

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

COPY

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

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

Defendants.

199

No. A253156

REPORTERS' DAILY TRANSCRIPT
Thursday, March 11, 1971

APPEARANCES:

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

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

For Deft. Atkins: DAYE SHINN, Esq.

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

For Deft. Krenwinkel: PAUL FITZGERALD, Esq.

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

I N D E X

<u>DEFENDANTS' WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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YOUNGER, Evelle J.	26366S	26391F	26520S	
	26408Ke	26418Ka		

HOCHMAN, Joel Simon			26522Ke	26533B
(Cont'd)			26544F	
			26550S	
			26553Ka	

LOS ANGELES, CALIFORNIA, THURSDAY, MARCH 11, 1971

9:50 o'clock a.m.

- - - - -

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

You may call your next witness.

MR. SHINN: Evelle Younger, your Honor.

THE CLERK: Will you please raise your right hand.
Will 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: -- 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 please state and spell your name.

THE WITNESS: Evelle J. Younger. E-v-e-l-l-e, first

1 name; middle initial J.; last name, Y-o-u-n-g-e-r.
2

3 EVELLE J. YOUNGER,

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

7 DIRECT EXAMINATION

8 BY MR. SHINN:

9 Q Mr. Younger, what is your business or occupa-
10 tion?

11 A I am Attorney General of the State of California.

12 Q And you used to be the District Attorney of Los
13 Angeles County?

14 A Yes, sir.

15 Q And you know Mr. Caruso, Paul Caruso?

16 A Yes, sir.

17 Q And Mr. Richard Caballero?

18 A Yes, sir.

19 Q And Mr. Aaron Stovitz?

20 A Yes, sir.

21 Q And Mr. Bugliosi?

22 A Yes, sir.

23 Q And Mr. Stovitz and Mr. Bugliosi were Deputy
24 District Attorneys under you at one time, correct?

25 A Yes.

26 Q And Mr. Caballero used to be a former Deputy

1 District Attorney?

2 A Yes, sir.

3 Q He worked under you at one time?

4 A Yes, sir.

5 Q Now, Mr. Paul Caruso, how long have you known
6 him, Mr. Paul Caruso?

2 fls. 7 A Ten years.

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1 Q Approximately ten years?

2 A Yes.

3 Q How about Mr. Richard Caballero?

4 A Five years.

5 Q Five years?

6 A Yes.

7 Q Now, you had a meeting with Mr. Caruso,
8 Mr. Caballero, Mr. Stovitz, and Mr. Bugliosi on or about
9 December 4, 1969; is that correct?

10 A Yes, sir.

11 Q And this meeting was held in your office?

12 A Yes, sir.

13 Q Now, prior to this meeting, did Mr. Caruso or
14 Mr. Caballero call you regarding the Tate-La Bianca
15 homicides?

16 A If so, I don't recall it.

17 Q Do you recall whether or not it was Mr. Caruso
18 or Mr. Caballero that called you?

19 A As I say, if either of them called me, I do not
20 recall it.

21 Q In other words, you don't recall whether or not
22 you had a conversation with Mr. Paul Caruso or Richard
23 Caballero before the meeting of December the 4th, 1969?

24 A That is correct. I do not recall whether or not
25 I had a meeting with them in reference to this case.

26 I presumably saw them from time to time, but I

1 take it that you are asking did I have a conversation with
2 them about this case.

3 Q Yes.

4 A And I don't recall that.

5 Q Yes. Either on the telephone or in person.

6 A Right. I do not recall.

7 Q Now, do you know who set up this meeting?

8 A I did not. It obviously was either one of my
9 deputies or Mr. Caruso or Mr. Caballero.

10 Q Did Mr. Stovitz or Mr. Bugliosi talk to you
11 before this meeting of December 4, 1969?

12 A I do not recall.

13 I assume they told me there was going to be a
14 meeting and would I be available, and I assume I said sure,
15 but other than that, I have no recollection.

16 Q Do you recall any discussion about the Tate-
17 La Bianca case or Miss Atkins with Mr. Bugliosi or
18 Mr. Stovitz before this meeting?

19 A No, but I am sure I had. I don't recall any.
20 I imagine we had frequent conversations about it, however.

21 Q Now, was this meeting in the morning? In the
22 afternoon?

23 A I don't recall.

24 Q Okay.

25 Now, on December the 4th -- excuse me.

26 A I have a memorandum, a copy of a memorandum,

1. which I understand is in evidence.

2. Would you like me to refer to it and answer
3. your question about the time? The memorandum may indicate
4. the time.

5. Q Yes, please do.

6. May I approach the witness, your Honor?

7. THE COURT: Yes.

8. (Mr. Shinn approaches the witness.)

9. Q BY MR. SHINN: I have a memorandum. It is
10. marked for identification P-KK.

11. I hand it to you.

12. A Yes, that is the one.

13. It says -- yours is a little faded -- it con-
14. cluded at 11:00 o'clock.

15. I have another copy that is a little clearer.
16. May I look at it?

17. Q Yes.

18. A It started at 10:20 and concluded at 11:00
19. o'clock.

20. Q Now, on December the 4th, before this meeting,
21. or prior to this meeting, did you have a conversation with
22. either Mr. Bugliosi or Mr. Stovitz?

23. A About this case?

24. Q Yes.

25. On December 4th, now, just before the meeting.

26. A I don't have any idea. I don't recall.

1 Q Now, did Mr. Bugliosi or Mr. Stovitz tell you,
2 before the December 4 meeting, that Mr. Caballero informed
3 them that Miss Atkins had some information about the Tate-
4 La Bianca homicides?

5 A I have no recollection but I am sure that is the
6 case.

7 I don't recall it, but it must have occurred.
8 I wouldn't have been meeting with them otherwise.

9 Q In other words, you feel that Mr. Bugliosi and
10 Mr. Stovitz indicated to you that Miss Atkins may know
11 something about the Tate-La Bianca homicides?

12 A Yes.

13 Q Now, at this meeting, do you recall what
14 each person said? Like Mr. Caruso?

15 Did Mr. Caruso start?

16 A No, sir.

17 I don't recall who said what to whom. I just
18 recall the effect and the gist of the conversation and the
19 conclusions reached. And, of course, I have refreshed my
20 recollection by reading the memorandum which you showed me.

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1 Q Now, do you know what part Mr. Paul Caruso
2 played in this meeting, was he an attorney of record or
3 was he just there as a friend of Mr. Caballero, or did he
4 indicate to you that he was representing Miss Atkins?

5 A I can only tell you what my understanding was.
6 May I answer on that basis?

7 Q Yes.

8 A I did not say "Are you doing what?" Or "Are
9 you attorney of record?"

10 I just understood and assumed that Mr.
11 Caballero and Mr. Caruso, since they were associated in
12 law practice together, were both representing one of the
13 defendants, one of the present defendants in this case.

14 I did not question them beyond that.

15 Q Do you recall whether or not Mr. Paul Caruso
16 did most of the talking on behalf of Miss Atkins?

17 A No, sir, I don't recall who did most of the
18 talking, except that I did very little.

19 Q Now, at this meeting did Mr. Bugliosi or Mr.
20 Stovitz tell you that they had information that Miss Atkins
21 knew some facts about the Tate-La Bianca homicide?

22 A Yes.

23 Q At this meeting?

24 A Yes, sir.

25 Q Was it Mr. Bugliosi that spoke up?

26 A I don't know. Everybody at the meeting agreed

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1 that she had considerable information about the case.

2 We started with that assumption.

3 Q Were any tapes played at this meeting?

4 A Not that I am aware of. I don't believe so.

5 Q Now, all during this meeting was there a
6 secretary taking down notes?

7 A No, sir.

8 Q Was any electronic device, recording used?

9 A No, sir.

10 Q No one taking notes there?

11 A No, sir.

12 Q Mr. Stovitz was not taking notes?

13 A Oh, I shouldn't say no, sir; maybe they were.
14 I wasn't taking notes and they could have been, I suppose,
15 without my noticing it.

16 I was not aware of anybody taking notes.

17 I did not assign anybody to take notes --
18 well, strike that, I was starting to volunteer.

19 Q Mr. Younger, do you recall the substance of
20 the conversation of this meeting?

21 A Yes, sir.

22 Q Would you give us the substance of the
23 conversation?

24 A Yes, sir, Mr. Caruso and Mr. Caballero, who
25 I understood to be representing Susan Atkins at that time,
26 said that she had been very helpful, and would we give her

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immunity if she testified and continued to be helpful.

We said no; that she had been helpful and that we would agree not to seek the death penalty if she would testify truthfully before the Grand Jury, but in no event would we agree to seek immunity for her.

And that was the gist of the conversation.

Q To which you agreed?

A Pardon?

Q Did you agree to those terms?

A Yes, sir.

Q That was your agreement?

A Yes, sir.

Q And what was your understanding as to Miss Atkins -- what she had to do for this agreement?

What was her part of the agreement?

A To testify truthfully before the Grand Jury.

Whether or not we at any point would ever go beyond an agreement not to seek the death penalty would depend upon whether or not she continued to cooperate after the Grand Jury testimony.

Q Now, was there any discussion about an indictment after she testified?

A I am not sure I understand your question.

Q Well, was there any discussion relating to Miss Atkins testifying truthfully at the Grand Jury, and an indictment was secured, was anything said about an indictment; was

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1 that a condition subsequent or precedent?

2 A Something was said about an indictment to this
3 extent.

4 We said she was going to be indicted. We
5 assumed she would to the extent we could control it, she
6 was going to be indicted.

7 In other words, we were going to seek an
8 indictment.

9 Q Was there any conversation about in the event
10 she gets up at the Grand Jury and does not tell the truth,
11 and as a result no indictment was had, that the deal would
12 be off, was there any discussion as to that?

13 MR. BUGLIOSI: Ambiguous.

14 THE WITNESS: Yes, I am sorry, I don't understand the
15 question.

16 BY MR. SHINN:

17 Q Was there any discussion in the event that Miss
18 Atkins did not testify truthfully at the Grand Jury, and
19 as a result of her untrue testimony no indictment was had.

20 Was there a discussion then there would be
21 no deal?

22 A The only discussion was in the event she did
23 not testify truthfully before the Grand Jury our commitment
24 not to seek the death penalty was off.

25 But we did not consider the possibility as to
26 what effect her failure to testify might have because

1 obviously none of us knew.

2 Q In other words, if she just testified truth-
3 fully at the Grand Jury, that was all she had to do under
4 the agreement?

5 A In order for us to fulfill our obligation not
6 to go for the death penalty.

7 Q Yes, was there any talk about complete truth
8 or substantial truth, 100 percent truth in the testimony
9 by Miss Atkins at that meeting?

10 A There was a discussion as to what we meant by
11 truthfully and who would decide.

12 Q There was a discussion about that?

13 A Yes, sir.

14 Q What was the discussion?

15 A My recollection is that this was one of the
16 few times that I entered the conversation and I said, I
17 used the phrase that is used in court, "The truth, the whole
18 truth and nothing but the truth."

19 The discussion was had as to who would decide
20 whether she so testified.

21 I said it would be the District Attorney's
22 office that would decide, and that obviously there could be
23 no other way of disposing of it, and they would have to
24 rely on the integrity of the District Attorney's office to
25 abide by the agreement, if she did so testify.

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1 Q In other words, the District Attorney was going
2 to decide whether or not Miss Atkins was telling the truth.

3 A Yes, sir, I don't know as it was the District
4 Attorney personally. I think we probably used the word
5 "we" meaning the District Attorney will decide.

6 Q Okay, now, in this discussion was there some
7 type of a gauge set up?

8 A No, sir, that was the extent of our discussion
9 about "What do you mean truthfully," and so forth.

10 There was no yardstick or agreed-upon formula
11 for determining that.

12 Q Now, was there any discussion in the event that
13 Miss Atkins was not testifying truthfully at the Grand Jury,
14 was there any discussion as to what will be done, who will
15 notify Caballero and Caruso that she did not testify
16 truthfully?

17 A No, there was no agreement as to who would
18 notify anybody.

19 It was just if she didn't, our agreement not to
20 seek the death penalty was not enforced.

21 Q In other words, if you felt, or if the District
22 Attorney's Office felt that Miss Atkins was not telling the
23 truth, are you telling us, Mr. Younger, that the District
24 Attorney's Office had no duty to notify Mr. Caballero and
25 Mr. Caruso?

26 A Oh, I don't know we had no duty.

1 I just said there was no specific arrangement
2 as to how that would be done.

3 I imagine that none of us considered that a
4 particular problem.

5 If we sought the death penalty there was going
6 to be no secret about it; they would know about it.

7 But we did not say, "We will phone you at
8 4:00 o'clock in the afternoon and tell you of our decision,
9 if we decide to seek the death penalty."

10 Q In other words, Mr. Caballero and Mr. Caruso
11 would be in the dark as to whether or not the District
12 Attorneys felt that Miss Atkins told the truth or not,
13 then?

14 A All I can say is we did not, as I recall,
15 agree as to how we would communicate our feeling that she
16 had not told the truth, if in fact we believed she had not.

17 Q That was just left up in the air then?

18 A I don't know. May have been decided but I
19 don't recall it.

20 I mean, I don't recall any such conversation.

21 Q When was the first time that you were notified
22 that Miss Atkins was not telling the truth at the Grand
23 Jury?

24 A I don't recall.

25 Q Was it some time this year?

26 A You mean '71?

1 Oh, I doubt it, nobody notified me of anything
2 in '71 except I was wanted in court.

3 I don't think I even discussed this case with
4 anyone in the District Attorney's Office in 1971.

5 Q Did someone notify you -- I mean, did some
6 Deputy District Attorney notify you, either Mr. Stovitz or
7 Mr. Bugliosi, did they tell you, "Mr. Younger, Miss Atkins
8 did not testify truthfully at the Grand Jury, therefore we
9 are not going to abide by our agreement"?

10 A I am sure so, but I don't recall who or when.

11 Q Was there a memorandum indicating this?

12 A There must have been, because the District
13 Attorney's Office could not have sought the death penalty
14 without my approval, so obviously there was a memorandum
15 some place.

16 Q In other words, you say there may be a memoran-
17 dum indicating that either Mr. Stovitz or Mr. Bugliosi
18 indicated to your office that Miss Atkins was not telling
19 the truth at the Grand Jury, therefore the agreement is
20 off?

21 A I am assuming there was because as I say I had
22 to approve as District Attorney our seeking the death
23 penalty, and I am assuming that was done on the basis of
24 a memorandum.

25 That would be the normal way, but I am assuming
26 -- I don't have any specific recollection.

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1 Q Assuming that there is no memorandum to that
2 effect. Then would your state of mind be that the deal is
3 still on?

4 A No.

5 If there is no memorandum, my assumption would
6 be that one of the deputies handling the case, Mr. Bugliosi
7 or Mr. Stovitz, orally gave me a report indicating that,
8 in their judgment, she had not testified to the truth, the
9 whole truth and nothing but the truth, and that we should
10 seek the death penalty, and that I orally approved it.

11 That would be unusual, but absent a memorandum,
12 that is what I would assume happened.

13 Q Okay.

14 Now, do you recall such an oral memorandum or
15 oral conversation with Mr. Stovitz or Mr. Bugliosi?

16 A No, I do not.

17 Q You don't recall any conversation regarding
18 Miss Atkins' testimony to the Grand Jury then?

19 A No. But I am not saying there wasn't any.

20 We obviously had repeated conversations about
21 it, many many conversations, but I don't recall the conversa-
22 tion at which time we decided that it was appropriate that
23 the prosecution seek the death penalty.

24 Q Okay.

25 During this meeting that you had with Mr.
26 Caruso, Mr. Caballero, Mr. Stovitz and Mr. Bugliosi, did

1 Mr. Bugliosi ever inform you at this meeting that maybe
2 Miss Atkins is not telling the truth?

3 THE COURT: Are you talking about the December 4th
4 meeting?

5 MR. SHINN: Yes, your Honor, the December 4th
6 meeting.

7 THE WITNESS: Maybe Miss Atkins was not telling the
8 truth when? In previous statements that she had given to
9 the officers, or Mr. Bugliosi, or what?

10 MR. SHINN: Q The statement that Mr. Bugliosi
11 obtained from Mr. Caballero or from Mr. Caruso regarding
12 Miss Atkins' testimony or statements.

13 A And you are asking me if Mr. Bugliosi said,
14 during this December 4th meeting, she may not be telling the
15 truth?

16 I don't believe so. I don't believe she said
17 that.

18 Q Now, you know that Mr. Bugliosi went down to
19 Mr. Caballero's office, I believe, on the night of
20 December the 4th.

21 Did you know that?

22 A I don't know of my own knowledge. I have
23 been told that he did or read it in the paper or something.

24 I am assuming he did.

25 Q Now, after Mr. Bugliosi talked to Miss Atkins,
26 did he inform you that maybe Miss Atkins is still not

1 telling the truth, the whole truth?

2 Do you recall that?

3 A Well, at some point he did, but I don't know
4 when.

5 I don't know whether it was December 5th or a
6 month later or three months later.

7 I have no recollection as to when he said she
8 hasn't told the whole truth.

9 Q Are you saying that Mr. Bugliosi did indicate
10 to you that Miss Atkins was not telling the whole truth
11 at one point?

12 A Well, I am saying about what I said before,
13 Whether it was Mr. Bugliosi or Mr. Stovitz,
14 or maybe some other deputy who was involved in the case,
15 I don't know, but somebody, at some point, obviously told
16 me she wasn't and convinced me that she was not, because
17 otherwise I would not have approved the prosecution seeking
18 the death penalty.

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Q Then someone did tell you at some time, at some point in time, that Miss Atkins did not testify truthfully at the Grand Jury?

A Yes. I have said that. I have said that several times.

Q Okay.

Now, did you then instruct the person that told you this, either Mr. Stovitz or Mr. Bugliosi, did you instruct that deputy to notify Mr. Caballero immediately?

A I doubt it. I have no recollection if I did.

Q You didn't think that was important?

A I probably didn't even think of it.

I didn't think of it and decide whether it was important or unimportant.

I guess I just didn't assume it was a problem.

Q Now, did this person, either Mr. Bugliosi or Mr. Stovitz, tell you in what area Miss Atkins was not telling the truth?

A I am sure so.

Q Do you recall what area?

A No, sir.

Q No?

A No.

Q Was there a memorandum as to this conversation you had with the deputy, a written memorandum?

A I don't know.

If there is a memorandum, I am sure that the

1 reason they wrote it was to indicate in what -- and I be-
2 lieve there is; I don't want to play games; I think there
3 is a memorandum, but I don't have a copy of it -- if there
4 is, and if they didn't state in the memorandum -- "they"
5 being the deputies who prepared it, the particulars in
6 which she didn't tell the truth -- then there would have
7 been no basis for submitting the memorandum to me.

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

9 THE COURT: You may.

10 (Mr. Shinn approaches the witness stand.)

11 MR. SHINN: Q I have here a copy of a Los Angeles
12 Times article dated December 14, 1969. It is marked P-PF
13 for identification.

14 Have you seen this before, Mr. Younger?

15 A I probably have seen it.

16 I doubt if I read it. I probably saw the
17 headlines.

18 Q You never read that article?

19 A Probably not.

20 Q When you saw this article for the first time,
21 did you contact either Mr. Caruso or Mr. Caballero
22 regarding this story in the Times?

23 A Probably not.

24 Q Did you discuss this story with anyone in your
25 office, like Mr. Eugliosi or Mr. Stovitz?

26 A What is the story?

1 I just see the headlines.

2 Q I believe it is the confession of Susan
3 Atkins which was taped in Mr. Caballero's office on
4 December the 1st, 1969.

5 A As I indicated, we had repeated conferences
6 concerning this case, and I am sure at some point her
7 statement or her story or her interview came up.

8 I am not trying to -- I am not being facetious.
9 I studiously avoided anything about the case. When I say
10 I don't recall if I have read it, I am not trying to be
11 funny. I just don't think I did.

12 Q Mr. Younger, do you take the Los Angeles Times?

13 A Yes, sir.

14 Q And I believe this was in the Sunday edition.

15 A It could be.

16 Q Now, do you know a Jerry Cohen who is a
17 reporter for the Los Angeles Times?

18 A I probably met him. I am sure I have.

19 Q You don't recall knowing him personally?

20 A Knowing him personally?

21 You know, I am sure I have shaken hands with
22 him. I have probably seen him on two or three occasions.

23 I don't believe I would recognize him if he
24 were in this room. I might.

25 We are not close friends.

26 Q But you know that he is a Los Angeles Times

1. reporter?

2. A Yes, sir.

3. I see his by-line every now and then.
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1 Q Now, did you know, Mr. Younger, that Mr.
2 Caballero was going to tape Miss Atkins' confession in his
3 office on December the 1st, 1969?

4 A I don't recall whether I knew it or not.

5 Q Are you familiar with these requests for
6 removal of prisoners, these documents?

7 A Yes, sir.

8 I mean, I know there is such a form and I have
9 signed many.

10 Did I sign one in this case?

11 I don't believe so. I think Mr. Stovitz and
12 Mr. Fukutu did,

13 Q Now, did you know, or did anyone inform you,
14 that Miss Atkins was removed from Sybil Brand jail approxi-
15 mately four times?

16 A I have heard. And again, whether it was the
17 result of a conference in my office or whether a conversa-
18 tion on the street or hearing it on the radio, I know she
19 was removed.

20 I don't ever recall a number, how many times
21 she was removed.

22 Q Did either Mr. Caruso or Mr. Caballero or Mr.
23 Stovitz or Mr. Bugliosi tell you at one time that Miss
24 Atkins had been taken down to Mr. Caballero's office so a
25 tape of the confession could be made?

26 A I don't believe so.

1 I think I probably found out about the inter-
2 view afterwards.

3 I don't recall discussing it before it
4 occurred.

5 Q Did you, yourself, ever hear these tapes of
6 Miss Atkins' confession or statements?

7 A No.

8 Q Did you ever see statements of Miss Atkins
9 at any time?

10 A No, sir.

11 Q Now, in this meeting of December the 4th, was
12 Roni Howard and Virginia Graham discussed?

13 A Who?

14 Q Roni Howard and Virginia Graham, who were
15 ex-cellmates of Susan Atkins?

16 A In the December 4th meeting?

17 Q Yes.

18 A I don't recall.

19 Q Did Mr. Bugliosi or Mr. Stovitz ever discuss
20 Roni Howard and Virginia Graham with you?

21 A Probably, but I don't recall it.

22 It would be -- again, I don't want to play
23 games with you and answer yes or no, because I don't want
24 to appear to be avoiding the question -- I assume at some
25 point in the many, many months that they were giving me
26 periodic reports, that that was discussed, but I have no

independent recollection.

Q Well, was there any discussion regarding Roni Howard and Virginia Graham going to testify at the Grand Jury? Was there any discussion of that?

A I don't recall.

Q Now, did you know that Mr. Caballero and Mr. Caruso were in the process of selling Miss Atkins' confession and statements?

A No, sir.

Q You had no knowledge of it?

A No, sir.

Q You have seen the book The Killing of Sharon Tate, have you not?

A You know, not to handle it.

I know there is such a book and I have seen it on a bookshelf, and I may have seen it on somebody's desk.

I don't believe I have seen it.

Q You have heard about it?

A Yes, sir.

I have been questioned about it by reporters, and so on.

Q You never discussed this book with Paul Caruso or Mr. Caballero?

A No, sir.

Q Do you know a Lawrence Schiller?

A Pardon?

1 Q Lawrence Schiller?

2 A I don't believe so. I could.

3 Who is he?

4 Q He is the author of the book The Killing of
5 Sharon Tate.

6 A I don't think I know him. I don't know him.

7 Q You never talked to him over the telephone?

8 A I probably did.

9 I gather, from what I have been told, that I
10 did talk to him on the phone.

11 If he is the man that phoned and said he was
12 going to send me a manuscript, then I talked to him.

13 Is he?

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1 Q No. He is just the co-author of the book,
2 The Killing of Sharon Tate.

3 Mr. Fitzgerald will get into the book aspects
4 of this case.

5 Your Honor, I have nothing further, your Honor.
6 Thank you.

CROSS-EXAMINATION

8
9 BY MR. FITZGERALD:

10 Q Mr. Younger, how long have you been the Attorney
11 General of the State of California?

12 A Since the first week in January, 1971, which is
13 about two months, I guess.

14 Q And you are the Attorney General of the State
15 of California as the result of being elected; isn't that
16 correct?

17 A Yes, sir.

18 Q What was your term of office as the District
19 Attorney of Los Angeles County?

20 A It is a four-year term. It was half finished
21 when I became Attorney General.

22 Q You were elected to the office of the District
23 Attorney of Los Angeles County in approximately 1968?

24 A Yes, sir.

25 Q Now, during the year 1969, do you have any
26 knowledge as to how many murder cases were prosecuted by the

1 Los Angeles District Attorney's Office?

2 A No, sir. But if I had known you were going to
3 ask it, it would have been easy to find out.

4 Q I take it it is a large number, isn't it?

5 A A large number.

6 Q Were there any other murder cases prosecuted
7 by the office of the Los Angeles County District Attorney
8 during the year 1969 in which you took a personal part as
9 you did in the prosecution of this case?

10 A Probably, but not as active a part as I did
11 in this case.

12 Q I take it the deaths of the decedents in this
13 case, in the Tate-La Bianca case, was a rather extraordin-
14 ary event during your term of office as the District
15 Attorney of Los Angeles County?

16 MR. BUGLIOSI: Irrelevant.

17 THE COURT: Sustained.

18 Q BY MR. FITZGERALD: You were certainly familiar
19 with the events prior to your meeting with Mr. Caruso
20 and Mr. Caballero and Mr. Stovitz and Mr. Bugliosi on
21 December the 4th, 1969, were you not?

22 A You mean the events surrounding the killings
23 and so forth?

24 Q The events surrounding the killings and so
25 forth; correct.

26 A Yes. Yes, sir.

1 Q And you were aware, certainly, that there was
2 a tremendous amount of publicity surrounding the deaths of
3 the decedents in this case; correct?

4 A Yes.

5 Q And you knew there was a considerable amount of
6 public attention that had been devoted to the case?

7 A Yes, sir.

8 Q Now, the document before you -- and I am sorry,
9 I don't know the designation -- the photocopy of what
10 appears to be an article from the Los Angeles Times dated
11 December 14, 1969.

12 A Yes, sir.

13 Q You indicated just a few moments ago to
14 Mr. Shinn -- and I am unclear -- you said you were
15 familiar with the publication of that story in the Los Angeles
16 Times, or you were not?

17 A I indicated I doubt if I read it, but I had
18 understood that her statement was published. I am aware
19 of the fact that her statement was published.

20 I simply indicated to him I doubt if I read
21 it.

22 Q You did not read the story as it appears in the
23 Los Angeles -- as it appeared in the Los Angeles Times?

24 A That is what I am saying.

25 I doubt that I did read the story appearing in
26 the Los Angeles Times purporting to be her statement.

1 Q Did you, at some time, learn that her story did
2 appear in the Los Angeles Times?

3 A Yes, sir.

4 Q Do you know how you learned that her story
5 appeared in the Los Angeles Times?

6 A I had probably been asked 500 times by reporters
7 about it.

8 That is the way I learned, I gather, the first
9 time.

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1 Q As opposed to somebody in your office bringing
2 it to your attention, is that correct?

3 A Usually reporters bring things to my attention
4 before members of my staff.

5 I then go to my staff to find out about what
6 happened.

7 Q You were aware that the Los Angeles County
8 Grand Jury convened in this case on the dates of December 4th
9 and December 8th of 1969?

10 MR. BUGLIOSI: December 5th.

11 MR. FITZGERALD: Excuse me;

12 Q December 5th and December 8th of 1969?

13 A I am aware of the fact that they convened after
14 our meeting on December 4th, and I don't recall when or how
15 long.

16 But I accept that as a correct statement.

17 Q Well, I take it there must have been some
18 conversation on the morning of December the 4th with
19 Caruso, Caballero, et al., about taking the matter to the
20 Grand Jury, that is, having Susan Atkins testify before
21 the Grand Jury?

22 A Yes, sir.

23 Q You were also aware that there was a publicity
24 order frequently referred to by you as a gag order in this
25 case, isn't that correct?

26 A Yes, sir.

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1 Q You learned that there was a publicity order
2 in this case on December 10th, 1969, did you not?

3 A I don't know, I don't recall.

4 Q If you know, were you informed about this
5 publicity soon after it was promulgated by Judge Keene?

6 A Oh, I'm sure immediately. But I don't recall
7 what date it was.

8 Q As a matter of fact, publicity orders are a
9 matter of some enormous concern to you, or were to you in
10 your capacity as District Attorney of Los Angeles County,
11 is that correct?

12 MR. BUGLIOSI: It's irrelevant.

13 THE COURT: I think it is ambiguous. The objection is
14 sustained.

15 BY MR. FITZGERALD:

16 Q You were aware of the publicity order?

17 A Yes, sir.

18 Q And you had some -- without going into your
19 personal feelings, you had some personal feelings and some
20 professional feelings and judgments about that publicity
21 order, did you not?

22 MR. BUGLIOSI: Irrelevant.

23 THE COURT: Sustained.

24 BY MR. FITZGERALD:

25 Q After you learned of the publication of the
26 story, Two Nights of Terror by Susan Atkins and Lawrence

1 Schiller, in the Los Angeles Times, did you make any
2 official inquiry as to the source of the publication?

3 A I doubt it. I don't recall if I did.

4 Q Was it your state of mind on or about the time
5 you learned of the publication of this story in the Los
6 Angeles Times that that was an extraordinary event?

7 MR. BUGLIOSI: It is irrelevant.

8 THE COURT: Sustained.

9 BY MR. FITZGERALD:

10 Q Do you recall whether or not you learned the
11 name Lawrence Schiller from the by-line of that story that
12 appeared in the Los Angeles Times?

13 A Well, it says.

14 I don't know if I paid any particular attention
15 to it.

16 As I have indicated, I probably saw the
17 headline and moved on.

18 Whether I saw Mr. Schiller's name before I
19 moved on I don't know.

20 Q You don't recall any conference or meeting
21 or discussion in your office relative to the publication of
22 this story in the Los Angeles Times?

23 A Before it occurred?

24 Q Before it occurred?

25 A No, sir.

26 Q What about after it occurred?

1 A I don't recall it, but I'm sure there was.

2 A lot of attention has been addressed to the
3 publication of that story by yourself and reporters and
4 lawyers --

5 So obviously we talked about it, but I don't
6 recall when or with whom.

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

9 THE COURT: You may.

10 BY MR. FITZGERALD:

11 Q Mr. Younger, I have a book entitled The Killing
12 of Sharon Tate, that has been previously marked, I believe
13 it is P-CG for identification.

14 Do you recognize that book, or a book similar
15 to that?

16 A No, I have already indicated that I probably
17 have seen it, but I don't -- to answer your question, no,
18 I do not recognize it.

19 I have probably seen one like it.

20 Q That appears to have the name Susan Atkins
21 and Lawrence Schiller on the cover, does it not?

22 A Yes, sir -- excuse me, Counsel, may I ask the
23 Clerk to phone my office and leave a message, would that be
24 permitted?

25 THE COURT: Yes.

26 Mr. Darrow, would you go over and see what Mr.

1 Younger wishes to do.

2 (Off the record discussion between the witness
3 and the Clerk.)

4 THE WITNESS: Thank you.

5 BY MR. FITZGERALD:

6 Q Mr. Younger, I have a one-page document, it
7 appears to be a letter dated January 5, addressed to Mr.
8 Evelle Younger, District Attorney, on the letterhead of the
9 Los Angeles Times, apparently signed by one Digby Diehl,
10 D-i-e-h-l, book editor.

11 It has been previously marked P-ZZ for
12 identification.

13 Do you recognize that document?

14 A I'm sure I have seen it. I do not recognize it,
15 I'm sure it's authentic.

16 Q It appears to be a letter to you, does it not?

17 A Yes, sir, and I'm sure I received it.

18 Q I have still another document which appears to
19 be a letter, dated January 5, 1970, same day, addressed to
20 Mr. Digby Diehl, that bears the name at the bottom, Evelle
21 J. Younger, that has been previously marked P-AB for
22 identification.

23 Do you recognize that letter or document?

24 A It is my letter. I'm sure I signed it. I'm
25 sure it is a copy of one I signed.

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1 Q And I have here a document which appears to be
2 a letter addressed to the Hon. Charles H. Older, on the
3 letterhead of the County of Los Angeles, Office of the
4 District Attorney, dated June 30, 1970, that has been
5 previously marked P-AQ for identification.

6 Do you recognize that document?

7 A I'm sure it is a copy of one I signed. It is
8 my letter.

9 Q Now, directing your attention back to the
10 letter marked P-AB, that is the letter dated January 5.

11 A Yes, sir.

12 Q That bears your signature and it is addressed to
13 Digby Diehl.

14 That letter indicates that you were returning
15 to Mr. Diehl by way of enclosure some manuscript, is that
16 correct?

17 A Yes, sir, yes, sir.

18 Q And it also says, "When you phoned me you did
19 not say anything about a two-day deadline."

20 Who are you referring to when you said, "When
21 you phoned me"?

22 A I assume Mr. Diehl had phoned me. Somebody
23 phoned me and said they were going to send over a
24 manuscript.

25 I said, "Go ahead, send it."

26 I thought it was Mr. Diehl. If it wasn't, then

1 that is what I meant by it in return.

2 Q Directing your attention to P-CC, that is the
3 letter on the Los Angeles Times letterhead addressed to you
4 and signed by Digby Diehl.

5 The first sentence of that letter, Mr. Diehl
6 indicates, "As per our conversation."

7 A Yes, sir.

8 Q Is he referring to a conversation he, Mr.
9 Diehl, had with you, Mr. Younger?

10 A I assume so.

11 Q You do remember a conversation with somebody
12 from the Los Angeles Times relative to some manuscript?

13 A Yes, sir, I assume it was Mr. Diehl in view of
14 his letter.

15 Q In the same sentence, "As per our conversation
16 this is the manuscript."

17 Was there an enclosure of the manuscript with
18 this letter to you, Mr. Younger, if you know?

19 A No. I had a manuscript; whether it was hand-
20 carried or enclosed with this, whatever, I just know I had
21 a manuscript.

22 Q When we use the term "manuscript," in this
23 context, are you referring to galley proofs or are you
24 referring to typewritten copy or Xerox copy, just exactly
25 what are you referring to?

26 A I am referring to a big, fat letter-sized
numerous-paged document, whether it was typed or Xeroxed

1 of Thermofaxed I don't know.

2 As soon as I saw the size of it I didn't even
3 open it.

4 Q The letter, as I have indicated, starts out,
5 "As per our conversation this is the manuscript for the
6 Lawrence Schiller book."

7 A Yes, sir.

8 Q What did that mean to you, "the Lawrence
9 Schiller book"?

10 A It didn't mean a blessed thing to me.

11 Q Now, at the time you received this letter on
12 January 5, 1970, you knew who Lawrence Schiller was, did
13 you not?

14 A No, I still don't know who he is except his
15 name is on the book.

16 Q Now, the article in the Los Angeles Times,
17 by-lined by Susan Atkins and Lawrence Schiller, appeared on
18 the date of December 14, 1969; yet you were unfamiliar with
19 Mr. Schiller's name on January 5, 1970.

20 Is that correct?

21 A Well, you know, I may have vaguely -- the name
22 may have sounded vaguely familiar but that period, that is
23 as far as that period -- that is as far as it would go.

24 Q So you don't know what Mr. Diehl was referring
25 to when he said this was the manuscript for the Lawrence
26 Schiller book?

1 A Well, the fact that he said the Lawrence
2 Schiller book didn't -- that he talked about the Lawrence
3 Schiller book did not mean anything in particular to me.

4 May I explain the answer?

5 Q Certainly.

6 A From time to time I am frequently asked by
7 newspaper reporters to review a manuscript for a variety
8 of reasons, some for accuracy, some "Is there anything in
9 here that would make your case more difficult?"

10 For a variety of reasons.

11 And I routinely say, "Sure, send it down," and
12 I routinely then pass it on to a member of the staff most
13 familiar with it, and for comments and recommendations,
14 anything wrong with the book, should we try to get it
15 changed, any corrections.

16 This is standard operating procedure. It is not
17 unusual.

18 In this case I don't recall independently of
19 this letter whom I talked to at the time. I know somebody
20 said, "Can we send you over a manuscript?"

21 I don't recall even asking what kind of a manu-
22 script. I probably said, "Sure," thinking that was the
23 easiest and fastest way to dispose of it.

24 When I saw the manuscript, it was big, and I
25 saw the -- what I thought was a rather outrageous request
26 that I read it and return it with my comments in two days.

1 And I think, using a few indelicate phrases, I
2 gave it to my secretary and told her to send it back.
3 That is all I remember about the book.

4 Q Well, perhaps I can refresh your recollection.
5 Sentence two of this letter says, "As I said
6 on the phone, we are very anxious to have an authoritative
7 person, knowledgeable in ethical/judicial matters to
8 comment on this."

9 A That is a part of the sales talk to get us to
10 read the book, sure.

11 Q Well, what was your state of mind relative to
12 the term "ethical/judicial matters"?

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

14 THE COURT: Sustained.

15 Q BY MR. FITZGERALD: The letter continues:

16 "We feel that a point of civil liberties,
17 as well as journalism, is involved because this
18 is our only copy.

19 "I must know within two days whether you
20 would be willing to comment on this book for the
21 Times Book Section."

22 Did you have a discussion, a conversation with
23 Mr. Diehl relative to the civil liberties implications
24 concerning the publication of this book?

25 A I don't recall. That is why I asked
26 permission, and you gave me permission to explain my answer.

1 I have found from experience that the fastest
2 way to dispose of a problem of this sort is to say, "Send
3 me the book," so I can then have somebody else on the staff
4 and review it and give me the recommendations.

5 In other words, I shorten the sales talk over
6 the phone as much as I can by agreeing as quickly as I can
7 that we will take a look at it.

8 And that is undoubtedly what I did in this case,
9 so I don't recall any discussion of civil liberties, or
10 ethical or judicial matters, having any expertise in that
11 area, and so forth.

12 I don't recall any of the details.

13 Q Well, that is very unusual, is it not, in your
14 experience, to have somebody request that you comment on
15 the ethical/judicial, civil liberties point of view
16 relative to the publication of a book?

17 MR. BUGLIOSI: It's irrelevant.

18 THE COURT: Sustained.

19 Q BY MR. FITZGERALD: Now, Mr. Younger, directing
20 your attention to another document, the letter to Judge
21 Older, P-AC.

22 You indicate in Paragraph 2:

23 "To the best of my knowledge I have never
24 read the manuscript or discussed it with anyone."

25 Do you see that portion of your letter to
26 Judge Older?

1 A Yes, sir.

2 Q "I have never read the manuscript or
3 discussed it with anyone."

4 But you in fact had discussed the manuscript
5 with Mr. Diehl, the book editor of the Los Angeles Times.

6 A Oh, I suppose I used a poor word, "discussed,"
7 if saying, "Send it over," and sending it back with a
8 cover letter saying, "I don't have any time to look at it"
9 is a discussion, certainly I discussed it.

10 That is a bad word, poor choice.

11 Q Yes, but that is -- excuse me.

12 That was the second time, then, that you used a
13 poor choice of words because in a newspaper conference on
14 June 29, 1970 you indicated the same thing to representatives
15 of the media, that you did not have any knowledge of the
16 manuscript, the book, The Killing of Sharon Tate, nor had
17 you discussed it with anybody.

18 Isn't that correct?

19 A I don't know, but if you are saying I have on
20 occasion used a poor choice of words when talking to the
21 media, I will certainly stipulate to that.

22 Q Well, as a matter of fact this letter itself
23 indicates that you told the press, the media, the same things,
24 the same morning you wrote the letter or -- excuse me -- the
25 day before you wrote the letter.

26 A Okay.

1 Q But at the time, sort of in summary, Mr.
2 Younger, so at the time you had a conversation with
3 Mr. Diehl of the Los Angeles Times, you did not associate
4 the name Lawrence Schiller with Susan Atkins and with the
5 pending case being prosecuted by your office.

6 MR. BUGLIOSI: That has been asked and answered.

7 THE COURT: Overruled.

8 THE WITNESS: I don't recall whether I did or not,
9 I may have.

10 Q BY MR. FITZGERALD: Do you recall with any
11 preciseness when you learned of the publication of the
12 pocketbook, "New American Library pocketbook," P-CC, I
13 believe it is --

14 A You mean the date?

15 Q The date.

16 A No, sir.

17 Q Are you familiar with a corporation entitled
18 Twenty Pimlico, Inc.?

19 A I don't believe so.

20 Q You have, and I don't mean to suggest anything
21 by my question, Mr. Younger, but you have a close
22 personal relationship with one or more members in the
23 management of the Los Angeles Times, do you not?

24 MR. BUGLIOSI: Irrelevant.

25 THE COURT: Sustained.

26 Q BY MR. FITZGERALD: Did you have any conver-
sation with any person in the management of the

1 Los Angeles Times relative to the publication of the
2 book, The Killing of Sharon Tate, that has been marked
3 P-CQ?

4 A Other than the conversation which I apparently
5 had with Mr. Diehl, no.

6 If that is what you mean by management.

7 Q No, I am referring to -- strike that.

8 In response to questions by Mr. Shinn, you
9 indicated you studiously avoided any publicity relative
10 to this case.

11 A Yes, sir, -- I studiously avoided reading or
12 listening to anything about this case.

13 Q That was for some short period of time?

14 A Oh, to the extent that I controlled it since
15 the trial first started.

16 Q You held news conferences relative to this
17 case, didn't you?

18 MR. BUGLIOSI: It's irrelevant.

19 THE COURT: Sustained.

20 MR. FITZGERALD: I have nothing further. Thank you,
21 sir.

22 THE WITNESS: Thank you.

23
24 DIRECT EXAMINATION

25 BY MR. KEITH:

26 Q Mr. Younger, during your tenure as District

1 Attorney of this County did you have the final voice in
2 all homicide cases in resolving whether or not your office
3 would seek the death penalty?

4 A Yes, sir, or in my absence the Chief Deputy
5 would.

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1 Q So then I take it that in this case, the Tate-
2 La Bianca case, you had the final determination as to whether
3 your office would seek the death penalty against Susan
4 Atkins?

5 A Yes, sir, up until January of this year I did.

6 Q Did you have any discussions after Susan's
7 Grand Jury testimony that you can remember with members of
8 your staff, such as Mr. Bugliosi, Mr. Stovitz, Mr. Busch
9 perhaps, the present District Attorney?

10 A About this case and about her testifying?

11 Q About her testimony and about whether or not
12 your office would seek the death penalty as to her.

13 A Yes, sir, I'm sure I did but I don't recall
14 who, what, when, where, and so forth.

15 I just know that there must have been such
16 discussions.

17 Q Therefore, I take it, you have no recollection
18 of the content or the substance of any of those discussions?

19 A Oh, if by substance you mean the gist, the
20 general tenor.

21 Q Yes.

22 Yes.

23 Do you want me to give you the substance as
24 I recall it?

25 Q First I am asking you if you recollect the
26 substance or effect of any, or effect of any conversations

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1 you may have had with members of your staff concerning Susan
2 Atkins' testimony before the Grand Jury?

3 A I guess it would be fair to say I am drawing
4 conclusions as to the substance; that I have no recollection.

5 I know what occurred, but I know that because --
6 I know what must have occurred, but I don't have any
7 independent recollection of conversations.

8 Q Do you have any independent recollection
9 concerning with whom you discussed the case?

10 A No, sir, but again I know who it must have
11 been.

12 Q Who must it have been?

13 A It must have been the deputies handling the
14 case, Mr. Stovitz and Mr. Bugliosi, maybe Mr. Howard, maybe
15 Mr. Busch.

16 But always Mr. Bugliosi and Mr. Stovitz.

17 Q I take it you have no recollection then of
18 whether or not you decided that your office would seek the
19 death penalty as to Susan Atkins?

20 A It is a question of semantics. I know I did
21 make that decision. I don't recall when I made it or
22 who I was talking to when I made it.

23 Q You have no independent recollection of what
24 your decision was, then?

25 A Sure I do, I decided we would seek the death
26 penalty. I know that. I know that is what happened.

5c-3

1 Q Well, how do you know that if you have no
2 independent recollection of any of the conversations?

3 A I know that is what happened.

4 I know that is what happened as the product
5 probably of more than one conversation on more than one
6 day and possibly with different persons.

7 I know that the prosecution could not have
8 been seeking the death penalty in this case without my
9 approval.

10 I am sure I gave it.

11 Q Is it your feeling that there probably somewhere
12 reposes in the files of your former office a memorandum
13 concerning your -- a discussion or discussions of your
14 decision as to Susan Atkins?

15 A It is my belief that there must be a memorandum
16 relating to our seeking the death penalty, seeking my
17 approval, but whether or not the memorandum says anything
18 about any previous discussions, I don't know.

19 Q You don't recall any such memorandum?

20 You are just telling us that in the ordinary
21 course of business that is what probably occurred; that
22 a memorandum was prepared?

23 A I think probably it is more than that. I
24 think I have been told there is such a memorandum, but I
25 don't recall it.

26 Q And obviously you don't recall any of the

5c-4

1 substance of any such memorandum, assuming there is one?

2 A No, I do not recall it.

3 May I add one sentence of explanation:

4 The reason I have not checked all the files,
5 and I cannot give you more precise answers, is because had
6 I done so I would not have known in answer to your question
7 whether I had an independent recollection, or I was remember-
8 ing it because 30 minutes ago I read it in the files, a
9 certain thing.

10 So I have not prepared myself by researching or
11 searching the files of the District Attorney's office.

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12 That is why my memory is hazy on these things.

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1 Q To your knowledge, and use your ordinary
2 practice while you were District Attorney, if you will,
3 would any of your conversations with Mr. Bugliosi or Mr.
4 Stovitz regarding Susan Atkins' testimony at the Grand Jury
5 after it occurred, have been taped or recorded in some
6 manner?

7 A No, sir.

8 Q Or made into a permanent record such as do --
9 by the taking of shorthand by a secretary or stenotype
10 machine?

11 A No, sir.

12 Q In other words, it wasn't your practice to do
13 that when you had your discussions with your deputies?

14 A That is correct.

15 Q Do you have any independent recollection of the
16 reasons that Mr. Bugliosi or Mr. Stovitz may have given you
17 for coming to the conclusion that Susan Atkins may not have
18 told the truth to the Grand Jury?

19 A No, sir.

20 Q And you recall specifically no meetings at
21 all with them although you do tell us you must have had
22 meetings?

23 A That is correct.

24 Q And you are certain in your mind that you were
25 the final arbiter in determining whether your office would
26 seek the death penalty against Susan Atkins?

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A Yes, sir.

Q Did you ever read her Grand Jury testimony?

A The entire transcript?

Q Yes.

A No, sir.

Q Did you ever read any of it?

A Probably. I suspect that in the course of our discussions --

Well, that's not what you asked me.

I don't recall, I believe I read portions of it.

Q Did you ever read any of the taped discussions had between Miss Atkins and Richard Caballero and Paul Caruso?

A I don't recall it if I did.

Q Did you ever read a document that Mr. Bugliosi prepared in his own handwriting which set forth the questions he asked her in a meeting with Susan, and her answers?

A If I did, I don't recall it.

Q When you saw the story in the Times on or about December 14th, captioned whatever it was, The Confession of Susan Atkins --

Did you call the Times and attempt to inquire how that story got in the newspaper?

A I doubt it.

Q When you say you doubt it, are you telling us you

1 may have but you don't remember?

2 A I cannot conceive of any reason why I would
3 have done so, no. I don't believe I did, but --

4 Q Bearing in mind that you were aware of the
5 publicity order and bearing in mind that the publication
6 in the Times of Susan Atkins' confession appeared to be
7 possibly a violation of that order, weren't you interested
8 in getting to the bottom of it and finding out how her
9 confession was published?

10 A Can I answer that yes or no and then explain
11 it?

12 Q Yes.

13 A The answer is no.

14 It neither shocked me or surprised me.

15 You mentioned the publicity orders, this is a
16 perfect illustration why I am opposed to the gag rule,
17 because there is nothing that a court can do if a defendant
18 in a capital case wants to give her story to a newspaper.
19 What are you going to do, tell her you are going to give her
20 five days in jail for contempt?

21 Q Maybe her attorney five days for contempt.

22 A That is why, because of my firm belief, and the
23 fact there is no way you can impose a gag order on a
24 defendant in a murder case and make it mean anything, that
25 is why the fact it was apparently violated in this case did
26 not surprise me, shock me or disturb me.

1 Q So to the best of your recollection you made
2 no inquiries of anyone?

3 A That is correct --

4 Well, now, after being questioned probably
5 a number of times by reporters I'm sure I discussed it with
6 members of our staff to determine whether or not they were
7 aware of it and to what extent if at all they had anything
8 to do with the story.

6 fls. 9 But other than that, no, I did not discuss it.

1 Q Did you call Mr. Caballero, or Mr. Caruso and
2 bawl them out?

3 A I doubt it.

4 No, I don't believe I did.

5 MR. KEITH: I have nothing further.

6 Thank you.

7 THE COURT: Mr. Kanarek?

8 MR. KANAREK: Yes, your Honor.

9 THE COURT: We will take our recess at this time,
10 Mr. Kanarek.

11 Ladies and gentlemen, do not converse with any-
12 one or form or express any opinion regarding penalty until
13 that issue is finally submitted to you.

14 The Court will recess for 15 minutes.

15 (Recess.)

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

18 You may continue, Mr. Kanarek.

19 MR. KANAREK: Thank you.

20
21 CROSS-EXAMINATION

22 BY MR. KANAREK:

23 Q Mr. Younger, just before we adjourned for the
24 recess, you stated something to the effect that this is one
25 of the reasons you were opposed to the gag rule, because of
26 what happened in the Los Angeles Times; right?

1 MR. BUGLIOSI: That is a misstatement.

2 THE COURT: It is also irrelevant.

3 Sustained.

4 MR. KANAREK: Q Well, Mr. Younger, how do you
5 know that someone from the District Attorney's Office did
6 not place that article in the Los Angeles Times?

7 A I don't.

8 Q When you say that defense attorneys can --
9 the conduct of certain people is one of the reasons that
10 you were against the gag rule --

11 A I didn't say anything even remotely approaching
12 what you just said.

13 Q What is the reason? You stated you are
14 opposed to the gag rule, Mr. Younger; right?

15 A Yes, sir.

16 Q And you were opposed to the gag rule -- your
17 personal opposition to the gag rule has found itself, in
18 this case, to the extent that you authorized weekly press
19 releases for this case and this case alone; am I correct?

20 MR. BUGLIOSI: Ambiguous, irrelevant.

21 THE COURT: Sustained.

22 MR. KANAREK: Q Did you, Mr. Younger, initiate,
23 on December 15th, 1969, from yourself, a memorandum where
24 you said, because of the expressed interest by the media
25 in the Tate-La Bianca cases, the office of the Los Angeles
26 County District Attorney has begun the issuance of

1 summaries in connection with the case?

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

3 THE COURT: Sustained.

4 MR. KANAREK: Q Now, Mr. Younger, did Mr. Ronald
5 Einstoss give the Los Angeles Times the Susan Atkins'
6 story?

7 MR. BUGLIOSI: Calls for a conclusion.

8 THE COURT: Sustained.

9 MR. KANAREK: Q Do you know, Mr. Younger, whether
10 or not -- you know Ronald Einstoss; right?

11 A Yes, sir.

12 Q He has an office -- the Los Angeles Times,
13 through him, has an office inside the gate of your office;
14 right? You have to get permission to get in there; right?
15 Somebody has to press a buzzer before you can walk into
16 the place where Ronald Einstoss has his office; right?

17 A Yes, sir.

18 Q And directing your attention, then, to
19 Mr. Einstoss, have you discussed the Susan Atkins' story
20 that appeared in the Los Angeles Times with Mr. Einstoss?

21 MR. BUGLIOSI: Irrelevant.

22 THE COURT: Sustained.

23 MR. KANAREK: Q Do you know, Mr. Younger,
24 whether or not Ronald Einstoss, in deliberate violation of
25 the court order and with the connivance of the District
26 Attorney's Office of Los Angeles County, saw to it that the

1 Susan Atkins' story was placed in the Los Angeles Times
2 for publication on or about December 14, 1969?

3 MR. BUGLIOSI: Assumes facts not in evidence.

4 MR. KANAREK: I am asking if he knows, your Honor.

5 THE COURT: It is also compound and it is irrelevant,
6 Mr. Kanarek.

7 Sustained.

8 Do you have any further examination?

9 MR. KANAREK: Your Honor says it's irrelevant?

10 THE COURT: Yes.

11 The objection is sustained.

12 Let's get on with the examination.
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1 BY MR. KANAREK:

2 Q Now, Mr. Younger, you have a copy of the memo
3 that you brought to court with you; right?

4 A Yes, sir.

5 Q May I see it, sir?

6 A Yes, sir.

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

9 THE COURT: You may.

10 (Mr. Kanarek approaches the witness and the
11 witness gives him a document.)

12 MR. KANAREK: May I take these back with me?

13 THE WITNESS: Yes, sir.

14 BY MR. KANAREK:

15 Q Now, in connection with this case, Linda
16 Kasabian was also -- there were discussions about her being
17 given immunity; correct?

18 MR. BUGLIOSI: Irrelevant.

19 MR. KANAREK: Your Honor, this is the absolute
20 discretion of the jury, and we have a right to go into these
21 matters.

22 We do not know what the jury may consider --

23 THE COURT: The objection is sustained.

24 BY MR. KANAREK:

25 Q Now, is it a fair statement that you are a
26 personal friend, Mr. Younger, of Paul Caruso?

1 A Yes, sir.

2 Q And you have been a personal friend of Paul
3 Caruso's for how many years?

4 A I have forgotten. I guess 15.

5 Q 15 years?

6 A Yes.

7 Q And you and he have gone to each other's homes
8 and are presently on a social basis?

9 MR. BUGLIOSI: Irrelevant.

10 THE COURT: Sustained.

11 MR. KANAREK: May I make an offer of proof, your
12 Honor?

13 THE COURT: It is not necessary, Mr. Kanarek.

14 BY MR. KANAREK:

15 Q Through Mr. Caruso, is it a fair statement that
16 you have come to know Mr. Caballero?

17 MR. BUGLIOSI: Irrelevant.

18 THE COURT: Overruled.

19 You may answer.

20 THE WITNESS: I know Mr. Caballero. I don't recall
21 if it was through Mr. Caruso.

22 I think I knew Mr. Caballero before he ever
23 became associated with Mr. Caruso.

24 BY MR. KANAREK:

25 Q And so, Mr. Caballero became known to you
26 when he was in the District Attorney's office?

1 A Yes.

2 Q And you were the District Attorney of Los
3 Angeles County when Mr. Caballero was a Deputy District
4 Attorney in the District Attorney's office?

5 A Yes, sir.

6 Q And Mr. Caballero and Mr. Caruso, then, it is
7 a fair statement, is it not, are friends of yours, both of
8 them; right?

9 A Yes, sir.

10 Q Now, directing your attention, then, as any
11 of us may, you certainly like to see your friends do well;
12 is that a fair statement?

13 MR. BUGLIOSI: This is irrelevant, your Honor.

14 THE COURT: Sustained.

15 BY MR. KANAREK:

16 Q Now, does it strike you --

17 Now, Mr. Younger, in your duties as District
18 Attorney of Los Angeles County, what could be a greater
19 responsibility than deciding whether the District Attorney's
20 office asks for life or death?

21 That is a very big duty; right?

22 MR. BUGLIOSI: Ambiguous and irrelevant.

23 THE COURT: Sustained.

24 BY MR. KANAREK:

25 Q Well, your state of mind is such that you
26 consider, certainly, that whether or not the District

1 Attorney asks for the death penalty in a case is of such
2 magnitude that you, yourself, make the decision; right?

3 A Yes, sir.

4 Q And you tell us that despite the magnitude and
5 the importance of that decision, you can point to no
6 memoranda, no writing, no concrete evidence, tape recording,
7 or anything, that can point out to us the time when you
8 decided to ask for the death penalty for Susan Atkins?

9 MR. BUGLIOSI: Argumentative.

6b fls. 10 THE COURT: Sustained.

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Q BY MR. KANAREK: Can you point out to us, Mr. Younger, anything by way of a writing, or a recording, anything other than just the oral conversation sort of type of evidence?

MR. BUGLIOSI: Ambiguous, your Honor. Also asked and answered.

MR. KANAREK: I haven't finished, your Honor.

Q Can you point out to us anything by way of a tape recording or a writing wherein this momentous and important decision is laid out?

A No, sir.

Q And is there some reason for that, Mr. Younger?

A One is that I didn't check the files of the District Attorney's Office.

I already indicated I assume there is a memorandum from one of the deputies. I have repeated that several times when counsel examined me.

But can I point to it? Do I have a copy of it? Do I recall the date? Do I know whether it is one or two or three pages long? No, no, no.

Q And you also, I guess it is a fair statement, Mr. Younger, don't know if it even exists; right?

A I am not certain. That is a fair statement.

Q That it even exists?

A That is correct.

Q So, you cannot tell us in this courtroom here

1 whether or not, in fact, you ever made an administrative
2 decision changing the arrangement that was made that day
3 when you, Mr. Caballero, Mr. Caruso, Mr. Stovitz, and
4 Mr. Bugliosi were together in your office in this building?

5 A That is not so.

6 I did make the decision. I have said
7 repeatedly I made it. I still say I made it.

8 Q But you are telling us, as you look into the
9 back of your mind, you are telling us that you cannot say
10 for sure that you ever made a decision? You are only
11 saying that it must have happened or it could have happened
12 or certainly it happened, but you are not saying that it,
13 in fact, happened?

14 MR. BUGLIOSI: That is a misstatement, your Honor.

15 MR. KANARSK: I am asking him.

16 MR. BUGLIOSI: It is repetitive.

17 MR. KANARSK: I am asking him.

18 THE COURT: It is posed as a question.

19 You may answer.

20 THE WITNESS: I hate to do this, but could I please
21 have the question read back?

22 THE COURT: Read the question.

23 (The question was read by the reporter.)

24 THE WITNESS: No, I am not telling you that.

25 MR. KANARSK: Well, then, Mr. Younger, your answer
26 to that question is no, you are not telling me that? Is

1 that your answer to that last question?

2 A That is exactly what I answered, yes, sir.

3 Q All right.

4 Then, as you look into your mind, Mr. Younger,
5 you are telling us that you remember that at some point in
6 time you made the decision that Susan Atkins would not get
7 the benefit of the Deputy District Attorney's handling
8 this case requesting of the jury that there not be death?

9 A I made the decision at some point that the
10 prosecution would seek the death penalty.

11 Q And you remember that you made that decision
12 and you told somebody of that decision; right?

13 A Obviously.

14 I don't remember who I told or when, but
15 apparently the deputies found out about it.

16 Q Or where; right?

17 A Correct.

18 Q Well, in other words, you are saying that
19 only because of the fact that we are still in this trial
20 and Mr. Bugliosi and Mr. Kay and Mr. Musich are still
21 asking for the death penalty?

22 MR. BUGLIOSI: Argumentative.

23 MR. KANAREK: Is that the only reason that you are
24 saying that?

25 Is that right?

26 MR. BUGLIOSI: Argumentative.

1 THE COURT: Overruled.

2 You may answer.

3 THE WITNESS: No, sir.

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MR. KANAREK: I see.

Q In other words, there was no question in your mind that at some time you told somebody this; right?

A There isn't the slightest question in my mind.

Q I see.

Then, if you can't tell us the time or who was present or where it occurred, can you give us, can you orient it to us in connection with some events?

A I don't know what the weather was like, I don't know whether it was in the spring or fall or winter, I don't know what time of the day or night, what floor of the Hall of Justice it was on, if it was even in this building. No.

Q May I ask you, Mr. Younger, did it occur when Susan Atkins had the temerity to change lawyers from Mr. Caballero and Mr. Caruso to Mr. Shinn?

Is that the time that it occurred, when your friends no longer were representing Susan Atkins?

MR. BUGLIOSI: Argumentative.

MR. KANAREK: May I ask you if that is a circumstance that made you change your mind?

MR. BUGLIOSI: Argumentative.

THE COURT: Overruled.

You may answer.

THE WITNESS: May I answer the last question first?

That is the only thing, the last sentence is

6c-2

1 the only thing that seems to me to be a question.

2 Is that what you want me to answer?

3 MR. KANAREK: I just want you to answer my question.

4 If it is not clear, Mr. Younger, I will be glad
5 to reframe it, but I would like an answer to the complete
6 question.

7 If you can't answer, if you want me to
8 rephrase it, I will be more than glad to.

9 THE COURT: The question is actually compound, Mr.
10 Kanarek.

11 Reframe the question.

12 MR. KANAREK: Yes.

13 Q Does it refresh your recollection, Mr. Younger,
14 does it refresh your recollection as to the time when you
15 decided that Susan Atkins should not get the death penalty,
16 does it refresh your recollection that it occurred on or
17 about the time that Susan Atkins substituted Mr. Daye Shinn
18 for Mr. Caruso?

19 A You see, the problem is, you ask "Does it
20 refresh my recollection as to the time when I decided she
21 should not get the death penalty."

22 If you would leave out the preliminaries,
23 Mr. Kanarek, I can answer it.

24 I have never decided she should not get the
25 death penalty, sir.

26 Please ask one question at a time and I will

6c-3

1 answer it.

2 Q Well, at the conference in your office, you
3 decided that she wouldn't get the death penalty; right?

4 A Correct.

5 Q So, therefore, when you say that you never
6 decided that she wouldn't get the death penalty, that is not
7 true, that is not so, because at that point you decided that,
8 conditioned upon certain things taking place, she would not
9 be given the death penalty; right?

10 A No, I never decided that.

11 The only decision I ever made was as to whether
12 or not we would seek the death penalty.

13 Obviously, it is not within my control as to
14 whether she gets the death penalty.

15 Q The District Attorney's office has an awful lot
16 to say about it; right?

17 A I hope so.

18 Q And you are experienced as a man who has been
19 a prosecutor for many years; your experience has been that,
20 overwhelmingly, jurors do not bring in the death penalty
21 when the prosecutors do not seek it.

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

23 MR. KANAREK: I am asking him. We are talking about
24 the agreement, your Honor. We are talking about what
25 happened.

26 THE COURT: The objection is sustained.

1 BY MR. KANAREK:

2 Q Mr. Younger, are you playing with words with me
3 when you say that you were not seeking the death penalty?

4 MR. BUGLIOSI: That is irrelevant and argumentative.

5 THE COURT: Sustained.

6 MR. KANAREK: Well, then, may I ask you, Mr. Younger,
7 may I attempt to refresh your recollection, if I point out
8 to you the time, whenever it may have been, in 1970, when
9 Mr. Shinn became the lawyer for Susan Atkins.

10 Q Was that about the time that you made the
11 decision that she would not be, as you put it, you wouldn't
12 seek the death penalty?

13 MR. BUGLIOSI: Irrelevant. Repetitive.

14 MR. KANAREK: He hasn't answered it, your Honor.

15 THE COURT: Overruled.

16 You may answer.

17 THE WITNESS: May I ask to have the question?

18 THE COURT: Read the question.

19 (The question was read by the reporter.)

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6D 1 THE WITNESS: We decided that under certain circum-
2 stances we would not seek the death penalty prior to the
3 time she testified before the Grand Jury.

4 Apparently, contrary to your question, it was
5 after Mr. Shinn became the attorney at some point that we
6 decided we would seek the death penalty.

7 You are asking me, did the change of lawyers
8 have anything to do with our decision?

9 The answer is no.

10 Q BY MR. KANAREK: Well, you, in your answer just
11 now, you said there were certain circumstances.

12 What are these circumstances, Mr. Younger, that
13 you are referring to in your last answer?

14 A They are in the memorandum. The circumstances
15 under which we agreed not to seek the death penalty.

16 Q And you say that you came to this agreement
17 before you ever met Mr. Caruso and Mr. Caballero with
18 Mr. Stovitz and Mr. Bugliosi in your office.

19 Did you decide on those circumstances before
20 you had that meeting?

21 A No.

22 Q Then you are saying that these circumstances
23 are circumstances that you don't recall right now; is
24 that it? You need the memo to tell us what they are?

25 A Oh, I have an independent recollection of a
26 portion of what occurred.

1 I didn't recall, obviously, the date and time,
2 and so forth, without the memorandum.

3 I know we had a conversation and the gist of
4 the conversation and the agreement.

5 Q All right.

6 Would you tell us, what is your independent
7 recollection of the circumstances?

8 MR. BUGLIOSI: It has been asked and answered, your
9 Honor.

10 MR. KANAREK: He hasn't answered it, your Honor.

11 THE COURT: You may answer.

12 THE WITNESS: I recall that I discussed with my
13 deputies and with the gentlemen who identified themselves
14 as attorneys for Miss Atkins the possibility of her
15 testifying before the Grand Jury as a witness for the
16 prosecution, and we agreed that if she did so truthfully,
17 we would not seek the death penalty.

18 We further agreed that under no circumstances
19 would we seek immunity.

20 That is the gist of the conversation.

21 Q And at this meeting it was decided that the
22 District Attorney's Office, as you put it, would decide
23 what was truthful and what wasn't truthful?

24 A Yes.

25 Q Now, then, have you ever read the Grand Jury
26 transcript?

1 A No. Maybe portions of it. Not all of it.

2 Q I see.

3 Have you ever read Susan Atkins' testimony?

4 A No, sir.

5 Q Then, will you tell us, if you have never read
6 her testimony, how did you decide to make the decision
7 that she would not get the benefit of your office not
8 seeking the death penalty?

9 A I have indicated that although I don't remember
10 times, dates, places and parties present, that I am certain
11 there were a number of discussions and conferences with
12 Mr. Bugliosi, Mr. Stovitz, and other members of our staff,
13 at which time they reviewed the testimony and the evidence
14 and pointed out wherein they felt she had not been truthful
15 before the Grand Jury.

16 I am certain that I probably said, "Show me,"
17 and that at several times during the course of these
18 conferences they would refer to certain portions of the
19 testimony and certain other portions of witnesses, and
20 that as a result of one or more conferences they persuaded
21 me and I was convinced that she had not testified truth-
22 fully, in my words earlier, the truth, the whole truth,
23 and nothing but the truth, and that I, therefore, told them
24 we would seek the death penalty.

7-1

1 Q And you remember that these various conversa-
2 tions took place, but you don't know when, where and who
3 the people were that were present, is that it?

4 A Yes, sir, that's right.

5 Q You don't remember?

6 A Yes, sir, that's right.

7 Q When you say that, you mean you do not
8 remember?

9 A I mean your statement is correct.

10 Q All right.

11 In other words, you don't have any memoranda
12 of any --

13 A I may have, I did not say that.

14 Q You may have some memoranda of these meetings
15 that you are speaking of?

16 A Yes, sir.

17 Q All right, would you tell us when was it, if
18 we use -- if we use the Grand Jury testimony of, let's say,
19 December 5th -- December 8th, about that period of time,
20 as a beginning point, Mr. Younger, would you tell us about
21 what time was it that you had a first sort of change of mind
22 or change of heart concerning Susan Atkins?

23 MR. BUGLIOSI: This has been asked and answered, your
24 Honor.

25 THE COURT: Sustained.
26

7-2

1 BY MR. KANAREK:

2 Q And would you tell us then -- I will withdraw
3 that.

4 Is it a fair statement, then, that in connection
5 with this matter of seeking life or death, you made this
6 decision based only upon representations by people in your
7 office as to what Susan Atkins said at the Grand Jury and
8 not upon any personal perusal or study by you, right?

9 A No, I think I indicated that I undoubtedly
10 reinforced my conclusions based upon their oral representa-
11 tions by reading portions of the transcript.

12 But I said on several occasions that I don't
13 recall what pages I read, where I was sitting when I read
14 them, or even that I was sitting down.

15 I don't recall the date, the time, the place.

16 But I am sure I would base my conclusions on
17 the transcript, and the recommendations and statements as
18 to the evidence.

19 Q You are not even sure that you ever read this
20 transcript, are you?

21 A I said I did not read the entire transcript.
22 I am reasonably certain that I read portions of it.

23 Q Well, I have here the transcript --

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

25 THE COURT: For what purpose?

26 MR. KANAREK: To show him the transcript.

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1 THE WITNESS: I know there is a transcript, and I will
2 take your word for it that that is it.

3 BY MR. KANAREK:

4 Q I would like to have you point out for me the
5 portions of the transcript that you did read, if any?

6 THE COURT: That would be too time consuming, unless
7 he knows specifically now.

8 BY MR. KANAREK:

9 Q Maybe this will refresh your recollection.

10 A No, I don't recall. You could show it to me;
11 I won't recognize any page, line or sentence.

12 It would not refresh my recollection.

13 Q You are sure of that, and you are declining
14 my offer?

15 A I will thumb through the pages if you tell me
16 to, and if the judge will permit.

17 THE COURT: How long is it?

18 MR. BUGLIOSI: Over 300 pages.

19 I object, too time consuming.

20 THE COURT: The objection is sustained.

21 MR. KANAREK: Your Honor, maybe he won't have to read
22 the whole 300 pages, I'm not asking him to, I am just
23 attempting to refresh his recollection by showing him this
24 document.

25 I am not asking him to sit there and read
26 every line of it any more than any other witness in this

1 court was asked to sit and read every line of something.

2 THE COURT: The objection is sustained.

3 It is unduly time consuming. He has indicated
4 he does not know what portions of the transcript he read.

5 BY MR. KANAREK:

6 Q Now, at the time, Mr. Younger, that you made
7 this decision, you were engaged in a heated political
8 campaign, is that right?

9 MR. BUGLIOSI: It is irrelevant.

10 MR. KANAREK: It goes to his state of mind, your
11 Honor.

12 THE COURT: Sustained.

13 BY MR. KANAREK:

14 Q Well, is it a fair statement, Mr. Younger, that
15 the District Attorney's office is a political office?

16 MR. BUGLIOSI: Irrelevant.

17 THE COURT: Sustained.

18 BY MR. KANAREK:

19 Q Now, did Mr. Bugliosi ever tell you, Mr. Younger,
20 that Susan Atkins testified substantially truthfully at the
21 Grand Jury?

22 A I don't believe so.

23 Q He never told you that?

24 A I don't believe so.

25 Q I see.

26 Do you mean he may have told you that?

1 A I don't think so.

2 Q You don't think that he did?

3 A That's correct, I don't think that he did.

4 Q Your state of mind is --

5 Would you tell us what is your recollection
6 as to what Mr. Bugliosi told you concerning the truthfulness
7 of Susan Atkins' testimony.

8 A He said she lied.

9 Q He said she lied to the Grand Jury?

10 A He said -- that is not the right word, he did
11 not think she lied.

12 He said that she did not testify truthfully
13 before the Grand Jury, and then pointed out areas in which
14 he felt she did not.

15 Q I see, and then would it be productive to show
16 you the transcript, and maybe these areas may come to your
17 mind?

18 MR. BUGLIOSI: Same objection.

19 THE COURT: Sustained.

20 BY MR. KANAREK:

21 Q Did Mr. Stovitz tell you that Susan Atkins
22 did not testify truthfully before the Grand Jury?

23 A Probably.

7a fls. 23

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1 Q And will you tell us what you recall Mr.
2 Stovitz telling you concerning Susan Atkins truthfulness
3 or lack of it before the Grand Jury?

4 A I cannot tell you any more than I already have.
5 Do you want me to tell you again?

6 Q No, but Mr. Stovitz is a different person from
7 Mr. Bugliosi.

8 A Yes, but I indicated a long time ago -- well,
9 some moments ago that I did not recall precisely
10 whether or not I had the conversation with Mr. Bugliosi
11 and Mr. Stovitz, or Mr. Stovitz, the time, place and so
12 forth.

13 I normally held any conversation in connection
14 with this case with both Mr. Stovitz and Mr. Bugliosi
15 present at the same time.

16 Q So then I will ask you the question, and you
17 may answer it:

18 What did Mr. Stovitz tell you about the
19 truthfulness or lack of truthfulness of Susan Atkins at the
20 Grand Jury?

21 MR. BUGLIOSI: Asked and answered.

22 THE COURT: Overruled, you may answer.

23 THE WITNESS: Mr. Stovitz or Mr. Bugliosi or
24 both, on one or more occasions, told me that they did not
25 believe that she had testified truthfully before the
26 Grand Jury.

1 They gave me their reasons with references to
2 evidence in the transcript, and their recommendation, and I
3 approved.

4 Q I see, and would you tell us the date, time,
5 who was present, the places where these conversations
6 occurred with yourself, Mr. Stovitz, and Mr. Bugliosi.

7 MR. BUGLIOSI: Asked and answered ad nauseum, your
8 Honor.

9 THE COURT: Sustained.

10 Q BY MR. KANAREK: Is it a fair statement,
11 Mr. Younger, you cannot tell us one date, place and who
12 was present?

13 MR. BUGLIOSI: Asked and answered.

14 THE COURT: Sustained.

15 Q BY MR. KANAREK: Mr. Younger, prior to the
16 meeting of December 4, 1969, prior to that meeting had you
17 viewed the evidence in this case?

18 MR. BUGLIOSI: That would be irrelevant, your Honor.

19 MR. KANAREK: It goes to his state of mind, your
20 Honor. This is very relevant.

21 THE COURT: The objection is sustained.

22 Q BY MR. KANAREK: Well, upon what basis, then,
23 Mr. Younger, upon what basis did you choose Susan Atkins
24 to be given this benefit as opposed to Charles Manson?

25 A You mean the benefit of our agreeing not to
26 seek the death penalty?

1 Q Yes, Mr. Younger.

2 A She had been considerably more talkative at
3 that point than Charles Manson and she had given infor-
4 mation to the police, which was admittedly helpful.

5 Mr. Manson had not, at that time I don't
6 believe any of the other defendants had.

7 It appeared that her testimony at that time was
8 very important.

9 That is why we made concessions, that in return
10 for her truthful testimony before the Grand Jury we would
11 not seek the death penalty.

12 We were at that time not in a position to
13 offer such inducement to any other person who had knowledge
14 of the case.

15 Q Well, did you think that if all of the lawyers
16 -- with all the lawyers in Los Angeles County, that it was
17 unusual that your friend, Mr. Caruso, was her lawyer?

18 Did that strike you as unusual?

19 A Not in the least.

20 Q I see. And now you authorized --

21 A Excuse me. I just hate to have you leave the
22 impression that he is the only lawyer in town that is my
23 friend, though, when in reference to my friend.

24 He is one of a number of lawyers in this town
25 that I consider my friends.

26 Q Now, you authorized these weekly news releases,
right?

1 MR. BUGLIOSI: It's irrelevant, your Honor.

2 THE COURT: Sustained.

3 Q BY MR. KANAREK: Did you --

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

5 THE COURT: You may.

6 Q BY MR. KANAREK: I show you this, what is called
7 "News Release," dated December 25, 1969, and I ask you
8 would you read over this portion here where it states --

9 MR. BUGLIOSI: Time-consuming, irrelevant, your
10 Honor.

11 MR. KANAREK: How could he tell unless I ask the
12 question?

13 THE COURT: Wait for the question.

14 Q BY MR. KANAREK: "Stovitz, who along with
15 Deputy District Attorney" --

16 THE COURT: You are not going to read it into the
17 record now, Mr. Kanarek.

18 Are you asking Mr. Younger a question?

19 MR. KANAREK: Yes, your Honor.

20 THE COURT: Complete the question.

21 MR. KANAREK: All right.

22 Q BY MR. KANAREK: Mr. Younger, did you
23 authorize Mr. Stovitz and Mr. Bugliosi to say that
24 there was no deal on December the 25th, 1969 in connection
25 with Miss Susan Atkins?

26 Did you authorize that to be released to the

1 world?

2 Would you read this, please, and tell me, did
3 you authorize that?

4 (Witness complies.)

5 A I did not authorize that particular statement,
6 but I did authorize the issuance of weekly news summaries.

7 Q I see --

8 A Excuse me just a second.

9 Q Certainly.

10 A You are reading a statement that came out of
11 one of the daily newspapers. Are you aware that is what
12 you are reading?

13 Q I certainly am.

14 A All right, okay.

7b

7b-1

1 Q I certainly am.

2 And this was distributed by Mr. Littman who was
3 an employee of the District Attorney's office, and it was
4 distributed with your permission, in fact with your name,
5 Evelle Younger right on this news release, right?

6 A Yes, sir.

7 Q And, so, my question is, did you authorize that
8 statement? It is your news release?

9 MR. BUGLIOSI: It's ambiguous, your Honor.

10 THE COURT: May I see it?

11 MR. KANAREK: Certainly, your Honor.

12 THE WITNESS: I repeat I did not, your Honor.

13 That is a statement by a reporter and it was
14 repeated in the weekly summary which is generally what the
15 summary consisted of, a summary of what appeared in the
16 daily press.

17 BY MR. KANAREK:

18 Q Then it is your statement that this statement
19 of December 25th, 1969, that was in the newspaper release
20 office of the District Attorney, that that is incorrect?

21 A If you think it is proper to categorize our
22 agreement with the defendants' attorneys on December 4th as
23 a deal, then that statement is incorrect.

24 Q You categorized it, Mr. Younger, as a deal?

25 A I don't think it is a very good word.

26 But we did agree not to seek the death penalty,

7b-2

1 and if you think it is a good word, then that is an
2 incorrect statement.

3 Q No, Mr. Younger, I'm asking you if you say that
4 is a good word.

5 You are the one that is testifying.

6 A No, I think it is a terrible word. I think it
7 is an awful word.

8 Q I see. Well, then, what would you prefer to
9 call it, an arrangement?

10 A I would prefer that word, an agreement is what
11 it amounted to

12 Q Well, may I ask you then, how would you
13 categorize it, you use your word, Mr. Younger?

14 A I just did.

15 Q An agreement?

16 A Yes.

17 MR. BUGLIOSI: Your Honor, may we approach the bench?

18 THE COURT: Very well.

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

21 MR. BUGLIOSI: I realize this takes up the time
22 itself, but we don't seem to be going anywhere and there is
23 ten more minutes.

24 Is it possible for the Court to advise Mr.
25 Kanarek to try to finish up his questions by noon?

26 Mr. Younger had a meeting this morning which he

7b-3

1 had to cancel.

2 This afternoon he also has meetings.

3 If Mr. Kanarek were going into relevant areas,
4 that is one thing.

5 THE COURT: He has a right to examine or cross-
6 examine, whatever this is at the moment, with regard to this
7 so-called agreement.

8 However, Mr. Younger is not on trial for being
9 a politician.

10 We are not concerned with violations of the
11 publicity order here.

12 This is not a contempt hearing, so let's not
13 get into extraneous matters. Those may all be relevant
14 matters in some other hearing, but not this one.

15 Don't waste time, Mr. Kanarek, by doing that.

16 If you have some relevant examination with
17 respect to the issues of this case, this is the penalty
18 phase, if any arrangement was made, as apparently there
19 was, with Miss Atkins and her attorney, you certainly have
20 the right to go into that.

21 But let's not waste time going off into
22 extraneous matters.

23 MR. BUGLIOSI: In other cases the Court has told Mr.
24 Kanarek to cease by a certain time.

25 THE COURT: I cannot say that he has exhausted his
26 lines of inquiry.

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I am saying he is wasting his time on an

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irrelevant matter.

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

3 Q BY MR. KANAREK: Has it been your experience,
4 Mr. Younger, that a person who is being given a benefit,
5 such as that which we are discussing here, that that
6 person is severed from other defendants --

7 MR. BUGLIOSI: It's irrelevant.

8 THE COURT: Overruled, you may answer.

9 Did you understand the question, Mr. Younger?

10 THE WITNESS: No.

11 THE COURT: Reframe the question.

12 Q BY MR. KANAREK: Has it been your experience
13 as a prosecutor that when a person is being given the
14 benefit that we are discussing --

15 A Excuse me, that is what confuses me.

16 The prosecution is seeking the death penalty.

17 Now, do you consider that a benefit?

18 Q I am talking about the arrangement where the
19 prosecution is not seeking the death penalty.

20 A But we are, the prosecution is.

21 Q Now.

22 A Right, from the onset of the trial so far as
23 I know, so if you are talking about severance, you are
24 presumably talking about when the trial started, and since
25 the trial started -- correct me if I am wrong, your Honor --
26 I believe the prosecution has consistently indicated they

1 were going to seek the death penalty.

2 So what benefit are you talking about?

3 Q BY MR. KANAREK: Mr. Younger, I am talking
4 about the benefit that is purportedly reflected, at least
5 in part, by this confidential memorandum dated December 4,
6 1969, a copy of which you just handed me a few minutes ago.

7 That is what I am talking about.

8 A What is your question?

9 Q My question is, has it been your experience
10 that when such an arrangement occurred, such a benefit
11 occurred, that the prosecution seeks to sever the
12 defendant getting the benefit from the other defendants?

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1 MR. BUGLIOSI: Ambiguous, and it is irrelevant.

2 THE COURT: Do you understand the question?

3 THE WITNESS: Yes, sir.

4 THE COURT: You may answer.

5 THE WITNESS: Not under the circumstances in this
6 case.

7 If the decision had never been made to seek the
8 death penalty, I presume that it might well have been the
9 prosecution's -- they might well have sought to sever.

10 BY MR. KANAREK:

11 Q Have you read this memo, Mr. Younger?

12 A Yes, sir.

13 Q Did you read the paragraph that is numbered 2:

14 "In view of her past cooperation, and in the
15 event that she testifies truthfully at the Grand Jury,
16 the prosecution will not seek the death penalty
17 against her in any of the three cases that are now
18 known to the police, namely, the Hinman murder,
19 the Sharon Tate murders, and the La Bianca murders."

20 I s that right?

21 A I read that, yes, sir.

22 Q So, therefore, that was the arrangement that
23 was made?

24 I mean, there is no question but that, at this
25 point, assuming she testified truthfully the next day, and/or
26 the 8th of December, 1969, there was the arrangement that she,

1 as to her, you would not seek the death penalty.

2 There is no question about that, is there?

3 A No, sir.

4 Q So at some point, at some point in time, Mr.
5 Younger, notwithstanding your inability to recollect certain
6 matters such as time, date, place, and so forth, notwith-
7 standing that, at some time, it is a fair statement that
8 the District Attorney's office was of the mind not to seek
9 the death penalty; is that true?

10 A That is a fair statement. That is true.

11 Q All right.

12 Now that we have narrowed it down that closely,
13 Mr. Younger --

14 A We were narrowed down there a long time ago.

15 Q All right.

16 So, there was a time, a point in time, when
17 the District Attorney was not seeking the death penalty.

18 Now, would you tell me, would you give me some
19 inkling of what caused the change so that Susan Atkins right
20 now is before these ladies and gentlemen on the jury and we
21 are here in this courtroom and they are seeking the death
22 penalty?

23 MR. BUGLIOSI: It has been asked and answered.

24 MR. KANAREK: It hasn't, your Honor.

25 THE COURT: You may answer.

26 The objection is overruled.

1 THE WITNESS: At some point, possibly on the basis of
2 one conference but probably on the basis of more than one,
3 with Mr. Bugliosi or Mr. Stovitz or both, and probably
4 supported by references to the transcript, I made the
5 decision, based upon the recommendation that she had not
6 testified truthfully and that we, therefore, would seek the
7 death penalty.

8 MR. KANAREK: All right.

9 Q Now, as chief law enforcement officer of the
10 State of California -- that is what you are as Attorney
11 General; is that right?

12 A Chief law officer.

13 Q All right. Chief law officer.

14 A Yes, sir.

15 Q Of the State of California.

16 I am asking you, Mr. Younger, you used a lot
17 of "probables" in your testimony, and I am asking you --
18 this is serious business that we have here -- is it within
19 the realm of probability, since you are saying "probably"
20 to a lot of these questions, that maybe, maybe, you were
21 ill advised?

22 Do you know?

23 A First, as to why I use a lot of "probables."
24 I don't want to pretend to have an independent recollection
25 when I don't have. And since, when I answer you, I say I
26 don't remember time, dates and places, and you pursue it,

1 then I must say, honestly, as to what occurred is the basis
2 of my frequent use of "probably," because I don't want to
3 state as a fact something that I don't recall as a fact.

4 Now, as to whether or not I was ill advised,
5 the District Attorney's office files a hundred and forty
6 thousand -- give or take a few -- criminal cases a year.
7 The District Attorney makes thousands of decisions. In
8 each case, part of his decision, or his decision, is based
9 in part upon the recommendation of his staff. There are
10 425 lawyers in the office.

11 It is always theoretically possible that the
12 District Attorney is ill advised.

8a fls.

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Q This is certainly a different case.

In how many of those 140,000 cases do you issue weekly news releases concerning that one case alone?

MR. BUGLIOSI: Irrelevant.

MR. KANAREK: It just doesn't happen; right?

THE COURT: Sustained.

Counsel approach the bench, please.

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

THE COURT: It is 12:00 o'clock, Mr. Kanarek.

What is your situation as far as the examination of the witness?

MR. KANAREK: What does your Honor mean?

THE COURT: How much more do you have?

MR. KANAREK: I have quite a bit more, your Honor.

THE COURT: Now, bearing in mind what I said about irrelevancy and confining yourself to relevant lines of inquiry, are you telling me that you have a substantial amount of examination left?

MR. KANAREK: Yes, your Honor.

MR. BUGLIOSI: There is the agreement and there is the book. What else could you inquire of him that is relevant in this case that Mr. Fitzgerald or Mr. Shinn hasn't gone into?

What else is there? It is the agreement and

1 the book. There is nothing else.

2 He has had nothing else to do with the case.

3 THE COURT: I find it difficult to see how you have
4 substantial more examination.

5 MR. KANAREK: Well, your Honor, I do.

6 MR. BUGLIOSI: In what areas?

7 MR. KANAREK: Your Honor, I am answering the Court.

8 THE COURT: I have to take Mr. Kanarek's word. He
9 is the lawyer that is examining the witness. I am not going
10 to foreclose his examination as long as he has relevant
11 lines of inquiry.

12 I assume that you are acting in good faith.

13 MR. KANAREK: I certainly am.

14 THE COURT: And not just trying to harass the
15 witness and trying to hold him over.

16 MR. KANAREK: I certainly am not.

17 THE COURT: I can't imagine what could be accomplished
18 by that.

19 We will recess until 1:45.

20 MR. FITZGERALD: Could we enter into some stipulations?

21 MR. BUGLIOSI: Possibly.

22 THE COURT: About what?

23 MR. FITZGERALD: About his testimony.

24 MR. BUGLIOSI: Possibly.

25 THE COURT: Well, we can't do it now. It takes time.

26 I am afraid he will just have to come back.

1 MR. BUGLIOSI: All right.

2 (Whereupon, all counsel return to their
3 respective places at counsel table and the following
4 proceedings occur in open court within the presence and
5 hearing of the jury:)

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

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

10 The Court will recess until 1:45.

11 (Whereupon, at 12:02 p.m. the court was in
12 recess.)

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LOS ANGELES, CALIFORNIA, THURSDAY, MARCH 11, 1971

1:53 P.M.

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

You may continue, Mr. Kanarek.

MR. KANAREK: Your Honor, may we approach the bench so I may receive some guidance from the Court, very briefly.

THE COURT: Very well.

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

MR. KANAREK: Your Honor, I would like to urge the Court to allow me to go into the Linda Kasabian immunity for this reason.

We are in the penalty phase and the jury -- we are all agreed there are no guidelines and it is up to the absolute discretion of the jury.

Now, what I suggest to the Court is --

THE COURT: Don't confuse no guidelines to the jury with relevancy to the issues.

They are two different things.

MR. KANAREK: I understand, but since Linda Kasabian was charged with these very murders, I believe that it is relevant and material to argue the equity. In fact, it is done all the time in penalty.

1 THE COURT: The jury knows that she received
2 immunity. There is no question about that; she testified
3 to it.

4 MR. KANAREK: Yes, but the surrounding particulars.
5 There but for the fate of God goes Mr. Manson.

6 In other words, because someone is granted
7 immunity, I think that does not foreclose the surrounding
8 circumstances because the jury is entitled to know.

9 THE COURT: What surrounding circumstances?

10 MR. KANAREK: Whatever the circumstances were that
11 allowed Linda Kasabian to have immunity.

12 And your Honor is now foreclosing me --

13 THE COURT: I don't understand what you are talking
14 about. You examined her at length on the stand as to
15 what the agreement was.

16 MR. KANAREK: She is not Mr. Younger, your Honor,
17 she does not know the conferences --

18 THE COURT: I am not interested in Mr. Younger, why
19 he does it. We know that he did it.
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1 MR. KANAREK: No, your Honor.

2 You see, your Honor, I think that --

3 THE COURT: I disagree with you, Mr. Kanarek. It has
4 no relevance to the issues.

5 MR. KANAREK: May I make the record?

6 I am urging that it is a violation of due
7 process and equal protection under the Fourteenth Amendment,
8 denial of a fair penalty hearing under both the federal and
9 state laws, and denial of effective counsel for your Honor
10 to foreclose this.

11 THE COURT: Be specific when you say "foreclose this,"
12 Mr. Kanarek.

13 MR. KANAREK: Foreclosing finding out what the
14 District Attorney of Los Angeles County, what negotiations
15 he entered into, what his considerations were for allowing
16 Linda Kasabian absolute immunity, to walk out of this court-
17 room, not only with life but with complete freedom.

18 THE COURT: He didn't do that, the Court did that.

19 MR. KANAREK: But this was done at the instigation
20 of the District Attorney's office.

21 Your Honor is the one to rule, but I maintain
22 that this is a denial --

23 THE COURT: Well, I think it is irrelevant.

24 MR. KANAREK: And your Honor has ruled, and your
25 Honor is foreclosing me. I just wanted to make the record.

26 I believe my position is well taken.

10-2

1 MR. FITZGERALD: I would agree with the Court but for
2 Mr. Younger's comments, his adamant comments this morning,
3 about absolutely under no circumstances would Susan Atkins
4 be granted immunity.

5 He was very, very adamant. He volunteered that
6 statement about three times.

7 THE COURT: You can ask him why, if you want to.
8 That is an entirely different question.

9 MR. FITZGERALD: It, in essence, impeaches him if you
10 ask him the question: Well, you testified that you didn't
11 give Susan Atkins immunity, but you certainly petitioned for
12 immunity for Linda Kasabian.

13 THE COURT: I have no idea what his answer would be,
14 but I would suspect that he considered them to be entirely
15 different situations. I don't know.

16 MR. KANAREK: And you would allow me to inquire about
17 Miss Kasabian?

18 THE COURT: As long as he gave that answer, you can
19 ask why.

20 MR. BUGLIOSI: Your Honor, I think Mr. Kanarek is
21 asking about Linda Kasabian.

22 THE COURT: I am not changing my opinion about that.
23 She received immunity. It is a matter of
24 record. You examined her about it ad nauseam from the time
25 she took the stand.

26 There is no question about it. There is no

1 need to go into it.

2 If you want to ask Mr. Younger why under no
3 circumstances would he grant immunity to Susan Atkins -- or
4 whatever his answer was -- go ahead and ask him.

5 MR. KANAREK: Your Honor is foreclosing me? I want
10a fls. to know.

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1 THE COURT: Stop using that word.

2 The only thing that I am doing is saying that
3 I think what you have said is irrelevant as to Linda
4 Kassabian.

5 MR. KANAREK: May I mention her name in questioning
6 Mr. Younger?

7 THE COURT: You understand what I have said. Let's
8 proceed.

9 (Whereupon, all counsel return to their
10 respective places at counsel table and the following
11 proceedings occur in open court within the presence and
12 hearing of the jury:)

13 EVELLE J. YOUNGER,
14 the witness on the stand at the time of the noon recess,
15 resumed the stand and testified further as follows:
16

17 CROSS-EXAMINATION (CONTINUING)

18 BY MR. KANAREK:

19 Q Mr. Younger, you indicated this morning that
20 you deliberately avoided reading, I gather, listening to
21 television, and so forth, as to matters concerning this case.
22

23 Please tell us why.

24 A I don't find it pleasant reading.

25 I read during the course of the day, as part of
26 my official duties, both now as Attorney General, and even

1 more so as District Attorney, a great many unpleasant
2 factual reports that I have to read, and I do that as
3 required by my job.

4 Having done that, it is not my idea of a
5 pleasant postman's holiday to then read about all the
6 stories relating, you know, to brutal and outrageous
7 crimes, and so forth, in the newspaper.

8 There are other things in the newspaper that
9 I'd rather read when I am on my own time and I have no
10 requirement to read it.

11 Q Having in mind you did know that there was
12 this publicity order on December 14, 1969?

13 A Yes, sir.

14 Q And having that Sunday morning Times in front
15 of you right across the top of the front page, did that
16 not intrigue your thinking and did you not wish to see
17 what was there and compare it with the publicity order?

18 MR. BUGLIOSI: Irrelevant and compound.

19 THE COURT: I didn't hear you, Mr. Bugliosi.

20 MR. BUGLIOSI: Irrelevant and compound.

21 THE COURT: Sustained.

22 Q BY MR. KANAREK: Now, you have told us,
23 Mr. Younger, that under no circumstances would Susan
24 Atkins be given absolute immunity; right?

25 A I said that we agreed that we would, under
26 no circumstances, seek immunity for her.

1 I don't think it is quite the same as the way
2 you said it, but maybe it is.

3 Q I am asking you now about yourself.

4 A That is what I said.

5 We, the District Attorney's Office, so long as
6 I had any authority in that office, up until I took a new
7 office, she would never be given immunity.

11

11-1

1 Q Now, you are speaking -- when you say "we,"
2 is that an editorial "we"? You mean "I"?

3 A Well, me, I, the District Attorney would never
4 be a party to recommending immunity.

5 Q All right, and would you tell us why?

6 A Is the judge going to permit me to answer that?

7 THE COURT: Yes, you may answer it.

8 THE WITNESS: Because I think she has been involved in one
9 of the bloodiest most brutal crimes ever perpetrated --

10 DEFENDANT MANSON: Better look at the Vietnam War,
11 Mister.

12 THE WITNESS: -- and I couldn't possibly continue in
13 public office if I was ever a party to her getting immunity.

14 DEFENDANT MANSON: You phony snake!

15 THE COURT: Mr. Manson, if there are any more out-
16 bursts I will have you removed from the courtroom.

17 DEFENDANT ATKINS: You gave it to Linda Kasabian
18 though.

19 BY MR. KANAREK:

20 Q But, Mr. Younger, the fact of the matter is
21 that you personally -- I am now speaking of you personally--
22 you personally did not -- did not -- I will withdraw that.

23 You made a value judgment personally without
24 looking at the raw material as to all of these defendants,
25 is that right?

26 A I made a value judgment about over 100,000

1 cases a year and in most cases I did not examine all of
2 the "raw material."

3 That is why we have 420 lawyers, no one man
4 could.

5 Q But we are speaking of this case, Mr. Younger.

6 A I did not examine, to use your words, all the
7 raw material.

8 Q And in fact, is it a fair statement, Mr.
9 Younger, that you did not evaluate the merits and demerits
10 of each defendant as far as possible immunity went?

11 You personally did not evaluate it.

12 MR. BUGLIOSI: It's irrelevant.

13 MR. KANAREK: It's most relevant. We are speaking
14 of the man who has the ultimate power, and he has testified
15 he has the ultimate power.

16 THE COURT: That will be enough, Mr. Kanarek.

17 The objection is overruled. You may answer.

18 THE WITNESS: I evaluated each of the defendants
19 with respect to the question of immunity.

20 BY MR. KANAREK:

21 Q Personally?

22 A Yes, sir.

23 Q And would you tell me then for instance as
24 to Leslie Van Houten, what was the evaluation that you
25 made concerning her vis-a-vis getting immunity?

26 A It was my decision, after this evaluation that

1 we wouldn't seek immunity for any of the defendants.

2 MR. BUGLIOSI: Your Honor, I make a motion to strike
3 the gratuitous remark by Leslie Van Houten.

4 (Reporter did not hear the remark.)

5 THE COURT: Her comment will be stricken and the jury
6 is admonished to disregard it.

7 DEFENDANT MANSON: You are all going to have to face
8 your crimes.

9 THE COURT: Mr. Manson, I will give you another warning;
10 if there is another outburst you will be removed.

11 That goes for all defendants.

12 Let's proceed.

13 BY MR. KANAREK:

14 Q My question, Mr. Younger, is would you tell us
15 what is the material that you looked at, describe it for us,
16 the material that you looked at concerning -- and studied --
17 concerning Leslie Van Houten?

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

19 THE COURT: Sustained.

20 BY MR. KANAREK:

21 Q Well, Mr. Younger, did you look at -- did you
22 look at evidence, transcripts, testimony, photographs con-
23 cerning Leslie Van Houten?

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

25 THE COURT: Sustained.
26

1 BY MR. KANAREK:

2 Q Well, you have stated that you did not wish
3 immunity to be given to any of the defendants in this case,
4 right?

5 A That is correct.

6 Q But in fact are you aware that a defendant in
7 this case has been given immunity?

8 MR. BUGLIOSI: It's irrelevant, your Honor.

9 THE COURT: Sustained.

10 THE WITNESS: May I say, just for clarification,
11 I was talking about these defendants (indicating).

12 I thought that is what you were talking about.

13 I'm sorry.

14 BY MR. KANAREK:

15 Q And was your thinking when you said you thought
16 "these defendants" were you considering Mr. Watson?

17 MR. BUGLIOSI: It's irrelevant, your Honor.

18 THE COURT: Sustained.

19 BY MR. KANAREK:

20 Q Now, in fact, Mr. Younger, did you cause an
21 offer of immunity to be given to Leslie Van Houten through
22 any attorney who represented her?

23 MR. BUGLIOSI: Irrelevant, your Honor.

24 MR. KANAREK: Your Honor, this is most relevant
25 and most material.

26 THE COURT: Overruled, you may answer.

1 THE WITNESS: Which is Leslie?

2 MR. KANAREK: Leslie Van Houten, Mr. Younger, is the
3 lady I am standing close to here.

4 THE WITNESS: And who is her attorney?

5 MR. KANAREK: Mr. Keith is now her attorney.

6 Mr. Marvin Part was previously her attorney,
7 an ex-Deputy District Attorney.

8 A The answer to your question is no.

9 Q There was no discussions giving her immunity?

10 A Correct.

11 Q Pardon?

12 A Correct.

13 Q Were there any discussions concerning making
14 a recommendation, or any discussions concerning not asking
15 the death penalty for her with Mr. Part?

16 11a fls. A Not that I am aware of.

11a-1

1 Q Or any other lawyer that represented Leslie
2 Van Houten?

3 A No such discussion in which I was involved.

4 Q Now, when, Mr. Younger, you as District
5 Attorney of Los Angeles County, when it was brought to your
6 attention that Susan Atkins lied to the Grand Jury, did you
7 petition the Superior Court and inform the Superior
8 Court that under United States vs. Mesarosh, this meant that
9 the Grand Jury indictment should be investigated for
10 possible dismissal?

11 MR. BUGLIOSI: It's irrelevant; it's a ridiculous
12 question, your Honor.

13 THE COURT: Sustained.

14 Q BY MR. KANAREK: Are you familiar with the
15 Mesarosh case?

16 MR. BUGLIOSI: Irrelevant.

17 THE COURT: Sustained.

18 Q BY MR. KANAREK: Now, Mr. Younger, do you in
19 your mind classify a murder case, one murder case as being
20 more important or less important than another murder case?

21 MR. BUGLIOSI: Irrelevant.

22 THE COURT: Sustained.

23 Q BY MR. KANAREK: Did you on December 11, 1969,
24 Mr. Younger, have a press conference?

25 MR. BUGLIOSI: Irrelevant.

26 THE COURT: Sustained.

1 MR. KANAREK: Your Honor, may I make an offer of
2 proof?

3 THE COURT: It is not necessary, Mr. Kanarek.
4 What was the date of the alleged press
5 conference?

6 MR. KANAREK: December 11, your Honor.

7 THE COURT: 1969?

8 MR. KANAREK: Yes, your Honor.

9 THE COURT: The objection is sustained.

10 Q BY MR. KANAREK: In connection with the Tate-
11 La Bianca case, Mr. Younger, has there been any wiretapping?

12 MR. BUGLIOSI: It's irrelevant.

13 THE COURT: Sustained.

14 Q BY MR. KANAREK: Now, directing your attention
15 to Mr. Caruso and Mr. Caballero, Mr. Younger.

16 Did you or did anyone on your behalf, or do
17 you have any knowledge of any Superior Court judge being
18 spoken to so that Mr. Caballero and Mr. Caruso would
19 represent Susan Atkins in connection with the matters that
20 are before Judge Older here?

21 A No, sir.

22 Q Did you authorize Mr. Stovitz, you know
23 Aaron Stovitz?

24 A Yes, sir.

25 Q Did you authorize him to speak to the Rolling
26 Stone editors?

1 MR. BUGLIOSI: It's irrelevant, your Honor.

2 THE COURT: Sustained.

3 Q BY MR. KANAREK: May I ask you this, Mr.
4 Younger:

5 When is the first time that you heard, if you
6 ever have heard, of the financial arrangements between
7 Paul Caruso, Mr. Caballero, Mr. Schiller and Susan Atkins?

8 MR. BUGLIOSI: Irrelevant.

9 THE COURT: Sustained.

10 Q BY MR. KANAREK: Prior to December 14th, 1969,
11 Mr. Younger, were you aware of the fact that Mr. Caballero,
12 Mr. Caruso and Mr. Schiller intended to disseminate
13 publicity concerning this case throughout the world?

14 A No, sir.

15 Q When is the first time that you knew of the
16 existence of any kind of a financial relationship between
17 Paul Caruso, Mr. Caballero, Mr. Schiller?

18 A I don't know of it today.

19 Q You have not discussed this matter at any
20 time with anyone?

21 A I have not.

22 Q At all, any time with any human being whatsoever?

23 A Correct, up until now.

24 Q You don't know of the existence of any such --

25 A Correct.

26 Q When you -- you received this book, the

1 Killing of Sharon Tate, right?

2 A No, sir.

3 Q Your office received it, right?

4 A I don't know.

5 Q Did you receive this for some kind of a review
6 or something?

7 A I received a manuscript.

8 Q The title would have been -- or may I ask you:
9 Was the title of that manuscript, "The Killing
10 of Sharon Tate"?

11 A I don't know. I am assuming, since all the
12 fuss was made about my receiving the manuscript, that is
13 what it was, but I never read it carefully enough to know
14 what manuscript it was.

15 Q I see. Did you do anything, did you attempt to
16 stop the publication of this book?

17 A No, sir.

18 Q You did not call up Mr. Caruso or Mr. Caballero
19 or Mr. Schiller or the Los Angeles Times or the Times-Mirror
20 Publishing Company, is that right?

21 A That is right.

22 Q At the time you were aware of the gag order,
23 however, right? -- what you call the gag order.

24 A I have indicated this morning I probably heard
25 of the gag order a couple of hours after it was made,
26 whatever date it is dated, I heard of it that date.

1 Q Did you feel as an elected official holding
2 the
3 political office as the District Attorney of/County of
4 Los Angeles that it was incumbent upon you to attempt to
5 protect the publicity order of the Superior Court?

6 MR. BUGLIOSI: Irrelevant, your Honor.

7 THE COURT: Sustained.
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1 BY MR. KANAREK:

2 Q Now, did you acquaint yourself, Mr. Younger,
3 with the details of the alleged Hinman murder?

4 MR. BUGLIOSI: It's irrelevant.

5 THE COURT: The question is ambiguous. I will
6 sustain the objection on that ground.

7 MR. KANAREK: Very well, your Honor.

8 Q Directing your attention to the time -- I will
9 withdraw that.

10 It certainly is a fair statement, Mr. Younger,
11 that this confidential memorandum that we have been talking
12 about, that you have a copy of, that this memorandum
13 included the Hinman case, is that right, in its purview?

14 The Hinman case was part and parcel of your
15 arrangements with Susan Atkins?

16 A One of the three cases, I believe, we mentioned
17 in the memorandum.

18 Q So, did you, as a political official going into
19 the meeting to discuss the possible benefits to Susan
20 Atkins, did you acquaint yourself with the evidence in the
21 Hinman case?

22 A Yes, sir.

23 Q And what details did you know concerning Susan
24 Atkins as to the Hinman case?

25 MR. BUGLIOSI: Too time consuming. It's irrelevant.

26 MR. KANAREK: I will not ask to read anything. I'm

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1 asking him to tell us, your Honor.

2 THE COURT: The objection is sustained.

3 BY MR. KANAREK:

4 Q In fact, Mr. Younger, your state of mind was
5 at the time of December 4, 1969, your state of mind was
6 that potentially Susan Atkins might be allowed, as far as
7 the District Attorney's office was concerned, to be
8 convicted of only second degree murder, is that true?

9 A I think that is probably a fair statement.

10 Q And she was to be allowed to be convicted of
11 second degree murder as to how many counts?

12 A Now you are taking too big a jump there.

13 The memo clearly indicates, and my recollec-
14 tion --

12 fls.

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1 Q Just so the record will be complete, you are
2 reading from the memo?

3 A Yes.

4 Q Thank you.

5 A If I may?

6 Q Certainly. No problem. I just wanted the
7 record to reveal that fact.

8 A We agreed that if she would testify honestly
9 before the Grand Jury, that we would not seek the death
10 penalty.

11 And then, I am now quoting from the memo,
12 "The extent to which the District Attorney's office will
13 assist defense counsel in an attempt to seek less than a
14 first degree murder life sentence will depend upon the
15 extent to which Susan Atkins continues to cooperate."

16 So that is as far as it went.

17 You asked if I considered or had in mind the
18 possibility that she would get less than first degree murder.
19 Yes, I considered that possibility. But beyond considering
20 the possibility and saying "We will discuss that if it
21 becomes appropriate in the future," we made no further
22 decisions or had no further discussion.

23 Q And she did cooperate further; right?

24 MR. BUGLIOSI: Calls for a conclusion. It is also
25 irrelevant.

26 MR. KANAREK: I am asking him whether his state of

1 mind was that she cooperated.

2 MR. BUGLIOSI: Irrelevant and calls for a conclusion.

3 THE COURT: Overruled.

4 You may answer.

5 THE WITNESS: I think up to a point.

6 And thereafter, quite to the contrary.

7 BY MR. KANAREK:

8 Q Up to a point, then you say thereafter quite
9 the contrary?

10 A Right.

11 Q Well, did she cooperate to the extent -- well, then
12 would you describe for us, Mr. Younger, up to what point
13 did she cooperate, and when did she fail to cooperate?

14 A Well, she apparently went into the Grand Jury
15 room voluntarily, raised her right hand and took the witness
16 stand. Up to that point she cooperated.

17 And from that point on, I don't think she did.

18 Q She didn't? You say she did not cooperate after
19 that time?

20 A That is my opinion, which is, apparently, what
21 you are asking.

22 Q Yes.

23 As a matter of fact, did she sign an affidavit
24 which implemented the extradition of one of the defendants
25 in this case after she went to the Grand Jury?

26 A I don't know.

1 If you want me to ask Mr. Bugliosi, I can answer
2 that.

3 Q I will show you --

4 A I don't know, period.

5 Q Well, you are the gentleman who makes the
6 decision, right, as to whether or not she is cooperating?

7 I'd like to see if this will refresh your
8 recollection.

9 May I approach the witness, your Honor?

10 THE COURT: Well, I don't think I see the relevancy
11 of this, Mr. Kanarek.

12 MR. KANAREK: The relevancy of this, your Honor, is to
13 show that Susan Atkins -- Mr. Younger is saying that there
14 was a certain lack of cooperation.

15 THE COURT: I know what he said, but I don't see the
16 relevance of this.

17 MR. KANAREK: The relevance is to show that as late
18 as, at least -- and of course, I advocate much later; in
19 fact, I advocate up to the time of this trial -- that --

20 THE COURT: Get to the point, Mr. Kanarek.

21 MR. KANAREK: -- she cooperated to the extent that
22 on December the 9th --

23 MR. BUGLIOSI: Your Honor, he is making argument in
24 front of the jury.

25 THE COURT: I am going to sustain an objection that it
26 is irrelevant.

1 MR. KANAREK: As to whether she cooperated or not?

2 May I make an offer of proof?

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1 THE COURT: This is no part of the agreement testified
2 to by any of the witnesses.

3 MR. KANAREK: Yes, your Honor.

4 THE COURT: That will be enough.

5 Ask your next question.

6 MR. KANAREK: Certainly.

7 Q What did you interpret, Mr. Younger, in this
8 paragraph of the agreement -- this is the statement made:

9 "The extent to which the District Attorney's
10 office will assist defense counsel and attempt to
11 seek less than a first-degree murder life sentence
12 depends upon the extent to which Susan Atkins
13 continues to cooperate."

14 Do you have that paragraph in mind?

15 A Yes, sir.

16 Q All right.

17 Having that paragraph in mind, Mr. Younger,
18 would you say that when she signed an affidavit on December
19 the 9th, 1969, which included the mug shot of Mr. Watson
20 and declarations that this was Mr. Watson, would you say
21 that that assisted the District Attorney of Los Angeles
22 County in getting Mr. Watson to this courtroom?

23 MR. BUGLIOSI: Irrelevant and assumes facts not in
24 evidence.

25 MR. KANAREK: It goes to the very matter we are
26 speaking of, your Honor.

1 MR. BUGLIOSI: That is not the issue before the
2 Court, your Honor.

3 THE COURT: Sustained.

4 MR. KANAREK: May I make an offer of proof?

5 THE COURT: Yes, you may.

6 Come to the bench.

7 MR. KANAREK: Thank you.

8 (Whereupon, all counsel approach the bench
9 and the following proceedings occur at the bench outside
10 the hearing of the jury:)

11 MR. KANAREK: Your Honor --

12 THE COURT: Make your offer.

13 MR. KANAREK: Yes.

14 The offer is that on or about December 9, 1969,
15 Susan Atkins signed an affidavit which --

16 THE COURT: How are you going to prove that by this
17 witness?

18 MR. KANAREK: Because it is his memo.

19 Let's see if this refreshes his recollection.
20 It is Mr. Younger's memo.

21 THE COURT: Go ahead and finish your offer.

22 MR. BUGLIOSI: Can I see that?

23 MR. KANAREK: The offer is, your Honor, if he
24 testified -- if he testified truthfully -- and I am not
25 intending to say anything except what I believe to be the
26 case -- that he would have to testify that she cooperated.

1 And this tends to impeach him when he says that
2 she didn't do anything beyond the Grand Jury.

3 He says she raised her hand to the Grand Jury,
4 and evidently didn't speak truthfully, and therefore that
5 was the end of the cooperation.

6 This clearly shows she was cooperating in
7 getting Mr. Watson here.

8 THE COURT: The agreement was that she testify
9 truthfully before the Grand Jury. There was no agreement
10 beyond that, as I see it.

11 MR. KANAREK: Yes, your Honor.

12 The memorandum states --

13 THE COURT: I am familiar with the memorandum.

14 MR. KANAREK: Pardon?

15 THE COURT: The memorandum just mentions a general
16 area. There is no specific agreement as to what, if any,
17 benefits she would receive for cooperation, in quotes.

18 The agreement was that they would not seek the
19 death penalty if she testifies truthfully before the Grand
20 Jury.

21 MR. KANAREK: Right.

22 And it says, "The extent to which the District
23 Attorney's Office will ^{assist} defense counsel in an attempt
24 to seek less than a first-degree murder life sentence will
25 depend upon the extent to which Susan Atkins continues to
26 cooperate.

Now, your Honor, if Susan Atkins signs an

affidavit --

THE COURT: I understand what you are saying.

I don't think it is part of the agreement. It
has nothing to do with the agreement.

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1 MR. KANAREK: This shows she is cooperating, your
2 Honor, and she might well have gotten less than first-
3 degree murder, because this is an indicia --

4 THE COURT: It is pure speculation.

5 MR. KANAREK: But he is the District Attorney. I
6 am asking him. Or he was the District Attorney.

7 MR. BUGLIOSI: Where are you reading that from,
8 Mr. Kanarek?

9 THE COURT: The agreement was very clear as to what she
10 would get and what she had to do to get it.

11 This cooperation is simply something that is
12 talked about. It is vague and indefinite and doesn't
13 have any bearing whatever on the agreement.

14 MR. KANAREK: Well, your Honor --

15 THE COURT: I have your offer in mind and I am going
16 to sustain the objection. It is irrelevant.

17 (Whereupon, all counsel return to their
18 respective places at counsel table and the following
19 proceedings occur in open court within the presence and
20 hearing of the jury:)

21 MR. KANAREK: Q Is it a fair statement, Mr. Younger
22 -- I will withdraw that and I will ask you --

23 Will you tell us wherein Susan Atkins didn't
24 cooperate?

25 MR. BUGLIOSI: It is ambiguous.

26 Wherein didn't she cooperate at what time?

1 MR. KANAREK: At any time, your Honor. Any time
2 subsequent to December 4, 1969.

3 Mr. Younger is the one who is making the
4 decision.

5 MR. BUGLIOSI: He has already testified to that,
6 your Honor.

7 MR. KANAREK: No, he hasn't, your Honor.

8 THE COURT: Do you understand the question, Mr.
9 Younger?

10 THE WITNESS: Yes, sir.

11 THE COURT: You may answer.

12 THE WITNESS: Well, her failure to testify truthfully
13 before the Grand Jury, and thereafter.

14 Q BY MR. KANAREK: And thereafter?

15 A Yes.

16 Q And would you cite the instances that you have
17 in mind when you say "thereafter"?

18 A Now. At this trial.

19 Q At this trial?

20 A You were asking me to conjure up circumstances
21 under which we might have recommended less than first-
22 degree.

23 Going way back to then, the circumstances
24 that were in my mind that might conceivably have
25 justified, in our opinion, a lesser-than-first-degree
26 would have been, for example, had she gone ahead and

1 testified honestly and fully before the Grand Jury, and
2 then repeated that honest and full/^{and}complete statement at
3 the trial court level.

4 That might have been the kind of cooperation
5 which would have warranted a re-evaluation of the case.

6 You are asking what we meant in the memorandum.
7 That is what we meant.

8 She has not done that. Anything less than
9 that, I don't know. Whether she has held the door open for
10 Mr. Bugliosi, or signed a piece of paper, anything like
11 that, that is not the kind of cooperation I am talking about.

12 Q Well, then, will you tell us, how do you
13 evaluate whether or not she has testified truthfully at this
14 trial? You haven't even been at this trial. You have been
15 up in Sacramento and in a political campaign up and down
16 the State of California.

17 MR. BUGLIOSI: Argumentative, your Honor.

18 THE COURT: Sustained.
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BY MR. KANAREK:

Q Well, have you evaluated, Mr. Younger -- it is now March, March 11th, 1971 -- up until January 1, 1971-- 1971, right -- did you do any evaluating as to Susan Atkins?

A Yes, sir.

Q And would you tell us ^{what} you evaluated and what your conclusions were?

A I evaluated all available evidence and testimony on the part of all parties, including her, which I received in the form of frequent briefings from the deputies in the office who were trying the case, and concluded that she had not cooperated to the point where any re-evaluation was necessary.

Q Well, did it strike you that there was a conflict? That these same deputies were, at the time -- and presently -- trying to put Susan Atkins in the gas chamber; right?

A Right.

Q Did it strike you that this might not be the place to get the most objective analysis of what Susan Atkins was saying as to whether it was true or not?

A No.

Q These men are advocates, they have a position to try to put her in the gas chamber; right?

A Right.

Q Well, do you know whether Susan Atkins testified

1 before January 1, 1969? Do you know whether she took the
2 witness stand before that date or not?

3 A I don't know what date she took the witness
4 stand.

5 My evaluation or any responsibility for
6 evaluating the case ended, I think, midnight on the 3rd of
7 January.

8 Q Well, as a matter of fact -- I will withdraw
9 that.

10 As a matter of fact, it is a fair statement,
11 Mr. Younger, that you abdicated that responsibility, and,
12 in fact, allowed these men who were prosecutors to, in
13 fact, determine what happened to Susan Atkins; is that
14 correct?

15 A That is not a fair statement.

16 Q All right.

17 In what way is that not a fair statement?

18 MR. BUGLIOSI: This has already been gone into, your
19 Honor. He testified to the basis for his conclusion.

20 THE COURT: Overruled. You may answer.

21 THE WITNESS: I didn't abdicate.

22 If you mean did I rely heavily on their judg-
23 ment and their reports to me, sure.

24 They are honorable men, I believe when they
25 say so and so testified to a certain statement or to a
26 certain thing in the following manner, I believe they are

1 giving me a fair report of how that witness testified.

2 When they say the police officers' report of
3 60 pages or 50 pages or 40 pages can be summarized as follows,
4 I accept their summary as valid and reasonable.

5 I trust them. I have to trust them, and I did
6 trust them. But I accept the credit or the blame for any
7 decision I made.

8 Q Well, Caesar trusted Brutus up to a point;
9 right? And Benedict Arnold was trusted up to a point,
10 wasn't he?

11 MR. BUGLIOSI: Irrelevant.

12 THE COURT: Sustained.

13 BY MR. KANAREK:

14 Q What I am saying is, Mr. Younger, you cannot
15 say that you made the decision. In fact, Mr. Bugliosi,
16 Mr. Kay, Mr. Musich and Mr. Stovitz made the decision.

17 A No. No. I can say I made the decision. You
18 can say I didn't.

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Now what do we do?

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12a-1 1 Q Is it a fair statement, Mr. Younger, you
2 rubber-stamped, -- you rubber-stamped -- the decision of
3 these men?

4 A No, sir.

5 Q You did what they brought to you and told you
6 that they wanted done; right?

7 A No.

8 Because if I had been going to rubber stamp,
9 I wouldn't have spent a good deal of time conferring with
10 them, if not daily, at least every few days, as to the
11 progress of the case and their evaluation.

12 If I were going to rubber stamp it, I would
13 do anything that they were going to say and sign it.

14 I was busy, as you pointed out.

15 Q As a matter of fact, it is a fair statement
16 that you never read --

17 THE COURT: Just a moment.

18 This will be your final warning, Miss Van Houten
19 and Miss Krenwinkel.

20 If you don't remain quiet, I will have you
21 removed promptly from the courtroom.

22 Let's proceed.

23 MR. KANAREK: Q Is it a fair statement,
24 Mr. Younger, that you have not read any of the testimony
25 that Susan Atkins or any of these three female defendants
26 have caused to come forth in this courtroom?

1 I am not speaking about the Grand Jury. I am
2 talking about their testimony.

3 MR. BUGLIOSI: It is irrelevant.

4 THE WITNESS: That is probably true.

5 Q BY MR. KANAREK: And you have not made any
6 personal comparison of any testimony that they made with any
7 other transcript or whatever so that you could make a
8 judgment as to whether she is telling the truth or not?
9 You personally didn't do it?

10 That is true, right?

11 MR. BUGLIOSI: That is irrelevant.

12 The question is talking about their testimony
13 at this trial. It has no relevancy.

14 MR. KANAREK: Mr. Younger himself has said, your
15 Honor, that he --

16 THE COURT: Just a moment.

17 Read the question.

18 (The question was read by the reporter.)

19 THE COURT: The question is ambiguous, Mr. Kanarek.
20 Reframe it.

21 MR. KANAREK: Q I am now directing your attention
22 to testimony by Susan Atkins. I will take her alone
23 rather than the bunch or with the other female defendants.

24 Directing your attention to Susan Atkins'
25 testimony, not at the Grand Jury but subsequent to the
26 Grand Jury, have you taken that testimony, studied it,

1 compared it with exhibits, transcripts, police reports,
2 whatever, and made a value judgment as to whether she has
3 told the truth at this trial?

4 A No, sir.

5 Q You haven't?

6 A No, sir.

7 Q And you haven't done that as to Leslie Van
8 Houten; right?

9 A That is correct. I have not.

10 Q And you haven't done it as to Patricia
11 Krenwinkel?

12 A You are right.

13 Q And so, as a matter of fact, your value
14 judgment is not yours, Evelle J. Younger's, but it is the
15 value judgment, the viewpoint, the position, personal or
16 otherwise, of Mr. Bugliosi, Mr. Kay, Mr. Musich and
17 Mr. Stovitz; right?

18 A No.

19 Q Well, other than just saying no, Mr. Younger,
20 other than just saying no, would you tell me what personal
21 evaluation you made?

22 Take away from this what they have told you,
23 and tell me what personal --

24 A That is a pretty big take-away.

25 Q Right.

26 Because, in fact, there is nothing left if you

1 take away what these men have allegedly told you in making
2 this very, very important life-and-death decision as to
3 Susan Atkins; right?

4 THE COURT: The question is ambiguous in my mind,
5 Mr. Kanarek. I don't know what you are talking about.

6 You are going to have to be more specific.

7 The objection is sustained.
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1 MR. KANAREK: Absent, Mr. Younger, absent your
2 conversations with Mr. Stovitz, Mr. Kay, Mr. Bugliosi and
3 Mr. Musich, absent those conversations, you have not made
4 any evaluation whatsoever concerning Susan Atkins?

5 And I am speaking now of her truthfulness at
6 this trial.

7 MR. BUGLIOSI: It is irrelevant, your Honor.

8 THE COURT: Sustained.

9 MR. KANAREK: Q Now, directing your attention to
10 the climate, the atmosphere, if you will, of December, 1969,
11 the public opinion of 1969.

12 Was that climate, that public opinion and
13 attitude of the District Attorney's Office to get Charles
14 Manson?

15 A Was the climate and attitude to get Charles
16 Manson?

17 I am afraid I can't answer that. I don't know
18 what you are talking about.

19 Q Well, you certainly agree that the District
20 Attorney's Office is a political office, right?

21 A Yes, sir.

22 Q You were an elected representative, right?

23 A Yes.

24 Q So my question to you is: Directing your
25 attention to December of 1969, regardless of the guilt
26 or innocence of Mr. Manson, was your thinking and your
viewpoint influenced by the hullabaloo and all of the

1 publicity and all of that which went on in this community
2 concerning these Tate-La Bianca murders and Mr. Manson?

3 A No, sir.

4 Q You weren't influenced one bit by the hue and
5 cry of the uninformed public who had not been in a court-
6 room, hadn't seen any of the evidence; you weren't
7 influenced by that at all?

8 A No, not a bit.

9 Q And your attitude would have been that if
10 Mr. Manson had been represented by Mr. Caruso and
11 Mr. Caballero, he would have been given the same deal as
12 Susan Atkins; right?

13 MR. BUGLIOSI: That is ambiguous, your Honor.

14 THE COURT: Sustained.

15 MR. KANAREK: Q Well, you are telling us, then,
16 that whether a person lives or dies depends upon who talks
17 first? Is that right, Mr. Younger?

18 MR. BUGLIOSI: That is a misstatement. That is a
19 mischaracterization. It is irrelevant. It is ambiguous.

20 THE COURT: Sustained.

21 MR. KANAREK: Q Earlier today, Mr. Younger, you
22 told us that the reason, one of the reasons that Susan
23 Atkins was given all this consideration was because you
24 hadn't heard from Mr. Manson or anyone on his behalf.
25 She was the first one that had talked.

26 Do you remember telling us that this morning?

MR. BUGLIOSI: That is a misstatement of his testimony.

THE WITNESS: That is a misstatement of my testimony.

It was a fact that she was the first one that had cooperated. That was a factor.

But if you are asking me if Mr. Manson would have come forward first with statements, would we have made the same agreement with his attorneys, no matter who they may happen to be, the answer is we would not have.

Q And the reason that you wouldn't have as to Mr. Manson was, regardless of what the true evidence was, the mass media in this country, the mass media in the world, throughout the world, the general climate of opinion was to get Mr. Manson for some of what is supposed to have happened here; right?

A No, that is not right.

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1 Q You weren't concerned?

2 A About what the media says?

3 Q Yes.

4 A No, not the least.

5 Q Not one bit?

6 A Not one fraction of one per cent.

7 Q I see. Then your state of mind was as far as
8 the evidence in this case was concerned, was that Mr. Manson,
9 no matter what the view of the evidence was, had not done
10 any physical harm personally to anybody, right?

11 A No, you say no matter what the view of the
12 evidence was, I viewed the evidence, I guess, differently
13 than that.

14 Q I am talking about these cases, Mr. Younger,
15 these cases that are before us here, these cases right
16 here, the Tate-La Bianca matters and the Hinman case, right?

17 A All right.

18 Q All right, having in mind all of the evidence,
19 all of the evidence that was before you, was your state of
20 mind that in terms of actual physical harm to a human --
21 to a fellow human being or fellow human beings, Mr. Manson
22 had done less than Susan Atkins.

23 Is that a fair statement?

24 MR. BUGLIOSI: That is an ambiguous question, your
25 Honor, irrelevant.

26 THE COURT: Sustained.

1 Q BY MR. KANAREK: Now, directing your attention
2 to the second paragraph of this confidential memorandum,
3 Mr. Younger, where it says:

4 "In view of her past cooperation."

5 Would you tell me what was her past cooperation?

6 A She had given statements to the investigating
7 officers which at that point, as I recall, considerably
8 assisted their investigation, and she told them some things
9 they had not known before and filled in some gaps.

10 Q Well, then, is it a fair statement that Susan
11 Atkins broke this case, as the saying goes?

12 MR. BUGLIOSI: Calls for a conclusion.

13 THE COURT: Sustained.

14 Q BY MR. KANAREK: The first paragraph says that
15 Susan Atkins' information has been vital to law enforcement
16 in solving of this case, right?

17 A Right. That means breaking the case -- if
18 that is what you mean, then it did. It was very important.

19 Q It was very important, right?

20 A Right.

21 Q All right, now, as far as any of the defendants
22 in this case are concerned, hers was the information that
23 was furnished that, as you put it here, solved the case,
24 right now.

25 MR. BUGLIOSI: Calls for a conclusion.

26 THE WITNESS: That is the way you put it.

1 THE COURT: Sustained.

2 Q BY MR. KANAREK: You said it in this memo,
3 Mr. Stovitz's memo.

4 A Say it like I said it in the memo.

5 Q Susan Atkins' information has been vital to
6 law enforcement in solving of this case.

7 : Right?

8 A Yes, sir.

9 Q And this information that she has furnished
10 has been more vital from your viewpoint in solving the case
11 than any defendant, right?

12 A As of that time.

13 Q As of that time that got you the indictment,
14 didn't it?

15 MR. BUGLIOSI: Calls for a conclusion.

16 THE COURT: Sustained.

17 Q BY MR. KANAREK: Did you, Mr. Younger, ever
18 get a refusal --

19 Will you name one refusal of Susan Atkins to
20 cooperate with -- in the prosecution in this case?

21 MR. BUGLIOSI: It's irrelevant.

22 THE COURT: Sustained.

23 Q BY MR. KANAREK: Well, you have stated here in
24 paragraph three, without reading the whole paragraph:

25 "Will depend on the extent to which Susan
26 Atkins continues to cooperate."

This aspect of the District Attorney assisting

1 for less than a first degree murder result as to Susan
2 Atkins, would you point out to me if you can, one instance
3 when Susan Atkins refused to cooperate.

4 MR. BUGLIOSI: Same objection.

5 MR. KANAREK: I am pointing to the very matter.

6 THE COURT: You may answer that.

7 THE WITNESS: I will do it precisely as I did 37
8 minutes ago.

9 I regard her failure to testify honestly before
10 the Grand Jury and in this court as a failure to cooperate.

11 BY MR. KANAREK:

12 Q All right, you are picking the Grand Jury, and
13 in this court, right?

14 A Whatelse is there to pick?

15 Q Well, she cooperated in the interim --

16 A This is, to me, the significant failure, those
17 two things.

18 Well, yes, I say, whether she helped sweep out
19 the rooms upstairs or whether she has at any point signed a
20 paper that saved the court 20 minutes time I don't know.

21 I am telling you what I regard as her failure
22 to cooperate.

23 You have asked me whether I think she cooperated.
24 I said no.

25 I base that on her failure to testify honestly
26 and fully before the Grand Jury, and this court. That is

1 what I mean by lack of cooperation.

2 Q I see.

3 Now, coming to this topic, Paragraph 3:

4 "Mr. Caballero made it known that at this
5 moment his client may not testify at the trial,
6 due to her fear of the physical presence of Charles
7 Manson and the other participants in the Sharon
8 Tate murders."

9 Do you have that paragraph in mind, Mr.
10 Younger?

11 A Yes, sir.

12 Q Has Susan Atkins -- let me withdraw that.

13 At the time that Mr. Caballero and Mr.
14 Caruso and you and Mr. Stovitz and Mr. Bugliosi were there
15 in your office, was Mr. Manson discussed?

16 A Well, I am sure either individually or as,
17 you know, in the sense that we discussed all of the
18 13a fls defendants, I'm sure that he was.

1 Q Well, do you remember this topic of how
2 scared, supposedly, Susan Atkins was of Mr. Manson and the
3 other participants?

4 That would be Linda Kasabian, Leslie Van
5 Houten, Patricia Krenwinkel, Mr. Watson.

6 A I know what Mr. Caballero said, and I know
7 what is in the memo.

8 There was no big deal made of that, it was
9 just related --

10 He said, "We don't know if she will testify
11 at the time of trial or not."

12 And our response was "Well, then we don't
13 know what we will do if anything beyond our present agree-
14 ment not to seek the death penalty."

15 Q And so that aspect, that covered that aspect,
16 did it?

17 A Yes, sir.

18 Q Right?

19 A Yes, sir.

20 Q And did it occur to you that in a courtroom
21 such as right here, right now, that Susan Atkins could be
22 brought to the witness stand and asked to testify, but
23 you are saying that this supposed fear on her part as to
24 these other defendants being in the courtroom, that had an
25 effect on this agreement, right?

26 A I don't understand the question.

1 THE COURT: I don't either. Reframe it.

2 BY MR. KANAREK:

3 Q The question is, this refers to testimony in
4 court, right?

5 Mr. Younger, this paragraph?

6 A As I understand it it does.

7 Q Everybody was in custody at that time except
8 Linda Kasabian, maybe, right?

9 A It refers to testimony in court.

10 Q Right, and so you are saying that in your view
11 this was a real fear as far as Susan Atkins was concerned;
12 that she would be afraid to testify with these people
13 sitting in the courtroom, is that what you are saying?

14 A I didn't even come close to saying that.

15 You read a sentence.

16 I said I had it in mind; I understood it;
17 Mr. Caballero said she might not testify because of fear.

18 We accepted that. Who can argue about it?
19 He was her attorney.

20 I was not arguing.

21 He said "She might not testify because of
22 fear." That is what it says in the memorandum.

23 Q Right?

24 A She might not testify because of fear.

25 Q That supposed fear had enough dignity to be
26 given a whole paragraph, right?

1 MR. BUGLIOSI: Irrelevant, your Honor.

2 THE COURT: Sustained.

3 BY MR. KANAREK:

4 Q Well, can you tell us, at this December 4,
5 1969, meeting, was any other defendant present by way of
6 counsel?

7 Was any other lawyer, either there by way of
8 a telephone call, or by way of any kind of communication
9 to your office?

10 A No, sir.

11 Q You took it upon yourself to deal with Mr.
12 Caballero and Mr. Caruso before any attorney or any
13 representative of any of the other defendants had been
14 contacted, right?

15 A Oh, I don't know I took it upon myself.

16 I guess probably my secretary said that Mr.
17 Caballero or Mr. Caruso or Mr. Bugliosi and Mr. Stovitz
18 wanted to see me.

19 I said okay. If that is taking it upon
20 myself, yes, I did.

21 Q Did you in fact know the details or the
22 alleged details concerning the Hinman murder at this time,
23 Mr. Younger?

24 A I certainly knew generally what had occurred,
25 yes, sir.

26 Q You knew generally that someone had died, right?

1 A No, a little more than that.

2 Q But did you take the trouble to read the
3 police report, look at the evidence?

4 A I don't think, again, I read the police
5 report.

6 Q Or looked at the evidence, right?

7 A Well, I'm sure again, in the course of our
8 frequent conferences and briefings which I get --

9 Keep in mind, these people I am getting
10 briefing from are pretty high priced lawyers; they are
11 pretty well paid by the county, men of great experience,
12 and men I have confidence in.

13 I am making no apology to you for not rereading
14 everything they have read.

15 So, yes, in the course of these conferences I
16 am sure certain photographs, certain documentary evidence,
17 certain other items were shown to me.

18 Did I ever read into any police report? I
19 doubt it.

20 Q As to any of these matters, right?

21 A I doubt if I did read a complete police file
22 with reference to any of the defendants in this case.

23 Q I see. Is it a fact, Mr. Younger, that Mr.
24 Caruso was active in your political campaign at this very
25 time?

26 MR. BUGLIOSI: Irrelevant.

1 THE COURT: Sustained.

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

3 THE COURT: You may.

4 BY MR. KANAREK:

5 Q Mr. Younger, I show you this agreement, this
6 purported agreement.

7 Would you read this? This is called Exhibit A.
8 Where it says Twenty Pimlico, at the top
9 there.

10 MR. BUGLIOSI: This is all irrelevant, your Honor.
11 I will object on that ground before he even reads it.

12 THE COURT: I have no idea what it is.

13 THE WITNESS: Does your Honor want to see it before
14 I read it or shall I go ahead and read it?

15 THE COURT: I think if you will give some indication,
16 Mr. Kanarek, as to what you are referring to.

17 MR. KANAREK: I am referring to this agreement
18 between Mr. Schiller, Mr. Caballero, Mr. Caruso --

19 THE COURT: There appears to be such an agreement.

20 Now, what is the question?

21 MR. KANAREK: The question is as to what effect if
22 any the financial arrangements between these people, as
23 reflected in this agreement, may jar Mr. Younger's memory
24 as to the events that occurred on or about December 4, 1969.

25 THE COURT: Well, apart from relevancy, I don't
26 know what it means.

1 What are you talking about? What events?

2 MR. KANAREK: I am talking about whether or not
3 these arrangements between Mr. Schiller, Mr. Caruso and Mr.
4 Caballero, these financial arrangements had any involvement
5 with the District Attorney's office in connection with this
6 alleged deal as to whether these matters had any kind of
7 effect, weight or whatever you want to call it in connection
8 with the District Attorney moving in a certain direction.

9 We have a right to know that, your Honor.

10 THE COURT: I will decide that, Mr. Kanarek.

11 MR. KANAREK: Well, I advocate that.

12 THE COURT: The question is ambiguous at this point.
13b file. I will sustain it on that ground.

13b-1

BY MR. KANAREK:

Q Well, Mr. Younger, is it true that Mr. Caruso contributed to your campaign fund?

MR. BUGLIOSI: Irrelevant.

THE COURT: Sustained.

MR. KANAREK: Well, then, may Mr. Younger read this and see if it jars his memory, your Honor?

THE COURT: No. Let's identify this, Mr. Kanarek, so the record will indicate what you are talking about.

MR. KANAREK: It is what already has been marked for identification by reference, your Honor, the 20 Pimlico agreement.

THE COURT: How is it marked?

MR. KANAREK: I don't know the exact number, your Honor, but we referred to it time and time again.

THE COURT: Just a moment, P-QQ for identification.

THE WITNESS: Your Honor, would your Honor be kind enough to ask me a question or would you be kind enough to ask me if I have ever known of or heard of --

MR. FITZGERALD: I object to any inter se comments, if the Court please, between the witness and the Court.

MR. BUGLIOSI: Your Honor, certainly the Attorney General of California can address a question to the Court, your Honor.

THE COURT: Just a moment, sir.

Any question of Mr. Younger should be

1 addressed to your counsel, Mr. Bugliosi or whoever is
2 representing you today.

3 THE WITNESS: All right, if I may, after he
4 finishes.

5 MR. KANAREK: I will be glad to have Mr. Younger
6 speak with Mr. Bugliosi. I have no objection.

7 THE COURT: Let's get on with the examination.

8 MR. KANAREK: Q Mr. Younger, do you wish to speak
9 with Mr. Bugliosi?

10 THE WITNESS: I will wait.

11 THE COURT: Get on with your examination.

12 MR. KANAREK: Very well.

13 Q Directing your attention to this document,
14 I ask you, Mr. Younger, reading here, you see --

15 THE COURT: Just a moment, let's approach the
16 bench, Counsel.

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

19 THE COURT: All right, now, Mr. Kanarek, it is
20 obvious you want to make a Roman circus out of this
21 examination.

22 I am not going to permit you to do it. This
23 has no relevancy whatever.

24 You are talking in the first place of an
25 agreement signed by one person only, Mr. Schiller.

26 There is no evidence this man has any knowledge

1 of the agreement or anything surrounding it or that it is
2 relevant in any way whatever.

3 MR. KANAREK: I will tell your Honor how.

4 THE COURT: All right, go ahead.

5 MR. KANAREK: It is painful -- I don't relish doing
6 it at all.

7 THE COURT: Make your office.

8 MR. KANAREK: I cannot make an offer. This is cross-
9 examination.

10 But I can tell you what I believe I have an
11 obligation to do.

12 I believe that there are some financial consid-
13 erations involved --

14 THE COURT: Then ask him. Put the question directly.

15 MR. KANAREK: I have the right to formulate my
16 question; I have a right to refresh a recollection of a
17 witness in my way.

18 THE COURT: The objection is sustained. Get on to
19 your next question.

20 (The following proceedings were had in open
21 court in the presence and hearing of the jury.)

22 BY MR. KANAREK:

23 Q Mr. Younger, when you saw that article, when
24 you saw that article in the Los Angeles Times, did it go
25 through your mind that perhaps somebody was making some
26 money off of the publicity in connection with the Susan

1 Atkins story?

2 MR. BUGLIOSI: Irrelevant.

3 THE COURT: Sustained.

4 BY MR. KANAREK:

5 Q Do you know, Mr. Younger --

6 You certainly, as a sophisticated, mature
7 person, who is over 21, you certainly agree that friendship
8 between people many times constitutes a driving force for
9 a certain result.

10 MR. BUGLIOSI: Irrelevant.

11 THE COURT: Sustained.

12 BY MR. KANAREK:

13 Q Well, on December 4, 1969, you knew that Mr.
14 Bugliosi had made arrangements with Mr. Caballero to take
15 the statement of Susan Atkins at Mr. Caruso's office.

16 Is that right?

17 A No, I don't believe so.

18 Q You mean that was never told to you?

19 A If it was I have forgotten it.

20 Q Were you informed before December 4, 1969,
21 that arrangements had been made to transport Susan Atkins,
22 a defendant or potential defendant in these Tate-La Bianca
23 matters, to Mr. Caruso and Mr. Caballero's office.

24 Were you aware of that?

25 A I don't think so.

26 Q But you might have been, is that right?

1 A Possibly.

2 THE COURT: We will take our afternoon recess at
3 this time.

4 Ladies and gentlemen, do not converse with
5 anyone or form or express any opinion regarding penalty
6 until that issue is finally submitted to you.

7 The court will recess for 15 minutes.

8 (Recess.)

13c fls. 8

13c-1

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

3 You may continue, Mr. Kanarek.

4 MR. KANAREK: Thank you, your Honor.

5 Q Mr. Younger, did it occur to you that there
6 might have been a conflict of interest in Mr. Caballero --
7 in Mr. Caruso representing Susan Atkins at a time when
8 they had a financial stake in her story?

9 A No.

10 In the first place I was not aware of the fact,
11 if it is a fact, that they had a financial stake in her
12 story.

13 Q You became aware of it at some time certainly?

14 A Well, I'm not --

15 Unless you are telling me that they did, I
16 guess this is probably the first time I have known it as a
17 fact.

18 Q This is the first time that you have known it?

19 A Are you telling me that they did? I'm
20 still --

21 I don't think anybody yet has told me they did.

22 Q I see.

23 A If they did I was not aware of it in any event.

24 Q All right, now, then at the time when the
25 Grand Jury hearing took place, you say that you had no
26 knowledge of their financial interest, none whatsoever,

1 right?

2 A Well, I suppose if anybody would have asked
3 me I would have assumed they are getting a fee.

4 But if you mean in addition to that if they
5 had some sort of financial arrangement, I certainly was
6 not aware of it.

7 Q You knew that Mr. Caballero was originally
8 court appointed, right?

9 A I -- I suppose I knew it, but he was a lawyer
10 for a defendant. I don't suppose it mattered one way or the
11 other whether he was court appointed or not as far as I
12 was concerned.

13 I suppose I knew it.

14 Q Later on, in fact, just a few days later you
15 knew that even though he was entitled to compensation from
16 the face of the statute under 987(a) of the Penal Code,
17 that an order was entered by the Superior Court that he
18 not receive any compensation.

19 Are you aware of that?

20 MR. BUGLIOSI: This is all irrelevant.

21 THE WITNESS: No, not until now.

22 THE COURT: The objection is sustained.

23 THE WITNESS: Sorry.

24 BY MR. KANAREK:

25 Q Well, in any event, in your opinion, Mr.
26 Younger, Miss Atkins did not testify substantially

truthfully before the Grand Jury, did she?

A In my opinion she did not testify to the truth, the whole truth and nothing but the truth.

The word "substantially" is yours, not mine.

Q Well, what you are saying, are you saying she testified substantially truthfully?

A I say she did not testify to the truth, the whole truth, and nothing but the truth. That is what I think.

Q Well, would you answer the question as to whether she testified substantially truthfully?

A I don't know.

Q You don't know whether she did or not.

Give us your opinion, did she? I am only asking for your opinion.

A No, I don't think she did.

MR. KANAREK: All right, thank you, Mr. Younger.

THE COURT: Any questions, Mr. Bugliosi?

MR. BUGLIOSI: No, your Honor.

MR. SHINN: I have some redirect, your Honor.

THE COURT: There is no redirect.

MR. BUGLIOSI: There is no redirect because I did not ask any questions.

14 fls.

14-1

1 THE COURT: You have finished your examination,
2 Mr. Shinn.

3 MR. SHINN: Your Honor, some of the questions that
4 Mr. Kanarek asked I didn't go into, and I believe Mr.
5 Younger answered some of these questions, and I feel that I
6 have a right to go into it.

7 About two or three questions, your Honor.

8 THE COURT: Two or three questions?

9 MR. SHINN: Yes, sir.

10 THE COURT: All right.

11 MR. SHINN: Thank you.

12
13 REDIRECT EXAMINATION

14 BY MR. SHINN:

15 Q Mr. Younger, you just made a statement that you
16 felt that Miss Atkins did not testify truthfully at the
17 Grand Jury; correct?

18 A I testified, in my own words, that she didn't
19 tell the truth, the whole truth, and nothing but the truth;
20 and to use Mr. Kanarek's phrase, didn't testify substantially
21 to the truth.

22 Q Okay.

23 Now, did you read Miss Atkins' testimony at the
24 Grand Jury?

25 A No, sir.

26 MR. BUGLIOSI: Asked and answered.

1 THE COURT: Sustained.

2 MR. SHINN: Q What did you base that answer on?

3 MR. BUGLIOSI: This is irrelevant. It has been
4 asked and answered.

5 THE COURT: This has all been covered, Mr. Shinn.

6 MR. SHINN: No, your Honor.

7 Mr. Younger stated that he was of the opinion
8 that Miss Atkins had not testified truthfully, and I never
9 did ask what he based that on.

10 MR. BUGLIOSI: This has been gone into, your Honor.

11 THE COURT: My recollection is that you inquired into
12 this thoroughly this morning.

13 MR. SHINN: I don't recall that, your Honor.

14 If your Honor feels so?

15 THE COURT: I do. And also other counsel.

16 The objection is sustained as being repetitive,
17 cumulative, and unduly time-consuming.

18 Let's proceed.

19 MR. SHINN: Q When did you first find out that
20 Miss Atkins did not testify truthfully at the Grand Jury?

21 MR. BUGLIOSI: This has been gone into.

22 THE COURT: I didn't hear the question.

23 Read the question.

24 (The question was read by the reporter.)

25 THE COURT: Sustained.

26 MR. SHINN: I have no further questions.

1 THE COURT: All right. You may step down, Mr.
2 Younger.

3 THE WITNESS: Thank you.

4 MR. BUGLIOSI: May Mr. Younger be excused?

5 THE COURT: He is excused.

6 MR. BUGLIOSI: Thank you, Judge Younger.

7 THE COURT: You may call your next witness.

8 MR. KEITH: I was examining Dr. Hochman.

9 THE COURT: Is he here?

10 MR. KEITH: Yes.

11 THE CLERK: Would you state your name, please?

12 THE WITNESS: Joel Simon Hochman.

13 THE CLERK: You are still under oath, sir.

14 THE WITNESS: Thank you.

15
16 JOEL SIMON HOCHMAN,
17 recalled as a witness by and on behalf of the defendants,
18 having been previously duly sworn, resumed the stand and
19 testified further as follows:

20
21 REDIRECT EXAMINATION (CONTINUING)

22 BY MR. KEITH:

23 Q Dr. Hochman, at the close of yesterday's
24 session, you told us that there was a distinct possibility
25 that Leslie would improve with therapy.

26 I will ask you, Doctor, what therapy did you

1 have in mind?

2 A Well, I was talking only from my own personal
3 experience.

4 I was talking about an intensive psycho-
5 analytic-oriented therapy.

6 Q For those of us who don't understand what
7 psychoanalytic-oriented therapy is, could you explain very
8 briefly?

9 A I mean an intensive therapy between a psychia-
10 trist with an analytic training and orientation in his
11 thinking and theorization working individually with the girl,
12 probably on the basis of at least several times a week for
13 a long time.

14a

14q-1

1 THE COURT: Mr. Keith, I don't understand. Perhaps
2 you can get the doctor to explain what you meant by the
3 term "rehabilitation."

4 MR. KEITH: I will ask the doctor what he means by
5 rehabilitation.

6 THE WITNESS: I mean reaching a point in life in
7 which she could function usefully for herself and for
8 society.

9 BY MR. KEITH:

10 Q In your opinion, Doctor, is Leslie intellec-
11 tualizing now or at the time that you spoke with her?

12 A Frequently.

13 Q And by intellectualizing, you mean rationaliz-
14 ing?

15 A Yes.

16 Q In your opinion, Doctor, was she intellec-
17 tualizing frequently when she was living at the Spahn
18 Ranch?

19 A I think so.

20 Q Now, do you subscribe to the psychiatric
21 theory of the id and the ego and the superego and the
22 interrelationship between the three?

23 A Yes.

24 Q Is that a Freudian theory?

25 A Originally.

26 Q And is that widely accepted now in psychiatric

14a-2

1 circles as being valid?

2 A Essentially, yes.

3 Q And the id is the unconscious impulsive part
4 of us?

5 A Essentially.

6 Q And the ego is the mediator?

7 A Yes.

8 Q And the superego is the conscience?

9 A The superego is usually thought of as the
10 conscience part of one's self with both conscious and
11 unconscious portions.

12 Q In Leslie's case, Doctor, do you have an
13 opinion as to whether or not Leslie's ego and superego,
14 at the time of the commission of these offenses, were
15 impaired?

16 A I think that the relationship between them was
17 markedly altered.

18 Q By markedly altered, what do you mean?

19 A From the normal state.

20 I think that it was, given the hypothesis that
21 we talked about, the assumption, the LSD was definitely
22 interfering with its normal function, and I think that her
23 pre-existing psychology evidenced a psychological dys-
24 function of what we would call normal interrelationships
25 between these portions of her psychology, superego and ego.

26 Q You used the term psychological dysfunction.

14a-3

1 I didn't understand what you meant by that
2 term.

3 A To use an example, if we think of the mind
4 mechanically as having a works, a mechanical works, and we
5 give that the title "Psychological" or "The psychology
6 of the individual," then I would say that her psychology was
7 not functioning well.

8 It was dysfunctioning.

1 Q When? Now or previously?

2 A I think it is now. I think it has been
3 previously. I think it has been for a long time.

4 Q Is this a symptom of some mental disorder?

5 A Well, mental disorder is of a larger category.
6 This would be an explanation of one of the
7 sources of the mental disorder.

8 Q Thank you.

9 You also used the phrase "A conditioned
10 response" in your testimony.

11 A Yes.

12 Q Do you recall that?

13 A Yes.

14 Q Could we explain that term in terms of
15 Pavlov's dog?

16 A That is the original model.

17 Q In other words, you learn to do something and
18 then you start to do it automatically after a period of
19 habit forming?

20 A It is the example of the dog where the bell
21 rang each time he was fed. After sufficient exposure to
22 that experience, if the bell was rung and the food did
23 not appear, the dog salivated nonetheless.

24 The conditioned response was salivation.

25 That is the classic example.

26 Q Is there some connection between a conditioned

1 response, as you describe it, and Leslie, in your opinion?

2 A That is a very complex question.

3 Much of human behavior is thought to be learned
4 by conditioning, both classical and/or operant conditioning.

5 Much of her behavior would have to be under-
6 stood to be acquired or learned behavior.

7 She -- well, I shouldn't expand beyond that.

8 Q In your opinion, were her responses, perhaps
9 conditioned by someone at the Spahn Ranch?

10 That is a little broad, perhaps.

11 A It really is.

12 Q All right.

13 In your opinion, could her responses at the
14 time of the La Bianca homicides have been conditioned by
15 someone at the Spahn Ranch? Bearing in mind all the
16 factors that we have been discussing, Doctor?

17 A There is a great gap between what one believes
18 and what one feels and what one does, and I would not like
19 to be in a position of trying to bridge that gap with a
20 simple statement about the relationship between what she
21 was experiencing at the ranch and what she was doing at
22 some other location.

23 Q Very well.

24 You used the term in your testimony "holistic,"
25 w-h-o-l-i-s-t-i-c.

26 A H-o-l. No "w".

1 Q Excuse me. I am sorry. H-o-l-i-s-t-i-c.

2 A Yes.

3 Q Does that mean that there is no right or
4 wrong?

5 A No.

6 That specifically refers to a philosophical
7 term.

8 That means to view the world in a unitary way,
9 without discriminating between self and other, between
10 one's personal identity and the total being of the world.

11 It becomes quite philosophical. Like to not
12 discriminate one's self from others, to say "We are all
13 one, we are all the same."

14 Q And do you describe the life within the Manson
15 Family as somewhat holistic?

16 A I would say that it was one of their express
17 goals, to attain a state where differences between
18 individuals did not exist, where feelings could be shared,
19 everything could be shared, everyone could be shared, all
20 was shared, or all was one.

21 Those were some of the terms they were using,
22 in fact.

23 Q In your opinion, Doctor, did Leslie subscribe
24 to this holistic goal?

25 A As much as she possibly could.

14b-1

1 Q You also told us, I believe, that Leslie failed
2 to internalize.

3 I may be misquoting you. You can correct me if
4 I am.

5 A I was speaking, at that time, of some of the
6 parent figures, some of the value systems of our accepted
7 society.

8 I felt that she had defects in the internali-
9 zation of some of these things.

10 Q Does that mean that her values had been altered
11 by a variety of factors?

12 A I would say that she was somewhat alienated
13 from the values of our present society for a long time and
14 sought actively to further that alienation.

15 Q Was the alienation intensified by the holistic
16 attitude at the Spahn Ranch?

17 A I think definitely.

18 Q And also the drug use?

19 A Definitely. Definitely the LSD in her case.

20 Q Does LSD primarily affect the central nervous
21 system?

22 A As far as we know.

23 Q However, I take it we don't know, or at least
24 psychiatry and research psychiatrists don't know, what it
25 does to the central nervous system?

26 A No.

1 The example of the amphetamines is useful here.
2 We used to think the affect was clear-cut on
3 humans and other biological beings. We recently dis-
4 covered a whole syndrome of effects, effects that we never
5 anticipated, involving small arteries.

6 Q Is the central nervous system the brain,
7 Doctor?

8 A The brain and the spinal cord and the cranial
9 nerves.

10 Q Does the central nervous system substantially
11 affect how we react physically to situations and events?

12 A You can't do much without it.

13 Q You can't live without it, I guess?

14 A Exactly.

15 Q What does it control?

16 A Everything.

17 Q Life itself?

18 A Yes.

19 Q So, can you postulate that if the central
20 nervous system is adversely affected by a drug, then perhaps
21 our whole being is also adversely affected?

22 A Well, I think that is logical, yes, from what
23 we have said.

24 Q And does LSD, when ingested, also act like
25 adrenalin?

26 A It has an effect like adrenalin, yes.

1 Q Do you call that the sympathomimetic effect?

2 A Yes.

3 Q Assuming that Leslie has, and has had, for some
4 years a personality disorder which you have termed schizoid.
5 In your opinion, Doctor, has her chronic use of LSD intensi-
6 fied that personality disorder?

7 A I think it has.

8 MR. KEITH: I have no further questions.

9 MR. FITZGERALD: Nothing further, your Honor.

10 MR. BUGLIOSI: I have a few questions.

11 THE COURT: Go ahead, Mr. Bugliosi.

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RE CROSS-EXAMINATION

1 BY MR. BUGLIOSI:

2 Q Let me ask you this question, Doctor, with
3 respect to all three defendants, and if your answer is
4 different as to one than the other, please differentiate.
5

6 Before I ask the question, you defined the word
7 "psychotic" to mean a person who has a loss of contact
8 with reality; is that correct?

9 A That is part of it, yes.

10 Q Well, is there more than that?

11 A Yes. It is a loss, either a loss of contact
12 with reality, an inability to test reality, an inability to
13 maintain a normal state of ego, of ego control over one's
14 existence, one's function, or a combination of both.

15 Q Would you say the most important characteristic
16 of a psychosis is that the person has a loss of contact
17 with reality?

18 A Yes.

19 Q And is schizophrenia one type of psychosis?

20 A Yes.

21 Q At the present time, Doctor, do you feel any of
22 these three defendants, any of these three female defendants,
23 are psychotic?

24 A No.

25 Q Do you feel any of these three female defen-
26 dants are schizophrenic?

1 A No.

2 Q In your opinion -- and I am asking you for your
3 opinion now, Doctor -- do you feel that any of these three
4 female defendants have ever been psychotic?

5 A Well, we have to discriminate now, as we
6 discussed earlier, between a criminal psychosis and --

7 Q I am not referring to that type of psychosis
8 that comes and goes with the use of the drug.

9 A You're talking about psychosis per se?

10 Q Yes.

11 A No.

12 Q So, in your opinion, Doctor, none of these
13 three female defendants have ever been psychotic?

14 A No.

15 Q Do you feel that any of these three female
16 defendants have ever been schizophrenic?

17 A No.

18 I will have to qualify that.

19 In the example of Miss Krenwinkel, there is a
20 letter from a psychiatrist in --

21 Q I am asking for your opinion, Doctor.

22 A This is why I am giving the explanation.

23 There is a question in my mind, because there
24 is some historical suggestion from another psychiatrist
25 that she was schizophrenic at the time he saw her.

26 Q You mean Dr. Brown in Mobile, Alabama, on

1 December the 24th, 1969?

2 A Yes.

3 So that puts a question in my mind.

4 But on the basis of my examination and the
5 history that I took, I would have to say no.

6 Q So, it is your opinion, Doctor, that none of
7 these three female defendants are presently psychotic or
8 schizophrenic, or have ever been psychotic or schizophrenic;
9 is that correct?

10 A Yes.

11 Q Now, I believe you did mention, however, the
12 term schizoid with respect to Patricia Krenwinkel, and I
13 believe Leslie Van Houten. Schizoid.

14 Does the term schizoid mean, basically,
15 schizophrenic, or is this a different term?

16 A They are different terms.

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1 Q They are not synonymous?

2 A There is an unfortunate resemblance, but they
3 are not the same.

4 It is a confusing resemblance.

5 Q Now, Doctor, for the benefit of the jury,
6 could briefly relate again what you mean by schizoid, and
7 then differentiate that from schizophrenic?

8 A Well, as I define -- I think I defined schizoid
9 earlier in terms of a personality trait disturbance.

10 Q Yes.

11 Schizoid simply means a personality trait
12 disturbance; is that correct?

13 A Well, it is one of the categories. It is one
14 kind of a personality trait disturbance.

15 Q It is not a psychosis?

16 A It is not a psychosis.

17 Q There is no loss of contact with reality?

18 A There is not.

19 Q Now, when you say schizophrenic, what do you
20 mean?

21 A Well, schizophrenic is one variant of psychosis.

22 Q Yes?

23 A There is some controversy about what that
24 exact position is, but it was classically described by
25 Dr. Blueier as a condition in which an individual has a
26 great deal of difficulty testing reality, they are quite

14d-2

1 autistic in terms of involvement with themselves to the
2 exclusion of reality, they have disturbances in affect,
3 that is to say, their emotions don't seem to fit the
4 reality of the circumstance, difficulty with association,
5 which means to say that their thought processes are
6 demonstrably disturbed.

7 For instance, you can't follow their thinking
8 logically or rationally in listening to them.

9 MR. BUGLIOSI: May I approach the witness, your
10 Honor? I want to ask the witness a question privately.
11 I haven't had an opportunity.

12 THE COURT: Yes, you may.

13 (Mr. Bugliosi approaches the witness and they
14 confer.)

15 BY MR. BUGLIOSI:

16 Q With respect to Defendant Patricia Krenwinkel,
17 there was some indication that her original ingestion of
18 LSD was somewhat accidental; is that correct?

19 A Yes.

20 Q After that original incident, Doctor, but
21 before she met Charles Manson, did she indicate to you
22 that she voluntarily took LSD?

23 A Yes.

24 Q Did she indicate to you that during this
25 interlude now, between this first incident and the time
26 she met Manson, that she took any other drugs?

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A Can I refresh my memory as to what her

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history was?

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1 Q Yes.

2 A She had been smoking marijuana and smoking
3 hashish around the age of 19, and that was the period
4 shortly before she met Manson.

5 Q Incidentally, Doctor --

6 A I recall exactly she said her use was such
7 she never had, she never kept a supply of drugs herself,
8 of marijuana or hashish herself, but when she used it
9 it was on occasions when someone else provided them.

10 Q This was before she even met Charles Manson?

11 A Yes.

12 Q Incidentally, Doctor, are you opposed to the
13 death penalty?

14 A Yes.

15 MR. FITZGERALD: Immaterial and irrelevant.

16 THE COURT: Overruled.

17 BY MR. BUGLIOSI:

18 Q You are opposed to the death penalty?

19 A Yes.

20 THE COURT: The answer is yes?

21 THE WITNESS: Yes, I am opposed to the death penalty.

22 BY MR. BUGLIOSI:

23 Q The term insanity, Doctor, you are familiar
24 with that term of course?

25 A Yes.

26 Q Basically you define the word insanity to be

1 the layman's, as it were, the layman's synonym for
2 psychotic?

3 A I would say that the word insanity is used
4 generally to mean psychotic.

5 Q Then, from a psychiatric standpoint, I take
6 it, it is your opinion that none of these three female
7 defendants are presently insane nor have they ever been
8 insane in your opinion, is that correct?

9 A That's correct.

10 Q Just one more question with respect to the
11 concept of remorse.

12 Will you agree, Doctor, that if a human being
13 does something that they personally do not think is wrong,
14 that they personally do not think is wrong, that they would
15 have no cause, no reason to have remorse.

16 Will you agree with me on that?

17 A I think that in order for me to answer that
18 I would have to step out of my psychiatric role.

19 I cannot do that.

20 Often in this testimony I tried to distinguish
21 between what the person experienced consciously and
22 unconsciously.

23 I don't believe in that remorseless aspect
24 unless they have no superego restraint.

25 This is bad.

26 Q Remorse basically in addition to being an

1 emotion is a state of mind also, right?

2 A I'm not sure what you mean by state of mind.

3 Q Well, a person has to go through certain
4 mental processes to have a feeling of remorse, is that
5 correct?

6 A Yes.

7 Q Some mental exercise is involved?

8 A Well, remorse I would think would be something
9 spontaneous or immediate.

10 It is a feeling that one would get without
11 thinking about it.

12 If you have to think about it, it's not
13 there.

14 Q In terms of origin, the feeling is not
15 completely devoid of the mind, the psyche, is it?

16 A That is where it happens.

17 Q Right.

18 A So --

19 Q Remorse, in a sense is a state of mind?

20 A In that sense, yes.

21 Q I'm talking about the conscious level again,
22 which I guess requires you to step out of your psychiatric
23 role, but in addition to dealing in the unconscious you deal
24 in the conscious.

25 Isn't that correct, you deal in the conscious
26 when you psychoanalyze an individual?

1 A I would say most of my attention is directed
2 to the unconscious, trying to find hints from the conscious
3 material.

4 Q So you don't completely eliminate the conscious
5 factor?

6 A No, but I always have a healthy suspicion about
7 it.

8 Q Well, I will ask you once again, and we will
9 see what we come up with.

10 This time I will say, we will preface the
11 question and answer that we are only dealing in the
12 conscious, not the unconscious.

13 Let's try to eliminate the unconscious from
14 the question and the answer.

15 Will you agree that from a conscious standpoint,
16 if a person does something that they personally do not feel
17 is wrong, they would have no reason to have a state of
18 mind, a conscious state of mind of remorse?

19 A You cannot separate the two.

20 Q You cannot separate the conscious from the
21 unconscious?

22 A You cannot.

23 Q There is a marriage there that just cannot
24 be separated?

25 A Indissoluble.

26 Q Until death do us part, right?

A Exactly.

MR. BUGLIOSI: No further questions.

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REDIRECT EXAMINATION

1
2 BY MR. FITZGERALD:

3 Q Why are you opposed to the death penalty?

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

5 MR. FITZGERALD: May I make an offer of proof?

6 THE COURT: Yes, you may.

7 MR. BUGLIOSI: At the bench maybe.

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

10 MR. FITZGERALD: May I preface my remarks by saying
11 Mr. Bugliosi asked the question if the doctor was opposed
12 to the death penalty.

13 I objected on the grounds it was immaterial
14 and irrelevant.

15 I take it that the Court overruled my objection
16 on the grounds it went to the doctor's bias, interest and
17 motive.

18 In the event that question was asked to deter-
19 mine the doctor's bias, interest and motive, the doctor
20 stands impeached because of the death penalty phase of the
21 trial, and he indicated he is opposed to the death penalty.

22 THE COURT: I don't agree with that. I don't agree
23 he stands impeached.

24 That is for the jury to determine.

25 MR. FITZGERALD: I want to rehabilitate him.

26 THE COURT: He did not say he testified the way he

1 did because of the way he feels about the death penalty.

2 He is a scientist.

3 MR. FITZGERALD: That is a conclusion.

4 THE COURT: I am simply commenting on your statement.

5 MR. FITZGERALD: I would like to ask this doctor
6 why he is opposed to the death penalty, and have him state
7 his reasons why he is opposed to the death penalty so that
8 the jury can determine whether, independently, the jury can
9 determine whether or not these reasons for him being
10 against the death penalty would influence his opinion in
11 this case.

12 Certainly I can ask him the question:

13 "Does your belief against the death penalty
14 influence your conclusions here?"

15 THE COURT: Put that question to him directly.

16 MR. FITZGERALD: Pardon me.

17 THE COURT: You can put that question to him
18 directly.

19 But the way you want to do it would in effect
20 withdraw from the jury --

21 In other words, it interferes with the un-
22 trammelled, independent judgment of the jury on this
23 subject.

24 You can put the question to him directly as to
25 whether or not his beliefs influence his testimony.

26 MR. FITZGERALD: That is a conclusion.

1 I have no objection to your Honor giving an
2 instruction to the jury that if he received only for the
3 limited purpose of determining whether or not he has a bias,
4 interest or motive in this case.

5 THE COURT: I think that would be highly improper,
6 Mr. Fitzgerald.

7 MR. FITZGERALD: You see, what can I do besides ask
8 him the question?

9 I want to know his reasons for being opposed
10 to the death penalty so I can argue it did not influence
11 him.

12 If I just ask him, I know what he will answer.

13 THE COURT: I know what you want to do. I admire
14 your resourcefulness, but under the law it is not permissi-
15 ble.

16 MR. FITZGERALD: I am doing so in good faith because
17 I objected to his question.

18 THE COURT: I understand it, I understand.

19 MR. KEITH: I will join in Mr. Fitzgerald's offer of
20 proof.

21 THE COURT: So the record is perfectly clear I am
22 telling you that you may ask him if his beliefs concerning
23 the death penalty and capital punishment have influenced
24 his testimony.

25 You may put that question to him.

26 MR. FITZGERALD: Right.

1 So the record is clear, I feel that is inadequate,
2 but I feel the record established that.

3 MR. KEITH: I will join with Mr. Fitzgerald.

4 MR. SHINN: I will join with Mr. Fitzgerald.

5 MR. KANAREK: I join with Mr. Fitzgerald.

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

8 Q BY MR. FITZGERALD: You have indicated,
9 Dr. Hochman, you are opposed to the imposition of the death
10 penalty, is that correct?

11 A Correct.

12 Q Are you opposed to the imposition of the death
13 penalty across the board, that is, in all cases or just in
14 this case?

15 A In all cases.

16 Q Have your opinions or beliefs concerning the
17 death penalty or capital punishment influenced your testimony
18 in this case in any respect whatsoever?

19 A None that I am aware of.

20 Q Would you abrogate any professional standards
21 you would adhere to because of any belief or feeling you
22 may have about the imposition of the death penalty?

23 A Would you repeat that?

24 Q Would you abrogate any professional standards
25 you adhere to because of your feeling about the death
26 penalty with respect to your testimony?

1 A I think the professional standards I adhere to
2 are completely consonant with my position, and I would see
3 any other position as being not consonant.

4 THE COURT: Is the answer no, then?

5 THE WITNESS: No. I would not abrogate my professional
6 responsibilities.

7 Q BY MR. FITZGERALD: Did you at any time have any
8 conversation with me, or have you received any information
9 from me whatsoever indicating that you should testify in a
10 particular way or in a particular manner?

11 A None whatever and I can say now that I have
12 been reminded of it, I can say in all honesty that the
13 thought of the death sentence, one way or the other, never
14 entered into my conscious mind at any time in my
15 examination or in my testimony.

16 Q Now, would you change your opinion that Patricia
17 Krenwinkel was never psychotic if you were informed that
18 Dr. Tweed testified that it was his opinion that she was
19 previously psychotic?

20 A No.

21 I probably would give him an argument to find
22 out what kind of things he saw that I didn't see.

23 Q In part your analysis and determination are
24 based on your professional experience, isn't that correct?

25 A Yes.

15b-1

1 Q How many persons have you interviewed for the
2 purposes of determining whether or not the person inter-
3 viewed was psychotic?

4 A Oh, thousands.

5 Q Thousands? How many people have you interviewed
6 for the purpose of determining whether or not they are
7 psychotic after you were licensed to practice medicine in
8 the State of California?

9 A Oh, it must be in excess of 12 to 1500, by now.

10 Q After medical school one does an internship?

11 A Yes.

12 Q Correct?

13 A Yes.

14 Q And then if one, as a medical doctor, wishes to
15 pursue a specialty, one engages in what is called the
16 residency, is that correct?

17 A Yes.

18 Q Have you completed a residency in psychiatry?

19 A Yes.

20 Q And when did you conclude your residency?

21 A July of '70.

22 Q How many people have you interviewed since --
23 strike that.

24 Upon conclusion of your residency in July, 1970
25 did that conclude your professional training as a psychia-
26 trist?

1 A No, it continues now.

2 I am on a research fellowship.

3 MR. FITZGERALD: I have nothing further.

4 THE COURT: Anything further?

5
6 REDIRECT EXAMINATION

7 BY MR. SHINN:

8 Q Doctor, in response to Mr. Bugliosi's question
9 whether or not Miss Atkins was ever psychotic, now or in
10 the past, you said no, correct?

11 A Yes.

12 Q You stated that in the past you had many cases
13 where you examined persons and you found them to be
14 psychotic and not psychotic?

15 A Yes, I have had many experiences.

16 Q Now, how long would you say -- how long of an
17 examination would you need to determine whether or not a
18 person is psychotic or not psychotic?

19 A That depends on the degree of dysfunction.

20 There are some individuals you can make that
21 judgment fairly and accurately in moments on the basis of
22 their behavior.

23 Q In other words, you would take a person's
24 actions and their speech, when you determine whether or not
25 a person is psychotic or not psychotic?

26 A Yes.

1 Q And what do you put more emphasis on, more
2 weight on, the actions or his speech?

3 A I cannot answer that. I would take the whole
4 picture.

5 Q You would take the whole picture?

6 A Yes.

7 Q Now, would you say that --

8 A I will give you an example.

9 If someone were standing in the examination
10 room poking themselves in the eye with a nail or a pencil
11 and telling me all the while they are perfectly all right
12 and everything was all right, and speaking logically.

13 I would pay no attention at all to what they
14 are saying.

15 Q You would take his actions?

16 A Actions in that case.

17 Q And when would you just take, say, a person's
18 speech or conversation?

19 A Oh, when they reflected any of the severe
20 psychotic symptoms we recognize.

21 Such as words styled, no logical training
22 of thought, perseverative speech, the same word over and
23 over and over again constantly hours at a time.

24 Q Normally, generally speaking, would you say
25 the more time you spent with a patient the better you
26 would know the person, the better you would evaluate that

1 person?

2 A Sure.

3 Q How long did you talk to Miss Atkins at
4 Sybil Brand?

5 A Let's see, from about, I guess, from about 9:00
6 until about 11:00.

7 Q 9:00 to 11:00 and --

8 A A little before 9:00, I think we got started --
9 I'm not sure exactly -- 8:30, I think it was.

10 Q That is approximately what?

11 A Two and a half hours, two to two and a half
12 hours, yes.

13 Q Do you feel if you had more time with Miss
14 Atkins, say another month with her, would you say that you
15 may then evaluate --

16 A I think I could re-evaluate on a much more
17 sound ground on the terms of sheer weight of information,
18 I would have at that point, but in terms of the judgment
19 I have from two and a half hours, I think that is a sound
20 judgment.

21 In fact, I am going to try to arrange for
22 some consultation with another psychiatrist at UCLA to
23 affirm my judgment.

24 Q You are basing this just on her conversation,
25 not her actions.

26 A All, action and conversation, the way the words

1 were put together, the presence or absence of certain data,
2 non-verbal communications, a variety of things.

3 MR. SHINN: Thank you. I have nothing further.

4
5 REDIRECT EXAMINATION

6 BY MR. KANAREK:

7 Q Doctor, you have stated that presently these
8 girls have no --

9 There is no loss of contact with reality, right?

10 A Yes.

11 Q So when these girls told you that the motive
12 for the Tate-La Bianca murders was the getting of Bobby
13 Beausoleil out of jail, when they told you that they were
14 in reality, at least, they were not insane when they told
15 you that, right?

16 MR. BUGLIOSI: Ambiguous.

17 MR. KEITH: I object to the question as assuming facts
18 not in evidence.

19 THE COURT: Sustained.

20 Q BY MR. KANAREK: Is it a fact that these girls
21 told you, each of them, that Bobby -- that the motive for
22 these murders was getting Bobby Beausoleil out of jail?

23 A Yes.

24 Q Each one of them told you that separately, right?

25 A Yes.

15c-1

1 Q And directing your attention, then, to Susan
2 Atkins, when she told you -- when she told you that it was
3 her idea, because Gary Hinman was a dope peddler, it was
4 her idea to write political piggy on the wall because of
5 her personal feelings against Gary Hinman, she was in
6 touch with you -- she was not insane, right?

7 She was not insane when she told you those
8 words?

9 A If I understand the question --

10 THE COURT: Just a moment.

11 MR. BUGLIOSI: It's ambiguous.

12 THE COURT: It also appears to assume facts not
13 in evidence.

14 The objection is sustained.

15 BY MR. KANAREK:

16 Q She told you, Susan Atkins, that the writing
17 of political piggy on the wall at the Gary Hinman house
18 was her idea.

19 She did it because she did not like Gary
20 Hinman because he was a pig, because he was a dope peddler
21 who dealt in bad dope, right?

22 A Yes.

23 Q And she was in reality --

24 A Yes.

25 Q She was not insane when she told you that?

26 A No.

15c-2

1 Q And directing your attention then to your
2 conversations with these three girls, is it a fair statement
3 that during these conversations with you they communicated
4 in the English language, they spoke to you; there was no
5 reason for you to believe that they were then under any
6 mental aberration?

7 A I have already testified to that.

8 I think that they suffered from a personality
9 disorder which could be classified as a mental illness.

10 I think they suffered from that at the time I
11 talked to them.

12 Q But if my notes are correct, on examination
13 by Mr. Bugliosi you testified that whatever -- whatever
14 their particular diagnosis may be, whatever you might call
15 it, clinically or whatever medical term you might give to
16 it, there was no loss of contact with reality as to anyone
17 of these girls, right?

18 A That's correct.

19 MR. BUGLIOSI: Motion to strike that.

20 That is a very ambiguous question, loss of
21 contact as to reality as to what?

22 MR. KANAREK: That is exactly --

23 MR. BUGLIOSI: He seems to be implying what they
24 were saying had been the truth.

25 THE COURT: I think the question was ambiguous,
26 Mr. Kanarek, as far as the Court is concerned.

15c-3

1 The objection is sustained.

2 The answer is stricken.

3 Reframe the question.

4 MR. KANAREK: Certainly, your Honor.

5 Q Is it a fact, Doctor, that you spoke to each
6 of these girls your opinion was and is that as you were
7 talking to them they were not out of touch with reality?

8 A In the sense that I was asked about reality
9 testing, and their ability to test reality and not to be
10 psychotic, I already testified that I did not feel they
11 were psychotic or out of touch with reality in that sense.

12 Q And so as they spoke with you --

13 For instance, a person can be -- let's take
14 even President Nixon, someone like that, he is diagnosed.

15 Someone could say "Well, he has a certain
16 characteristic; he may be schizoid, or this or that,"
17 even though these technical terms are used to define a
18 particular personality, does that mean the person is
19 mentally ill, or insane as Mr. Bugliosi was pointing out
20 to you.

21 These are just words of description, right?

22 A Well, there is a difference between mentally
23 ill and being insane, and this is what we have been trying
24 to get at for a long time, I think.

25 I would say the answer to your question is
26 that because one is mentally ill or has a diagnosable

1 condition is not synonymous with their being insane.

2 Q And so in any event whatever label you might
3 put upon the personality of each of these girls, when they
4 were speaking with you there was no doubt in your mind
5 that they were not out of contact with reality?

6 A Correct.

7 Q And you did discuss with them what -- let's
8 put it this way:

9 You did discuss with them, each one separately,
10 the motive behind what went on in the Tate and the La
11 Bianca homes, right?

12 A Yes, they spontaneously offered that
13 information.

14 Q But you spoke with them separately?

15 A Yes, they were not together.

16 Q And that involved getting Bobby Beausoleil
17 out of jail?

18 A Well, not exactly.

19 There was more or less feeling in that direc-
20 tion, depending upon the individual I was speaking with.

21 For instance, Miss Krenwinkel explained what
22 happened to -- what happened at the La Bianca residence --

23 No, at the Tate residence, as it was like
24 motion, the murders were like motion; it was with no
25 thought, no time or direction.

26 And she insisted that they were there primarily

1 as a result of driving there, motive unknown.

2 Admitted talk about freeing Bobby, and so
3 forth and so forth, but denied specifically that motivation
4 in committing the murders.

15d fls.

15d-1

1 Q All right, then, would you state as to Bobby
2 Beausoleil, did you discuss that with Susan Atkins and
3 Leslie Van Houten also?

4 A None of the girls specifically said that they
5 killed anyone at the Tate or La Bianca houses because of
6 Bobby Beausoleil.

7 They talked about having discussed this kind of
8 thought, of repeating murders to distract the police.

9 But all insisted independently that the actual
10 events of the murders were not motivated by any thought but
11 rather were a trip, motion, a reaction, a reaction following
12 a reaction following a reaction following a reaction, to
13 quote Miss Krenwinkel, a reaction to a reaction to a
14 reaction.

15 Q And that would be consistent with being under
16 the influence of LSD, that kind of thinking, as to the
17 events at the Tate and La Bianca homes?

18 A Yes.

19 Q That would be completely consistent, right?

20 A I testified to that before.

21 Q And you also testified that to your knowledge,
22 for instance, Susan Atkins has not had any experience
23 with psychiatrists; she is not sophisticated in trying to
24 fool a psychiatrist, right?

25 MR. BUGLIOSI: Calls for a conclusion.

26 THE COURT: Sustained.

1 Q BY MR. KANAREK: But as you sit there on the
2 witness stand, having in mind what these girls told you,
3 is there any reason -- is there any reason for you to
4 believe that they have spoken to so many psychiatrists and
5 so many doctors that they are tuned in and know how to give
6 a response to fool the psychiatrists?

7 A I have no evidence or experience with them to
8 indicate that they would be so skillful.

9 MR. KANAREK: Thank you.

10 THE COURT: Anything further?

11 MR. BUGLIOSI: No, your Honor.

12 THE COURT: You may step down, Doctor.

13 MR. KEITH: May the doctor be excused?

14 THE COURT: Yes, Dr. Hochman is excused.

15 MR. FITZGERALD: May we approach the bench?

16 THE COURT: Yes, you may.

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

19 MR. KEITH: I have no other witnesses on behalf of
20 Leslie Van Houten.

21 MR. SHINN: I have one witness coming tomorrow morning
22 and I have no intention of calling Steve Grogan.

23 THE COURT: You do not?

24 MR. SHINN: No.

25 MR. FITZGERALD: You are entitled to cross-examine,
26 but we have no further direct examination unless

1 Mr. Kanarek does.

2 THE COURT: Do you have any further witnesses?

3 MR. FITZGERALD: No, your Honor.

4 THE COURT: You said you do not?

5 MR. KEITH: That is correct.

6 MR. SHINN: I have one tomorrow morning.

7 MR. BUGLIOSI: Who is he?

8 MR. SHINN: The reporter that went into Sybil Brand,
9 Ambrosini.

10 MR. KANAREK: We have a girl named Catherine Gillis.

11 THE COURT: Is that your last witness?

12 MR. KANAREK: And a short, a very short, -- in view
13 of your Honor's striking Ruthanne Moorehouse's testimony
14 I want to call back Brenda, a girl named Nancy Pittman in
15 connection with Mr. Manson, with where he was.

16 She can testify as to his location with
17 Stephanie Schramm in Devil's Canyon.

18 I asked her to do that because your Honor
19 scrapped Miss Moorehouse's testimony.

20 THE COURT: All right.

21 MR. FITZGERALD: That is it?

22 MR. KANAREK: Yes.

23 THE COURT: Do any of you four defense counsel intend
24 to interrogate Mr. Grogan any further?

25 MR. FITZGERALD: No, your Honor.

26 MR. SHINN: No, your Honor.

1 MR. KEITH: No, your Honor.

2 MR. KANAREK: No, your Honor.

3 THE COURT: Do you intend to cross-examine,
4 Mr. Bugliosi?

5 MR. BUGLIOSI: Just a couple of questions.

6 MR. KAY: What about Mr. Kanarek?

7 THE COURT: Do you want to examine Mr. Grogan?

8 MR. KANAREK: No, your Honor.

9 MR. BUGLIOSI: So we've got Grogan, we've got
10 Ambrosini, Gillis and Nancy Pittman and that is it.

11 MR. KANAREK: Yes.

12 THE COURT: Who is going on first?

13 MR. SHINN: I will try to get Miss Ambrosini in
14 at 9:30.

15 THE COURT: Since the defense have some witnesses and
16 Mr. Grogan is upstairs, you can work out your own schedule
17 of witnesses as long as we don't waste any time.

18 In other words, Grogan can be brought down in
19 a matter of minutes.

20 MR. FITZGERALD: It takes three or four minutes.

21 THE COURT: All right. Then we will adjourn for
22 tonight.

23 MR. BUGLIOSI: Very good, very good.

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

26 THE COURT: We will adjourn at this time, ladies and

1 gentlemen.

2 Do not converse with anyone or form or express
3 any opinion regarding penalty until that question is
4 finally submitted to you.

5 The Court will adjourn until 9:30 tomorrow
6 morning.

7 (Whereupon, an adjournment was taken to
8 reconvene Friday, March 12, 1971, at 9:30 a.m.)
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