13 THE COURT: Sustained.

14 MR. SHINN: Okay.

15 Q Now, when you explained to Miss Atkins in
16 jail, that the purpose was to get a background story on
17 her, did she say anything?

18 A She understood.

19 We talked. She asked me whether -- I think she,
20 at one time, asked me if they were going to interview her
21 father. Something like that.

22 I said: No, that wasn't part of it. It was
23 just to talk to her about it.

24 Q Did she say anything about her testimony at
25 the Grand Jury in that room at that time in front of Jerry
26 Cohen, the court reporter and yourself?

14c-2

1 A Yes.

2 Q What did she say?

3 A She came down and she said -- it was about a
4 three-minute conversation -- she said something to the
5 effect: Okay, I am not going to say anything more. I
6 don't want to talk any more. I have said what you wanted
7 to hear. I don't want to say any more. I played your
8 game.

9 Things that I was used to hearing from her of
10 that nature.

11 Then I noticed that the girl was writing this
12 down, the court reporter.

13 And I said, "Just a moment," and I turned to
14 Jerry and I said, "Nothing about the case."

15 I think the order had been issued, the gag
16 order.

17 I said, "Nothing about the case. Interview
18 her about her background."

19 Then I said: Okay, now, Susan. All we want
20 to do is talk to you, as I explained before, about your
21 background, your father, your family, how you met Charlie
22 and all these things.

23 And then the conversation started.

24 I believe you have a copy of it, the transcript
25 that you showed me, a copy of the transcript going into her
26 background information.

14c-3

1 When we left, I asked the reporter -- we were
2 sitting in the car -- I asked her to give me the first
3 portion where she talked about the case.

4 She gave it to me, and I tore it up.

5 Q Isn't it true, Mr. Caballero, that at the time
6 you talked to Miss Atkins and the reporter and Jerry Cohen,
7 isn't it true that she said something about her testimony
8 at the Grand Jury?

9 Do you recall that?

10 A She said she had just testified.

11 I assume she was talking about the Grand Jury.

12 She said: I told you what you wanted to hear.
13 I played your game.

14 I assumed she was referring to the Grand Jury.
15 I think she just testified within a couple of days, not
16 that day.

17 Q Did she mention something about the Grand Jury
18 testimony, that it was not true?

19 A No.

20 I wouldn't be surprised if the import of what
21 she was saying was meant to be that.

22 She said: I said what you wanted to hear. I
23 played your game.

24 In essence, I think that is what she was trying
25 to purport.

14d fks.

14d-1

1 Q Now, that meant to you, did it not, that she
2 did not testify at the Grand Jury truthfully; is that
3 correct?

4 A No, that did not mean that to me.

5 Q It did not?

6 A Not at all.

7 Q Did you ever discuss this matter with her
8 later at some time?

9 A Yes.

10 Q Regarding her testimony at the Grand Jury?

11 A Yes.

12 Q So what was the purpose, Mr. Caballero,
13 of tearing up the court reporter's notes?

14 A Because that did not pertain to her background.

15 I was very strict about that. I said: You
16 could only have that about her background, nothing about
17 the case.

18 As a matter of fact, Mr. Cohen said: There
19 are certain things about the Tate murder that we want to
20 get into more detail.

21 I said: No.

22 In fact, when we ended the conversation, he
23 said he just wanted to ask her a couple of questions to
24 clarify.

25 And I said: No.

26 Q Okay.

14d-2

1 Now, you saw Jerry Cohen taking notes; right?
2 He was taking notes in shorthand there.

3 A I don't know. He may have.

4 Q Did he have a tablet in front of him?

5 A He had a tablet but I don't know if it had
6 questions or it was notes.

7 The girl was taking it all down stenographically.

8 Q Who left first, now, after you had the meeting
9 and the statement from Susan Atkins? Who left first?

10 A Jerry Cohen went out to the car, and I believe
11 the stenographer went to the ladies room. I stayed for a
12 few moments talking with Susan. Maybe five minutes or
13 less.

14 And then I came out, and I believe I entered
15 the car about the same time that the stenographer was
16 coming out of the ladies room.

17 I think she went to the ladies room because
18 there seemed to be a delay from the time that I left and
19 she was getting into the car. It was almost simultaneously.

20 Q Did you explain to Miss Atkins that: We have a
21 chance to publish your story about the Tate and La Bianca
22 homicides.

23 Did You explain that to Miss Atkins that night?

24 A It had been explained before. We had signed
25 a contract about this.

26 Q But did you talk again to her about it?

14d-3

1 Now, you went back to get her life story. Did
2 you explain that to her?

3 A No, I did not do it that night.

4 Q In other words, Miss Atkins didn't inquire
5 whether or not this material was going to be used in a
6 book that you were going to sell for her?

7 A No. There was no talk of a book.

8 Q Did you tell her that there is a possibility
9 of selling her life story plus her participation in the
10 Tate-La Bianca homicides?

11 A Yes. This had already been discussed with
12 her.

13 Q And she did not ask again at this time?

14 A No, not that I recall.

15 She may have, but I don't recall her asking
16 again.

17 Q Was she in a happy mood because of the fact
18 that you are now going to sell her story to the world?

19 Or was she against it?

20 A She was not against it.

21 I would not say she was in a happy mood.

22 I can only tell you that when she first came
23 down, she was a little sullen. By the time we finished,
24 she was her usual self,

25 It always took about 15 to 20 minutes for she
26 and I to get on the same wave length, so to speak.

1 MR. SHINN: May I approach the witness, your Honor?

2 THE COURT: Yes.

3 (Mr. Shinn approaches the witness.)

4 14e fls.

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14e-1

1 Q BY MR. SHINN: I have here a copy of the
2 Los Angeles Times of December 14th. It is marked for
3 identification, P-PP.

4 It is entitled "Exclusive Details Susan Atkins'
5 Story of Two Nights of Murder."

6 Have you seen this document?

7 A Yes, I have.

8 Q When was the first time that you saw that
9 article?

10 A When it appeared in the Los Angeles Times.

11 Q That is on December the 14th, or the night of
12 December, the 13th, 1969?

13 A No, it was in the morning that I saw it.

14 Q Now, you read this thoroughly and you are very
15 familiar with it; is that correct?

16 A Fairly so.

17 I haven't read it for quite awhile.

18 Q I mean, at the time that you read it.

19 A Yes.

20 Q Was it substantially the same as the tapes that
21 you had of Susan Atkins?

22 A Yes. The same story.

23 Q Were you responsible for this?

24 A No, siree.

25 Q Do you know who published this in the Times?

26 A No.

1 I don't know how or where they got it from.

2 Q But you don't know who gave it to the Times?

3 A No.

4 Q And this appeared in the Los Angeles Times;
5 correct?

6 A Yes.

7 Q Not in the European papers?

8 A Well, the story did appear in the European
9 papers.

10 Q But this one here is from the Los Angeles Times?

11 A What you are showing me is a copy of the
12 Los Angeles Times, I think.

13 Q Now, when you saw the story, what did you do?

14 A I got upset.

15 Q You got excited about somebody putting out the
16 story?

17 A To say the least.

18 Q Did you call anyone?

19 A Yes.

20 Q Who did you call?

21 A I called Schiller, and I couldn't reach him.

22 I called Caruso and asked him if he could
23 reach Schiller.

24 Q How did you try to reach Schiller?

25 A I left a message. I don't know what the number
26 is, but someone is always answering, and I said, "Have him

1 call me."

2 Q What day did you call Schiller the first time?

3 A Immediately.

4 Q Sunday morning when you read the article?

5 A Sunday I left the message, but I had a date that
6 morning with Susan Atkins, so I was gone with her most of
7 the day, so I didn't have an opportunity to reach Schiller.

8 Q Did you call his office or ^{his} house?

9 A The number that I had for him, which I believe
10 was his house-office. By that I mean, I think he had a
11 phone for his office in his house.

12 Q Did you talk to anyone in his house, his wife
13 or kids?

14 A I don't know if it was an answering service or
15 who it was.

16 Q Did you actually get in touch with him after
17 December the 14th?

18 A Sometime later.

19 Q How much later?

20 A I don't recall how much later.

21 Q Was it a week later, a month later?

22 A I think that Mr. Caruso got ahold of him on
23 the phone.

24 Q Not yourself?

25 A No.

26

4f

14f-1

1 Q You never did get ahold of him?

2 A Sometime later, but it was after there had
3 already been communications to him to sue the Times.

4 Q But you did finally get ahold of Lawrence
5 Schiller?

6 A Right.

7 Q Approximately what, about a week later?

8 A I don't know, a week or a month.

9 If I didn't see him, Mr. Caruso would see him,
10 if he was available.

11 Q He was in Europe?

12 A I don't know.

13 He was in Europe for a certain period of time.

14 Q I mean, around this time, December the 14th?

15 A I believe he was still here.

16 Q Still here?

17 A I am almost positive, because I told him -- or
18 told Mr. Caruso to tell him to go to the Times.

19 And then I suggested that they file a lawsuit
20 immediately and ask for a deposition, and then depose
21 everybody, and we will find out how it got there.

22 Q Did you finally find out how it got to the
23 Los Angeles Times?

24 A No, I never did.

25 Q No one knows at this time?

26 A I am sure someone knows.

14f-2

1 Q Now, did you or Mr. Caruso talk with someone
2 at the Los Angeles Times regarding this matter?

3 A I didn't.

4 Q You never contacted the Los Angeles Times to
5 find out how this story got into the papers?

6 A No.

7 I contacted a reporter here -- I think Ron
8 Einstoss -- and I asked him. He is a crime reporter.

9 Q What is that name?

10 A Ron Einstoss.

11 I merely asked him, does he know. He works
12 for the Los Angeles Times.

13 He said he doesn't know.

14 I said that I'd like to find out what happened
15 here, because I think -- well, I told him -- frankly, what
16 I told him was: I think Schiller doublecrossed us,

17 That is what I told him.

18 Q Now --

19 THE COURT: We will take our recess at this time,
20 Mr. Shinn.

21 Ladies and gentlemen, do not converse with
22 anyone or form or express any opinion regarding penalty
23 until that question is finally submitted to you.

24 The court will recess for 15 minutes.

25 (Recess.)

15 fls.

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15-1

1 THE COURT: All parties, counsel and jurors are
2 present. You may continue, Mr. Shinn.

3 MR. SHINN: Thank you, your Honor.

4 Q Now, you stated that you had made many tapes
5 of Miss Atkins, is that correct?

6 A Yes.

7 Q More than one?

8 A Yes.

9 Q How many tapes did you actually make of Miss
10 Atkins?

11 A On December 1st I made the one tape that we
12 had been discussing.

13 On December 4th just before Mr. Bugliosi
14 entered the room in my office, I made a Stenorette tape
15 in which I went over an outline with Susan Atkins the
16 fact that Mr. Bugliosi would be asking these questions
17 in a few moments.

18 I reiterated to her what our past understanding
19 had been, about the fact that I would be showing the
20 Police Department or the District Attorney's office, or
21 talking to them about her case and about the tape recordings
22 she had made with me;

23 That we were doing this for the purpose of
24 saving her life.

25 I explained to her, reminded her that we had
26 prior discussions regarding the kind of evidence they had

1 against her and if she understood this, that that was the
2 purpose of her testifying the following morning before the
3 Grand Jury.

4 She agreed and again consented that it was
5 agreeable that I dealt with the police and the District
6 Attorney, in such a manner, that it was about a three or
7 four-minute discussion on my own Stenorette machine.

8 Mr. Bugliosi was not in the office at the time;
9 this was between her and me.

10 I closed the machine, put it away. Mr. Bugliosi
11 entered and we proceeded in his presence.

12 There were other tapes in addition to that.

13 The next time I taped her and each time with
14 her knowledge and consent was when I got a court order to
15 bring the tape recorder into Sybil Brand rather than take
16 notes, and this was during the period of time that I wanted
17 to get additional background information with her voice
18 on it, regarding possible psychiatric testimony plus other
19 matters.

20 Rather than take notes each time I would go,
21 I set up the tape recorder. She would sit there and
22 we would both talk.

23 We talked about many things. I wanted her
24 interpretation of Helter Skelter, I wanted her interpreta-
25 tion of the Beatles.

26 As I indicated to her I wanted to bring her to

1 a lady psychiatrist, in addition to the two psychiatrists
2 I had taken off the court approved list of psychiatrists
3 I had gotten from the District Attorney's office.

4 Q Did you yourself sell any statements of Susan
5 Atkins to any foreign press, local press or newspaper?

6 A No.

7 Q You yourself never sold any of Miss Atkins'
8 stories, is that correct?

9 A That is right.

10 Q And everything that was sold was through
11 Lawrence Schiller?

12 A That is correct.

13 Q Now, how many tapes did you turn over to
14 Lawrence Schiller?

15 A I turned no tapes over to Lawrence Schiller.

16 Lawrence Schiller transcribed that one tape
17 recording of December 1st in my office -- when I say my
18 office, mine and Mr. Caruso's; that transcription was
19 done one evening in our office. That tape never left that
20 office for Lawrence Schiller.

21 The only time it left the office was when I
22 brought it here and when I brought it to the Police
23 Department for Mr. Bugliosi.

24 Q Did you ever obtain from Miss Atkins an
25 authorization for the copyright of her story?

26 A Authorization?

1 Q Yes.

2 A Nothing more than was in our contract.

3 Q In other words, you had no authorization from
4 Miss Susan Atkins for a copyright, is that correct?

5 A I don't understand your question, Mr. Shinn.

6 Q Let me show you this book, that would be PCC,
7 I think, the killing of Sharon Tate?

8 A Yes.

9 Q Have you seen this book before?

10 A Yes.

11 Q Do you know who wrote this book?

12 A Yes, Lawrence Schiller.

13 It is the same story that appeared in the
14 newspapers.

15 Q And also it says "Exclusive story of the crime,
16 by Susan Atkins," correct?

17 A That's right.

18 Q And this was from your tape, correct?

19 A That's correct.

20 Q And it states -- it states on the second page
21 "Copyright, 1969-1970 by Lawrence Schiller and Susan Atkins."

22 A That's correct.

23 Q And is it your testimony that you have not
24 obtained a document authorizing a copyright for this
25 book for Miss Atkins?

26 A No, that is not my statement.

1 Q What is your statement?

2 A My statement is she signed the contract on
3 December 8th.

4 We signed contracts on her behalf after she
5 gave us power of attorney on December 8th, we signed a
6 contract on December 9th with Lawrence Schiller relative
7 to the disposition of her story.

8 Apparently Mr. Schiller saw fit to put it
9 into a book.

10 This was without my authority.

11 Q In other words, then, Susan Atkins did not
12 copyright this book, is that right?

13 A I don't know.

14 Q Did you obtain any document from Susan Atkins
15 indicating she wanted to copyright this book?

16 A No, I obtained an attorney, a power of attorney
17 from her, and then we in turn signed a contract with Mr.
18 Schiller.

19 Apparently Mr. Schiller used that contract for
20 the purpose of putting out this book.

21 Q Now, do you know the approximate date this book
22 came out?

23 A No.

24 Q Was it sometime in the early part of 1970?

25 A I really don't recall.

26 Q When did you first see this book or read this

1 book?

2 A Someone had told me that a book was out,
3 and I thought it was just somebody had put together a
4 book.

5 I didn't know what they were talking about.

6 And then they said it was supposed to be by
7 Lawrence Schiller and Susan Atkins, and I still hadn't
8 seen the book, and I still hadn't seen the book, and I
9 still wasn't sure they were accurate.

10 And eventually, I don't know how much later,
11 I did see a copy of that book.

12 Q When you first heard about this book, this was
13 before the trial started, correct, January of 1970?

14 A Yes.

15 Q This was way before the trial started?

16 A Yes.

17 Q Did you make any attempts to stop this
18 publication?

19 A Yes, I wanted to find out what happened, who
20 printed that book, how that book got out.

15a fls. 21 I had no idea that a book was being published.
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15a-1

1 Q Okay, after you talked with Lawrence Schiller
2 in your office, on or about I believe it was December 4th,
3 and then later on December 8th, right?

4 A Yes.

5 Q Did you have any other further contact with
6 Lawrence Schiller?

7 A First of all I did not say December 4th, I
8 thought it was December 5th.

9 I had contact with Lawrence Schiller many other
10 times, yes, relative to that book.

11 I did not get to talk to Mr. Schiller, I think
12 he was in Europe, until he returned.

13 In fact, I am positive he was in Europe when
14 I discovered this book was printed, and saw this book, it
15 was much later when I finally got to see Mr. Schiller that
16 I asked him about the book and he told me he had put it out.

17 I said, "I told you nothing was supposed to be
18 domestic."

19 He said, "By that time the Los Angeles Times
20 put out the story and everything was out already; I figured
21 it wouldn't hurt."

22 Q Did you sue for breach of contract?

23 A No.

24 Q Did you seek an injunction?

25 A No. The book was already out. This is months
26 later.

1 And from this book, from this book did moneys
2 come in in the bank account in Beverly Hills?

3 A Yes.

4 Q Right?

5 A Yes.

6 Q Do you know of any other publications, say in
7 Europe, regarding Susan Atkins and the Tate-La Bianca case?

8 A Oh, I saw many magazine articles from foreign
9 countries.

10 Q Okay, now, was these publications -- did
11 Mr. Schiller have anything to do with that?

12 A Yes, it was a copyrighted story that appeared in
13 the Los Angeles Times, is the one I saw in the foreign
14 magazines -- at least it appeared so to me. I could not
15 understand the language in all of them.

16 Q Then, would you say that Lawrence Schiller whom
17 you made a contract with, he was responsible for selling
18 all of these stories to the foreign magazines and newspapers?

19 A That is what he was retained for; that is what
20 the deal was, to sell it to the foreign press.

21 Q Did he breach his contract when he sold it in
22 the United States then?

23 A That may be. I thought he did.

24 Q Now, how many times was Miss Atkins removed
25 from the County Jail that you know of?

26 A That I know of?

1 Q Yes, that you know of.

2 A Oh, four or five times.

3 Q And these were for the purpose of cooperating
4 with the District Attorney or the police, right?

5 A That's correct.

6 Q In other words, every time she went out it was
7 to either help the District Attorney or the police officers,
8 is that correct?

9 A Let me explain it to you.

10 In the sense that it was my program that she
11 be cooperative with the District Attorney's Office and the
12 Los Angeles Police Department, to save her life, you might
13 say every time she went out, such as the first time she came
14 to my office, it was for the purpose of aiding the District
15 Attorney's Office because by that time I was pretty well
16 sure I had a deal with the District Attorney's Office, you
17 see.

18 So in that sense, yes.

19 Twice she came to my office, and the other
20 times we were out looking for evidence in various places.

21 MR. SHINN: I have no further questions, your Honor.

22 THE COURT: Mr. Fitzgerald.

23 MR. FITZGERALD: Thank you.

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26

CROSS-EXAMINATION

BY MR. FITZGERALD:

Q What is your present relationship to Miss Atkins, Mr. Caballero, are you still her attorney?

A No.

Q You are still receiving remuneration from the sale of her stories, are you not?

A No.

Q That bank account at the Beverly Hills National Bank is no longer in existence?

A Yes, it is.

Q Are you receiving any moneys from that account?

A No.

Q Is there some reason for that?

A Yes.

Q What is the reason?

A It hasn't come in.

Q Is your legal agreement with Susan Atkins still in effect?

A Which one? The retainer agreement or the one we got on the sale of the book?

Q Both.

A No, the retainer agreement is no longer in existence.

In fact, the moment Mr. Shinn took over the case, as of that moment any funds that came in, and some did come

1 in afterwards, no money was taken out under the retainer
2 agreement.

3 The entire 60 per cent was sent to Susan Atkins
4 through her attorney; the check was made out to her and sent
5 to her attorney.

6 The only moneys we kept out were the 40 per cent
7 which we still have under the attorney-in-fact agreement.

8 Q The attorney-in-fact agreement is your power of
9 attorney?

10 A That is correct.

11 Q What is a power of attorney, Mr. Caballero?

12 A This is the power of attorney in the negotiations
13 for the sale of the story with Mr. Schiller's corporation.

14 Q What is a power of attorney?

15 A It gave us power of attorney to negotiate for
16 her, sign for her, and do all of these matters insofar as
17 the sale of the story was concerned.

18 Q So in the event money comes into the account in
19 the future you still receive some money?

20 A From the sale of the story, yes.

21 Q In what capacity do you still receive money?
22 I don't quite understand.

23 A As the agents who represented her in the sale of
24 a story.

25 Q So you are her -- continuing in the capacity as
26 her literary agent?

1 A. In that sense, since we are attorneys in that
2 area, yes, not her attorney in the cases, though.

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Q Now, when you were representing Susan Atkins she made a judicial confession in front of the Grand Jury, isn't that correct?

A That is correct.

Q And you sold that judicial confession, in a sense, to foreign newspapers and periodicals?

A That is correct.

Q Knowing that at least 500 words of it would be picked up by the wire services and likely published in this country?

A Might be.

Q Might be?

A Yes.

Q And it is your opinion that was in the best interest of your client?

A Of Susan Atkins, yes; it may not have been in the best interests of the other defendants, but it was in her best interest.

Q And after she testified, the Grand Jury returned an indictment against her?

A That's correct.

Q But the agreement you had with the District Attorney's Office was such that if she wanted to go to trial on the merits, that confession could not be used against her, that is, the confession in front of the Grand Jury could not be used against her?

15b-2

1 A That's right.

2 Q But what about the published confession that
3 all the prospective jurors in Los Angeles County have
4 read.

5 Don't you think that prejudiced her chances
6 for a fair trial?

7 MR. BUGLIOSI: Assumes facts not in evidence, calls
8 for a conclusion.

9 THE COURT: I think the word was "have" read.

10 MR. FITZGERALD: Or could have read.

11 THE COURT: The objection is sustained.

12 BY MR. FITZGERALD:

13 Q But if the story were published and even if
14 the Los Angeles Times did not publish it, it was likely,
15 certainly possible that the wire services would pick up
16 at least 500 words of it and publish your client's
17 confession, right?

18 A That could be so.

19 Q And it would likely be read by persons who
20 may ultimately sit on the jury, isn't that correct?

21 A Well, I doubt they would sit on the jury if
22 they read it and it was going to influence them, that is
23 what voir dire is for.

24 Q It was your state of mind you could segregate
25 jurors that had read the story and were influenced by it
26 from those who had not?

15b-3

1 A Yes, that is my state of mind.

2 Q And was your state of mind that that would not
3 hurt your client, I mean it was nonetheless in your client's
4 best interest to publish statements like that?

5 A Yes.

6 Q Now, you made some reference in your testimony
7 to tearing up, or ripping off some notes of a reporter, a
8 certified shorthand reporter who was over at the Los
9 Angeles County Jail for Women, is that correct?

10 A Yes.

11 Q Where are those notes now, do you know?

12 A Thrown away. They were torn up and thrown
13 away.

14 Q You destroyed them?

15 A Sure.

16 Q You threw them out the window or something?

17 A No, I think in the trash can when we opened
18 the door, right in that general area, or maybe when we
19 got back to the office we destroyed them.

20 But I already had torn them up in the car.

21 It is not my habit to throw something out of
22 the window. It doesn't seem like me.

23 Q You threw it on the floor or something?

24 A Of the automobile for the purpose of removing
25 it, and destroying it, until we got back to the location.

26 Q Why was it necessary for you to tear up the

15b-4

1 notes and throw them on the floor?

2 A The notes had nothing to do with the background,
3 and I had specifically indicated the story they were getting
4 was strictly background information. They were not to have
5 anything concerning the case, because of the rule that had
6 come out, and so I did not want them to have those notes.

7 I had no idea she was taking them down until
8 I looked down and saw the reporter was copying these notes.

9 Q You were in the room at all times with Mr.
10 Cohen and this certified shorthand reporter?

11 A That's correct.

12 Q What was her name?

13 A I don't know.

14 Q It was a female, though?

15 A Yes.

16 Q And Susan Atkins?

17 A Yes.

18 Q And you let Susan Atkins talk about the events
19 in the presence of Mr. Cohen and in the presence of this
20 female certified shorthand reporter, is that correct?

21 A No.

22 Q Did you stop Susan Atkins as soon as she
23 started talking about it?

24 A Maybe the whole thing lasted two or three
25 minutes in which Susan was trying to talk and say things,
26 and I would say "Okay, just a moment."

15b-5

And then she would continue.

I paused a moment, figuring in a few moments when she caught her breath we would be able to start.

Then I saw the lady taking the notes and I said "Just a moment." This is what happened.

Q So you ripped up a very few notes?

A Yes.

Q Just for a couple of minutes?

A I don't think it was more than three minutes, in my opinion.

Q How did you look at those particular notes?

A I had the reporter, back in the car, I said "Get to the point where Mr. Cohen begins to ask her the questions 'Where were you born' et cetera, when she went like this, (indicating) reach that point, here is the question, 'Where were you born?'"

I said, "Okay, tear off what is in front of that."

She tore it off.

I said "Give it to me."

I tore it up.

Q Was there anything in the portion of the notes that you tore up relating to Susan Atkins' statements about Charles Manson?

A I don't know if she mentioned his name.

But I got the implication, I mean the inference

15b-6

1 was to me she was saying "Okay, I played your game, I
2 testified, said what you wanted me to say.

3 "I don't want to say anything more," or "I
4 don't want to be bothered."

5 In essence it was that kind of thing. She said
6 something about the case.

5c fls.

5c-1

1 Q Was she repudiating her testimony in front of
2 the Grand Jury?

3 A I won't say it was repudiation.

4 It started off, it appeared that way, then she
5 went on to something else.

6 She said something else about being bugged by
7 the people in the jail; that apparently, you see, what
8 happened was she had just been --

9 After her testimony they began to put labels
10 around the Hall of Justice saying "Sadie Glutz was a snitch,"
11 and apparently people were beginning to indicate to her, she
12 had sort of squealed, and this seemed to be upsetting her.

13 Q So she changed her story?

14 A I won't say she changed her story. In fact she
15 repeated her story to me many times after that, in conformity
16 with what she had testified in the transcript.

17 Q Well, if she just started to talk to you about
18 the jail and everything, why did you find it necessary to
19 rip that portion of the notes out?

20 A Because it did not pertain to her background,
21 It was, in essence, a part of her testimony.

22 She was saying, "I am saying what you want me
23 to say," this kind of thing.

24 But it was unrelated to her background, and I
25 made it clear to them "That is all you are going to get."

26 They wanted to go into more detail regarding the

5c-2

1 Tate case, and I said "No, we are not going to go into
2 that."

3 Q Did you have a conversation before you went
4 into the jail with Lawrence Schiller in regard to the gag
5 order?

6 A Yes.

7 Q Did you tell Mr. Schiller that you had to act
8 quickly in order to avoid the effect of the gag order?

9 A No, I told him that we would not go into the
10 case.

11 He said "I need some more information, more
12 details I want to get on the Tate case."

13 I said, "No, we cannot do that now because there
14 is an order, so we cannot go into that."

15 You see, I thought I was greeting Mr. Schiller
16 to go to the jail with. I was surprised when I got to the
17 car that this other gentleman was there.

18 Q And actually you took the person into the
19 jail, Mr. Cohen, who previously was known to you as a
20 reporter for the Los Angeles Times?

21 A Right, that is correct.

22 Q Did you take Mr. Cohen into the jail as a
23 material witness?

24 A No.

25 Q You took him into the attorney room of the jail,
26 didn't you?

5c-3

1 A That's right.

2 Q Did you make some representation to the
3 authorities at Sybil Brand as to Mr. Cohen's status?

4 A Yes.

5 Q Was he using the name Mr. Cohen at the time,
6 incidentally?

7 A Yes, he was.

8 Q What did you tell the officials at the jail
9 Mr. Cohen's status was?

10 A He was going to conduct an interview.

11 Q To help you in your psychiatric defense?

12 A That's right.

13 Q You took a reporter of the Los Angeles Times to
14 assist you in preparing your case, is that right?

15 A No, I took a free lance writer, working for
16 Mr. Schiller, to get some background information on Susan
17 Atkins.

18 Q And it was very important to get this back-
19 ground information so you could get her to a psychiatrist,
20 correct?

21 A Oh, sure, I took a lot more from her, too,
22 yes.

23 But the reason she and I fell out was because
24 I wanted to go to a psychiatrist and she said no.

25 That was the end of our relationship.

26 Q The fact you went into the jail on the evening

5c-4

1 of December 10th had nothing to do with the same of her
2 story?

3 A Not with the sale of her story.

4 It was a convenient way to accomplish two
5 things at one time.

6 I would have brought him in either then or
7 another time, that was because this way I did not have
8 to pay a reporter to come in and take it all down for me.

9 You see, at that time I did not have a
10 court order permitting me to take her in the jail, you
11 understand, subsequently I got such an order and subsequently,
12 about when I did get such an order, I have tapes in my
13 possession where we had gone in and discussed various
14 things about her background and other matters which you
15 may or may not want to hear about.

16 Q Well, I imagine -- strike that.

17 You immediately then had the stenographic
18 notes of the certified shorthand reporter transcribed and
19 put in transcript form so they could be utilized by the
20 psychiatrist, right?

21 A I kept them so I could use them myself.

22 Q You kept the raw notes?

23 A No, not the raw notes. I don't have the raw
24 notes. I kept the transcript.

25 Q As a matter of fact you don't have the raw
26 notes, do you?

5c-5

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A No.

Q Mr. Schiller has the raw notes?

A I have no idea who has them. He paid for the reporter. She was working for him. I imagine he would have them.

Q But the reporter went in there for the dual purpose of assisting you to get background information for a psychiatrist?

A That's right.

15d fls.

15d-1

1 Q You let Mr. Schiller walk away with the notes?

2 A The notes were -- the purpose of the story,
3 the transcript, was for the purpose of the psychiatrist.

4 I am not going to give the psychiatrist raw
5 notes.

6 Q You never received the transcript of the
7 certified notes?

8 A You mean the transcript of that nature? No,
9 I got a transcript of the story of what she said.

10 Q To the shorthand reporter and Jerry Cohen and
11 yourself on the evening of December 10th in the Los Angeles
12 County Jail?

13 A Not a transcript from a reporter, but a
14 transcription of the notes.

15 Q When did you receive a transcription of the
16 notes?

17 A Sometime afterward.

18 Q You obviously have those in your records?

19 A Yes.

20 Q A transcription?

21 A Yes.

22 Q There is a transcription available of what took
23 place in the Los Angeles County Jail between Susan Atkins,
24 yourself, Jerry Cohen and this certified shorthand reporter
25 on the evening of the 10th?

26 A Yes.

15d-2

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Q Up to and including --

Up to the portion that you tore off the notes,
right?

A Starting with the portion after where I tore
it off.

In other words, afterwards.

Q And that transcription is in existence?

A Yes, I think Mr. Shinn showed me one today.

Q And did you get that transcription from Mr.
Schiller?

A I believe so, yes, it is part of the whole
story.

Q Would it be fair to say that time was of the
essence in obtaining this background information for the
purposes of your defense?

A To a certain extent, yes.

Q I take it then that the first available
opportunity to enter a plea of not guilty by reason of
insanity, you did so?

A Oh, no, I had to deal with the District
Attorney's office about that also.

Q So time was not of the essence. You could
enter a plea of not guilty by reason of insanity any time
you and the District Attorney wanted to?

A That is exactly right.

Q Did you have a time in mind that you contemplated?

15d-3

1 A Yes, after I had sufficient psychiatric
2 reports indicating that that was the proper way to go.

3 Q Well, there wasn't any rush, in any words?

4 A There wasn't any rush to do what?

5 Q To get this background information speedily to
6 a psychiatrist, so he could assist you later in entering a
7 plea of not guilty by reason of insanity?

8 A I wanted information, and it is a relative term,
9 how much of a rush there was. I wanted information and I
10 began to get it.

11 Q As a matter of fact, your primary purpose was
12 to assist Mr. Schiller in obtaining the story?

13 A The primary purpose for doing it on that day
14 was for that purpose, when you talk about time.

15 Q And it is your testimony that you had no know-
16 ledge whatsoever of the publication of the book, The Killing
17 of Sharon Tate by Susan Atkins and Lawrence Schiller prior
18 to its appearance on the newstand?

19 A That is 100 percent correct.

20 Q Subsequently you determined, did you not, that
21 that book was published by a subsidiary of the Times-
22 Mirror Corporation?

23 A I have been informed that that is so.

24 Q Did you inquire of the Los Angeles Times as
25 to their connection if any with the publication of that
26 book?

15d-4

1 A No, I inquired of Mr. Schiller.

2 Q Now, the contracts you had with Mr. Schiller
3 were prepared by Mr. Schiller?

4 A Yes, it was a form contract that he had from--
5 that he uses in the sale of magazine articles, that kind
6 of thing, yes.

7 Q You are an attorney?

8 A Yes.

9 Q Mr. Caruso is an attorney?

10 A Yes.

11 Q Mr. Schiller is not an attorney, right?

12 A That is correct.

13 Q Yet you let Mr. Schiller prepare for you, an
14 attorney, the contracts that you were going to sign?

15 A What you have to understand, we were talking
16 about a specialized contract of the kind Mr. Schiller
17 would normally use in his business, and which had been used
18 on prior occasions.

19 We examined the contract and agreed, okay.

20 Q He was more of an entertainment lawyer than you
21 were?

22 A More or less.

23 Q And the contracts that you entered into with
24 Schiller did not contain any license to Schiller to publish
25 any book by Susan Atkins and himself, right?

26 A I don't believe so.

1 I believe it did not contain any prohibition
2 against it.

3 We had an agreement, apart from the written
4 contract also, you see.

5 We had a time limit which we were working with,
6 and we had an understanding that everything we discussed
7 and did would be strictly on an international basis, but
8 not domestic.

9 Everything would be overseas.

10 In fact, we were primarily concerned with
11 Germany, Italy, France, over there.

12 I was quite surprised of course to see the
13 book for many reasons, which I told Mr. Schiller.

14 Q When did you write this letter you referred
15 to, to Judges Wapner, Keene and Rittenband, indicating
16 that Susan Atkins was no longer an indigent?

17 A Sometime during the period of --

18 It would be either preceding or following the
19 date of my contract with her which would be around the
20 middle of January sometime.

15e fls

Q Now, you were appointed to represent Susan Atkins in November of 1969.

A That is correct.

Q You entered into these contracts on the 8th, 9th and 10th of December, 1969?

A Which ones are you talking about?

Q When was the attorney-in-fact agreement signed?

A December 8th.

Q When was the agreement with Schiller?

A It is dated the 9th.

We entered the agreement that same evening after we got the attorney-in-fact.

Q But on December 10th you appeared in Department 100 of the Los Angeles County Superior Court and accepted an appointment to represent Susan Atkins as an indigent in the Tate-La Bianca case, Superior Court case No. A-253,156.

A That's right.

Q How com you did not represent to the Court you just entered a contract with your client in the gross amount of some hundred thousand dollars?

A First of all, because there was no gross amount of \$100,000. There wasn't even a gross amount of one penny.

There was no money.

She was still an indigent, unless you know differently.

Q Well, you sort of deal on a cash accounting

1 system, then, you don't deal on the accrual basis?

2 A That's right, there was no money, nothing had
3 been paid, there was no advance, no deal about an advance
4 if the story wasn't sold, no money would be realized.

5 She had absolutely nothing at all, nor did we,
6 nothing.

7 She was an indigent on December 10th.

8 Q And she would remain an indigent until she
9 actually received some money?

10 A That is correct.

11 Q And you were to continue to represent her, all
12 other things being equal, and have the County pay your salary
13 until she in fact receives some money, is that right?

14 A That is correct.

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

16 MR. KEITH: I have nothing, no questions.

17 THE COURT: Mr. Kanarek?

18 MR. KANAREK: Yes, your Honor.

19
20 DIRECT EXAMINATION

21 BY MR. KANAREK:

22 Q Mr. Caballero, were you aware of the publicity
23 order when you went to Sybil Brand with Mr. Schiller?

24 A Yes.

25 Q And is it true that you went with Mr. Schiller,
26 the court reporter, and Mr. Cohen, you all drove together

1 to Sybil Brand?

2 A Yes.

3 Q Did you have a conversation with Mr. Schiller
4 concerning this publicity order of December 10th, 1969 before
5 you went into Sybil Brand with Mr. Cohen and the court
6 reporter?

7 A Yes.

8 Q And what was said by Mr. Schiller and what was
9 said by you as to this publicity order?

10 A Either before we got in the car or during or
11 before, but at some point Mr. Schiller indicated that, I
12 believe it was Mr. Schiller or Mr. Cohen, indicated that they
13 wanted or needed more additional information regarding the
14 actual killing at the Tate residence.

15 I told them we could not get into that because
16 the court order had been issued that day or the preceding
17 day, as a result of which we could not go into further into
18 the facts of the case.

19 I said, "You will have to go with what you have
20 and nothing more." I said, "The background information I
21 don't feel violates it, so we can go into that, and that is
22 it."

23 That is where we left it. That, in essence, is
24 all we talked about on the gag order.

25 Q Is it true that in fact the court reporter, the
26 lady that was there taking down the dictation, she, herself,

1 also spoke of the existence of the publicity order; that
2 she had read it or had heard about it on the radio on the way
3 to the meeting?

4 A I don't recall that.

5 Q Now, at the time that you went in to Sybil
6 Brand, or just prior to that time, did you say words to the
7 effect, to Mr. Schiller, that this matter had started, was
8 in progress, and therefore the court order, the publicity
9 order, did not apply?

10 A Well, I said -- no, what I said in essence was,
11 or there was an understanding or a feeling that the story
12 already belonged to Mr. Schiller, or the corporation, I
13 forget the name of it, but it had already been given to them;
14 they already had that material, all material regarding that
15 tape of December 1st, they now have, that was all done
16 before the court order was issued.

17 So I said, "That is already yours. Now, I will
18 not permit, in view of the order, anything else regarding
19 that."

20 I said, "Nothing. You can take background
21 information but that is all."

22 Q So it was your view that it was permissible for
23 them to use the tape of December 1, 1969?

24 A Yes. It was my -- they already had used the
25 tape.

26 It was my view they already had the story and it
belonged to them, to the corporation.

15f-1

1 Q Well, it was your view that they had the tape
2 physically, but the tape had not yet been published, had it,
3 Mr. Caballero?

4 A Mr. Kanarek, they never had the tape. The
5 tape was transcribed in my office. They had transcripts of
6 the tape.

7 Physically -- and they were in the process of
8 publishing it. It had been sold outright to Pimlico Company,
9 a corporation, which is one of the exhibits there.

10 They had it; it belonged to them.

11 They wanted additional information. I refused,
12 in view of the order, but I did give them background informa-
13 tion.

14 That is what happened.

15 Q Well, when did you physically hand over to them
16 the contents of the tape of December 1, 1969?

17 A In the evening of December 8th and in the early
18 morning of December 9th.

19 Q You handed over the tape?

20 A No, the transcripts of the tape.

21 Q You mean the word for word transcripts of the
22 tape?

23 A Yes, that is correct.

24 Q Now, at the time then that you went in to
25 Sybil Brand you knew of the existence of this court order,
26 is that right?

15f-2

1 A Yes, yes.

2 Q You knew that a penalty phase of this trial,
3 of the Susan Atkins trial would ultimately, conceivably
4 take place, right?

5 A Yes.

6 Q At a penalty trial background information comes
7 into play before the ladies and gentlemen of the jury, right?

8 A Yes.

9 Q So background information was within the purview
10 of the publicity order, is that correct?

11 MR. BUGLIOSI: Calls for a conclusion, it is irrelevant,
12 your Honor.

13 MR. KANAREK: I am asking for his state of mind.

14 He has said, your Honor, he testified at length.

15 THE COURT: Overruled, you may answer.

16 THE WITNESS: No, I didn't -- I did not analyze it
17 the way you did, Mr. Kanarek.

18 Q Well, referring to the exact language of the
19 publicity order --

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

21 THE COURT: Yes.

22 BY MR. KANAREK:

23 Q May I refer you, Mr. Caballero, to that portion
24 of the publicity order that says "Nor shall any such persons
25 release or authorize the release of any document, exhibits
26 or any evidence, the admissibility of which may have to be

15f-8

1 determined by the Court; nor shall any such person make any
2 statement for public dissemination as to the existence or
3 possible existence of any document, exhibit or any other
4 evidence, the admissibility of which may have to be deter-
5 mined by the Court."

6 Right?

7 A Yes, I read that.

8 Q And does this publicity order also provide:

9 "Nor shall release or authorized release for
10 public dissemination of any purported extrajudicial
11 statement of the defendant relating to this case"?

12 A Yes, I read that.

13 Q Wasn't the statement of Susan Atkins to Mr.
14 Cohen an extrajudicial statement relating to subject matter
15 which could well, and in fact is taking place in the penalty
16 phase of the very case we are speaking about?

17 A Not in my opinion.

18 Q Not in your opinion?

19 A That is correct.

20 Q Well, you had been in the District Attorney's
21 office many years?

22 A Yes.

23 Q And in your capacity as Deputy District Attorney
24 of Los Angeles County, has it come to your attention that
25 in penalty phases, in first degree murder cases, the back-
26 ground of people, their family, their relatives, all of it--

15f-4

1 their schooling, all of it comes out before the jury?

2 A Yes.

3 Q Well, in what way was Susan Atkins' background
4 information such that it would not be within the purview
5 of this publicity order?

6 A I did not feel the order applied to that kind
7 of statement. That is my opinion.

8 Q That was your opinion?

9 A That's right.

10 Q That was your good faith opinion?

11 A That's right.

16 fls.

16-1

1 Q I see.

2 Now, when you went in to Sybil Brand, then,
3 your motivation and your purpose and intent was to do
4 something that would gather dollars; right?

5 A No.

6 Q Well, Mr. Cohen was there, certainly, in
7 connection with -- the over-all purpose of which was to
8 gather money, to make money?

9 A Is that a question?

10 Q Yes.

11 A I don't know.

12 Q He was there with Mr. Schiller. Mr. Schiller
13 wasn't there as a social worker, was he?

14 A Mr. Schiller was there as the result of a
15 contract we had with him.

16 He did not come into the jail, Mr. Cohen came
17 in.

18 Q Right.

19 And Mr. Cohen came in in pursuance of this
20 arrangement to market the Susan Atkins' story, so to speak?

21 A That is correct.

22 Q And the purpose of marketing it was not for
23 public education; it wasn't a non-profit matter, was it?

24 A No.

25 Q The purpose was to make money?

26 A Yes.

1 Q And the purpose was that you would participate
2 in the making of this money; is that right?

3 A Yes.

4 Q Now, then, would you tell us, did you do any-
5 thing -- did you do anything to prohibit, to stop, the
6 marketing of any information that was given to Mr. Cohen in
7 Sybil Brand?

8 A No.

9 Q Well, you told us you tore off a portion of the
10 tape?

11 A Yes. That portion of it I took out.

12 Q All right.

13 And was your motivation in tearing off that
14 portion of the tape, your purpose, your motive and intent,
15 to obey this publicity order?

16 A That is correct.

17 Q And that was the only purpose?

18 A Yes.

19 Q No other purpose?

20 A That is correct.

21 Q Now, was there also any purpose -- let me
22 withdraw that.

23 When Susan Atkins spoke in these three minutes
24 that you have alluded to, was Mr. Manson a part of that
25 three-minute tape?

26 A You mean, of that three-minute conversation?

1 Q That three-minute portion that you saw fit to
2 do with as you have told us.

3 A I think she mentioned his name.

4 Q Well, you know she mentioned his name, don't
5 you, Mr. Caballero?

6 A Mr. Kanarek, if I knew it I would tell you.

7 I believe that she mentioned his name in the
8 three minutes, but not ^{as} / Mr. Manson.

9 She called him Charlie.

10 And I believe she said something in that regard,
11 because I recall, when she mentioned Charlie and all that
12 and started mentioning names, I said, I don't want to
13 talk about the case.

14 This is when we began to stop.

15 Q I see.

16 Susan Atkins talked about Charlie Manson; right?

17 A She mentioned him only once, I think, yes.

18 Q Only once?

19 A Yes.

20 Q While she was talking about him, what did she say?

21 A I told you there was some mention about him,
22 some mention about " I played your games, I have said what
23 you wanted. I don't want any more hassle."

24 It was rather disjointed and disconnected, to
25 say the least.

26 There was something said about -- the word

1 "killing" was used, meaning about the testimony, something
2 about killing.

3 And then I said, "Let's not talk about the case.
4 We are here for something else."

5 See, I didn't consider it that important, Mr.
6 Kanarek. Other than the fact that I didn't want anybody
7 to have anything other than background information in order
8 to abide by the rules. That is all.

16a fls.

.0a--1

1 Q Wouldn't this three-minute extemporaneous speech
2 about the killing be available for a psychiatrist to hear?

3 A No.

4 Q You tell us that a psychiatrist was going to
5 evaluate it. Wouldn't this be important?

6 A Not in my opinion.

7 Q Why didn't you save it, save it for the
8 psychiatrist, and then you wouldn't have to -- you could
9 still protect the publicity order. Save this portion, and
10 then you could give it to the psychiatrist when you got the
11 other portion integrated; isn't that right?

12 Did that occur to you?

13 A No, that didn't occur to me, and that is not
14 right.

15 Q You don't think that would be valuable?

16 A No, I didn't think it was.

17 Q So, did you actually go through this thinking
18 process and decide that this three minutes where Susan
19 Atkins is speaking, speaking through her heart, perhaps,
20 just -- I mean, actually saying something, whatever the words
21 may be, you didn't think that that would have any benefit
22 for psychiatric analysis?

23 A No, I did not think so.

24 MR. BUGLIOSI: Wait a while.

25 Assuming facts not in evidence,

26 "Speaking through her heart" like she was telling
the truth, or something?

Assumes facts not in evidence.

1 MR. KANAREK: I don't see how Mr. Bugliosi can say that
2 it is not in evidence.

3 THE COURT: I think that is just a figure of speech.

4 Did she sound sincere when she was speaking?
5 Is that what you meant, Mr. Kanarek?

6 MR. KANAREK: Yes, your Honor.

7 THE COURT: Did she?

8 MR. BUGLIOSI: That calls for a conclusion.

9 THE WITNESS: It would require an explanation.

10 THE COURT: Did you take her seriously?

11 THE WITNESS: No, I did not.

12 MR. KANAREK: Q You did not take her seriously?

13 A No.

14 Q But you didn't say that?

15 A No.

16 Q Now, can you tell us what she said?

17 A I gave you the extent of my knowledge on that,
18 Mr. Kanarek. I am sorry.

19 Q Do you know where Jerry Cohen is hiding?

20 MR. BUGLIOSI: That assumes facts not in evidence.

21 THE COURT: Sustained.

22 MR. KANAREK: Q Do you know where Jerry Cohen is?

23 A No, I don't.

24 Q You don't know?

25 A No.
26

1 Q When is the last time you saw him?

2 A I never saw Jerry Cohen in my life again --
3 I don't believe I did -- since that day.

4 Q Jerry Cohen, since then, from time to time, is
5 it a fair statement, Mr. Caballero, you have seen him write
6 with his by-line in the Los Angeles Times; is that right?

7 A I never noticed, I mean, it didn't mean that
8 much to me, Mr. Kanarek, to place that much emphasis on it.

9 Q Have you, in the recent past, in the last couple
10 of weeks, last few days, in the last month or so, have you
11 talked to Jerry Cohen?

12 A I have not.

13 Q Is your state of mind such that you have any
14 idea where you could lead us to Jerry Cohen?

15 A I don't know the man.

16 Q You don't know him?

17 A No.

18 Q You don't know where he lives or where he is?

19 A No. I know nothing about him.
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16b

16b-1

1 Q Now, as a matter of fact, this statement of
2 Susan Atkins that you are speaking of, this three minutes
3 of conversation, that was before she met Mr. Manson; right?

4 A I don't understand what you are talking about.

5 Q Well, at some time, at some time in these series
6 of events, Susan Atkins had a meeting with Charles Manson?

7 A Oh, I see what you mean.

8 Oh, yes, that was before.

9 Q That was long before?

10 How long before?

11 A I don't know how long before. It could have
12 been weeks or a month. I don't know how long before.

13 Q Before she met Mr. Manson?

14 A Yes. Before she came to see Mr. Manson in the
15 jail, yes.

16 Q And weren't you interested that perhaps what
17 Susan Atkins told you during this three minutes was the
18 truth?

19 Did that occur to you? That it is not outside
20 the realm of possibility that what she said was the truth?

21 A I can't even recall.

22 It was that insignificant to me that I don't even
23 recall what she said, other than the disjointed rambling
24 kind of conversation that I was accustomed to getting from
25 her every day for the first 15 or 20 minutes before we hit
26 a certain level. Then we could talk.

1 Do you understand?

2 Q Well, if it was so insignificant, why did you go
3 through all this trouble of having it read back, torn off,
4 destroyed, if it is that insignificant?

5 A I didn't have it read back,

6 I had it torn off because I felt that they were
7 not entitled to have anything more than background infor-
8 mation.

9 All right.

10 Besides, the people that -- well, that is my
11 answer.

12 Q Go ahead.

13 A What?

14 Q Go ahead.

15 A If people were not accustomed to going through
16 this period with her for 15, 20 or 25 minutes as I was,
17 they would not understand if it was true or not true, if
18 she was sincere or not sincere.

19 Q Is it a fact, Mr. Caballero, that Susan Atkins
20 stated in this three-minute interlude that we are speaking
21 of that she had lied at the Grand Jury?

22 Did she use the word "lie"?

23 A She used the word "lie" somewhere, but I don't
24 believe she said, "I lied at the Grand Jury."

25 She said something about people wanted to hear
26 lies. Something to that effect.

1 it
2 She didn't use/in that sense. She may have, but
3 I don't think so.

4 Q Well, you have forever deprived us of knowing
5 what she did say by destroying it; right?

6 MR. BUGLIOSI: Argumentative.

7 THE WITNESS: I can tell you a lot more she said
8 since then that I won't deprive you of.

9 MR. KANAREK: Well, I understand. But I'm asking you
10 now about this three-minute interlude.

11 A I have just told you what I remember.

12 Q I see.

13 Did she tell you that she was tired and didn't
14 want any more lies?

15 Was that said in this three-minute interlude?

16 A She may have said something like that. She
17 may have said something like that.

18 She did say something about being tired, and
19 there was the word "hassle," which indicated to me she was
20 tired. In other words, "All this hassle," that kind of
21 thing, like it was just too much for her.

16c-1

1 Q And is there some reason, is there some reason,
2 Mr. Caballero, that after you hear a litigant, a defendant,
3 a client, a witness, say that she has lied, is there some
4 reason that you didn't want to ferret it out right then?

5 MR. BUGLIOSI: Assumes facts not in evidence.

6 THE COURT: Overruled.

7 THE WITNESS: She did not say that she lied.

8 BY MR. KANAREK:

9 Q You just a minute ago said she may have said
10 she may have lied.

11 A She used the word "lie," that "People like to
12 hear lies," that kind of thing. She didn't say she lied.

13 Q She didn't say she lied to the Grand Jury?

14 A No.

15 Q I see.

16 Now, you had the Grand Jury testimony before you;
17 right?

18 You have read the Grand Jury testimony in this
19 case?

20 A Yes.

21 Q Is that a fair statement?

22 A Yes.

23 Q Now, did it occur to you, or was there some
24 reason, can you give us a reason, if you know of a reason,
25 why the statements of Roni Howard and Virginia Graham
26 were not presented to the Grand Jury?

16c-2

1 MR. BUGLIOSI: Irrelevant.

2 MR. KANAREK: I am asking him for his reason, if he
3 knows.

4 THE COURT: Well, it would call for hearsay, in any
5 event.

6 The objection is sustained.

7 MR. KANAREK: Q Well, you have read the Grand
8 Jury transcript.

9 Is it a fair statement, Mr. Caballero, that Roni
10 Howard and Virginia Graham were not called and did not testify
11 at the Grand Jury?

12 A I think it is a matter of public record. I don't
13 think they were called.

14 Q They were not; right?

15 There is no question about that?

16 A That is correct.
17 did

18 Q Now, /it occur to you, did it occur to you, Mr.
19 Caballero, that possibly the Roni Howard and Virginia Graham
20 statements were true and that what Susan Atkins said at the
21 Grand Jury was untrue?

22 Did that ever occur to you?

23 A Yes, it did occur to me that what Roni Howard
24 -- is it Roni Howard and Virginia Graham?

25 Q Yes.

26 A What they said was true, and substantially what
Susan Atkins said was true.

16c-3₁

It all occurred to me.

Q All right.

Is there any reason, do you know of a reason why those statements were not presented to the Grand Jury?

A I wasn't the prosecutor.

I imagine he didn't need them.

Q Well, here you were, you were a lawyer representing Susan Atkins.

A Yes.

Q And in order to get the so-called "deal," in order to get the legal result that you wanted, it was desirable that she testify truthfully; right?

A That is correct.

Q And therefore, you were interested in seeing that she testified truthfully at the Grand Jury?

A That is correct.

Q All right.

Therefore, if statements have been made to Roni Howard and Virginia Graham, does it seem that, in the interests of this truth-getting, that it might be desirable to present these statements to Susan Atkins at the Grand Jury and ask her, "Did you say these things?"

A Susan Atkins and I had already discussed these statements of these two girls, and Susan Atkins had told me that she had told them that she had done the things that she testified at the Grand Jury.

16c-4

1 She told me that Roni Howard had misunderstood
2 a portion of it where Roni Howard says that Susan Atkins
3 indicated she had an orgasm when she stabbed Sharon Tate.

4 Susan Atkins told me she did not stab Sharon
5 Tate.

6 She told me she misunderstood a discussion of
7 a dream she had the day afterward.

8 She had not, in fact, done the physical killing,
9 but she had, in fact, told the story to the two girls, and
10 she had, in fact, confessed to them and the officers.

11 She told me all this, and this is what I
12 considered in putting her before the Grand Jury.

16d fls.

16d-1

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Q Did you discuss what you have just told us in your answer to the last question, did you discuss that with the District Attorney's office and tell them what she had told you?

A I certainly did.

Q You are certain that you told them that she told you that she did not stab Sharon Tate but that Tex Watson did, that is the real truth? That is what you are telling us?

A That is what she told me, and that is what I told the District Attorney.

Q And what Deputy District Attorneys, or what Deputy District Attorney, did you tell that to, Mr. Caballero?

A Mr. Bugliosi.

Q Anyone else?

A Perhaps Mr. Stovitz.

Q Anyone else?

A No, that is all I can think of.

I wasn't discussing the case with other DA's.

Q You told them -- so we have it crystal clear -- you told them that your belief was that Susan Atkins did not stab Sharon Tate?

MR. BUGLIOSI: That calls for a conclusion.

MR. KANAREK: I am asking what was said.

It goes to the state of mind of who we are speaking of.

1 It is not offered for the truth of the matter
2 asserted. It is to show the state of mind of the people
3 involved.

4 MR. BUGLIOSI: He can only testify to what Susan
5 Atkins told him, not whether he believes it or anything
6 like that.

7 MR. KANAREK: We are in the penalty phase of the trial
8 and it is within the absolute discretion of the jury and,
9 therefore, it is relevant and material.

10 THE COURT: Overruled.

11 You may answer.

12 THE WITNESS: What is the question?

13 MR. KANAREK: May it be read, your Honor?

14 THE COURT: Yes.

15 (The question was read by the reporter.)

16 THE WITNESS: Yes, I told them that I believe Susan
17 Atkins when she told me that she didn't do it, that she just
18 held Sharon Tate while Tex Watson stabbed her.

19 THE COURT: When did Susan tell you that?

20 THE WITNESS: She told me that many times, your Honor.

21 I imagine one of the first times was the first
22 time that I interviewed her, and she just laid the story
23 out to me, and I was shocked.

24 And we went from there. She just opened up.
25 I wasn't even talking about any other case, just talking
26 about the Hinman matter. And she said: There is something

1 else. I don't know if they know about it or will find out
2 about it.

3 But then she started talking to me about these
4 things, about the killings.

5 THE COURT: My question was: When did she tell you
6 that she didn't kill Sharon Tate?

7 THE WITNESS: In my conversations with her. I believe
8 also the tape of my conversations with her.

9 In fact, at some point, I think in the Long
10 Beach paper, a letter was introduced, apparently from --

11 THE COURT: I just want a date, if you have one?

12 THE WITNESS: I can't give you a date.

13 I am just trying to use that as a point in time,
14 your Honor. But there were many times.

15 She said Roni Howard was mistaken in interpreting
16 her statements to Roni Howard.

17 And I believed her, and still do.

18 MR. BUGLIOSI: Motion to strike, your Honor, as a
19 conclusion on his part, and it is irrelevant.

20 THE COURT: The motion to strike what?

21 MR. BUGLIOSI: His statement that he believes her.

22 THE COURT: I didn't hear that.

23 Read the last part.

24 (The record was read by the reporter.)

25 THE COURT: Well, that last portion, "I believed her
26 and still do," is stricken, and the jury is admonished to
disregard it.

16e-1

1 Q BY MR. KANAREK: Mr. Caballero, can you tell us
2 in what other particulars the Roni Howard and Virginia
3 Graham statements -- well, let me withdraw that and ask
4 you first:

5 You certainly have read those statements, right?

6 A I perused them.

7 Q During the time that you were representing
8 Susan Atkins, you certainly had certain transcripts; right?

9 A Yes.

10 Q The District Attorney furnished you these
11 transcripts; right?

12 A Yes.

13 Q And you read over these transcripts; right?

14 A Yes.

15 Q Now, would you tell us, in what other particu-
16 lars, other than what you just mentioned, if any, there were
17 discrepancies between what those transcripts purport to
18 relate and what Susan Atkins tells you actually happened?

19 A I believe -- this is going back a time where I
20 don't really recall that well -- but if I am not mistaken,
21 there was one portion in the transcripts, or in the state-
22 ments to one of the two girls, wherein she interposed the
23 name of "Charlie" for "Tex," and said Tex and Charlie.

24 And I asked her about this. Something about
25 Charlie being at the Tate house.

26 And I said, "Why did you say Charlie?"

1 She said, "Oh, no. I didn't mean that. Charlie
2 was not at the Tate house."

3 And one of the girls had indicated that perhaps
4 he was. There was some confusion in that.

5 And we finally resolved where she said, "No."
6 No, what I told them was Charlie went to the La Bianca house,
7 and he went inside, but then he didn't stay. But he was not
8 at the Tate house. He just told us to go there.

9 That, in essence, was a conflict in that
10 regard.

11 Q All right.

12 Anything else?

13 A I don't recall if there was any others at this
14 time.

15 Q You don't recall any at this time?

16 A No.

17 Q If I gave you a copy of the transcript, do you
18 think it would help refresh your recollection as to any
19 discrepancies, Mr. Caballero?

20 A It may or it may not. I doubt that it would,
21 Mr. Kanarek.

22 Q Well, may I try?

23 A I wish you wouldn't, but if you want to, go ahead.

24 MR. BUGLIOSI: That is too time-consuming, your Honor.

25 I believe Mr. Caballero is going to have to
26 return Monday. So perhaps he can look at it over the

1 weekend.

2 MR. KANAREK: Very well.

3 THE COURT: I don't know what Mr. Kanarek has in
4 mind.

5 MR. KANAREK: It is certainly agreeable with me if he
6 reads it over the weekend and we won't consume court time.

7 THE COURT: Read what over the weekend?

8 MR. KANAREK: The Roni Howard and Virginia Graham
9 material, your Honor.

10 THE COURT: Where is he going to get it?

11 MR. KANAREK: I am more than willing to furnish it
12 to him.

13 THE COURT: You will furnish him with a copy?

14 MR. KANAREK: I will be glad to.

15 THE COURT: It is no concern of mine.

16 I am trying to find out what you are trying to
17 do, Mr. Kanarek.

18 MR. KANAREK: I will be more than glad to, although I
19 am sure he has a copy himself. But I will be glad to.

20 THE COURT: Well, it is time to adjourn now.

21 How do you want to leave it?

22 MR. KANAREK: I will be glad to furnish Mr. Caballero --

23 Do you have a copy, Mr. Caballero?

24 THE WITNESS: No, I do not have.

25 And I have other things to do over the weekend,
26 Mr. Kanarek.

1 MR. KANAREK: Well, we will work it out somehow,
2 your Honor.

3 Whatever happens happens, I suppose.

4 THE COURT: Ladies and gentlemen, do not converse
5 with anyone or form or express any opinion regarding penalty
6 until that question is finally submitted to you.

7 The Court will adjourn until 9:30 -- 9:30 -- on
8 Monday morning.

9 (Whereupon, at 4:28 p.m. the court was in
10 recess.)