

DISTRICT ATTORNEY
SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff-Respondent,

vs.

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

Defendants-Appellants.

NO. 3091

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HON. CHARLES H. OLDER, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

APPEARANCES

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

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1 MR. KANAREK: You may answer if you wish.

2 MR. BUGLIOSI: No. I don't believe that is the law.

3 MR. WEITZMAN: Pardon me. The objection has been
4 sustained.

5 THE COURT: Don't advise the witness, Mr. Kanarek.

6 MR. KANAREK: I don't believe she understands the
7 nature of it.

8 I think she is trying to --

9 THE COURT: Ask your next question.

10 BY MR. KANAREK:

11 Q Miss Brunner, would you tell us, what is
12 your response to this question?

13 MR. WEITZMAN: Your Honor, the objection has already
14 been sustained.

15 MR. KANAREK: I don't think she understands, your
16 Honor.

17 THE COURT: Well, Miss Brunner, your attorney is
18 objecting for the reasons that he stated to you in your
19 conference.

20 Now, if you wish to answer notwithstand-
21 ing his objection, you have the right to do so, but you
22 are not obligated to.

23 THE WITNESS: The question that I once told someone
24 I was there?

25 THE COURT: Do you understand what I am saying?

26 THE WITNESS: Yes.

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1 THE COURT: All right.

2 MR. WEITZMAN: Your Honor, if I may interrupt the
3 Court for a moment.

4 Miss Brunner, as I understand it, comprehends
5 what is going on. She is intelligent enough to understand
6 the meaning and the purpose of the objection.

7 If she has any question, contrary to Mr.
8 Kanarek's belief, I believe she will ask if she can consult
9 with me, and perhaps then, if there is a problem, we
10 could resolve it.

11 But I would ask the Court to advise Mr. Kanarek
12 not to advise my client.

13 MR. BUGLIOSI: And apart from Mr. Weitzman's objection,
14 I am objecting on the ground that it is irrelevant and
15 calls for hearsay.

16 THE WITNESS: Oh, Vince.

17 THE COURT: Reframe the question, Mr. Kanarek.

18 BY MR. KANAREK:

19 Q Have you told anyone, in fact, that during
20 those summer months you were there, Miss Himman?

21 MR. WEITZMAN: Same objection.

22 THE WITNESS: Yes.

23 MR. BUGLIOSI: Same objection. Irrelevant and
24 hearsay.

25 THE COURT: Sustained.

26 MR. KANAREK: Under Greene vs. California.

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1 THE COURT: Objection sustained.

2 MR. BUGLIOSI: Motion to strike the witness's
3 answer.

4 THE COURT: I didn't hear an answer. Did she answer?

5 MR. BUGLIOSI: She answered yes.

6 MR. WEITZMAN: I am sorry. I didn't hear it. May
7 it be stricken?

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

10 MR. KANAREK: Is it stricken on Mr. Bugliosi's
11 grounds or on Mr. Weitzman's?

12 THE COURT: Ask your next question, Mr. Kanarek.

13 BY MR. KANAREK:

14 Q In fact, Miss Brunner, were you present when
15 Gary Hinman was killed?

16 A No.

17 MR. WEITZMAN: Same objection, your Honor.

18 THE COURT: Sustained.

19 MR. WEITZMAN: I don't know if there was a response.
20 If there was, may it be stricken, your Honor?

21 THE COURT: Not if she wants to answer.

22 Do you want to answer, notwithstanding your
23 attorney's objection?

24 THE WITNESS: I answered it.

25 THE COURT: All right.
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BY MR. KANAREK:

Q What is your answer?

A I told you no.

I have told you five times now.

MR. WEITZMAN: I think the objection should stand
for the record, your Honor.

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THE COURT: Let's proceed.

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1 MR. KANAREK: Q Is it a fair statement, Miss
2 Brunner, that notwithstanding your attorney's statement to
3 you, it is your desire to answer all of these questions?

4 MR. BUGLIOSI: That is irrelevant.

5 THE COURT: That is an objectionable question,
6 Mr. Kanarek.

7 Do you have any further examination?

8 MR. KANAREK: Yes, your Honor.

9 THE COURT: Get on with it.

10 MR. KANAREK: Q Then, other than Leslie Van Houten,
11 Miss Brunner, have you spoken to Susie?

12 Do you know someone named Susie?

13 A Do you mean Sadie?

14 Q What do you call her?

15 A Sadie.

16 Q You call her Sadie?

17 A Yes.

18 Q Have you spoken to Sadie concerning matters at
19 the Hinman house?

20 A Yes.

21 Q And when did you speak to her?

22 A Sadie has told me about matters at the Hinman
23 house several times.

24 Q Will you tell us who was present on each
25 occasion?

26 A I couldn't tell you. I don't know.

1 Sadie would say something in front of me and
2 Katie, then something else in front of me and Brenda, and
3 then something else in front of me and another girl.

4 Sadie has told me several different things that
5 happened at the Hinman house.

6 Q All right.

7 Would you tell us, if you can, would you tell
8 us when each conversation occurred and what was said at
9 each conversation?

10 Can you do that? Is that possible?

11 A Not exactly.

12 Sadie talked about killing Gary several times,
13 and it was all within a period of a couple of weeks, and
14 every time she told it it came out a little bit different.

15 Q Well, would you tell us, as best you can --
16 were all of these conversations at the Spahn Ranch?

17 A Yes.

18 Q Was anyone else present other than yourself
19 when you spoke to Sadie concerning these matters?

20 A I think one time I talked to her alone about it,
21 and other times I talked to her with other people
22 present.

23 Q All right.

24 Will you tell us who the other people were who
25 were present?

26 A Just other girls, other girls in the family.

I don't remember for sure who.

Q All right.

Then would you tell us each of the versions that Sadie told you?

You say she told it a little different each time.

MR. BUGLIOSI: Irrelevant, and calls for hearsay.

THE COURT: Overruled.

THE WITNESS: One version was that Gary was attacking her and that she had stabbed him.

One version had it that Gary was after Bobby for some reason, and she had stabbed him.

One version was that Gary had gotten in a fight with some other people when she had gone up there, gotten in a fight with other people that she had been with, and he got stabbed. It wound up that he got stabbed by other people.

She had stories, you know. Sadie's imagination runs sometimes.

One version had Bobby stabbing Gary, and then she stabbing him afterward.

Q Have you finished?

A That is all I can remember.

There are a lot of details, but they went in one ear, I heard them and I put them in my head, but I don't remember them exactly.

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1 Q What did she say occurred at the Hinman
2 house prior to the stabbing?

3 A They all involved a fight in which Bobby's
4 ear had been cut by someone. And some of it was by other
5 people. Sometimes it was cut -- not Bobby, Gary, excuse
6 me. It had been cut with a knife.

7 I don't remember exactly how it happened in
8 her story.

9 Q Now, did she say anything concerning Gary
10 Hinman's dealing in dope?

11 MR. BUGLIOSI: That is irrelevant.

12 THE WITNESS: Yes.

13 BY MR. KANAREK:

14 Q What did she say?

15 THE COURT: Overruled.

16 THE WITNESS: She mentioned in one version that I
17 heard, she mentioned there was some dope dealers at
18 Gary's house, that he had burned them, or they had burned
19 him. I don't remember which way it went.

20 BY MR. KANAREK:

21 Q What do you mean by burned?

22 A Burned? Well, it means either that he had
23 gotten something from them and hadn't paid him for it,
24 or they had gotten some dope from him and hadn't paid
25 him for it. Or else they had given him bad dope.

26 Q Now, did she state that Leslie was with her

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at the Hinman house?

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A Yes.

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Q Did she state how long Leslie was with her

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at the Hinman house?

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A For a couple of days.

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1 Q Did she tell you what she observed Leslie do
2 at the Hinman house?

3 MR. KEITH: Hearsay as to Leslie Van Houten.

4 MR. KANAREK: What she did, your Honor.

5 THE COURT: Overruled, you may answer.

6 THE WITNESS: I don't really recall what she said
7 she saw Leslie do.

8 She was there with her. They were doing
9 whatever they were doing together.

10 MR. KEITH: I move that answer be stricken as a
11 conclusion of this witness.

12 THE COURT: The latter portion of the answer will
13 be stricken.

14 The jury is admonished to disregard it.

15 BY MR. KANAREK:

16 Q Was there any discussion with Sadie concerning
17 the words "political piggy"?

18 A She told me that she wrote them on a wall.

19 Q Did she tell you why she wrote them on the
20 wall?

21 A No.

22 Q Did she tell you whose idea it was to write
23 them on the wall?

24 A No, I imagined it was her own idea.

25 MR. BUGLIOSI: Motion to strike as a conclusion,
26 your Honor.

1 THE COURT: The statement "I imagined it was her
2 idea" is stricken.

3 The jury is admonished to disregard it.

4 Don't volunteer.

5 BY MR. KANAREK:

6 Q Now, after you were arrested you spent some
7 weeks in jail, is that right?

8 A That's right.

9 Q About six weeks?

10 A About that.

11 Q After you got out of jail did you go somewhere?

12 A I went first to the ranch.

13 Q How long did you stay at the ranch after you
14 got out of jail?

15 A Just overnight, part of the next day.

16 Q Do you remember what day it was that you went
17 to the ranch?

18 A No.

19 Q Now, you recognize that you are testifying
20 under oath?

21 A Yes.

22 Q Under penalty of perjury?

23 A Uh-huh.

24 Q It's a penitentiary offense to lie on the
25 witness stand?

26 MR. BUGLIOSI: I object.

1 THE COURT: Get on with your examination, Mr.
2 Kanarek.

3 BY MR. KANAREK:

4 Q Did you have occasion to go into the trailer
5 where Randy Starr lived when you got back to the ranch?

6 A Yeah, I think I did because Sandy was getting
7 stuff ready -- oh, no, I think Sandy was in there maybe
8 then with her baby.

9 Q Had you been in that trailer before?

10 A Yeah.

11 Q Were there cupboards in that trailer?

12 A Yes.

13 Q Now, I will show you a picture --

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

15 MR. WEITZMAN: Your Honor, I would like to see the
16 picture before he approaches the witness.

17 (Photo shown to Mr. Weitzman.)

18 BY MR. KANAREK:

19 Q I show you this panel, it appears to be a
20 door or a panel, depicted in People's 261.

21 First I will ask you, have you ever seen that
22 panel before?

23 A Yeah, I think I remember seeing this written
24 some place, I don't remember, it's probably all on the
25 same panel. This would stand out more.

26 Q Now, directing your attention to the time

1 before you were arrested on August 8th, 1969, was this
2 writing on that panel and the trailer that Randy Starr
3 occupied?

4 A Before I was arrested?

5 Q Yes.

6 A No.

7 Q Did you see this writing on this panel after
8 you were arrested?

9 A Not that night, I went back to the ranch; I
10 did not see it, no.

11 Q When did you see it if at all in your lifetime,
12 what appears to be depicted in People's 261?

13 When did you first see it?

14 A I only saw it once. I was at the ranch in
15 October when all the Family was in the desert and it was
16 on the wall then.

17 Q Now -- and is it your statement that prior
18 to the time that you saw it in October you had never seen
19 this, what is depicted here -- what is written on this
20 panel, you have never seen it before?

21 A That's right.

22 Q And on how many different occasions had you
23 been in the trailer that was occupied by Randy Starr?

24 A Oh, really, I was in there in and out, you
25 know, I might go in there every day, several times, and
26 I might not go in there --

1 You know, I have been in there hundreds of
2 times, I imagine.

3 Q So you had ample opportunity to look at the
4 panels that were covering the cupboard, right?

5 A Yeah.

6 Q And the doors that were covering the cupboard?

7 A Sure, I cleaned that trailer several times.

8 Q And does this panel, this door appear to be
9 a cupboard door or a panel for that very trailer?

10 A Yeah, I saw that panel. I saw it painted in
11 there.

12 Q And is this the very panel that we are speaking
13 of, the panel that you saw in Randy Starr's trailer?

14 A I imagine when I saw it, a lot of this writing
15 was not on it, part of it was on it.

16 I don't think this peace symbol was on it, I
17 don't think this design on there was on it then.

18 Q Well, was anything written on it at all before
19 your arrest of August 8, 1969?

20 A No, nothing at all was written on it before my
21 arrest.

22 Q And this came into existence in the form that
23 you see it here when these writings on it after August 8th,
24 1969, is that right?

25 A After the middle of September, 1969.

26 Q Now, who lived in that trailer, who lived in

1 that trailer to your knowledge between August the 8th,
2 1969, and sometime in October, 1969?

3 A Sandy lived there I think for a while with her
4 baby, and then after she left and went to the desert,
5 Juan moved into that trailer.

6 Q So if Sandy -- do you know when Sandy went to
7 the desert?

8 A No, I do not.

9 Q Do you know the exact date, or can you give
10 us an approximate time that Juan Flynn moved into that
11 trailer?

12 A No, I know when I was out of jail in the middle
13 of September, I think it was, Sandy was living in the trailer
14 with her baby; then I went back East, and when I came back
15 in October none of the Family was there.

16 The only person I knew was there was Juan.

17 Q On August 8, 1969, who lived in that trailer
18 the day you were arrested?

19 A I don't rightly recall.

20 Q The trailer we are speaking of?

21 A I don't remember Randy being there then; I
22 don't know who was using it right then.

23 I think Randy just left the ranch. I don't
24 know if anyone was using it.

25 Q When you got out of jail, then, Sandy was
26 living there, is that right?

1 A That's right.

2 Q When was the first time to your knowledge that
3 Juan Flynn lived in this trailer?

4 A I know, the first time that I knew of him
5 living in there was when I was here in October.

6 Q October, 1969?

7 A Uh-huh.

8 Q Is that right?

9 A That's right.

10 Q Now, you went to Wisconsin and while you were
11 in Wisconsin were you interrogated by Los Angeles Police
12 Officers?

13 A Yes.

14 MR. BUGLIOSI: Asked and answered, and it is
15 irrelevant.

16 THE COURT: The answer is in.

17 BY MR. KANAREK:

18 Q Did you at some time then come back to Los
19 Angeles?

20 A Several times.

21 Q In other words, you went back and forth
22 several times?

23 A At least three.

24 Q Now, do you remember when it was -- do you
25 remember the date that you were interrogated by Los
26 Angeles Police officers in Wisconsin?

1 MR. BUGLIOSI: Irrelevant.

2 MR. KANAREK: The date -- I am not asking for the
3 conversations, I'm merely asking for when it occurred,
4 your Honor.

5 THE COURT: Overruled, you may answer.

6 THE WITNESS: Twice. Once in December of '69 and
7 once in March of '70.

8 BY MR. KANAREK:

9 Q Now, in this interim, between December of
10 '69 and March of 1970 did you come back to Los Angeles?

11 A I made arrangements to come back to Los Angeles
12 but I was told if I were to come I would be murdered or
13 I would be arrested for murder if I came to talk to Daye
14 Shinn.

15 Q Who told you that?

16 MR. BUGLIOSI: Motion to strike.

17 THE COURT: The answer is stricken. The jury is
18 admonished to disregard it.

19 Just answer the question asked; don't
20 volunteer anything.

21 BY MR. KANAREK:

22 Q You say you made arrangements to come, but
23 you didn't come?

24 A That's right.

25 Q Well, at some time you did come, though,
26 is that right, Miss Brunner?

1 A Yeah, after Burt Katz decided it would be all
2 right if I would come and talk to another lawyer other than
3 Shinn.

4 MR. BUGLIOSI: Motion to strike.

5 THE COURT: The answer is stricken. The jury is
6 admonished to disregard it.

7 BY MR. KANAREK:

8 Q Now, when was it that you came to Los Angeles
9 in fact?

10 A The first time? In '70.

11 Q Between this period of December, 1969, and
12 March of 1970?

13 A I came right after --

14 It must have been later in March, right after
15 Burt Katz came out.

16 He said I could see some lawyer other than
17 Shinn, and then I came out and saw a lawyer arranged by
18 someone else.

19 MR. BUGLIOSI: Motion to strike.

20 THE COURT: The answer is stricken.

21 The jury is admonished to disregard it.

22 Don't keep doing the same thing, Miss Brunner,
23 we are just wasting time.

24 Just answer the question asked.

25 BY MR. KANAREK:

26 Q Well, then, without telling us what was said,

1 Miss Brunner, you were spoken to in Wisconsin by Mr. Katz
2 of the District Attorney's office as well as Los Angeles
3 police officers, is that right?

4 A That's correct, yeah.

5 Q Then subsequent to some conversation with a
6 member of the District Attorney's office, to wit, Mr.
7 Burton Katz, you then came to Los Angeles?

8 A That's right.

9 Q When was that?

10 A Probably in the end of March, I'm not sure.
11 I was only here for a weekend to talk to a lawyer.

12 Q Then after speaking to whoever you spoke to
13 here in Los Angeles you went back to Wisconsin?

14 A That's right.

15 Q When did you return after having gone back?

16 A The Sheriff's Department brought me back in
17 April.

18 Q You mean you were brought back in custody in
19 April?

20 A Yeah, they did not call it custody, but that
21 is what the effect was.

22 Q Well, in other words, you --

23 MR. BUGLIOSI: Motion to strike, it's a legal
24 conclusion.

25 THE COURT: Overruled.
26

1 BY MR. KANAREK:

2 Q In April you were accompanied to California
3 by certain people, is that right?

4 A That's right.

5 Q Who were these people?

6 A A member of the Wisconsin Sheriff's Department.

7 Q Anyone else?

8 A No.

9 Q Between the time that Mr. Katz spoke to you
10 and the time that you came out in April, were you spoken
11 to by any law enforcement officers?

12 A I don't believe so -- oh, yeah, a telephone
13 conversation, but that was all.

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1 Q Now, at the present time you have custody of
2 your child?

3 MR. BUGLIOSI: Irrelevant.

4 THE WITNESS: No.

5 THE COURT: Sustained.

6 MR. BUGLIOSI: Motion to strike, your Honor, and I
7 will ask the Court again to admonish this witness here --

8 THE COURT: The answer is stricken, the jury is
9 admonished.

10 MR. BUGLIOSI: --- to wait for the Court's ruling.

11 THE COURT: Wait for the ruling.

12 THE WITNESS: You did not object before I answered.

13 MR. BUGLIOSI: Then wait.

14 Q BY MR. KANAREK: Just so it will be crystal clear,
15 Miss Brunner, when before, let's say, August the 8th, 1969,
16 when you were arrested and taken to Sybil Brand, when is
17 the last time that you were ever inside or on the premises
18 or near the Gary Hinman house?

19 MR. WEITZMAN: Objection, your Honor, on the same
20 grounds we previously discussed in chambers.

21 THE COURT: Sustained.

22 MR. KANAREK: I don't think the witness realizes
23 she may answer if she wants to, your Honor.

24 THE COURT: Ask your next question, Mr. Kanarek.

25 Do you have any more examination?

26 MR. KANAREK: Yes. May I have an answer to this

1 question?

2 THE COURT: The objection is sustained.

3 MR. KANAREK: Your Honor, I don't mind Mr. Weitzman, --
4 but I sort of feel like I am --

5 MR. WEITZMAN: I would not want to give Mr. Kanarek
6 that impression, your Honor.

7 THE COURT: What was that, Mr. Weitzman?

8 MR. WEITZMAN: I would not want to give Mr. Kanarek
9 that impression, your Honor. I will sit over here.

10 Q BY MR. KANAREK: Now, on how many occasions
11 in your lifetime, Miss Brunner, have you been at the Gary
12 Hinman house?

13 A Several.

14 Q And were these times during the year 1968?

15 A Yeah, a lot of times. I lived there in 1968.

16 Q But in 1969 you were never there, right?

17 A That's right, and --

18 MR. WEITZMAN: Objection, your Honor, the same
19 objection we discussed in chambers.

20 MR. KANAREK: She answered, your Honor.

21 THE COURT: The answer is stricken. The jury is
22 admonished to disregard it.

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

24 THE COURT: You may not.

25 Q BY MR. KANAREK: When you lived at the Gary
26 Hinman house, who else lived there?

1 A Gary and Bear, my son, and usually one other
2 girl.

3 Q And another girl?

4 A Yeah, Brenda was there sometimes with me and
5 sometimes another girl, maybe Ella.

6 Q And so it was you, Gary Hinman, Pooh Bear, your
7 son --

8 A That's right.

9 Q -- whose true name is Michael Manson, right?

10 A Yeah.

11 Q And this new girl, Ella?

12 A Ella or Brenda, either one. They switched off.

13 Q When was the last time in your lifetime that
14 you saw Mr. Hinman?

15 MR. WEITZMAN: Objection, your Honor, on the same
16 ground discussed in chambers.

17 THE COURT: Objection sustained.

18 MR. KANAREK: Well, your Honor, then I ask the witness
19 may be informed that she may answer if she wishes.

20 THE COURT: Ask your next question, sir.

21 Q BY MR. KANAREK: Well, did you see Mr. Hinman
22 during the year 1969?

23 MR. BUGLIOSI: Asked and answered.

24 MR. WEITZMAN: Same objection, your Honor.

25 THE COURT: Sustained.

26 MR. KANAREK: May I approach the bench?

1 THE COURT: Yes, you may, Mr. Kanarek.

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

4 THE COURT: Now, Mr. Kanarek, if you don't stop this,
5 you and I are going to have a serious misunderstanding.

6 Do you understand what I am talking about?

7 MR. KANAREK: I understand. I would like to point
8 this out to the Court --

9 THE COURT: All right, you are obviously trying to
10 obstruct and delay and defeat the ends of justice in this
11 case, that has been obvious for a long time.

12 Now, with respect to this particular witness
13 the procedure has been worked out with Mr. Weitzman, and
14 the witness. She understands. She has been advised.

15 Is that right, Mr. Weitzman?

16 MR. WEITZMAN: That is correct, your Honor.

17 THE COURT: She knows she may answer any question
18 notwithstanding your objection.

19 Is that right, Mr. Weitzman?

20 MR. WEITZMAN: Yes, your Honor.

21 THE COURT: You have been so advised and you have
22 been told that several times, Mr. Kanarek, and you
23 persist in trying to defeat and delay and obstruct the
24 examination. It is your examination.

25 Now, you are either going to get on with it or
26 I am going to terminate it.

1 MR. KANAREK: May I point out to the Court she is not
2 aware she can answer?

3 THE COURT: She is perfectly aware of it.

4 Is that right, Mr. Weitzman?

5 MR. WEITZMAN: I would like the record to reflect this
6 is an intelligent girl. She is fully aware of what is going
7 on. She understands the proceedings.

8 She understands the advisement, what the
9 procedure is:

10 If she has a question she will call me to the
11 witness stand.

12 When the objection is sustained she knows not
13 to answer until we have had a discussion.

14 THE COURT: Your solicitude for the witness is
15 touching, if it weren't so phony, Mr. Kanarek. Get on with
16 this examination.

17 MR. WEITZMAN: Your Honor, may I approach the witness?

18 THE COURT: Yes. We are going to take a recess at
19 this time, Mr. Weitzman, you may confer with your witness
20 during the recess.

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

23 THE COURT: Ladies and gentlemen, do not converse
24 with anyone or form or express an opinion regarding
25 penalty until that question is finally submitted to you.

26 (Recess.)

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1 THE COURT: All parties are present except
2 Mr. Hanson. All counsel and all jurors are present.

3 You may proceed.

4 MR. KANAREK: Your Honor, may we approach the bench
5 briefly?

6 THE COURT: In connection with this examination?

7 MR. KANAREK: Yes, your Honor.

8 THE COURT: Very well.

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

12 MR. KANAREK: Your Honor, I represent to the Court
13 that this witness has told me that Mr. Weitzman told her
14 that she had immunity.

15 That is one thing I want to point out.

16 MR. WEITZMAN: That what?

17 MR. KANAREK: That you told her that she had immunity.

18 That is one point I wanted to point out.

19 THE COURT: Do you have a motion to make, Mr. Kanarek?

20 MR. KANAREK: Yes.

21 THE COURT: State it.

22 MR. KANAREK: My motion is that there be no further
23 interruptions by the exercise of the privilege because it
24 is res adjudicata, that she has been granted immunity.

25 MR. KAY: She has not been granted immunity.

26 MR. KANAREK: Judge Kathleen Parker granted her

1 immunity.

2 THE COURT: There is no evidence before this Court
3 that she has been granted immunity.

4 MR. KANAREK: I ask the Court to take judicial notice
5 of the proceedings in the Honorable Kathleen Parker's
6 court where a writ of habeas corpus had been granted.

7 THE COURT: That is not a way to ask the Court to
8 take judicial notice. Consult the Evidence Code.

9 Anything else?

10 MR. KANAREK: Well, I ask that the file be brought up
11 here.

12 I had no knowledge that Mr. Weitzman would be
13 here today doing what he is doing.

14 Your Honor calls it obstruction, or whatever.
15 The fact is that I had no reason to believe that there was
16 going to be any claim of privilege.

17 This witness told me that she was told she had
18 been granted immunity.

19 Judge Kathleen Parker had granted a writ of
20 habeas corpus.

21 THE COURT: What is your understanding, Mr. Weitzman?

22 MR. WEITZMAN: I can represent the following to the
23 Court: A writ of habeas corpus was granted pending
24 further proceedings in the Hinman case, which has now been
25 consolidated in the Hinman-Shea case.

26 The Court ruled she would be granted a conditional

1 immunity pending these proceedings, which meant that as
2 long as she continues to testify for the People pursuant
3 to her bargain with them, allegedly made prior to her
4 testifying, she would be granted immunity.

5 However, the Court did not rule that statutory
6 immunity, as we know it, was applicable to that matter,
7 and no immunity papers were filed.

8 Now, Miss Brunner is well aware that she can be
9 reindicted if she breaks the alleged promise she made
10 to the District Attorney's Office. She has a clear under-
11 standing of that.

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1 THE COURT: Have you so advised her?

2 MR. WEITZMAN: Yes, I have.

3 I can readvise her.

4 THE COURT: That is your state of mind, that she can
5 be reindicted?

6 MR. WEITZMAN: That is the state that Judge Parker
7 left the case in.

8 I don't think it is legally possible.

9 THE COURT: In other words, you are asserting the
10 privilege in good faith?

11 MR. WEITZMAN: Oh, yes, your Honor. Oh, for sure.

12 THE COURT: You are not asserting it believing that
13 she has immunity?

14 MR. WEITZMAN: No.

15 And I might further point out that there is
16 no immunity for perjury if she testifies under oath
17 something differently than what she has already testified
18 to under oath. She would be subject to prosecution for
19 perjury, for which there is no immunity.

20 MR. FITZGERALD: Mr. Bugliosi gives people immunity
21 for perjury.

22 MR. BUGLIOSI: I do?

23 MR. FITZGERALD: That shouldn't be on the record. I
24 am sorry.

25 MR. BUGLIOSI: Where did you get that?

26 THE COURT: Your motion is denied, Mr. Kanarek.

1 MR. KANAREK: I just wanted to point out to the Court
2 that her testifying here has got nothing to do with her
3 obligation to testify for the People.

4 The fact that she has been given immunity
5 doesn't mean that we have to have our interrogation
6 interrupted by this constant use of the privilege.

7 THE COURT: All right. Let's proceed.

8 MR. WEITZMAN: I think the record is clear, but it
9 should be stated once again.

10 There are two problems. One is the pending
11 indictment, and two, the possibility of a perjury indict-
12 ment, which is every bit as real as the pending indictment.

13 THE COURT: You say the possibility of a perjury
14 indictment? I don't follow that.

15 What are you talking about?

16 MR. WEITZMAN: Let's say, for example, she has
17 testified one way under oath. Now, attempts are made by
18 Mr. Kanarek to induce her to testify another way under
19 oath. And the statements are inconsistent, theoretically.

20 THE COURT: That is true in every case.

21 MR. WEITZMAN: It is also true in every case, yes.

22 There is a possibility that that fits into the
23 elements of perjury. It certainly does.

24 THE COURT: What you say is true, but I don't see the
25 relevancy it has to what we are talking about now.

26 MR. WEITZMAN: Well, she certainly has every grounds to

1 invoke the privilege if it is self-incriminatory.

2 I mean, I think that is almost as big an issue
3 as the pending indictment, and I can represent to the Court,
4 believe me, there is an indictment pending against this
5 young lady.

6 The writ of habeas corpus did not dismiss the
7 indictment. She is only on the street as a People's
8 witness.

9 MR. KEITH: You used the term before "reindicted."

10 MR. WEITZMAN: I meant reinstitute proceedings.

11 MR. KEITH: I see.

12 THE COURT: Let's recapitulate for a moment.

13 It is your belief, Mr. Weisman, as an attorney
14 for Miss Brunner, she is still subject to prosecution in
15 the Hinman case?

16 MR. WEITZMAN: Yes, your Honor.

17 THE COURT: And immunity has not been granted?

18 MR. WEITZMAN: Statutory immunity has not been
19 granted, your Honor.

-1
1 As a matter of fact, I think the record can
2 safely state immunity has not been granted.

3 THE COURT: So then when you assert the privilege
4 against self-incrimination for her in this case, and she
5 follows your advice, you are acting in good faith?

6 MR. WEITZMAN: Yes, your Honor, completely in good
7 faith.

8 THE COURT: The answers may very well incriminate her
9 and she is subject to prosecution for information
10 disclosed in those answers, is that right?

11 MR. WEITZMAN: That's correct, your Honor.

12 MR. KANAREK: But your Honor, Judge Kathleen Parker
13 in granting habeas corpus --

14 THE COURT: Let's proceed, gentlemen. The motion is
15 denied.

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

18 Q BY MR. KANAREK: Miss Brunner, have law
19 enforcement officers told you that unless you involve
20 Charles Manson --

21 MR. BUGLIOSI: I object to this. The question
22 already contains hearsay.

23 THE COURT: Approach the bench, Counsel.

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

26 THE COURT: Mr. Kanarek, if you try one more sneaky,

1 little trick like that, one more obviously improper question,
2 I'm going to find you in contempt.

3 Now, get on with your examination.

4 MR. KANAREK: I want to point out this is absolutely
5 the discretion of the jury, your Honor.

6 THE COURT: Get on with your examination or I will
7 terminate it.

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

10 Q BY MR. KANAREK: Miss Brunner, did you
11 observe Mr. Bobby Beausoleil in the company of Leslie
12 Van Houten?

13 A Yeah, a lot of times. They were real close.

14 Q And would you describe the relationship that
15 you saw between the two?

16 A Like Leslie lived with Bobby for a while and
17 when he came back to the ranch they were very tight like
18 they were with each other all the time.

19 Q Now, directing your attention, Miss Brunner,
20 to on or about July 15th, 1969, do you know where
21 Leslie Van Houten was living?

22 A She was living at the ranch.

23 Q Do you know where Bobby Beausoleil was living
24 or where his residence was?

25 A He was staying at the ranch then.

26 He had another apartment some place, but at the

1 time he was staying at the ranch.

2 Q And at a time when Bobby Beausoleil was, as you
3 put it -- where you think he had another apartment, and
4 was staying at the ranch also, -- did you see Leslie
5 Van Houten in the company of Bobby Beausoleil?

6 A Almost all the time.

7 Q And did you see them go places together?
8 Did you see them leave the ranch together?

9 A I imagine I did. I cannot recall any specific
10 instance right now, but they were together all the time, so
11 if one left, then the other probably left.

12 MR. KEITH: Move to strike on the grounds of a
13 conclusion.

14 THE COURT: The answer is stricken; the jury is
15 admonished to disregard it.

16 Q BY MR. KANAREK: Did you see Leslie Van Houten in
17 the company of Bobby Beausoleil at different times of the
18 day and night?

19 A Yes.

20 Q Now, did you have occasion to know whether or
21 not Bobby Beausoleil and Leslie Van Houten shared sleeping
22 quarters at the ranch?

23 A I know they did. I don't know if I ever saw them
24 together but I know they did.

25 Q And upon what do you know this, upon what
26 do you base this?

1 You say that you know that they did.

2 A They were just together all the time.

3 Q Did they have the reputation in that community
4 there at the ranch of being together, I mean, did they have
5 sort of a -- did people think of them as being close to
6 each other?

7 MR. KEITH: I object to the question.

8 THE COURT: Sustained.

9 Q BY MR. KANAREK: Directing your attention to
10 the time after Bobby Beausoleil was arrested, August 4,
11 1968, and before your arrest of August the 8th, 1968, did
12 you have occasion to speak with Leslie in that interval of
13 time?

14 A Yes.

15 Q Can you tell us whether Leslie showed any
16 concern concerning Bobby Beausoleil?

17 A Yes, she wanted him out of jail a lot.

18 Q Now, did Bobby Beausoleil, Bobby Beausoleil,
19 to your knowledge, make any phone call after his arrest to
20 anyone at the Spahn Ranch?

21 A He called the ranch. I am not sure who he
22 talked to, I know he called and he told us that --

23 MR. BUGLIOSI: Calls for hearsay, your Honor.

24 THE COURT: Sustained.

25 Q BY MR. KANAREK: To your knowledge, do you know
26 where that telephone call came from?

1 A The County Jail, I suppose. He was in Los
2 Angeles at the time and he said he had been brought down
3 from San Luis Obispo.

4 MR. BUGLIOSI: Objection --

5 THE COURT: Sustained. The answer is stricken. The
6 jury is admonished to disregard it.

7 Q BY MR. KANAREK: Do you know what automobile
8 Bobby Beausoleil was arrested in?

9 A Yeah, the one I usually drive, the white Fiat.

10 Q And this is an automobile that you started driving
11 at about what time?

12 By time, I mean what date. Do you remember when
13 it was you started driving that automobile?

14 A No, I know I was going shopping and using it to
15 go shopping with the credit cards I had, but I don't know, yo
16 know, when I started using it.

17 Q Who is it that transferred physical possession
18 of that automobile to you?

19 A The car was parked at the ranch, and the keys
20 were in the ignition, like all our keys were always in
21 the ignition.

22 I just hopped in and took it.

23 Q I see, so that your relationship with that
24 automobile was because it was located at the ranch, is that
25 correct?

26 A That's right.

7a-1

1 Q Now, at the time that you were at the ranch
2 was your son Michael Manson also known as Pooh Bear, was
3 he at the ranch?

4 A Yes.

5 Q And was this child of the same group of
6 children as Linda Kasabian's child, Tanya?

7 A Yeah, Linda's and Sadie's, and sometimes
8 Danny DeCarlo's.

9 Q These children were all kept together and they
10 were together at a certain area in the ranch, is that
11 right?

12 A Yeah, more or less, but Tanya and Bear could
13 both walk, so they got around more than the other two.

14 Q After your arrest was your child taken into
15 custody by public officials?

16 MR. BUGLIOSI: Irrelevant.

17 THE COURT: Sustained.

18 BY MR. KANAREK:

19 Q Now, directing your attention to Mr. Hinman,
20 have you seen Mr. Hinman in the company of Juan Flynn?

21 A I have seen them in company together at the
22 ranch.

23 I know that they have been together more than
24 that.

25 MR. BUGLIOSI: Motion to strike the last part, your
26 Honor.

7a-2

1 THE COURT: The last sentence is stricken. The jury
2 is admonished to disregard it.

3 BY MR. KANAREK:

4 Q Directing your attention to a time when Juan
5 Flynn and Gary Hinman were together at the ranch, do you
6 have such an occasion in mind?

7 A Gary came to the ranch a few times and I have
8 seen him talking to Juan.

9 Q Did you see Mr. Hinman and Juan Flynn leave the
10 ranch together?

11 A I don't recall seeing them leave together, no,
12 I know they left together.

13 MR. BUGLIOSI: Motion to strike, your Honor.

14 THE COURT: The last sentence is stricken. The jury
15 is admonished to disregard it.

16 BY MR. KANAREK:

17 Q To your knowledge on this occasion did Juan
18 Flynn go home, that is, leave with Gary Hinman to go to
19 Gary Hinman's home?

20 MR. BUGLIOSI: Same objection. She already said she
21 had no knowledge, your Honor, she did not see them leave.

22 So by definition it is calling for hearsay.

23 THE WITNESS: I heard them together at Gary's house.

24 THE COURT: Just a moment, the answer is stricken.
25 The objection is sustained.

26 The jury is admonished to disregard it.

7a-3

1 BY MR. KANAREK:

2 Q Sometime in 1968 did you see Gary Hinman and
3 Juan Flynn together at Gary Hinman's home?

4 A No, I heard them, I did not see them.

5 MR. BUGLIOSI: Same objection, your Honor, and I
6 believe the witness knows exactly what she is doing, your
7 Honor. She must have learned by now.

8 Motion to strike that last remark on her part.

9 THE COURT: The answer is stricken.

10 The jury is admonished to disregard it.

11 BY MR. KANAREK:

12 Q Do you know the voice of Juan Flynn when you
13 hear it?

14 A Yes.

15 Q Did you know the voice of Gary Hinman when you
16 heard it?

17 A Yes.

18 Q During the year 1968 did you hear the voice of
19 Juan Flynn and Gary Hinman together, those two voices,
20 in the Hinman home, while you were living there in '68?

21 A Yes.

22 Q Did you see and hear Gary Hinman at the Spahn
23 Ranch?

24 A Yes.

25 MR. KANAREK: I hadn't quite finished.

26 Q To your knowledge did Gary Hinman drop acid at

7a-4

1 the Spahn Ranch with Juan Flynn?

2 MR. BUGLIOSI: Irrelevant.

3 THE COURT: Sustained.

4 BY MR. KANAREK:

5 Q Directing your attention to this occasion in
6 1968, you say you did hear Juan Flynn's voice at the Gary
7 Hinman home, right?

8 A Right.

9 Q And you heard Gary Hinman's voice at the Gary
10 Hinman home?

11 A That's right.

12 Q And they were speaking together?

13 A That's right.

14 Q Would you tell us what you heard said?

15 MR. BUGLIOSI: Irrelevant, calls for hearsay.

16 THE COURT: Sustained.

17 MR. KANAREK: Your Honor, I'm offering it for the
18 state of mind, not for the truth of the matters asserted.

19 THE COURT: Sustained.

20 MR. KANAREK: May I make an offer of proof to the
21 Court?

22 THE COURT: The objection is sustained.

23 Ask your next question.

24 BY MR. KANAREK:

25 Q Have you in the last couple of weeks in
26 company with other individuals attempted to serve Juan Flynn

7a-5

1 with process to come to this court?

2 MR. BUGLIOSI: Irrelevant.

3 THE WITNESS: Yes.

4 MR. BUGLIOSI: It is irrelevant, your Honor, motion
5 to strike.

6 THE COURT: Overruled.

7 BY MR. KANAREK:

8 Q Would you tell us what you have done in the
9 attempt to serve process, a subpoena upon Juan Flynn to
10 come to this court?

11 A We have gone to where he has been living or
12 known to be or, you know, where he has friends, to try to
13 find him to give him a subpoena.

14 He knows we are looking for him so he is never
15 around.

16 MR. BUGLIOSI: Wait a while, that's a conclusionary
17 statement on her part.

18 THE COURT: The last sentence is stricken. The jury
19 is admonished to disregard it.

20 BY MR. KANAREK:

21 Q And for what period of time has this gone
22 on, Miss Brunner, have you been trying to find him?

23 A I think since about the middle of February.

24 MR. KANAREK: Thank you, Miss Brunner.

25 MR. FITZGERALD: I have no questions, your Honor.
26

7a-6

DIRECT EXAMINATION

BY MR. KEITH:

Q I take it that you knew Bobby Beausoleil?

A That's right.

Q You did not dislike him, did you?

A No, I liked him as a matter of fact.

Q Miss Brunner, didn't you testify as a witness for the prosecution in the case of the People against Beausoleil?

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

THE COURT: Overruled.

THE WITNESS: Yes, I did.

MR. KANAREK: Your Honor, I will object on equal protection of the law.

These are the types of questions that I asked for and your Honor has sustained the objection.

May I --

THE COURT: Overruled.

BY MR. KEITH:

Q Now, in that case, Mr. Beausoleil was convicted of murder in the first degree, is that not correct?

A That's correct.

Q And he was convicted of the murder of Gary Hinman?

A That's right.

8 fls.

8-1

1 Q And you testified in that case at his trial,
2 did you not?

3 A That's right.

4 Q And you also testified in that case before the
5 Grand Jury, did you not?

6 A That is true.

7 Q And you testified, did you not, that you were
8 the one that participated in that killing along with Sadie,
9 and you never mentioned Leslie's name, did you?

10 MR. WEITZMAN: Objection.

11 MR. BUGLIOSI: Calls for hearsay.

12 MR. WEITZMAN: We discussed this matter in chambers,
13 your Honor.

14 MR. KANAREK: I ask that the question be allowed to be
15 answered.

16 THE COURT: Sit down, Mr. Kanarek.

17 MR. BUGLIOSI: Calls for hearsay.

18 MR. WEITZMAN: My objection would be similar to the
19 one discussed in chambers, your Honor.

20 THE COURT: The objection is sustained.

21 MR. KANAREK: Q Did you talk to police officers
22 in the past concerning the Hinman case?

23 A Yes, I have.

24 Q Did you ever mention to any law enforcement
25 officer to whom you may have talked the conversation that
26 Leslie purported had with you at the Spahn Ranch which you

1 have related on the stand today?

2 MR. BUGLIOSI: Calls for hearsay.

3 MR. KEITH: Yes or no?

4 MR. BUGLIOSI: Calls for hearsay.

5 The question itself contained hearsay.

6 The answer is just a confirmation of the hearsay.

7 MR. KEITH: I am cross-examining this witness. She is
8 adverse.

9 MR. BUGLIOSI: The question itself contains hearsay,
10 your Honor.

11 THE COURT: That is not the purpose of the question,
12 Mr. Bugliosi.

13 Overruled. You may answer.

14 THE WITNESS: Okay. What is the question?

15 MR. KEITH: Would you read the question, please,
16 Mr. Nehlman?

17 THE COURT: Yes, read the question.

18 (The question was read by the reporter.)

19 THE WITNESS: I mentioned it but I substituted
20 people in place, and I substituted myself for Leslie in
21 the conversation that I had with law enforcement officers.

22 Q BY MR. KEITH: So, you didn't use Leslie's
23 name, I take it?

24 A No, I didn't.

25 Bobby was trying to cover up information.

26 MR. BUGLIOSI: Motion to strike the last remark.

1 MR. KEITH: I also move to strike.

2 THE COURT: The last sentence is stricken and the jury
3 is admonished to disregard it.

4 MR. KEITH: Q Did you talk to any deputy
5 District Attorney about the Hinman case?

6 A I talked to Burton Katz about it and I might
7 have talked to Aaron Stovitz about it.

8 Q Did you ever tell Burton Katz that Leslie had
9 anything to do with the --

10 MR. WEITZMAN: Same objection, your Honor.

11 I think this line of questioning is exactly the
12 subject matter that was discussed in chambers and has been
13 discussed at the bench several times.

14 THE COURT: Sustained.

15 MR. KEITH: I have nothing further.

16 THE COURT: Any questions, Mr. Bugliosi?

17 MR. BUGLIOSI: No, your Honor.

18 MR. KANAREK: I have some, your Honor.

19 THE COURT: You already examined.

20 MR. KANAREK: I want to examine on this substitution.

21 THE COURT: After Mr. Bugliosi.

22 MR. KANAREK: He says he has no questions, your
23 Honor.

24 MR. BUGLIOSI: No, I haven't any questions.

25 THE COURT: Very well.
26

8a-1

REDIRECT EXAMINATION

1
2 BY MR. KANAREK:

3 Q I have here a Grand Jury transcript, Miss
4 Brunner.

5 You testified just a few minutes ago that you
6 testified at the Grand Jury; right?

7 A Right.

8 Q And in this Grand Jury transcript, when you
9 speak of yourself being present and observing and saying
10 and doing things that -- at the Gary Hinman house, you
11 testified putting yourself where you had been told Leslie
12 Van Houten was; is that correct?

13 MR. WEITZMAN: Objection.

14 MR. BUGLIOSI: Wait a while.

15 The question assumes facts not in evidence.

16 The Grand Jury transcript is not in evidence.

17 MR. WEITZMAN: The further objection as discussed in
18 chambers, your Honor.

19 THE COURT: I don't understand your objection, Mr.
20 Bugliosi.

21 MR. BUGLIOSI: The question itself assumes facts not
22 in evidence.

23 He said: When you testified at the Grand Jury
24 to certain things.

25 I don't believe she has testified to that yet.

26 THE COURT: I believe she was asked and answered that

8a-2

question, that she did, in fact, testify.

MR. WEITZMAN: My recollection was that that wasn't in respect to testimony before any Grand Jury. That was testimony allegedly had, or conversations allegedly had, with police officials.

MR. BUGLIOSI: That was my understanding.

MR. WEITZMAN: It wasn't pointed to any testimony given under oath before the Grand Jury or before a court of law.

THE COURT: In any event, the objection was sustained.
BY MR. KANAREK:

Q Would you tell us, Miss Brunner, you have said that you substituted yourself for Leslie Van Houten; is that correct?

A That's right.

MR. WEITZMAN: Your Honor, same objection. It is the same line of questioning, your Honor.

THE COURT: She has answered that question, Mr. Weitzman.

MR. WEITZMAN: I think she began to answer until I objected, and then she didn't.

Before the Court rules on the objection, perhaps I should have a word with my client.

THE COURT: Very well.

(Mr. Weitzman approaches the witness stand and confers with the witness.)

1 MR. WEITZMAN: Thank you, your Honor.

2 I don't believe that the answer was in the
3 record, and it is my understanding that my client wishes
4 to invoke the privilege to that particular question.

5 THE COURT: Sustained.

6 THE WITNESS: May I talk to Irving for a minute?

7 MR. KANAREK: May I talk to the witness for a moment,
8 your Honor?

9 THE COURT: Yes, you may.

10 (Mr. Kanarek approaches the witness and confers
11 with the witness.) (Mr. Weitzman then joins the conference
12 with Mr. Kanarek and the witness.)

13 THE COURT: Ladies and gentlemen, do not converse with
14 anyone or form or express any opinion regarding penalty until
15 the question is finally submitted to you.

16 The court will recess until 1:45.

17 (Whereupon at 11:59 o'clock a.m. the court
18 was in recess.)
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LOS ANGELES, CALIFORNIA, TUESDAY, MARCH 16, 1971

1:57 P.M.

---O---

THE COURT: All parties are present except Mr. Manson;
all counsel and all jurors are present.

Are you ready to proceed, Mr. Kanarek?

MR. KANAREK: Yes, your Honor, thank you.

MR. WEITZMAN: Prior to Mr. Kanarek questioning,
may we approach the bench so I can make the motion we
discussed in chambers or shall I make it on the record now,
unless the Court prefers to proceed later?

I have a copy of the transcript now. I have had
an opportunity to read it. I do know the portions I'd
been concerned with.

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

THE COURT: You may proceed, Mr. Weitzman.

10-1

1 MR. FITZGERALD: Page 26,941. That is the page it
2 begins on.

3 MR. WEITZMAN: Nine pages in. 26,948, beginning with
4 line 1 down to line 8.

5 I move that those be stricken on the ground we
6 previously discussed in chambers.

7 Then the next page would be Page 26,951, Lines
8 4 through 26.

9 THE COURT: She testified substantially to this
10 this morning.

11 MR. WEITZMAN: No. If I may, your Honor.

12 This was direct. The testimony that took place
13 this morning was hearsay testimony. That is, she testified
14 that this is what Leslie Van Houten told her and Susan
15 Atkins.

16 THE COURT: I am talking about the testimony on
17 Page 26,951.

18 She testified this morning she was at Hinman's
19 house in 1968.

20 MR. WEITZMAN: Pardon me. I misspoke. My objection
21 should take in Page 26,951, Lines 4 through 9. No. 4
22 through 13. Because that is directly in point with what
23 her testimony was in previous proceedings before the Grand
24 Jury and in the Beausoleil trial.

25 That is exactly the type of testimony that
26 we would be objecting to and making the motion to strike.

1 THE COURT: Have you discussed this with your client?

2 MR. WEITZMAN: Yes. I just went over the transcript
3 with her and showed her.

4 THE COURT: There is no point in striking it if she is
5 going to be re-asked the question and is going to answer it
6 notwithstanding your assertion of privilege,

7 MR. WEITZMAN: She hasn't given me any indication
8 that that was going to be the case, and I would think that
9 counsel would not ask the question again.

10 I don't know, perhaps they will.

11 MR. KEITH: Your Honor --

12 MR. KANAREK: If I may be heard?

13 THE COURT: Yes, Mr. Keith?

14 MR. KEITH: Thank you, your Honor.

15 This raises an interesting point.

16 If that testimony that Mr. Weitzman refers to
17 is stricken by the Court, inasmuch as this witness has
18 stated that Leslie had told her that Leslie was at the
19 Hinman house at the time of the Hinman slaying, I would
20 like to impeach this witness by a prior inconsistent
21 statement or statements made not only before the Grand
22 Jury under oath but at the Beausoleil trial under oath,
23 to the effect that she was at the Hinman house, not
24 Leslie, and she saw Bobby Beausoleil.

25 THE COURT: She already testified she was there.

26 MR. KEITH: I realize that but this is a very unique

1 situation, if the Court please.

2 I don't think Leslie, for reasons that I won't
3 announce for the record, was telling the truth, and by
4 subtle means I would like to impeach this witness by her
5 prior testimony.

6 MR. BUGLIOSI: May I say something?

7 THE COURT: You want to impeach your client?
8 Is that what you want to do?

9 MR. BUGLIOSI: Right.

10 MR. KEITH: I realize it has that effect, but I think
11 your Honor may glean the point.

11-1

1 MR. KEITH: It has been brought out in argument that
2 these people are all doing anything they can to protect
3 somebody, even testifying untruthfully under oath.

4 MR. KANAREK: Your Honor, if I may be heard for just
5 a moment.

6 The point is, your Honor, and I say this without
7 any lack of respect to Mr. Weitzman, he has no standing
8 before your Honor to make such a motion.

9 First of all it has been --

10 THE COURT: Let's not waste any time on that, Mr.
11 Kanarek.

12 MR. KANAREK: When she takes the stand and does not
13 exercise the privilege, she waives it.

14 There is case law that says once the door is
15 open, that is it. It happened before before the jury. He
16 has no standing.

17 If she committed any kind of offense, it is up
18 to the District Attorney's office of Los Angeles -- the
19 striking is not only --

20 He has no standing before the Court in these
21 matters to have it stricken.

22 But conceptually there is no basis in law
23 for striking it. The door has been opened. I can cite
24 the Court Mr. Witkin --

25 THE COURT: Just stop talking a minute, will you,
26 Mr. Kanarek.

11-2

1 MR. KANAREK: Yes, your Honor.

2 THE COURT: Now, let's go back again.

3 What was the first reference in the transcript?

4 MR. WEITZMAN: The first one is page 26,948, your
5 Honor, lines 1 through 9.

6 Your Honor, if I may further indicate for the
7 record, I don't want to appear somewhat presumptuous or
8 obnoxious, but I think it is clear she's represented by
9 counsel. There is a pending indictment against her. She
10 certainly should have been advised of her right to counsel,
11 and have had an opportunity to consult with counsel before
12 she was questioned in an area that directly relates to a
13 pending indictment and could put her in jeopardy.

14 THE COURT: I understand your position.

15 MR. WEITZMAN: Page 26,951, your Honor, lines 4
16 through 13 -- well, I would submit 4 through 26.

17 THE COURT: It is so vague. What does it mean to be
18 in the vicinity of some place?

19 MR. WEITZMAN: Lines 4, 5 and 6, the question is
20 directly asked:

21 "In the summer of '69 sometime were you at
22 the Gary Hinman house?"

23 The answer is no.

24 THE COURT: She testified this morning to that.

25 MR. WEITZMAN: No.

26 THE COURT: Yes, she did. She testified this morning.

1 I'm not going to strike any of this testimony.

2 MR. WEITZMAN: I would just like the record to be
3 clear, regardless of what she testified this morning, I
4 think that the motion to strike yesterday's testimony is
5 clearly a good motion because she was not represented by
6 counsel.

7 She is presently under indictment.

8 THE COURT: I don't think that has a tendency to
9 incriminate her, it is so vague and general, it could mean
10 anything.

11 MR. BUGLIOSI: May I make one little brief observa-
12 tion, your Honor:

13 In my opinion we are going in the direction of
14 bringing out the evidence in the entire Hinman case, the
15 Grand Jury, the Beausoleil trial; we are going in that
16 direction in my opinion.

17 I am objecting, of course, at every opportunity,
18 to stop this. It will prolong the trial for a week or so.

19 THE COURT: We are not going to retry the Hinman case.

20 MR. BUGLIOSI: Right, but we are going in that direc-
21 tion.

22 THE COURT: Let's proceed, gentlemen.

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

25 THE COURT: Do you have a question, Mr. Kanarek?
26 Let's proceed.

1 MR. KANAREK: Yes, your Honor.

2 Q Now, yesterday, Miss Brunner, did you testify,
3 reading from page 26,948 of the transcript:

4 "And directing your attention to on or about
5 July 15, 1969, were you at the Gary Hinman home?

6 "A No."

7 MR. BUGLIOSI: I object to this. The record speaks
8 for itself.

9 THE COURT: Sustained.

10 BY MR. KANAREK:

11 Q Miss Brunner, at some time in the past were
12 you and Mr. Manson going to be married?

13 A Yeah, we got a marriage license and took the
14 blood tests; we were going to get married.

15 Q And you actually were going to go through a
16 ceremony, is that right?

17 A That's right.

18 Q Is there some reason that you and Mr. Manson
19 did not become married?

20 A We were going to get married and then we were
21 talking about his record and the way that we were having
22 a lot of hassles with the police, and he could see that he
23 was going back to jail at sometime, and we decided it would
24 be better if he did not have a wife to get into trouble,
25 and to pull through all of it.

26 He knew he was going back to jail.

1 Q Did he tell you why he knew he was going back
2 to jail?

3 MR. BUGLIOSI: I object, your Honor, calls for
4 hearsay.

5 THE COURT: Sustained.

6 BY MR. KANAREK:

7 Q Had Mr. Manson been harassed by police officers?

8 MR. BUGLIOSI: Calls for conclusion.

9 THE WITNESS: We have always been harassed.

10 THE COURT: Sustained.

11 MR. BUGLIOSI: Motion to strike.

12 THE COURT: The answer is stricken. The jury is
13 admonished to disregard it.

14 BY MR. KANAREK:

15 Q Now, directing your attention then to a time
16 when you were testifying before the Grand Jury concerning
17 the Hinman matter.

18 A Um-hum.

19 Q Now, do you have in mind that time?

20 Is that firmly in your mind when you were before
21 the Grand Jury in this very building, testifying?

22 A Yeah.

23 Q Now, did you testify at that Grand Jury to
24 doing things that you did not in fact do?

25 MR. BUGLIOSI: Too broad a question.

26 THE WITNESS: Yes, I did.

1 THE COURT: The objection is sustained.

2 MR. KANAREK: Then, your Honor, may I approach the
3 witness with the Grand Jury transcript?

4 THE COURT: Ask your next question, Mr. Kanarek.

5 MR. KANAREK: I want to try to refresh her recollec-
6 tion if I may, your Honor.

7 THE COURT: Do you have a specific question in mind?

8 MR. KANAREK: Yes, I do.

9 Q I will show you at page 85 of the transcript,
10 and ask you --

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

12 THE COURT: You may.

13 BY MR. KANAREK:

14 Q Would you read over to yourself at page 85,
15 lines 10 through 15. Would you read that over to yourself?

16 A Is this from the beginning?

17 Q No, you may look at the transcript to refresh
18 your recollection, look at the front piece, the table of
19 contents, look at any part of it that you may wish to look
20 at to see if that --

21 A I don't --

22 Q Would you just read those lines over. My
23 question is:

24 Did you so testify at the Grand Jury?

25 A Yes.

26 Q In answer to the question:

"All right" --

MR. BUGLIOSI: I object, this is improper. He is
just reading hearsay into the record.

12 fls.

12-1

1 MR. KANAREK: It is impeachment, your Honor,

2 THE COURT: Sustained.

3 MR. KANAREK: May I show it to the Court? It is
4 impeachment.

5 THE COURT: May I see it?

6 MR. KANAREK: Certainly.

7 THE COURT: Your comment will be stricken also,
8 Mr. Kanarek, and the jury is admonished to disregard it.

9 What was the line?

10 MR. KANAREK: I believe 10 through 15, your Honor.

11 MR. BUGLIOSI: What is the Court's ruling?

12 MR. KANAREK: "Question" --

13 MR. BUGLIOSI: Wait a while.

14 What is the Court's ruling?

15 THE COURT: What is the question?

16 MR. KANAREK: Did she so testify?

17 THE COURT: Overruled.

18 You may answer.

19 MR. KANAREK: "Q All right. Now, when you got
20 to the house" --

21 MR. BUGLIOSI: Just a moment, your Honor.

22 I still have an objection.

23 THE COURT: What is the objection, Mr. Bugliosi?

24 MR. BUGLIOSI: This is not impeachment.

25 The purpose for impeachment is to be favorable
26 to your own client. There is nothing in her testimony at

1 the Grand Jury or her testimony today that is favorable
2 or unfavorable to Mr. Manson.

3 THE COURT: Overruled.

4 You may answer.

5 MR. KANAREK: "Q All right. Now, when you got
6 to the house, did you see Gary Hinman?

7 "A Yeah.

8 "Q Was he alone or with someone?

9 "A Alone."

10 Q You gave those answers to those questions; is
11 that right?

12 A That's right.

13 Q I show you and ask you to read Lines 23 at the
14 bottom of Page 85 through -- well, Lines 23 through 26 at
15 the bottom of Page 85.

16 Would you so read those over?

17 (Pause while the witness reads:"

18 MR. KANAREK: Q Did you so testify?

19 A I suppose so.

20 This doesn't make much sense out of context.

21 MR. KANAREK: "Q Showing you Grand Jury Exhibit
22 13. Is that a fair representation of how Gary Hinman
23 looked at that time?

24 "A Yes, I guess so."

25 Q You so answered to that question; right?

26 A Sure.

1 Q And the picture that was shown you was a
2 picture of Gary Hinman in life? That was a life picture;
3 is that right?

4 A I don't remember what kind of a picture it was.

5 Q Well, does it refresh your recollection?

6 A It says a picture of a male individual.

7 I don't know when that picture was taken.

8 Q Was that a picture that you thought was a
9 picture taken while Gary Hinman was alive?

10 A I don't know what I thought about it at the
11 time.

12 I don't remember what the picture looked like.

13 MR. KANAREK: May I have just a moment, your Honor?

14 Q I call your attention to Page 87. Would you read
15 over Lines 10 through Page 88, Line 17.

16 Would you read those over and tell me whether you
17 so testified.

18 MR. BUGLIOSI: It is irrelevant because it is beyond
19 the scope of redirect.

20 THE COURT: I don't know what it is yet, Mr. Bugliosi.

21 MR. BUGLIOSI: It is not going to be known until
22 Mr. Kanarek asks the question.

23 THE COURT: I will take a look at it in a minute.

24 MR. BUGLIOSI: All right. Very good.

25 THE WITNESS: To where? Here?

26 MR. KANAREK: Yes. Through Line 17.

THE WITNESS: All right.

MR. KANAREK: Yes, your Honor. The reason I suggest it is not beyond the scope of redirect --

THE COURT: Never mind the argument. Give me the line numbers.

MR. KANAREK: Yes.

THE COURT: What lines?

MR. KANAREK: It ends at Line 17, your Honor.

THE COURT: What page?

MR. KANAREK: If I may have it?

Line 17, Page 88. And it starts at Line 10 of Page 87, your Honor.

(Pause while the Court reads.)

THE WITNESS: If it is in that thing, I said it.

THE COURT: Is there an objection?

MR. KANAREK: Yes.

MR. WEITZMAN: There is also an objection on behalf of Miss Brunner pursuant to the grounds discussed in chambers.

MR. KANAREK: Your Honor, the fact is that Mr. Keith asked a question in connection with her and Leslie Van Houten and who she was substituting for, and this is clearly impeaching.

It is within the scope of Mr. Keith's question.

MR. BUGLIOSI: But impeachment for what purpose, your Honor?

1 Impeachment per se is not valid. There has to
2 be a reason for it.

3 MR. KANAREK: To show what the truth is, Mr. Bugliosi.

4 MR. BUGLIOSI: Motion to strike that ridiculous,
5 gratuitous remark, your Honor.

6 MR. WEITZMAN: I renew my objection on behalf of
7 Miss Brunner, your Honor.

8 THE WITNESS: What is the question?

9 MR. KANAREK: She already answered that she so
10 testified.

11 MR. WEITZMAN: She has not answered that question.

12 The question hasn't been asked.

13 THE COURT: The objection is sustained.

14 THE WITNESS: If you will ask it, I will answer it.

15 MR. KANAREK: On Mr. Weitzman's basis or Mr.
16 Bugliosi's basis, your Honor, so I will know how to proceed?

17 THE COURT: Ask your next question. That is how to
18 proceed, Mr. Kanarek.

19 THE WITNESS: I may as well.

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

21 I don't think that the witness understands the
22 procedure.

23 MR. WEITZMAN: I would like to approach the bench,
24 your Honor.

25 THE COURT: Very well.

26 (Whereupon, all counsel approach the bench and

1 the following proceedings occur at the bench outside of the
2 hearing of the jury:)

3 THE COURT: We are wasting a lot of time, gentlemen.
4 Let's get down to it and get on with this examination.

5 What is it?

6 MR. WEITZMAN: I would like the record to indicate
7 the following:

8 I have been here all morning and part of this
9 afternoon discussing with Miss Brunner her testimony and
10 attempting to discuss it with Mr. Kanarek.

11 I would like the record to reflect that
12 Mr. Kanarek has been cajoling, he has been harassing, he
13 has been pushing, he has been putting words into this
14 young lady's mouth ever since I have been here. In my
15 presence and in front of me he has all but threatened her
16 that she testify. He has given her advice contrary to the
17 advice that I have given her.

18 THE COURT: She is under no obligation to talk to him
19 at all.

20 MR. WEITZMAN: I understand that, but she doesn't
21 understand that.

22 THE COURT: I think she probably understands it
23 perfectly, Mr. Weitzman.

24 I appreciate your very difficult position, and
25 you seem to be doing everything possible to protect your
26 client's interest, but let the record also show that

1 obviously she doesn't take her position very seriously
2 from her demeanor or from her comment and smiles and
3 laughs back and forth between the three female defendants
4 down here in front. They are laughing and giggling during
5 the proceedings. No one seems to be taking it seriously,
6 except the lawyers. The defendants don't seem to be taking
7 it seriously at all.

8 So, I don't agree.

9 If she listens to Mr. Kanarek, I am sure --
10 as a matter of fact, she requested to talk to him this
11 morning during the proceedings. You will recall that.

12 MR. WEITZMAN: Yes, I do.

2b

12b-1

1 THE COURT: It is perfectly obvious that there is an
2 undercurrent going on here with which I am not acquainted
3 so far as what the purport is, but obviously there is an
4 undercurrent going on between the defendants and this
5 witness by signs, by smiles, by giggles back and forth,
6 by knowing looks, the whole thing. It is almost a travesty.

7 MR. WEITZMAN: I don't think these defendants have
8 any idea what is going on, but I do think, your Honor,
9 and perhaps I don't have any standing to make this comment,
10 but for the purpose of calling a witness in a penalty
11 phase, I can see no rhyme or reason to call this young
12 lady, with the sole exception of harming her, and no other
13 possible purpose.

14 Mr. Kanarek has done nothing, nothing, by way
15 of questioning except put her in jeopardy. It has been
16 totally irrelevant and immaterial.

17 I realize I have no standing to make those
18 objections in front of the jury, but out of the presence
19 of the jury, before the Court, I do have standing, because
20 I have an obligation to attempt to protect this young lady.

21 He refuses to make an offer of proof as to what
22 her testimony is going to show or how it is going to be
23 helpful to anyone of the defendants, and I think, candidly,
24 it is not going to be helpful to anybody.

25 THE COURT: I can't agree with you. I think he has
26 a right to call her under our strange penalty system,

12b-2

1 particularly in this case, where the defense is being
2 put on in the penalty phase rather than during the
3 guilt phase. All kinds of peculiar things happen.

4 But I want to hold this examination down to
5 what is relevant, and I intend to do so.

6 MR. WEITZMAN: With the Court's permission, could I
7 have the standing, then, to make that type of objection
13 fls. 8 on behalf of my client?

13-1

1 THE COURT: You don't have any standing to do that,
2 Mr. Weitzman; we have got six counsel in this case.

3 MR. WEITZMAN: I realize that. I just feel that
4 the Court owes a duty and obligation, in fairness and
5 equity, to my client to attempt to put some reasonable
6 boundaries on Mr. Kanarek.

7 I believe it got almost to the point of
8 absurdity.

9 MR. MUSICH: You are going to wind up putting in the
10 testimony of the Grand Jury and the trial of the Beausoleil
11 case. You cannot limit partial portions of prior testimony,
12 your Honor.

13 Defense counsel here are going into every bit
14 of testimony, cross-examination and redirect.

15 THE COURT: The problem was created by Mr. Keith's
16 examination of this witness.

17 MR. MUSICH: You are allowing prior recorded testimony
18 to be read into this trial. I don't see how you can prevent
19 the whole transcript from coming in.

20 MR. BUGLIOSI: If an attorney has a witness on the
21 stand and the witness gives testimony which is injurious,
22 then that attorney can offer --

23 THE COURT: I am familiar with those rules, Mr.
24 Bugliosi.

25 MR. BUGLIOSI: Her testimony was not injurious to
26 Charles Manson, therefore he cannot impeach her.

1 THE COURT: I will decide whether it is impeachment
2 or not. It could be inconsistent as well as injuring.
3 It doesn't have to be directly injuring; that is ridiculous.

4 Let's get on, gentlemen, but I can tell you,
5 Mr. Kanarek, you are about through with this witness.

6 MR. KANAREK: May I do this, what I am saying is
7 this, I believe that this witness, and I'm sure that your
8 Honor does not wish to have the arrangements of counsel
9 interfere --

10 THE COURT: Get to your point, Mr. Kanarek.

11 MR. KANAREK: The point is, this witness misassumes
12 as to what is meant when your Honor says sustained.

13 She doesn't realize that she can answer.

14 THE COURT: Don't worry about whether she realizes
15 or not. She is represented by counsel who explained it to
16 her half a dozen times.

17 MR. KANAREK: Would your Honor ask her?

18 THE COURT: Mr. Kanarek, if you don't get started
19 again right now you will be through, do you understand?

20 MR. KANAREK: May I then read?

21 THE COURT: You may not.

22 MR. WEITZMAN: I would like the record to reflect
23 my understanding is Mr. Kanarek represents Mr. Hanson in
24 the Hinman case in which my client is still a pending
25 defendant in that case.

26 I wonder if the Court should not take that into

1 consideration in attempting to confine whatever questions
2 are asked.

3 THE COURT: Let's get on with it, gentlemen, you are
4 wasting time.

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

7 BY MR. KANAREK:

8 Q Miss Brunner, when you answered Mr. Keith's
9 question this morning, do you remember the question about
10 substituting yourself for Leslie Van Houten?

11 A Yes.

12 Q Do you remember that?

13 A Yes.

14 Q Would you tell us what did you do, what did
15 you testify to at the Grand Jury wherein you substituted
16 yourself for Leslie Van Houten?

17 MR. BUGLIOSI: Calls for hearsay.

18 MR. WEITZMAN: I object on the previously stated
19 ground.

20 THE COURT: The form of the question is objectionable.
21 It will be sustained.

22 BY MR. KANAREK:

23 Q You testified at the Grand Jury, right?

24 A Right.

25 Q You testified in the presence of a court
26 reporter and the members of the Grand Jury, right?

1 A Right.

2 Q All right. You have stated that you substituted
3 yourself for Leslie Van Houten?

4 A In the Hinman case.

5 Q Yes, in the Hinman case.

6 A Yeah.

7 Q My question is, would you tell us what you did
8 in the presence of those people -- what you said that Leslie--
9 that you did, where in fact it was Leslie Van Houten.

10 MR. BUGLIOSI: That is too broad.

11 MR. WEITZMAN: I object to that question on the same
12 grounds.

13 THE COURT: Just a moment, who is objecting.

14 MR. WEITZMAN: I will make the first objection.

15 I will object on the ground it violates her
16 Fifth Amendment rights.

17 MR. KEITH: I object on the grounds it assumes facts
18 not in evidence.

19 MR. BUGLIOSI: Also it is irrelevant, calls for
20 hearsay.

21 THE COURT: Sustained.

22 BY MR. KANAREK:

23 Q Miss Brunner, when you answered Mr. Keith
24 this morning, did you answer truthfully to that question?

25 A Yes.

26 MR. WEITZMAN: Your Honor, I object to that. This

1 lawyer just keeps on badgering the witness.

2 THE COURT: Let's proceed.

3 MR. KANAREK: Q You answered yes?

4 A I answered yes.

5 MR. KANAREK: In view of the Court's rulings, your
6 Honor, I have no further questions, thank you.

7 THE COURT: Anything further?

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8 MR. BUGLIOSI: No, your Honor.

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REDIRECT EXAMINATION

1
2 BY MR. KEITH:

3 Q In this conversation with Leslie that you
4 supposedly had, it was very brief, wasn't it?

5 A I don't know how long it took.

6 Q Do you understand the word brief, short?
7 Was it short? It was a short conversation, wasn't
8 it?

9 A It was as long as it was.

10 Q You did not answer my question. It was a
11 short conversation of, say, two or three minutes' duration?

12 A I don't know how long Leslie and I talked.

13 Q Leslie told you that Beausoleil did not have any-
14 thing to do with Hinman's death, isn't that right?

15 A Leslie told me that Sadie killed him.

16 Q And that Beausoleil did not?

17 A I don't know what she had Beausoleil doing.
18 She had him there.

19 Q Now, you have told us you substituted yourself
20 for Leslie, isn't that right?

21 A That's right.

22 Q Now, Leslie told you that she was there, is
23 that right?

24 A That's right.

25 Q For a couple of days?

26 A That's right.

1 Q And she told you, although she did not see
2 Sadie do anything, she knew that Sadie had stabbed Hinman.

3 A I don't know what she said about that. She said
4 Sadie stabbed him. I don't know whether she said she saw
5 it or whether she was present when it happened or she was
6 there.

7 Q And she also told you that Mr. Hinman's ear
8 was cut, isn't that right?

9 A That's right.

10 Q But she did not tell you who cut it, isn't that
11 right?

12 A That's right.

13 Q And Sadie told you four or five different
14 versions of what had happened, isn't that right?

15 A Um-hum.

16 Q Maybe more than four or five?

17 A Sadie never said the same thing twice.

18 Q Now, as a witness for the prosecution in the
19 Beausoleil case, did you not testify in substance and
20 effect that Beausoleil participated actively in the
21 killing of Hinman?

22 MR. BUGLIOSI: This is irrelevant. It's beyond the
23 scope of Mr. Kanarek's questioning.

24 THE COURT: Sustained.

25 MR. KEITH: It is impeaching, your Honor.

26 Q BY MR. KEITH: At the trial of the Beausoleil

1 case didn't you testify, without going into the nature of
2 your testimony, didn't you testify in detail for a period
3 of at least a half day if not longer?

4 MR. WEITZMAN: I am going to make the same objection,
5 your Honor. It all tends to be self-incriminating.

6 THE COURT: It is irrelevant. Sustained.

7 MR. KEITH: Irrelevant, your Honor!

8 THE WITNESS: It is all irrelevant or hearsay, if you
9 border on the truth.

10 THE COURT: Five minutes or five hours, let's get on
11 with it.

12 MR. KEITH: I had a purpose in mind, if the Court.
13 please.

14 THE COURT: Ask your next question.

15 MR. KEITH: I have no other question if the Court
16 sustains the objection.

17 THE COURT: It's up to you, sir.

18 (Mr. Keith sits down.)

19 MR. SHINN: I have a couple of questions.

20
21 DIRECT EXAMINATION

22 BY MR. SHINN:

23 Q Miss Brunner, you testified that you did testify
24 at the Grand Jury, correct?

25 A Right.

26 Q Now, before testifying at the Grand Jury did

1 anyone make any threats?

2 A Yes, I was going to be arrested.

3 MR. BUGLIOSI: Irrelevant.

4 THE COURT: Sustained.

5 MR. BUGLIOSI: Beyond the scope of redirect
6 examination. Motion to strike.

7 THE COURT: The answer is stricken. The jury is
8 admonished to disregard it.

9 MR. SHINN: I have nothing further then.

10 THE COURT: All right. Anything further?

11 MR. BUGLIOSI: No, your Honor.

12 THE COURT: You may step down.

13 Call your next witness.

14 MR. KANAREK: Brenda McCann.

15 THE COURT: Swear the witness.

16 THE CLERK: Will you raise your right hand, please.

17 Would you please repeat after me.

18 I do solemnly swear --

19 THE WITNESS: I do solemnly swear --

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

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

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

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

24 THE CLERK: -- before this Court --

25 THE WITNESS: -- before this Court --

26 THE CLERK: -- shall be the truth --

1 THE WITNESS: -- shall be the truth --

2 THE CLERK: -- the whole truth --

3 THE WITNESS: -- the whole truth --

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

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

6 THE CLERK: -- so help me God.

7 THE WITNESS: -- so help me God.

8 THE CLERK: Will you be seated, please.

9 Will you state and spell your name.

10 THE WITNESS: Nancy Laura Pitman.

11 THE CLERK: Spell your name, please.

12 THE WITNESS: N-a-n-c-y, L-a-u-r-a, P-i-t-m-a-n.

13 NANCY LAURA PITMAN,

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

16 DIRECT EXAMINATION

17 BY MR. KANAREK;

18 Q Miss Pitman, directing your attention to the time
19 when you first heard about the happenings at the Sharon
20 Tate house, do you remember when you first heard of that?

21 A Um-hum, yeah.

22 Q When?

23 A The night the girls came back.

24 At the time they came back, they did not know
25
26

1 who it was that had been killed.

2 In other words, I was just told, you know,
3 what had been done, but as for knowing who it was, that
4 wasn't until next day when we saw it on TV.

5 Q All right, now, who were the girls that came
6 back?

7 A Katie, Linda and Sadie.

8 Q Now, at that time, directing your attention to
9 that evening, do you know of your own knowledge where
10 Mr. Manson was?

11 A Yeah, I do. He was in Devil's Canyon with
12 Gypsy and a new girl named Stephanie Schram.

13 Q Now, would you tell us how do you know that?

14 A Well, at the time I was sewing with leather a
15 lot, and I was making him a pair of leather pants, and I
16 used to have to take the pants out to Devil's Canyon,
17 around that time, and have him try them on for fitting.

18 And that is how I knew he was there, because at
19 the time of the Tate thing, the girls came in to see me.

20 Katie came in to see me before they left to get
21 some leather thongs from my leather sewing, and it was
22 easy to recall back exactly the whole situation at the
23 ranch, by that.

24 Q All right, now, the next night, directing your
25 attention to the people that died at the La Bianca home,
26 when did you first hear about that?

1 A A couple of weeks -- maybe a week or two later.

2 Q Now, how do you associate the people who died
3 at the La Bianca home with what you say you heard a couple
4 of weeks later?

5 A How do I associate --

6 Q Yes, how do you put those two together, Miss
7 McCann?

8 A Just by knowing, from being told what happened.

9 Q Who told you?

10 A Different girls.

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1 Q Well, tell us the girls that told you?

2 A Katie and Sadie and Leslie and Linda.

3 Q I see. What did Linda tell you?

4 MR. BUGLIOSI: No foundation.

5 THE COURT: Sustained.

6 BY MR. KANAREK:

7 Q Who was present when you spoke to Linda?

8 A Me. I can't remember back exactly who was
9 present when I talked to Linda. I talked to her many
10 times.

11 Q All right, but this was at the Spahn Ranch?

12 A Yes.

13 Q All right, would you tell us what did she say?

14 MR. BUGLIOSI: Still no foundation.

15 THE COURT: Sustained.

16 BY MR. KANAREK:

17 Q Was this at or about the time you have spoken
18 of?

19 A Yeah, it was after the murder and she told me
20 what had happened.

21 Q All right, what did she tell you happened?

22 A That she went -- they went up to a house where
23 she had known some people before and these were people who
24 had burnt her for some money or something, on some dope
25 deal, and she told me they went up there and they killed
26 the people.

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1 You know, they went there through a whole
2 thing of cutting wires and sneaking up on this place and
3 killed a guy in a car who was leaving.

4 And then they went into the house and killed
5 the people in the house.

6 They did not know who was living at the house
7 at the time. They just knew -- she had been to this house
8 before, she knew, you know, different things that were going
9 on in this house.

10 Q When you say that she was burnt for some dope
11 deal, can you tell us what was the dope deal she was burnt
12 about?

13 A No, she did not talk about it really. She just
14 had been to the house before. She had some kind of grudge
15 against somebody.

16 It was from the time before.

17 Q Now, then, directing your attention to, let
18 us say, the day before the first night when you tell us you
19 saw TV the next day, right?

20 A Um-hum.

21 Q Until a couple, say two or three days later.
22 Would you tell us during that period of time
23 was Stephanie Schram at the Spahn Ranch?

24 A No, she spent most of the time in Devil's
25 Canyon.

26 Q Was she at Devil's Canyon in these several days

1 that we are speaking about?

2 A Yes.

3 Q And did you see Mr. Manson with her?

4 A Yes.

5 Q During these several days?

6 A I went out to Devil's Canyon two or three days
7 after this happened and Gypsy was out there and Stephanie,
8 I think Cathy -- Cathy.

9 I came out there and then different people came,
10 and the day after I came Sadie came to Devil's Canyon and
11 Katie came to Devil's Canyon.

12 Q Now, directing your attention to the La Bianca
13 people, the people that died, Mr. and Mrs. La Bianca,
14 was that name ever used by Linda, the name La Biancas?

15 A I don't remember.

16 Q Did she ever use that name to your knowledge?

17 A No.

18 Q Did she tell you anything concerning whether or
19 not Mr. Watson was present at any of these events?

20 A No, she mostly talked about herself and the
21 girls.

22 Q Well, did she tell you that there were two
23 separate nights, two separate series of events?

24 A I knew.

25 In other words, I did not need to be told;
26 I was awake the first night when the girls left, and I

1 was awake all night.

2 I was awake when they came back.

3 Q All right, what about the second night, were
4 you awake?

5 A I was awake when Linda, Leslie and Katie left,
6 and then I went to sleep that night.

7 Q And concerning the events of the second night,
8 you say you heard about these things a couple of weeks later.

9 How did you associate those events being the
10 second night?

11 A It was all for the same thing, in other words,
12 to get a brother out of jail, to repeat a murder they had
13 done before several times, to take the attention, or to
14 make another murder like they had before, to show that they
15 had an innocent man, that the people who had done the first
16 one were still out.

17 Q And did you discuss these matters about doing
18 these other murders to get a brother out?

19 Did you discuss these matters with Linda Kasabian?

20 A We discussed different ways of things you could
21 do to get a brother out of jail.

22 Q But did you discuss them with -- or did she talk
23 about these things in your presence?

24 A Yes.

25 Q What did she say? What words did she utter?

26 A Well, she liked to -- she liked creepy-crawling

1 quite a bit, and got quite a bit of attention, you know,
2 for that sort of thing, bringing things and getting money
3 and stuff.

4 And they were talking together and --

5 You see, they had given the guy a car which they
6 had gotten from someone they murdered, and this guy went
7 up to see a friend in his car, not knowing where the car
8 came from, and the guy got arrested for murder.

9 So they all decided that they would do something
10 to show that he was innocent, because he is.

11 Q Well, but did you hear Linda Kasabian discuss
12 these matters?

13 A I already answered that question.

14 Q Is the answer yes or no?

15 A Yes.

16 Q And who was present when she discussed these
17 matters?

18 A I already answered that question too.

19 Q You mean the girls?

20 A Yes.

21 Q On how many different occasions did these
22 conversations take place?

23 A It was talked about at the ranch; it was talked
24 about in the desert. It was mostly us girls who talked about
25 it back and forth, all these things, because it was mostly
26 us girls who were together all the time.

MR. KANAREK: Thank you.

You may examine.

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1 MR. FITZGERALD: I have no questions.

2 MR. KEITH: No questions.

3 MR. SHINN: No questions.

4 MR. BUGLIOSI: I have some.

5
6 CROSS-EXAMINATION

7 BY MR. BUGLIOSI:

8 Q The first night, that is, the night of the Tate
9 murders, that is, the night of August the 8th and the
10 early morning hours of August the 9th, where were you?

11 A When were these times again?

12 Q I am referring to the night of the Tate murders,
13 the evening of August the 8th and the early morning hours of
14 August the 9th, 1969.

15 A In the trailer, in the trailer next to George's
16 house.

17 Q And were you by yourself?

18 A No. When I went to sleep, Kathy was in the
19 trailer, too.

20 Q So you went to sleep with Kathy; is that correct?

21 A I don't know if she was asleep or not. She was
22 in the trailer with me. I was asleep.

23 Q Was anyone else in the trailer in addition to
24 Kathy and yourself?

25 A No, I don't remember anybody being in there,
26 although they might have been in the front room.

- 1 Q Was Charlie in the trailer with you?
- 2 A No. He was in Devil's Canyon.
- 3 Q You are sure about that?
- 4 A Yes. I am positive.
- 5 Q Absolutely positive?
- 6 A Yes.
- 7 Q No doubt in your mind?
- 8 A No doubt.
- 9 Q What about the second night? Where were you?
- 10 That is, the evening of August the 9th and the early
- 11 morning hours of August the 10th, 1969.
- 12 A I was on the boardwalk until late in the night,
- 13 and then I went to sleep in the trailer, and when I woke
- 14 up in the morning, I went over to Devil's Canyon.
- 15 Q So, again, you slept in the trailer; is that
- 16 correct?
- 17 A Yes.
- 18 Q And who was in the trailer with you?
- 19 A I don't remember.
- 20 Q Was Charlie in the trailer with you?
- 21 A No.
- 22 Q Where was Charlie?
- 23 A In Devil's Canyon.
- 24 Q Are you positive about that?
- 25 A Yes.
- 26 Q You are sure about that?

1 A Yes.

2 Q Do you also go by the name of Rachel Morse?

3 A Sure.

4 Q And you testified at the Grand Jury in this
5 case on December the 8th, 1969; is that correct?

6 A Yes. Under the name Nancy Pitman.

7 Q I believe you were called to the stand as Rachel
8 Morse. But in any event, it was you; is that correct?

9 A I was called to the stand as Nancy Pitman.

10 Q Okay.

11 A At the Grand Jury.

12 Q Directing your attention to Page 350 of the
13 Grand Jury transcript.

14 Would you read Lines 18 through 26 to yourself.
15 And on Page 351, Lines 1 through 4 -- or 1 through 3.

16 Would you read those lines to yourself.

17 Do you want to hold the transcript and read those
18 lines to yourself?

19 (Pause while the witness reads.)

20 THE WITNESS: Yes.

21 MR. BUGLIOSI: Q Have you read those lines to your-
22 self?

23 A Sure.

24 Q At the Grand Jury, did you give these answers
25 to these questions?

26 "Q Could you tell me where you were

1 "living on August the 8th, 1969?

2 "A No. I don't remember.

3 "Q Would you say it is a pretty
4 good bet that you did not sleep with Charlie
5 Manson that night?

6 "A I couldn't say that either.

7 "Q What about August the 9th,
8 1969? Could you tell us whether you stayed
9 with Charlie Manson that night?

10 "A I couldn't tell you.

11 "I could tell you if I remembered, but
12 I don't remember.

13 "Q You don't remember one way or
14 the other?

15 "A No."

16 Did you give those answers to those questions?

17 A I didn't go by the name Rachel Morse in the
18 Grand Jury.

19 Q Did you give those answers to those questions?

20 A I don't remember.

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1 Q So you do not remember whether you gave those
2 answers to those questions?

3 A I don't remember.

4 At the time of the Grand Jury hearing, I was
5 -- at the time I had another case that I was on, and at
6 the time --

7 THE COURT: Just a moment. There is no question
8 pending.

9 MR. BUGLIOSI: Q The only question is, Miss
10 Firman -- or Morse -- whatever you want to be called --
11 the only thing is you do not remember giving those answers
12 to those questions; is that correct?

13 A No.

14 MR. BUGLIOSI: Okay. Thank you.

15 No further questions.

16 MR. KANAREK: Then I move they be stricken on the
17 grounds of improper foundation, your Honor. Those are
18 the grounds.

19 She does not remember. He is reading from a
20 piece of paper, and they must be stricken and the jury
21 requested not to consider it for any purpose. There is
22 no foundation.

23 MR. BUGLIOSI: We intend to prove that she did make
24 those statements, your Honor.

25 THE COURT: The motion is denied.

26 MR. BUGLIOSI: No further questions.

1 THE COURT: You may step down.

2 MR. FITZGERALD: If the Court please, your Honor
3 and counsel, I have a six-page handwritten letter in an
4 envelope dated January 27, 1971, addressed to Paul
5 Fitzgerald, signed D. Bennett, and a photocopy of a
6 Christmas card, and the imprinted name of Patricia
7 Krenwinkel.

8 May that be marked as Defendant's next in
9 order?

10 THE COURT: P-AD for identification.

11 MR. FITZGERALD: I would offer to stipulate between
12 counsel that this may be received into evidence as an
13 exhibit on behalf of Patricia Krenwinkel.

14 THE COURT: Any objection?

15 MR. BUGLIOSI: So stipulated.

16 THE COURT: It will be received, P-AD.

17 MR. FITZGERALD: Subject to the admission into
18 evidence of the exhibits heretofore marked but not received,
19 I would rest on behalf of Patricia Krenwinkel.

20 THE COURT: Before you rest, I would like to see
21 counsel in chambers.

22 We will take our recess at this time.

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

26 The Court will recess at this time for 15

NX

BD

1 minutes. I will see counsel in chambers.

2 (The following proceedings occur in chambers.

3 All counsel present. Defendants not present.)

4 THE COURT: All counsel are present.

5 Well, I take it from what Mr. Fitzgerald started
6 to say that you are about to rest.

7 Am I correct?

8 MR. FITZGERALD: You are correct, as far as I am
9 concerned.

10 MR. KEITH: I have no more witnesses. I have so
11 advised the Court.

12 THE COURT: Mr. Shinn?

13 MR. SHINN: I have no more witnesses.

14 THE COURT: Mr. Kanarek?

15 MR. KANAREK: Your Honor, I also have none.

16 But your Honor, Mr. Caballero promised and
17 Mr. Caballero hasn't been in town. He has avoided our
18 phone calls. He represented that he would have for us,
19 and all counsel will agree, and I think maybe the District
20 Attorney's Office will agree -- that we would be able to
21 listen to those tapes that were subpoenaed to this court-
22 room of Susan Atkins.

23 THE COURT: I know nothing about it, Mr. Kanarek, I
24 assure you.

25 MR. KANAREK: Well, your Honor, he represented that --

26 THE COURT: I want to get on to another matter.

1 The reason that I asked to have you come into
2 chambers is because I wanted to mention again what I
3 mentioned the other day before we commenced about the
4 state of the record with respect to this agreement between
5 Susan Atkins and her counsel, Mr. Caballero, and the
6 District Attorney.

7 Again, I ask you, because my recollection is
8 not that clear for some of these details, is there in the
9 record evidence of the date that Mr. Shinn was substituted?

10 MR. BUGLIOSI: Yes. Mr. Musich got that this
11 morning.

12 THE COURT: I beg your pardon?

13 MR. BUGLIOSI: Mr. Musich got that this morning. It
14 is in the record.

15 It is not in the transcript, but it is in the
16 court file. March the 11th.

17 THE COURT: I know that. I am talking about the
18 record of this case.

19 MR. FITZGERALD: It is not in the record, your Honor.

20 MR. BUGLIOSI: No, it is not in the record.

21 MR. FITZGERALD: All counsel are prepared to stipulate.

22 MR. BUGLIOSI: Right. That it is March 11, 1970.

23 THE COURT: Then will someone offer that stipulation?

24 MR. FITZGERALD: Yes.

25 MR. BUGLIOSI: I am prepared to offer several
26 stipulations, your Honor.

1 THE COURT: Is there any evidence in the record
2 that Mr. Shinn was familiar with the terms of the
3 agreement with the District Attorney's Office?

4 MR. BUGLIOSI: I don't believe there is.
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1 MR. SHINN: No. I believe all Mr. Caballero testified
2 was that they would not seek the death penalty for her
3 testimony.

4 That is all that is in the record.

5 He did not mention the memorandum, your Honor,
6 nor did Mr. Bugliosi or Mr. Stovitz mention a memorandum
7 to me.

8 THE COURT: All I want to know is that the record
9 should reflect whatever you did know at the time. Whatever
10 it was.

11 MR. BUGLIOSI: Shinn told me this morning that he is
12 agreeable to stipulating with us that Mr. Caballero did
13 tell him that there was an agreement between the DA's
14 office and Susan Atkins in which if she testified truthfully
15 at the Grand Jury we would only seek life.

16 Is that correct? You will stipulate to that?

17 MR. SHINN: Yes.

18 I believe that I said Mr. Caballero told me
19 that the DA would not seek the death penalty if she testified
20 at the Grand Jury. That is all.

21 MR. BUGLIOSI: Because she testified.

22 MR. SHINN: Yes, he said she testified at the Grand
23 Jury, so they will not seek the death penalty.

24 MR. BUGLIOSI: He told you about an agreement.

25 MR. SHINN: Nothing about the truth.

26 All he said was that they would not seek the

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1 death penalty because she testified.

2 THE COURT: Are you able to enter into a stipulation
3 to that effect?

4 MR. SHINN: Yes.

5 MR. KANAREK: I cannot agree to a stipulation.

6 MR. FITZGERALD: We don't need to stipulate to that.
7 Just Mr. Shinn and Mr. Bugliosi need to stipulate to that.

8 THE COURT: Next is the declaration of Susan Atkins.
9 I think it is dated May --

10 MR. BUGLIOSI: May 11th, 1970.

11 THE COURT: May 11th, 1970.

12 Has that been marked for identification?

13 MR. BUGLIOSI: No. But we intend to mark it.

14 Mr. Shinn has indicated that he will stipulate
15 that he prepared that document.

16 MR. KAY: So stipulated, Mr. Shinn?

17 MR. SHINN: Yes.

18 THE COURT: And that also should be in evidence.

19 And that takes care of the problems that I had
20 in mind.

21 MR. KANAREK: Your Honor, the District Attorney's
22 office has told us right in your Honor's chambers here that
23 we were to get a memorandum that Mr. Younger dictated about
24 this, and that, somehow or other, I can't get my hands on.

25 THE COURT: Dictated about what?

26 MR. KANAREK: Concerning the death penalty, his

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1 decision about the death penalty.

2 THE COURT: Do you have that?

3 MR. BUGLIOSI: Yes, I have that.

4 THE COURT: Well, now is the time.

5 MR. BUGLIOSI: I have that in my briefcase.

6 MR. KEITH: That's right.

7 (Mr. Bugliosi leaves the court's chambers.)

8 MR. KAY: When do you want the instructions?

9 THE COURT: The other day I said this morning.

10 I haven't seen any yet.

11 MR. KAY: Because ours is all ready.

12 THE COURT: You may hand them to the Clerk.

13 MR. KAY: I take it defense counsel are not going to
14 submit instructions?

15 THE COURT: I have no idea.

16 MR. FITZGERALD: I wouldn't want to take that.

17 MR. SHINN: I have a couple.

18 THE COURT: I told counsel the other day to submit
19 their instructions Tuesday morning. I have not seen any
20 yet.

21 (Mr. Bugliosi re-enters court's chambers.)

22 THE COURT: Do you have copies of this, Mr. Bugliosi?

23 MR. BUGLIOSI: That is all I have.

24 THE COURT: Is this what you are going to give to
25 the defense?

26 MR. BUGLIOSI: Yes. I will make a photostatic copy of

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1 it tonight.

2 They can look at it right now.

3 THE COURT: Is there any objection to my looking at
4 it?

5 MR. BUGLIOSI: No. That is why I gave it to the
6 Court.

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(Pause while the Court reads.)

1 MR. KAY: I will go down and get our instructions
2 right now, your Honor.

3 MR. BUGLIOSI: Aren't these the instructions, Steve?

4 THE COURT: Let's not have all this on the record.

5 Now, this seems to be a description of the
6 crimes.

7 MR. BUGLIOSI: That is all it is.

8 It is a request to seek the death penalty
9 against all the defendants. That is all it is.

10 It is the only memorandum there is on it.

11 Now, I did have a verbal -- Mr. Stovitz and
12 I had a verbal conversation with Mr. Younger in which he
13 authorized the death penalty against Susan Atkins specifically.
14 There is nothing written.

15 MR. SHINN: Mr. Younger, I believe, testified that
16 there may have been a memo.

17 MR. BUGLIOSI: No, there is none. That is the only
18 thing we have.

19 THE COURT: All right.

20 The record will show that I have now handed to
21 defense counsel the copy of the confidential memorandum
22 addressed from Mr. Stovitz to Mr. Younger that Mr. Bugliosi
23 just handed to me a few minutes ago.

24 That appears to be merely a rehash -- not a
25 rehash, but probably the first summary of what the District
26 Attorney believes the evidence would show.

1 MR. BUGLIOSI: That's right.

2 THE COURT: A request that the Deputy be permitted
3 to seek the death penalty.

4 MR. BUGLIOSI: In regard to Susan Atkins, there is
5 no reference in there as to the agreement.

6 THE COURT: Are you intending to put on any
7 rebuttal?

8 MR. BUGLIOSI: There are certain things.

9 One thing is the agreement that I will enter
10 into a stipulation with Mr. Shinn about.

11 I was going to call one witness. I am not going
12 to call that particular witness.

13 I need a stipulation on Hinman, the cause of
14 death and the approximate date of death.

15 Is that okay, Daye?

16 MR. SHINN: Yes. I stipulated to that already.

17 MR. KANAREK: I can't enter into such a stipulation.

18 THE COURT: Why? Don't you think he is dead?

19 MR. KANAREK: I think he is dead, your Honor, but I
20 have --

21 THE COURT: It is just in your nature not to attempt
22 to shorten the proceedings at all but to lengthen them out
23 as long as you possibly can.

24 MR. KANAREK: No, that is not so.

25 THE COURT: Then give me your reason.

26 MR. KANAREK: I will be glad to give the Court the

1 reason en camera.

2 I believe it is very important legally.

3 THE COURT: Don't waste my time.

4 MR. KANAREK: I don't want the District Attorney to
5 know.

6 THE COURT: Don't waste the Court's time, Mr. Kanarek.

7 MR. MUSICH: You are utterly unbelievable, Mr. Kanarek,
8 and totally.

9 MR. KANAREK: The law does provide for en camera.
10 For instance in the case of informers, informing the Court
11 en camera.

12 I have no reluctance to tell the Court.

13 THE COURT: I don't want to hear any more, Mr. Kanarek.

14 MR. KANAREK: Very well, your Honor.

15 MR. BUGLIOSI: Dependent upon the resolution of this
16 memorandum, how it is going to be handled, I might take
17 the stand. I don't know.

18 THE COURT: What do you mean, how it is going to be
19 handled?

20 MR. BUGLIOSI: Is this going to be introduced into
21 evidence?

22 MR. FITZGERALD: No. I am going to object to its
23 introduction into evidence.

24 MR. BUGLIOSI: Do you have the instructions, Steve?

25 MR. KAY: Yes.

26 I will give the Court the originals of the

1 instructions.

2 THE COURT: Anything else?

3 MR. BUGLIOSI: No. I think that is it.

4 There are two or three witnesses, but I have
5 decided not to call them because it will just prolong
6 the trial.

7 MR. SHINN: Your Honor, I think the record should be
8 clear that this was not the memo that we were talking
9 about.

10 MR. BUGLIOSI: That is the only one in existence.

11 MR. SHINN: There is no memo specifically regarding
12 Susan Atkins?

13 MR. BUGLIOSI: No.

14 THE COURT: Then will you finish this afternoon?

15 MR. BUGLIOSI: Yes.

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1 THE COURT: All right, how long do you think it will
2 take us to go over instructions, most of the day tomorrow?

3 MR. BUGLIOSI: I think so, yes, because I'm sure there
4 are certain instructions here over which there will be a
5 heated controversy.

6 One will be a discussion on the agreement.

7 THE COURT: Let's not get into them now.

8 MR. BUGLIOSI: I'm sure there will be considerable
9 discussion on that.

10 THE COURT: Is it your understanding that the Court
11 is required to give instructions on the elements of other
12 events?

13 MR. BUGLIOSI: There is a case holding failure to do
14 so does not constitute reversible error, but I certainly
15 think it would be advisable for the Court to do that.

16 We do have offered instructions on that.

17 THE COURT: We will consider that tomorrow.

18 All right, then, are we ready to go back in
19 and proceed?

20 MR. BUGLIOSI: Well, here is my offered stipulation
21 on Hinman. See if it is agreeable before I offer it.

22 That his date of death was sometime, somewhere
23 between July 25th and July 27th, 1969.

24 The cause of death, there were two stab wounds,
25 one to the heart, one that penetrated the heart and the
26 other one penetrated the sternum.

1 Then in addition thereto there are two
2 scalp wounds which Katsuyama feels are either stab wounds or
3 wounds caused by a blunt instrument. He does not know.

4 And then there is one deep laceration caused by
5 a sharp-edged blade commencing at the lower left cheek
6 proceeding diagonally across the upper portion of the left
7 cheek and ear.

8 Five wounds; two definite stab wounds, two
9 stab wounds could be stab wounds, could be a blunt instru-
10 ment, and then the deep laceration caused by a sharp blade,
11 which in effect is a stab wound, too.

12 MR. FITZGERALD: Those are not the cause of death.
13 What is the cause of death?

14 MR. BUGLIOSI: Multiple stab wounds, head, chest,
15 perforation of heart, massive thoracic hemorrhage.

16 In the original autopsy he claims there are five
17 stab wounds, but I have spoken to him since and also his
18 testimony indicates that he is only certain of two stab
19 wounds.

20 Unless you want to say there are five.

21 MR. FITZGERALD: Why don't we just stipulate to, you
22 know, massive hemorrhage in the thorax.

23 I mean, don't look a gift horse in the mouth.

24 MR. BUGLIOSI: I can call Katsuyama.

25 THE COURT: Let's go off the record if we are just
26 going to have colloquy.

(Off the record discussion.)

MR. BUGLIOSI: I've got these two stipulations, one on the agreement and one on Katsuyama.

I think that is it.

I crossed off several other things.

THE COURT: All right, now, what about the exhibits? Is there going to be any argument about the exhibits?

MR. BUGLIOSI: Oh, yes, definitely.

Most of these defense exhibits contain gross hearsay.

THE COURT: We can do that, then, after everyone rests.

MR. KANAREK: Yes, your Honor, except that --

MR. BUGLIOSI: Normally it is done before the parties rest.

MR. KANAREK: I just want to make the record, then, in connection with Mr. Caballero, it was represented to us, they were subpoenaed in the courtroom and I asked for them, I believe, in open court.

THE COURT: You show me the place in the record you are talking about. I have been unable to find any such place, Mr. Kanarek.

MR. SHINN: I believe it was at the bench, your Honor.

THE COURT: I have no recollection of it excepting I think something was said to the effect that you gentlemen can work it out together.

1 MR. SHINN: I think Mr. Kanarek requested that it
2 be left with the clerk, I believe, and your Honor said no,
3 to make arrangements with Mr. Caballero.

4 THE COURT: We are going to proceed, gentlemen.

5 MR. KANAREK: Subject to that, your Honor.

6 THE COURT: Not subject to anything.

7 MR. KANAREK: If your Honor rules, as I say, your
8 Honor is the one to rule.

9 THE COURT: What is there to rule on? There is
10 nothing before me.

11 MR. KANAREK: Pardon -- I asked for a continuance so
12 that I can listen to tapes that Mr. Caballero says he has
13 which he testified to in court, and I ask that we be allowed
14 the opportunity --

15 It has been represented to us if we tried
16 to make arrangements with his office, which we tried,
17 he is not in town.

18 He is strangely missing from his usual habitats.

19 THE COURT: I know nothing about it, and there is no
20 grounds shown for any continuance.

21 The motion for continuance will be denied.

22 Now, let's talk about the exhibits.

23 MR. KANAREK: Under People vs. Crovedi I would ask
24 your Honor --

25 I think that case certainly stands --

26 THE COURT: Let's get the exhibits in, Mr. Darrow.

1 Let's stay off the record now until we
2 actually make a ruling.

3 (Off the record discussion.)
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152-1

1 THE COURT: P-4 has been objected to and the
2 objection is sustained.

3 P-5 is a United States District Court document.
4 Any objection to that? It is a certified copy of a
5 conviction in the United States District Court of the
6 Southern District of California of Charles Milles Hanson.

7 MR. FITZGERALD: That was identified by Samuel
8 Barnett, the United States probation officer.

9 THE COURT: Any objection?

10 MR. KANAREK: Yes, your Honor, I do object.

11 THE COURT: What is the ground?

12 MR. KANAREK: I object on the grounds of improper
13 foundation, your Honor.

14 Also I object on the grounds that its prejudicial
15 value far outweighs any probative value whatsoever.

16 THE COURT: The objection is overruled. It will be
17 received.

18 MR. KAY: We have one other exhibit, we had a photo
19 of Gary Hinman which we withdrew at the time.

20 We would ask that be introduced into evidence
21 by reference to the Beausoleil trial.

22 Mr. Darrow will have to call for it.

23 MR. FITZGERALD: The photograph of him in life, we
24 all agreed informally we would have no objection to that,
25 and I will certainly honor that agreement.

26 THE COURT: That will be marked P-5 by reference and

1 received.

2 MR. KAY: Thank you.

3 THE CLERK: P-1, 2, 3, and 5 have been admitted so
4 far?

5 THE COURT: 1, 2, 3, 5 and 6.

6 P-A --

7 MR. FITZGERALD: That is a birth certificate, three
8 pages, identified by Joseph Krenwinkel as a birth certificate
9 of Patricia Krenwinkel.

10 THE COURT: Any objection to that?

11 It will be received.

12 P-B.

13 MR. FITZGERALD: That is an oval photograph of
14 Patricia Krenwinkel when she was approximately four to
15 five months of age.

16 THE COURT: Any objection? It will be received.

17 P-C.

18 MR. FITZGERALD: That is the baptismal certificate
19 of Patricia Krenwinkel.

20 THE COURT: That will be received.

21 P-D.

22 MR. FITZGERALD: Is a small photograph of the house
23 she lived in shortly after he was born.

24 THE COURT: Received.

25 P-E.

26 MR. FITZGERALD: A small photograph of the house she

1 lived in as a small child.

2 THE COURT: Received.

3 P-F.

4 MR. FITZGERALD: Eight photographs of Patricia
5 Krenwinkel as a small child.

6 THE COURT: Received.

7 P-G.

8 MR. FITZGERALD: Three 8 x 10 black-and-white photographs
9 of an elementary school class including Patricia Krenwinkel.

10 THE COURT: Received.

11 P-H.

12 MR. FITZGERALD: That is a document actually a diploma,
13 entitled National Piano Playing Auditions, a certificate
14 of merit for Patricia Krenwinkel.

15 THE COURT: Received.

16 P-I.

17 MR. FITZGERALD: Vacation Bible School certificate.

18 THE COURT: Received.

19 P-J.

20 MR. FITZGERALD: Four photographs of Patricia
21 Krenwinkel as a medium or intermediate child.

22 THE COURT: Received.

23 P-K.

24 MR. FITZGERALD: A letter written by Patricia
25 Krenwinkel entitled "My thirteenth birthday."

26 THE COURT: Received.

P-L.

MR. FITZGERALD: P-L is a letter entitled "Saturday, April 23rd," a letter written by Patricia Krenwinkel to her mother.

THE COURT: Received.

P-M.

MR. FITZGERALD: A series of 20 report cards from elementary school, secondary school and college.

THE COURT: Received. P-N?

MR. FITZGERALD: A wallet-sized card entitled National Wildlife Federation in the name of Patricia Krenwinkel.

THE COURT: Received. P-O?

MR. FITZGERALD: That is a year book or an annual entitled Paragon.

THE COURT: Received. P-P.

MR. FITZGERALD: That is a document entitled Commencement Exercises, Orville Wright Junior High School.

THE COURT: Received.

P-Q?

MR. FITZGERALD: That is a diploma from Orville Wright Junior High School.

THE COURT: Received.

P-R.

MR. FITZGERALD: A certificate of commendation from Westchester High School for Patricia Krenwinkel.

1 THE COURT: Received.

2 P-S.

3 MR. FITZGERALD: That is a father's day card from
4 Patricia Krenwinkel to her father, Joseph Krenwinkel.

5 THE COURT: Received.

6 P-T.

7 MR. FITZGERALD: That is an identity card from
8 University High School bearing a photograph of Patricia
9 Krenwinkel.

10 THE COURT: Received.

11 P-U.

12 MR. FITZGERALD: That is a commencement program from
13 University High School.

14 THE COURT: Received.

15 P-V.

16 MR. FITZGERALD: That is a diploma from University
17 High School.

18 THE COURT: Received.

19 P-W.

20 MR. FITZGERALD: P-W, your Honor, is addressed to
21 Joseph Krenwinkel from Patricia Krenwinkel, postmarked
22 September 25, 1967, postmarked Spokane, Washington.

23 THE COURT: Received.

24 P-X.

25 MR. FITZGERALD: That relates to Leslie Van Houten.
26 It is a 1964 year book.

1 MR. KEITH: I wasn't going to offer that into
2 evidence.

3 I will withdraw it.

4 THE COURT: P-X is withdrawn.

5 P-Y. That is the same for 1965.

6 MR. KEITH: Withdraw it.

7 THE COURT: P-Y is withdrawn.

8 P-Z.

9 MR. FITZGERALD: A group of photographs of Leslie
10 Van Houten.

11 MR. KEITH: Those will be offered in evidence.

12 THE COURT: Received.

13 P-AA.

14 MR. FITZGERALD: Also a group of three photographs of
15 Leslie Van Houten as a child.

16 MR. KEITH: Offered in evidence.

17 THE COURT: Received.

18 P-BB.

19 MR. FITZGERALD: That is a one-page document entitled
20 Attorney-in-Fact. It was identified by Susan Atkins and
21 it relates to an agreement between Susan Atkins and
22 Richard Caballero.

23 THE COURT: Any objection?

24 MR. BUGLIOSI: I don't think it is relevant.

25 THE COURT: Well, it is relevant because it goes to
26 the circumstances surrounding the alleged agreement

1 between Atkins, Mr. Caballero and the District Attorney's
2 Office with regard to penalty.

3 It is relevant.

4 MR. KAY: Does that have to do with the agreement?

5 THE COURT: Well, that is part of it. That goes
6 to the question of whether or not --

7 Well, it goes to the circumstances surrounding
8 Mr. Caballero's relationship with Miss Atkins in connection
9 with this alleged agreement, whether or not she understood
10 what she was doing in line with her testimony and so on.

11 MR. BUGLIOSI: No objection.

12 THE COURT: All right.

13 P-BB is received.

14 P-CC.

15 MR. FITZGERALD: A pocketbook entitled "The Killing of
16 Sharon Tate." I object to the introduction of that into
17 evidence on the ground it contains hearsay.

18 MR. BUGLIOSI: We have no objection.

19 MR. FITZGERALD: Other counsel may want to be heard
20 about it.

21 MR. KEITH: I will join in the objection.

22 MR. FITZGERALD: Maybe Mr. Shinn and Mr. Kanarek want
23 it in evidence, but it contains a good deal of hearsay.

24 THE COURT: I don't see how it can be relevant.

25 The fact that the book exists is relevant but
26 what it says is not relevant.

1 MR. SHINN: I believe it belongs to the issue of
2 whether or not Miss Atkins was represented effectively by
3 counsel, your Honor, the fact that he had other motives.
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1 THE COURT: I am saying there is testimony about the
2 book. There is no question about that. That is in
3 evidence.

4 But the book itself, the contents of the book,
5 would appear to be irrelevant.

6 MR. FITZGERALD: We don't want it back in the jury
7 room.

8 MR. KANAREK: I join with Mr. Fitzgerald on that.

9 THE COURT: Do you want it back in the jury room,
10 Mr. Shinn?

11 MR. SHINN: Maybe we can just tear off the contents
12 and just have the cover, "By Lawrence Schiller and Susan
13 Atkins."

14 THE COURT: What is the use of it? You can argue it.

15 MR. SHINN: I want it in evidence, your Honor.

16 Is your Honor going to rule?

17 MR. BUGLIOSI: The book?

18 THE COURT: The contents are not.

19 You don't want the contents?

20 MR. SHINN: No, not the contents, but just the cover
21 showing Lawrence Schiller and Susan Atkins's name.

22 MR. KANAREK: I move that the cover go into evidence,
23 your Honor.

24 MR. SHINN: Not the contents, your Honor.

25 THE COURT: There was testimony that there was a
26 book, what the title of it was, who wrote it, how it was

1 prepared, from what.

2 What more do you need?

3 MR. KANAREK: For instance, in the autopsies there
4 was plenty of testimony, yet the District Attorney got in
5 all kinds of horrible pictures.

6 THE COURT: CC. The objection will be sustained.

7 Who is objecting?

8 MR. FITZGERALD: I am objecting.

9 MR. KEITH: I object, too.

10 MR. KANAREK: I am objecting to the whole book, but
11 I join Mr. Shinn in requesting that the cover go in, your
12 Honor.

13 I think that just the cover of the book is very
14 pertinent.

15 MR. MUSICH: Get a cover and mark it and put it into
16 evidence.

17 THE COURT: The objection will be sustained.

18 MR. KANAREK: I ask that the cover be severed from
19 the rest of the book.

20 THE COURT: P-DD.

21 That is the retainer agreement.

22 MR. FITZGERALD: Yes.

23 That is the retainer agreement in favor of
24 Caballero from Susan Atkins.

25 THE COURT: That will be received.

26 P-EE is the order regarding publicity by
reference.

1 MR. BUGLIOSI: There is a lot of legalese in this.

2 THE COURT: What is the relevancy of it?

3 MR. FITZGERALD: I am not offering it.

4 THE COURT: Is anyone offering it?

5 MR. SHINN: Yes.

6 That is the gag order of December the --

7 MR. KANAREK: Yes.

8 MR. SHINN: Yes, I want to introduce that to show
9 Mr. Caballero had notice of it and that he did violate it.

10 THE COURT: What is the relevancy of that?

11 MR. SHINN: It shows that Mr. Caballero did not have
12 the best interests of his client, Miss Atkins, in the
13 criminal matter.

14 THE COURT: This is not a bar disciplinary proceedings,
15 Mr. Shinn.

16 I couldn't agree with you more if that were the
17 case. But that is another proceeding.

18 MR. SHINN: I understand that, but it goes to show
19 whether or not she was effectively represented, your
20 Honor. I think that goes to the issue.

21 MR. KAY: What issue?

22 MR. SHINN: Because in one hand he had the monetary
23 aspect and in the other hand the criminal aspect, and I
24 think the monetary aspect blinded him.

16a

1 MR. KAY: What issue does it go to here in the penalty
2 phase?

3 MR. SHINN: It goes to the issue of effective counsel.

4 Wait a minute now.

5 THE COURT: I am listening.

6 MR. SHINN: The fact of whether a person has been
7 effectively represented, or it goes to guilt or innocence,
8 under People vs. Terry.

9 He brought in evidence that he was not repre-
10 senting her at the police lineup, and that was introduced
11 in the penalty phase.

12 MR. KANAREK: Join with Mr. Shinn.

13 THE COURT: It will be received.

14 P-PF.

15 MR. FITZGERALD: A photocopy of the notes of Vincent
16 Bugliosi's conversation with Susan Atkins on December the
17 4th.

18 I am not going to offer it, and if anybody else
19 offers it, I will object on the grounds it is hearsay.

20 MR. KANAREK: What are those?

21 MR. FITZGERALD: Bugliosi's notes of Susan Atkins'
22 conversation in Caballero's office prior to her testimony
23 at the Grand Jury.

24 MR. SHINN: I think that should be introduced to indi-
25 cate that Mr. Bugliosi had already the questions before
26 him.

1 MR. BUGLIOSI: I have testified about this.

2 MR. SHINN: When you see it, it looks better.

3 They can't read your handwriting anyway.

4 MR. KAY: They would take six days trying to read this.

5 MR. BUGLIOSI: I testified to this, and so did
6 Caballero, you know, that I listened to the tape.

7 THE COURT: Is anyone offering it?

8 MR. SHINN: Yes, I offer it.

9 MR. FITZGERALD: I am objecting on hearsay grounds.

10 MR. KANAREK: I will join Mr. Fitzgerald in that.

11 MR. KEITH: I think I will join with Mr. Shinn.

12 It may be relevant on the issue of the existence
13 of the agreement, whether it was breached or not.

14 I haven't read the note.

15 THE COURT: It will be received.

16 P-GG: A photo of a VW bus.

17 MR. FITZGERALD: Yes. A placard containing four
18 photographs.

19 THE COURT: That is in evidence.

20 P-HH.

21 MR. FITZGERALD: A placard.

22 THE COURT: P-II is in evidence. Photos of a white
23 car..

24 MR. FITZGERALD: What is that?

25 THE COURT: Three photos of a white car.

26 P-UJ is some sort of document.

1 MR. FITZGERALD: My records are bad.

2 MR. KANAREK: Did your Honor say photos of a car?

3 THE COURT: They are in evidence already.

4 MR. KANAREK: Right.

5 THE COURT: Any objection to P-JJ?

6 MR. KAY: Yes. It is irrelevant.

7 THE COURT: The removal order.

8 MR. KANAREK: For Linda Kasabian.

9 THE COURT: Removal from where?

10 MR. FITZGERALD: Sybil Brand.

11 16b

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1 THE COURT: Does anyone want to be heard on that?

2 MR. KEITH: Which one are we discussing?

3 MR. FITZGERALD: The removal order from the jail of
4 Linda Kasabian.

5 MR. KANAREK: Join.

6 MR. FITZGERALD: In what?

7 THE COURT: Join in what?

8 MR. KANAREK: In requesting it.

9 THE COURT: What is the relevancy?

10 She has already testified that she was taken out.

11 MR. KANAREK: Your Honor, there is much testimony,
12 for instance, the pictures, the gory pictures, there was
13 much testimony, but your Honor allowed the pictures in.

14 THE COURT: Mr. Kanarek, try to confine yourself to
15 something that has something to do with what we are talking
16 about.

17 MR. KANAREK: It is added. If there is something
18 like a physical object on a piece of paper or something
19 like that, that has much greater significance. That pin-
20 points it in the jurors' minds. They may forget the
21 evidence. There has been a lot of words uttered in the
22 courtroom.

23 THE COURT: This will be received.

24 P-KK has been received.

25 P-LL, request for removal of prisoner. There
26 are four of those.

1 MR. FITZGERALD: Those are the Susan Atkins' removal
2 orders.

3 THE COURT: They will be received.

4 P-PP.

5 MR. FITZGERALD: The Los Angeles Times Atkins' story.

6 MR. BUGLIOSI: Now, if my notes comes in as to what
7 Susan Atkins told me, there is no reason why what she
8 told other people should not come in in toto.

9 THE COURT: I agree.

10 MR. FITZGERALD: That is not necessarily so.

11 The document, P-PP, was entitled "Two Nights of
12 Terror," published on the 14th of December, 1969, in the
13 Los Angeles Examiner. It is not necessarily what Susan
14 Atkins told anybody.

15 We haven't had any direct testimony.

16 THE COURT: Mr. Schiller said that that story was
17 prepared from the December 1st tape and the December 10th
18 interview.

19 MR. BUGLIOSI: Caballero said this is the same thing.

20 MR. KEITH: He might have editorialized, for all we
21 know.

22 THE COURT: But if every one of you defense counsel
23 are going to argue about other aspects of what Miss Atkins
24 told or didn't tell her attorney or Mr. Schiller, I see no
25 reason why this shouldn't come in in view of the testimony
26 that it was prepared from only those sources. It is all

1 part of the picture.

2 MR. FITZGERALD: I am going to object on the ground
3 that it is hearsay, it is inflammatory, it is extremely
4 prejudicial.

5 I think what you are suggesting, your Honor,
6 that it comes in as some prior consistent or prior incon-
7 sistent statement, and what Mr. Keith is pointing out, and
8 I certainly agree with Mr. Keith, there is no direct
9 relationship between the statements she allegedly gave to
10 some third party and what appeared in the Times.

11 We haven't been able to determine whether or not
12 she said the things that are actually in the Times.

13 We don't know what adjectives and adverbs were
14 used by the people who prepared the story.

16c-1

1 THE COURT: And why should Mr. Bugliosi's notes come
2 in?

3 MR. FITZGERALD: I agree, and I objected to it.

4 MR. BUGLIOSI: I don't think, from a legal standpoint,
5 that either my notes or this should come in.

6 There has been a lot of testimony on certain
7 points.

8 THE COURT: I will agree. They will both go out.

9 MR. BUGLIOSI: Yes. I think they should both go
10 out.

11 MR. KANAREK: Again, your Honor, I would like to urge
12 to the Court that we are being denied a fair trial.

13 THE COURT: Mr. Kanarek, that newspaper article in
14 no conceivable way could help your client.

15 MR. KANAREK: I am not talking about the newspaper
16 article.

17 THE COURT: And neither could Mr. Bugliosi's notes.

18 So, when you make a statement like that.

19 MR. KANAREK: I am talking about Mr. Caballero's
20 tapes.

21 I'd like to be sworn.

22 THE COURT: I don't want to hear about Mr. Caballero's
23 tapes.

24 What was the number of Mr. Bugliosi's notes?

25 MR. BUGLIOSI: P-FF.

26 THE COURT: All right. That is not in evidence.

-FF NO

1 P-PF is not received.

2 MR. KANAREK: What are those?

3 MR. FITZGERALD: Bugliosi's notes.

4 THE COURT: Objection sustained.

5 Objection also sustained to P-PP.

6 MR. BUGLIOSI: Then the notes should be removed.

7 MR. KANAREK: No. I suggest they stay.

8 MR. FITZGERALD: They are marked as exhibits. They
9 stay with the Court.

10 MR. KANAREK: I ask that they not be removed from the
11 Court's custody.

12 THE COURT: All right.

13 MR. KANAREK: May they stay with the record?
14 He has plenty of other copies.

15 THE COURT: Sit down, Mr. Kanarek.

16 MR. BUGLIOSI: When they are not introduced, they go
17 back to the person who introduced them.

18 MR. SHINN: No.

19 MR. BUGLIOSI: They are not received into evidence.

20 THE COURT: P-QQ is Exhibit A attached to the motion
21 on behalf of Susan Atkins.

22 Is that right?

23 MR. MUSICH: It is the Twenty pinlico agreement.

24 THE COURT: I think I have a wrong description in my
25 notes.

26 Any objection to that?

1 It will be received.

2 P-RR is a declaration of Catherine Share.

3 Is that correct?

4 MR. FITZGERALD: It is.

5 THE COURT: Any objection to that?

6 MR. KAY: Yes. The declaration of Catherine Share.

7 MR. FITZGERALD: That was shown to Dr. Tweed by
8 Mr. Kanarek in order to lay a foundation to establish that
9 a person under oath had declared Linda Kasabian had
10 ingested LSD 300 times.

11 He used that as a foundation for Dr. Tweed to
12 render an opinion about such a person.

13 MR. BUGLIOSI: The contents were not even introduced
14 into evidence.

15 MR. KANAREK: It was marked for identification.

16 MR. FITZGERALD: It was marked as an exhibit.

17 MR. BUGLIOSI: There was an objection and the Judge
18 sustained the objection that this was all hearsay by
19 Catherine Share.

20 The Judge did not even permit Tweed to render an
21 opinion based on that affidavit.
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1 MR. FITZGERALD: They have, nonetheless, been marked,
2 and I am just describing the exhibit.

3 MR. BUGLIOSI: We certainly object to it as hearsay
4 and, furthermore, there was no testimony based on it.

5 THE COURT: It will not be received.

6 MR. KANAREK: I ask that it go into evidence.

16d

16d

P-SS is a sketch of a cortex.

MR. KEITH: Mr. Kanarek asked Dr. Ditman to make it.

MR. KANAREK: I ask that it go in.

THE COURT: You believe it has a good deal of probative value, Mr. Kanarek?

MR. KANAREK: I think it does, your Honor. I think it does.

THE COURT: The doodlings of a layman?

MR. KANAREK: No, that wasn't the doodlings of a layman. This was Dr. Ditman and Dr. Tweed.

THE COURT: It resembles the doodlings of a layman.

MR. FITZGERALD: The doctor said he was not a neuro-cardiographer, or whatever it is.

THE COURT: It will be received.

P-TT. The report of Dr. Claude Brown.

MR. BUGLIOSI: This contains a lot of good stuff for us, but I have to admit that there is a tremendous amount of hearsay that wasn't even testified to by the doctor.

MR. FITZGERALD: I would offer it in evidence and, if it is necessary, I will cite the Court chapter and verse, but Dr. Tweed, in response to cross-examination, indicated that he based his opinion concerning Patricia Krenwinkel's mental state on "every word" of the report of Dr. Brown.

THE COURT: I recall that.

MR. FITZGERALD: Of December the 24th, 1969.

Therefore, it seems to be extremely relevant to

1 determine the bases and foundation of his opinion that
2 she was at one time psychotic.

3 THE COURT: It would be covered by -- it is covered by
4 the hypothetical question instruction in CALJIC. If you
5 want a special limiting instruction, you may have one.

6 MR. BUGLIOSI: The limiting instruction, it is diffi-
7 cult for the jury to limit it, and I think it is compounded
8 by introducing it into evidence and having the jury read
9 it.

10 With testimony and a limiting instruction, it
11 can be done, but when it is right in front of them, I
12 think it is impossible for the jury not to consider it for
13 the truth of the matters asserted.

14 MR. KAY: But we have the problem that some of it
15 can't be covered by a limiting instruction due to the fact
16 that Patricia Krenwinkel also took the stand afterwards
17 and denied the truth of some of it.

18 THE COURT: That is beside the point.

19 The point is that the whole report is covered
20 by a limiting instruction.

21 MR. BUGLIOSI: No.

22 MR. KAY: No.

23 MR. BUGLIOSI: She took the stand and she denied it.

24 THE COURT: It is simply considered by the doctor as
25 something upon which he based his opinion.

26 MR. KAY: That's right.

1 MR. KEITH: It was also considered by Dr. Hochman, too,
2 in his examination of Patricia Krenwinkel.

3 I will offer it. I will join with Mr.
4 Fitzgerald.

5 THE COURT: Do any of the defendants object to it?

6 It will be received. I hear nothing. It will
7 be received.

8 P-UU. A diagram by Dr. Ditman.

9 MR. MUSICH: Of the brain.

10 THE COURT: Does anybody want P-UU?

11 MR. FITZGERALD: My notes are incomplete.

12 THE COURT: The diagram by Dr. Ditman.

13 MR. KANAREK: Yes. I offer that.

14 THE COURT: It will be received.

15 P-VV. Some kind of a bank record regarding
16 Susan Atkins.

17 MR. FITZGERALD: The Beverly Hills National Bank
18 escrow account relating to the proceeds from the sale of
19 the book, "The Killing of Sharon Tate" and the syndicated
20 newspaper articles, the European articles.

21 THE COURT: Any objection?

22 It will be received.

16e
1 P-WW. Two instructions regarding Atkins and
2 Beverly Hills National Bank.

3 MR. FITZGERALD: That relates to the previous exhibit,
4 Your Honor.

5 THE COURT: Any objection?

6 It will be received.

7 P-XX is the transcript of December 1, 1969,
8 tape of the Atkins interview by Caballero.

9 Is that right?

10 MR. BUGLIOSI: Again, it would be good for us.

11 MR. FITZGERALD: It is hearsay.

12 MR. KANAREK: Your Honor, at the risk --

13 THE COURT: Do you want it in?

14 MR. KANAREK: I want the opportunity --

15 THE COURT: Get to the point, Mr. Kanarek.

16 Do you want this in or don't you?

17 MR. FITZGERALD: While he is thinking, let me object
18 on the ground that it is hearsay.

19 It also violates Aranda-Burton in the respect
20 that it is, in essence, hearsay that is accusatory. It
21 is accusatory to my client as well as to some of the other
22 defendants in this case, and it was a matter that we have
23 not been allowed to cross-examine Susan Atkins with regard
24 to.

25 MR. KEITH: Is this the tape in the jail with Jerry
26 Cohen?

1 MR. SHINN: No. This is the one in Mr. Caballero's
2 office.

3 THE COURT: I don't see how it can possibly help any
4 of the defendants.

5 MR. KEITH: Mr. Caballero's office?

6 I will object on the grounds of Aranda-Bruton.

7 MR. FITZGERALD: It doesn't help anybody.

8 MR. KEITH: If it is the tape I believe it is, it
9 does contain statements against Leslie Van Houten and
10 Patricia Krenwinkel.

11 MR. KANAREK: On balance, I guess I will have to ob-
12 ject to it, your Honor.

13 THE COURT: Then it will not be received.

14 MR. KAY: Nobody is offering it.

15 THE COURT: The objections are sustained.

16 MR. KANAREK: But it stays with the file?

17 THE COURT: Yes.

18 P-YY. A business card of Mr. Caballero.

19 MR. FITZGERALD: The evidentiary import of that,
20 your Honor, if I may explain, is apparently that the
21 business card, if you look at it, says Richard Caballero,
22 but in the upper left-hand corner it says Law offices of
23 Paul Caruso.

24 This business card tends to impeach Mr. Caruso's
25 testimony in respect to the fact that he is only a landlord.

26 THE COURT: It will be received.

P-ZZ. The letter from Digby Diehl to Younger.

MR. FITZGERALD: In regard to the manuscript,
"The Killing of Sharon Tate." It was from Digby Diehl to
Evelle Younger.

THE COURT: You don't object?

MR. BUGLIOSI: No.

THE COURT: It will be received.

P-AB, a letter from Younger to Diehl.

MR. FITZGERALD: The same.

THE COURT: It will be received.

P-AC. Letter from Younger to Judge Older.

That will be received.

MR. FITZGERALD: Now, the letter from Younger to
Older I don't necessarily want to offer.

MR. KAY: If you are offering one, you have got to
offer the other.

MR. FITZGERALD: Here is what I wanted to appraise you
of. I wanted to appraise you of this.

If it is received in evidence I want to argue
that contempt proceedings were initiated against Evelle
Younger by the Court as contained in the letter.

THE COURT: That is not true.

MR. FITZGERALD: But the letter says that.

THE COURT: I don't care what it says. It is not
true.

MR. FITZGERALD: The letter is to you in regard to

1 contempt proceedings initiated by Ira Reiner.

2 If you let it go into evidence, I am going to
3 argue the letter.

4 THE COURT: Let's get the record straight.

5 All that occurred was that Mr. Reiner filed a
6 declaration, as he has a right to do, under civil contempt
7 proceedings, under the Code of Civil Procedure. Now, if
8 nothing else is ever done, nothing else ever happens, that
9 is just step number one.

10 Mr. Younger responded to that declaration.
11 I have forgotten whether he responded in any other way,
12 but one of the ways he responded was to send me directly a
13 letter.

14 MR. FITZGERALD: Correct.

15 THE COURT: Which I showed to counsel.
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17-1

1 THE COURT: Nothing further was done by the Court,
2 so there was no contempt proceedings initiated except to
3 the extent that the initial declaration by Mr. Reiner was
4 filed.

5 MR. FITZGERALD: I agree, but I am going to argue
6 that letter, if it is allowed in evidence, and I will
7 argue simply what the letter says.

8 I will say to the jury: This is what Mr.
9 Younger said. We already have the gag order in evidence.

10 THE COURT: Is anyone objecting to the letter?

11 MR. BUGLIOSI: If Mr. Fitzgerald is going to be
12 permitted to argue that I would object to it.

13 I think if the Court would not let him argue
14 that, then I have no objection to it coming in.

15 But if it is going to be a basis for an
16 argument, I certainly object to it.

17 THE COURT: I really don't think that letter has
18 any relevance. What occurred is covered in the other two
19 letters.

20 MR. BUGLIOSI: That is true. I object to that.

21 THE COURT: He is simply describing to me what
22 occurred in a letter to me.

23 MR. FITZGERALD: Well, I am putting you on notice,
24 I have no objection to your withdrawing it.

25 MR. BUGLIOSI: Okay, it is withdrawn.

26 MR. FITZGERALD: As a matter of fact I think it

17-2

1 ought to be withdrawn.

2 MR. BUGLIOSI: Okay, we withdraw it.

3 THE COURT: Well, you did not offer it.

4 MR. FITZGERALD: I did. I'm sorry. I am not offer-
5 ing it.

6 MR. BUGLIOSI: Okay.

7 THE COURT: Okay. It is withdrawn by Mr. Fitzgerald?

P-AC wd 8 That is P-AC.

9 MR. KAY: What happened to P-AD?

10 THE COURT: That was received.

11 MR. KAY: That was the letter to Diehl from Younger.

12 THE COURT: P-AD, that is the letter -- I don't have
13 a description of that.

14 MR. FITZGERALD: I don't have one. My notes either --
15 P-D. That is a six-page letter from D. Bennett to myself
16 with regard to Patricia Krenwinkel, and that was received.

17 Stipulated it could be received.

18 THE COURT: All right, that takes care of all the
19 exhibits, gentlemen.

20 MR. KAY: We ask that the declaration filed by
21 Susan Atkins in this court saying that she lied in the
22 Grand Jury --

23 MR. FITZGERALD: Excuse me, excuse me, we are missing
24 an exhibit. Where is the memorandum that we had so much
25 testimony in regard to that embodies the agreement for the
26 life of Susan Atkins?

17-3

1 MR. KEITH: That is KK.

2 MR. FITZGERALD: That is correct, that has been
3 admitted.

4 THE COURT: P-7 will be the Susan Atkins declaration
5 of May 11, 1970. Is that agreed?

6 MR. BUGLIOSI: Right. Now, there is a little
7 problem here.

8 THE COURT: One thing at a time.

9 MR. BUGLIOSI: I am talking about this very thing.

10 THE COURT: P-7 for identification.

11 MR. BUGLIOSI: The one I have does not have the
12 signature on it. She did sign it but the one I have here
13 does not have her signature on it.

14 MR. BUGLIOSI: We will have to photostat this one
15 here.

16 THE COURT: We can do it by reference.

17 MR. BUGLIOSI: All right.

18 MR. FITZGERALD: They brought up an interesting point
19 though, you have problems when you receive these things
20 by reference because I don't want the whole Superior Court
21 file to go to the jury room.

22 It should not go out of the file.

23 Let's stipulate the Clerk can make a photocopy
24 and let the photocopy go to the jury room.

25 MR. BUGLIOSI: I think that would be better because
26 the exhibits go up to Sacramento, wherever it is, and the

17-4

1 court file frequently stays down here.

2 THE COURT: Is that agreed, that the Clerk may repro-
3 duce a copy of the declaration of Susan Atkins, May 11th,
4 1970?

5 MR. KANAREK: I am not entering --

6 THE COURT: Wait until I finish a sentence, Mr.
7 Kanarek.

8 MR. KANAREK: I'm sorry.

9 THE COURT: And that copy will go into the jury
10 room. Is that agreed?

11 MR. FITZGERALD: So agreed.

12 MR. SHINN: So agreed.

13 MR. KEITH: I will agree.

14 MR. KANAREK: Your Honor, I object to it.

15 I gather it is a stipulation in regards to that.

16 THE COURT: Is it stipulated that P-7 may be
17 received?

18 MR. BUGLIOSI: So stipulated by the People.

19 Mr. Shinn?

20 MR. SHINN: Yes, your Honor.

21 MR. KANAREK: I do not enter into that stipulation,
22 your Honor.

23 THE COURT: It is received.

24 Now, if you want some sort of limiting instruc-
25 tion, Mr. Kanarek, prepare it with respect to that exhibit.

26 MR. KANAREK: I don't think a limiting instruction is

P-7 Ev.

17-5

1 going to do the trick, your Honor.

2 THE COURT: Well, the declaration is Susan Atkin's
3 declaration. I don't know why you are objecting.

4 MR. KANAREK: What I'm saying is this, I did every-
5 thing conceivably possible to get those tapes of Mr.
6 Caballero's, which is the same period of time --

7 THE COURT: Mr. Kanarek, you know, there are times
8 when I think you need help.

9 Let's stay on one subject.

10 MR. KANAREK: I am, but the two are integrated, your
11 Honor.

12 This is at or about the time that Mr. Caballero
13 says he took extensive tapes of Susan Atkins.

14 He comes to this courtroom under a subpoena
15 duces tecum.

16 THE COURT: I am not going to discuss that subject
17 any further.

18 P-7 is received.

19 Anything further, gentlemen, before we go back
20 into court and take the oral stipulation?

17a fls.

17a-1

1 MR. BUGLIOSI: There will be two stipulations, on
2 the agreement and on Katsuyama.

3 THE COURT: Then I will excuse the jury until
4 Thursday.

5 Tomorrow we will spend all day going over the
6 instructions or as much of the day as necessary.

7 MR. FITZGERALD: I would like to inform the Court of
8 one thing --

9 THE COURT: Starting at 9:30.

10 MR. FITZGERALD: I just wanted to inform the Court
11 we had agreed among counsel that the order of argument for
12 penalty for the defense is going to be Mr. Kanarek, Mr.
13 Shinn, Mr. Keith and myself.

14 You indicated to us before that it was agree-
15 able if we could agree among ourselves.

16 THE COURT: Say that once more.

17 MR. FITZGERALD: Mr. Kanarek will be first, Mr. Shinn
18 second, Mr. Keith third and myself fourth.

19 THE COURT: That is something you gentlemen arrange.
20 I assume you have agreed on that.

21 MR. KANAREK: I will object to any such stipulations
22 in open court, that Mr. Bugliosi has spoken to.

23 I am not entering into them, your Honor, it is
24 a violation of due process and equal protection for a
25 stipulation like this unless all counsel agree to it.

26 MR. FITZGERALD: No, I don't think that is true. I

17a-2

1 think the stipulation that Mr. Bugliosi wants to enter
2 into can be entered into only with Mr. Shinn.

3 THE COURT: Certainly it will be limited to Mr.
4 Shinn's client.

5 MR. KANAREK: I think it is an impossible task you
6 are asking the jury to do.

7 THE COURT: There shall be a limiting instruction
8 on that.

9 MR. KANAREK: In view of all of the evidence that
10 has gone before the Court, and the jury by Susan Atkins
11 to try and make some kind of limiting instruction to this
12 one little declaration where she says "I lied."

13 THE COURT: She is obviously speaking for herself,
14 Mr. Kanarek, she is not speaking for anyone else.

15 MR. KANAREK: I know, your Honor, but your Honor,
16 by pressing forward and not allowing me a continuance so
17 I can get these tapes Mr. Caballero has --

18 THE COURT: She brought the subject up. She testified
19 under oath in the penalty phase that she lied before the
20 Grand Jury.

21 MR. KANAREK: I understand that, but there is a lot
22 of other evidence, and this one declaration becomes
23 meaningless and it is unduly focused upon by allowing it
24 to go into the jury room.

25 THE COURT: Are we ready to go back, gentlemen?

26 Very well.

17a-3

1 MR. FITZGERALD: The first order of business will
2 be the stipulations and then we will rest, is that it?

3 MR. BUGLIOSI: First you will rest.

4 MR. FITZGERALD: Okay.

5 MR. KAY: And then we will go into the stipulations,
6 because that is our rebuttal.

7 MR. FITZGERALD: That is an agreeable procedure.

8 MR. BUGLIOSI: It's already been agreed upon that
9 all the exhibits introduced during the guilt trial have
10 also been received during the penalty phase.

11 MR. FITZGERALD: That is correct.

12 MR. KANAREK: I deem this so important I would ask
13 to be sworn as to my efforts to get the tapes from Mr.
14 Caballero that were subpoenaed in this courtroom.

15 May I be sworn to that?

16 (The following proceedings were had in open
17 court in the presence and hearing of the jury, all
18 defendants with the exception of Mr. Manson being present.)

19 THE COURT: All parties are present except Mr.
20 Manson. All counsel and all jurors are present.

21 MR. FITZGERALD: The Defendant Patricia Krenwinkel
22 rests, your Honor.

23 MR. SHINN: The Defendant Susan Atkins rests, your
24 Honor.

25 MR. KEITH: The defendant Leslie Van Houten rests.

26 MR. KANAREK: The Defendant Manson rests subject to

17a-4

1 the points we made in chambers, your Honor.

2 THE COURT: Any rebuttal, Mr. Bugliosi?

3 MR. BUGLIOSI: I am just going to offer a few
4 stipulations, your Honor.

5 There will not be any rebuttal in terms of
6 witnesses.

7 May it be stipulated that People's P-7,
8 entitled A Declaration of Susan Atkins was prepared by
9 her attorney, Daye Shinn, on May 11, 1970, and signed by
10 Susan Atkins.

11 May that be stipulated?

12 MR. SHINN: So stipulated, your Honor.

13 MR. BUGLIOSI: And when I refer to People's P-7,
14 the declaration of Susan Atkins, may it be stipulated I
15 am referring to the document which contains a statement by
16 her that she lied at the Grand Jury?

17 So stipulated?

18 MR. SHINN: So stipulated, your Honor.

19 MR. KANAREK: May the record reflect I am not
20 entering into that stipulation.

21 THE COURT: Anything further, Mr. Bugliosi?

22 MR. BUGLIOSI: Yes, your Honor, may it be further
23 stipulated that Mr. Shinn became Susan Atkins' attorney
24 of record on March the 11th, 1970.

25 So stipulated?

26 MR. SHINN: So stipulated, your Honor.

17a-5

1 MR. KANAREK: As to that stipulation I do enter into
2 it, your Honor.

3 MR. BUGLIOSI: Mr. Shinn, I believe you are going to
4 offer the other stipulation.

5 MR. SHINN: Yes.

6 Your Honor, I think the District Attorney will
7 stipulate that at the time I substituted in as attorney of
8 record for Miss Atkins, that Mr. Caballero, her former
9 attorney, informed me that since Susan Atkins testified
10 at the Grand Jury that the District Attorney would not seek
11 the death penalty, your Honor.

12 So stipulated?

13 MR. BUGLIOSI: The People will stipulate that Mr.
14 Caballero told Mr. Shinn that.

15 So stipulated.

16 May it be further stipulated that Gary Hinman
17 met his death on or about July the 25th through July the
18 27th, 1969.

19 So stipulated?

20 MR. SHINN: So stipulated.

17b fls.

17b-1

1 MR. BUGLIOSI: May it be further stipulated that
2 Dr. David Katsuyama of the Los Angeles Coroner's Office
3 be deemed to have been called by the People here in
4 court, was duly sworn and testified that he conducted an
5 autopsy on Mr. Hinman's body on August 1st, 1969, at the
6 Coroner's office here at the Hall of Justice, and based
7 on the autopsy he formed the opinion that the cause of
8 death was attributable to the following wounds:

9 One stab wound that penetrated the heart,
10 another stab wound that penetrated the sternum.

11 In addition to those two stab wounds there were
12 two scalp wounds, and that his testimony would be that
13 these two scalp wounds were either stab wounds or they
14 were wounds caused by a blunt instrument, and that there
15 was a fifth wound which is a deep laceration which in his
16 opinion was caused by a sharp-edged blade commencing at
17 the lower left cheek and proceeding diagonally across the
18 upper portion of the left cheek and ear, a total of
19 five wounds to Gary Hinman's body.

20 So stipulated?

21 MR. SHINN: So stipulated.

22 MR. BUGLIOSI: People rest, your Honor.

23 MR. KANAREK: Your Honor, may the record reflect
24 that Mr. Shinn spoke as to these stipulations; he is
25 speaking for himself alone, and Susan Atkins.

26 THE COURT: Except as otherwise indicated.

17b-2

1 MR. KANAREK: Yes.

2 THE COURT: All right.

3 Ladies and gentlemen, both sides have rested
4 in the penalty phase, which means that when the Court
5 resumes counsel will present their arguments on both sides.

6 The Court will then instruct the jury and you
7 will retire again to your deliberations on the question
8 of penalty.

9 The court will spend tomorrow conferring with
10 the attorneys regarding instructions and other matters
11 and we will adjourn at this time until Thursday morning,
12 the day after tomorrow at 9:30 a.m. at which time the
13 arguments will commence.

14 When the jury has finally been instructed the
15 jury will again be sequestered during the period of your
16 deliberations which will in all probability be sometime
17 next week. I would estimate at the moment that it would
18 be probably on Tuesday.

19 But I will be able to give you a better
20 estimate as we get closer to it.

21 So you should go prepared at that time to
22 bring whatever clothes and personal effects and belongings
23 that you wish to for the period of your sequestration.

24 So we will adjourn at this time until 9:30
25 on Thursday morning.

26 Remember the admonition. Do not converse with

17b-3

1 anyone or form or express any opinion regarding penalty
2 until that issue is finally submitted to you.

3 MR. KANAREK: Your Honor, before the jury is dismissed
4 can we approach the bench?

5 MR. FITZGERALD: Yes, can we very briefly approach
6 the bench?

7 THE COURT: Very well.

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

10 MR. KANAREK: I don't think it would be unreasonable,
11 and I do request for a day to prepare for the final
12 argument.

13 I think that this has been going on for some
14 period of time. I think co-counsel agree this is not an
15 unreasonable request, to put together your notes, and
16 so forth.

17 THE COURT: I anticipate you will have a good
18 portion of tomorrow. People will open the argument.

19 How long do you estimate?

20 MR. BUGLIOSI: My opening argument should be about
21 ten minutes. There is a chance I will give a closing
22 argument if they go into a tremendous amount of points
23 that I deem necessary to respond to, I may give a closing
24 argument, but very short opening argument, seven, eight,
25 nine minutes.

26 THE COURT: I am not going to recess the trial for

17b-4

1 longer than tomorrow.

2 In other words, we will resume Thursday on
3 argument.

4 MR. KANAREK: That is our request.

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

7 THE COURT: The trial is now recessed, ladies and
8 gentlemen, until Thursday at 9:30 a.m.

9 (Whereupon an adjournment was taken.)
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LOS ANGELES, CALIFORNIA, FRIDAY, MARCH 19, 1971

9:08 o'clock a.m.

- - -

THE COURT: All of the defendants are present except Mr. Manson; all counsel and all jurors are present.

You may continue, Mr. Kanarek.

MR. KANAREK: Thank you, your Honor.

Good morning, ladies and gentlemen. I would like to, if I may, try to spell it right, right here the words, possible innocence, because in the absolute discretion that the jury has in the penalty phase, possible innocence is one of the criteria that the jury may use in exercising its absolute discretion, for the obvious reason that death is the final kind of action that is irreversible.

And in that connection, the Court -- now, let me back off a little bit.

Once again, once again we are asking you to consider, and you will be given by the Court, jury instructions, and these jury instructions that the Court is going to give in this case -- I mean at this point in the proceedings -- are jury instructions that refer to the matters that came out during the penalty phase, that is, they refer as far as Mr. Manson is concerned to the Gary Hinman matter and to the Bernard Crowe matter.

And so the Court is going to instruct us in

1 connection with several types of crimes, certain crimes
2 involving assault, certain crimes involving murder.

3 But these instructions and, if I may say this,
4 don't let anyone insult your intelligence.

5 What I am saying is there are people -- there
6 are people who would say, "Well, juries made up of this
7 that and the other type of person are incapable of under-
8 standing instructions."

9 You hear people say this from time to time.

10 We think there is nothing about those instruc-
11 tions that make it impossible for them to be understood,
12 and we think that those of us that are on the jury here,
13 certainly have as much gray matter as anybody on this side
14 of that particular partition (indicating).

15 fls.
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1 So, those jury instructions are made in the
2 English language and they are there, and they are the
3 tools.

4 These jury instructions don't contain words
5 like "monstrous," "mutation," they don't contain words of
6 hatred. They contain words of analysis, words that
7 should be used for deliberation.

8 We might think: What does deliberation mean?
9 Deliberation means when you sit down and discuss things,
10 not playing up to emotion but playing up to intellect,
11 playing up to reason.

12 So, there are really two sets of things you
13 might say that the jury is going to analyze.

14 One set is what we might call the pre-penalty
15 phase matters.

16 Now, as for the pre-penalty phase matters,
17 what we do is we apply, we suggest, that is, this is
18 within the absolute discretion of the jury; the jury has
19 many other things that the prosecution has for you to
20 consider, but we suggest that one of the things to be
21 considered is the possible innocence of Mr. Manson.

22 Now, that is the criteria that is used or
23 that is applicable to the pre-penalty phase, the matters
24 that we have already supposedly decided.

25 Now, we have another set. And this is the
26 penalty phase matters.

1 And as to Mr. Manson, there are two subtopics.

2 A would be the Gary Hinman matter; and B
3 would be the Bernard Crowe matter.

4 Now, as to these two matters, the Court is
5 going to give you a complete set of instructions, and
6 I don't want to attempt to paraphrase it completely or
7 anything like that, but there are going to be instructions
8 on what constitutes murder and assault, and included in
9 these instructions there will be instructions as to
10 accomplice, as to the law of accomplice, which will be
11 similar to what we had before when we were debating the
12 guilt or innocence aspect of the case, except for an
13 interesting difference. And that is, the Court, instead
14 of, as in the case of Linda Kasabian, saying that she was
15 an accomplice as a matter of law, the Court, right now,
16 as to this penalty phase, is going to say it is up to the
17 jury to decide.

18 The members of the jury will decide whether
19 or not a particular participant is an accomplice.

20 For instance, you will be given the definition
21 of an accomplice.

22 "An accomplice is one who is liable to be
23 prosecuted for the identical offense charged
24 against the defendant on trial. To be an accomplice,
25 the person must have knowingly and with criminal
26 intent aided, promoted, encouraged or instigated by

1 "act or device or by act and advice the commission
2 of such an offense."

3 That is the definition of accomplice that the
4 Court will give you.

5 It is interesting to note that that is the
6 label that is Linda Kasabian.

7 Linda Kasabian, as a matter of law, in this
8 case has been deemed an accomplice, and so she is a
9 person who "knowingly and with criminal intent, aided,
10 promoted, encouraged or instigated by act or device" the
11 eight crimes that the jury has decided that certain
12 results, namely, first degree murder should ensue.

3 fls.

3-1

1 So it is interesting, when we weigh the
2 equities, when we look at it, at this stage of the proceed-
3 ings, the jurors in their absolute discretion can take
4 into account things such as the fact that Linda Kasabian
5 is not only -- she is not given life, she is given
6 absolute complete 100 percent freedom.

7 We know she is an accomplice as a matter of
8 law.

9 So read this type of language, and perhaps it
10 might give us some idea as to the benefits that Linda
11 Kasabian received.

12 Now, is this something to consider, the
13 benefit she received with criminal intent, knowingly and
14 all of that which she did.

15 She is home free. Does that have any bearing
16 on what should be done to the rest of the defendants?
17 So, getting into the Gary Hinman matter, we have the
18 question of accomplice.

19 Preliminarily we will have to decide whether--
20 when we are analyzing this we are acting as judges in
21 the jury room -- we have to decide whether Mr. Manson has
22 any criminal responsibility for the Gary Hinman matter
23 because everything that came out in this courtroom, we
24 suggest, and other people -- I'm sure Mr. Keith will have
25 other suggestions to you concerning Leslie Van Houten,
26 but the question is, is there any evidence before us?

1 Is there any evidence before us that is
2 untainted by way of evidence from accomplice, because the
3 Court will also instruct us that if -- that you cannot
4 corroborate a accomplice on top of an accomplice.

5 In other words, one accomplice cannot
6 corroborate another accomplice.

7 And the prosecution is advocating that Mr.
8 Manson somehow or other had some responsibility for Mr.--
9 that is, the passing away of Mr. Hinman.

10 He is charged -- you will get this jury instruc-
11 tion -- a series of jury instructions, so we have the
12 interesting problem in logic to consider, because first of
13 all Susan Atkins has testified that she did certain things;
14 she has testified that she in fact used the knife and
15 caused Mr. Hinman to pass away.

16 She also testified, we have the language in
17 the transcript -- she also testified as to the fact that
18 Mr. Manson was there.

19 Mr. Bugliosi -- Mr. Bugliosi says -- indicated
20 to us yesterday they did not put on -- although certainly
21 this Juan Flynn and all of these people are still here,
22 still available for the prosecution, there was nothing
23 there, nothing that the prosecution offered us to show
24 that these girls are doing what Mr. Bugliosi suggests.

25 Mr. Bugliosi out of whole cloth is saying you
26 cannot believe these girls; that they have done all of

1 this just because of some attempt to save Mr. Manson.

2 Well, let's look at it; let's look at it.

3 For instance, Susan Atkins:

4 Susan Atkins on that witness stand, on that
5 witness stand told you, told us what place she said Mr.
6 Manson had in the Gary Hinman matter.

7 She did not leave Mr. Manson out of it.
8 When Mr. Manson had a place in it, according to her
9 viewpoint, she discussed it; she spoke of it; she did not
10 eliminate him.

11 And this is a charge of murder, this Gary Hinman
12 matter.

13 So it is something to think about as to, I
14 think -- it's very interesting to think about.

15 So whether or not -- as to whether or not
16 what these girls testified to is based upon sheer fabrica-
17 tion, because if such were the case she would not mention
18 Mr. Manson in connection with the Gary Hinman matter.

19 So it is one of the things that we have to
20 evaluate, as far as the Gary Hinman matter is concerned,
21 as far as the over-all result is concerned, because we
22 suggest that there is the showing of candor.

23 That is the little bit that, notwithstanding
24 the friendship and the relationship between these people,
25 there is something that shows that this girl is telling
26 the truth from that witness stand.

1 But nevertheless, as lawyers and as judges,
2 which we are when we are on the jury, we still have this
3 law of accomplice that we must -- that we must think
4 through before we can come to any kind of results as to
5 criminal culpability.

3a fls.

3a-1

1 And of course the interesting point is,
2 Susan Atkins would be an accomplice as far as Mr. Manson
3 is concerned on the Hinman matter.

4 Leslie Van Houten would be an accomplice as
5 far as the matter of Gary Hinman is concerned.

6 Now, interestingly enough, interestingly
7 enough the prosecution -- we may look at the testimony
8 of Mary Brunner in this regard.

9 The prosecution chose not to go into --
10 into the testimony of Mary Brunner.

11 When she was here we observed that the prosecu-
12 tion chose not to question here in connection with certain
13 matters which they could have, and the reason is because
14 the prosecution once again has suborned perjury as to the
15 Gary Hinman matter.

16 The prosecution -- Mary Brunner testified that
17 she testified before the Grand Jury. She said that she
18 placed herself -- she placed herself where Leslie Van
19 Houten was.

20 She said that from the witness stand.

21 Now, what it means is, remembering again this
22 lack of truthfulness before the Grand Jury, it means that
23 this witness, Mary Brunner, was before the Grand Jury
24 with only the prosecution present, only the court reporter
25 present and only the Grand Jury present.

26 And so if, if -- if Mary Brunner were not now

1 telling the story truthfully, the prosecution had the
2 capability by virtue of the testimony at the Grand Jury
3 and otherwise to bring before us something to show that
4 Mary Brunner is not telling the truth.

5 So the posture of the evidence is clear that
6 as to the Gary Hinman matter Mr. Manson -- Mr. Manson has
7 no culpability as a matter of law, because the only
8 testimony against Mr. Manson in the Gary Hinman matter is
9 by virtue of accomplices who are purported to be, and
10 see and do whatever.

11 But these people -- these people are accom-
12 plices, and the law that the Court is giving us in this
13 case will show clearly that they are accomplices, and if
14 the testimony of an accomplice is not corroborated, then
15 that means that we must completely disregard the Gary
16 Hinman matter.

17 Now, we sought through the transcript, we
18 tried to find some kind of corroboration. There isn't
19 any, because we go back to the discussions that we had
20 previously concerning accomplice, concerning Linda Kasabian.

21 There is nothing here. There is nothing here
22 to corroborate the testimony of these two accomplices,
23 Linda Kasabian and Leslie Van Houten.

24 And so, since we are in the penalty phase type
25 of discussion, it is apparent, it is apparent that the
26 Gary Hinman matter cannot be used against Mr. Manson for

1 any purpose because of this lack of corroboration.

2 Now, I'm sure the prosecution -- they will
3 certainly try to present some other viewpoint on this.

4 We cannot foretell exactly what the prosecution
5 will say but we know -- we know for instance Leslie Van
6 Houten's testimony -- I believe she mentioned something
7 about Mary Brunner and Pooh Bear, being Mary Brunner's
8 little child, Mr. Manson's child by Mary Brunner,
9 Michael Manson, and we can certainly infer because of what
10 we know that the prosecution has done in connection with
11 these matters, and what law enforcement has done with these
12 matters, we can certainly infer that Mary Brunner was
13 threatened that if she did not testify a certain way,
14 they would take away her child and we could certainly
15 infer that the prosecution told Mary Brunner --

16 MR. BUGLIOSI: Your Honor, I'm objecting to this.
17 There is no evidence of this.

18 MR. KANAREK: It's a fair inference, your Honor.

19 MR. BUGLIOSI: He is drawing an inference in a
20 vacuum, your Honor.

21 MR. KANAREK: I will show you the record.

22 THE COURT: Counsel may proceed.

23 MR. KANAREK: We can certainly infer that the
24 relationship of Pooh Bear being the child of Mr. Manson,
25 Michael Manson, the child, we can certainly infer that
26 the prosecution threatened Mary Brunner at the time she

1 testified to the Grand Jury and before, that at the time
2 they wanted to get Mr. Manson that she would have to do
3 certain things if they were to accomplish some kind of
4 result as far as she were concerned.

4 fls.

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1 These are things, the prosecution can
2 certainly argue that this isn't so.

3 All we have to do is look at what Sergeant
4 Gutierrez told Dianne Bluestein, and there is no reason
5 to expect that it would be any different with Mary
6 Brunner than anyone else.

7 And this is all important in this particular
8 phase of the case because of the absolute discretion that
9 is vested in the jury in deciding it.

10 It is fair and reasonable to accept that such
11 is the case. We think that there is no question, no
12 question, but what it is fair and reasonable to infer
13 that these kinds of pressures were placed upon Mary
14 Brunner.

15 So, we have the law of accomplice as to the
16 Gary Hinman matter. And the Court will give you an
17 instruction on reasonable doubt and all of that.

18 Now, as to the Bernard Crowe matter.

19 There, of course, is the situation as we have
20 discussed it yesterday.

21 There is a question: Is this a situation
22 where Mr. Manson did something that was beyond the pale,
23 so to speak, in view of the threats that occurred, that
24 were made, concerning the Spahn Ranch?

25 If we look at it in context, there has been
26 a narcotics transaction, and Mr. Crowe, who is obviously

1 engaged in the narcotics business in some fashion or
2 other, was beguiled out of his money by Mr. Watson, who
3 is supposed to be a puppydog, who is supposed to be a
4 kind of person that none of us, if we saw him, he would
5 just be a robot. We heard all of that concerning Mr.
6 Watson.

7 Well, Mr. Watson's activities in connection
8 with that narcotics transaction on August 1, 1969 --
9 remember, this was August 1, 1969, just a few days before
10 the other incident -- Mr. Watson is out there wheeling and
11 dealing on the street in probably the roughest area of
12 crime, because people in the narcotics business are
13 dangerous people. They are the kind of people that they
14 don't give up their money unless they get whatever they
15 are supposed to get in return.

16 And so, it is very fair and reasonable to
17 assume that Mr. Crowe was a very unhappy man when that
18 money -- I think it was \$2,000 -- when that money was
19 given and he didn't get what he was supposed to get.

20 So, he called up the ranch and said what he
21 said.

22 He says from the witness stand -- Mr. Crowe --
23 he says that he didn't care about it. It was just some-
24 thing comme ci comme ca. It was just one of those things
25 that happened and he wasn't concerned about that \$2,000.

26 Do we believe that? We suggest that this is

1 beyond belief.

2 Mr. Crowe was a very unhappy man when he was,
3 as the saying goes on the street, burned for this money.

4 He went out to El Monte, he went out there,
5 Mr. Watson left the car, Mr. Watson obviously had a plan,
6 there
7 / was probably someone in another car waiting for him;
8 and so he gets out of the car with the money, meets his
9 friend, whoever it was that he was waiting for, or who
10 was waiting for him, and off they went. And Mr. Crowe is
11 without his \$2,000.

4a fls.

4a-1

1 Then, on top of that, there is a gun in the
2 room, according to Mr. Crowe.

3 So, we have heard all of the evidence in that
4 regard as to what Mr. Manson supposedly did, and so forth.

5 So, the question is: In deciding that, the
6 Bernard Crowe matter, is there a reasonable doubt in
7 connection with Mr. Manson's actions as far as the penalty
8 phase aspect of this is concerned?

9 The question, again, is up to the jury to
10 decide.

11 And we think that it is very significant,
12 as we said yesterday, that in this situation, what is really
13 more important, because Mr. Manson is in custody, Mr. Manson
14 is in the type of custody that is just unbelievable, Mr.
15 Manson, we can infer, is searched and re-searched day in and
16 day out many times a day in the kind of custody that he is
17 in with the focus that is upon him, and so, in evaluating
18 the Bernard Crowe matter as far as the penalty phase goes,
19 we think it is more significant and we suggest that it is
20 more significant to show Mr. Manson's personality than it
21 is to show any kind of criminal culpability as far as this
22 penalty phase is concerned.

23 The reason is, as we have said, and we would
24 like to emphasize it, it shows that when Mr. Manson is
25 involved in something and has some desire, he does it himself.
26 He doesn't foist it upon other people and hide behind these

1 other people.

2 And this is the theme of the prosecution in this
3 trial. Throughout this trial the theme has been that Mr.
4 Manson is having other people go out and do some kind of dirty
5 work.

6 That just didn't happen. It just didn't happen.

7 Linda Kasabian went on two of her creepy crawl
8 missions, and these results came about.

9 So, it is something that we should consider.

10 Now, we have had in this case a marked lack of
11 candor. We should expect more from our public officials
12 than what was done in this case. I think we have a right
13 to expect more from our public officials than what was done
14 in this case.

15 For instance, when the prosecution is putting
16 on a case trying to get an indictment from the Grand Jury,
17 it would seem that the prosecution should put on all the
18 evidence.

19 For instance, we all know that when that matter
20 was presented to the Grand Jury, the prosecution had
21 divergent statements concerning how Sharon Tate passed
22 away. The Roni Howard and Virginia Graham statements were
23 taken before December 5, 1969. They were taken in the
24 Thanksgiving period. They had November dates. We all
25 remember that.

26 And in those statements, supposedly -- and

1 Mr. Caballero said he knew about those statements when he
2 talked to Susan Atkins at the office, before she testified
3 before the Grand Jury -- in those statements, supposedly,
4 Susan Atkins said that she had stabbed Sharon Tate.

5 So, the District Attorney, in going to the
6 Grand Jury and presenting evidence, deliberately withheld
7 truth as they ^{view} it in this court.
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1 In this court they didn't present the other
2 view. In this court they presented the Roni Howard and
3 Virginia Graham view.

4 So, then, when they went before the Grand
5 Jury they deliberately withheld what they are telling us
6 they believe to be truthful statements as to how Sharon
7 Tate passed away.

8 What did they do? They only put in the
9 statement of Susan Atkins that she held Sharon Tate while
10 Tex Watson stabbed her.

11 Now, why was this done? That was done for
12 the very same reason that the prosecution has done other
13 things in this case: To get a conviction at any price
14 regardless of whether or not there is any basis for it,
15 but get Mr. Manson.

16 Mr. Manson is the focal point of somebody's
17 vendetta.

18 So, therefore, instead of the prosecution saying
19 to the Grand Jury -- and the Grand Jury is supposed to
20 deliberate the same way as when we are on the jury we
21 deliberate and come to a decision -- the Grand Jury is
22 supposed to deliberate whether or not an indictment should
23 take place.

24 And so, you see, if the District Attorney had
25 presented the Roni Howard and Virginia Graham statements
26 along with what Susan Atkins said, the Grand Jury might

4b-2

1 well never have indicted Charles Manson, along with the
2 fact if they had gone into the ingestion of LSD and other
3 narcotics.

4 It might well be that Mr. Manson would never
5 have been indicted. These other people might never have
6 been indicted.

7 Susan Atkins might have been indicted had
8 the different statements been presented to the Grand Jury
9 but at that time -- at that time -- Susan Atkins was the
10 darling of the District Attorney's office. At that time,
11 Susan Atkins was the one who was represented by the
12 friend of Mr. Younger, by Mr. Caruso and Mr. Caballero,
13 who had been a Deputy District Attorney, who had friends
14 in the District Attorney's Office of many years standing,
15 and it just wouldn't be, there would be no purpose, from
16 their standpoint, to just indict Susan Atkins because what
17 they wanted to get especially was Charles Manson.

18 So, they deliberately, maliciously and with
19 the intent to deceive the Grand Jury, withheld the Roni
20 Howard and Virginia Graham statements.

21 There can be no other reason for it. Because
22 Roni Howard and Virginia Graham were in custody. They
23 could have brought them over and had them testify. They
24 could have had the police officers testify as to what
25 the statements were. They were in absolute 100 percent
26 control of that Grand Jury.

1 So, these are some of the things that we
2 should think about in connection with the exercise of
3 this absolute discretion. Is there something there that
4 smells? Was the wool pulled over the eyes of the Grand
5 Jurors?

6 If the wool was pulled over the eyes of the
7 Grand Jurors there, there is no reason to believe that
8 somebody may not be trying to pull the wool over the eyes
9 of the jury in this case right now.

10 So, these are some of the things we must
11 think about because of the absolute finality of death.

12 Now, again, for whatever it may be worth,
13 is this People's Exhibit 261.

14 We will remember that the prosecution introduced
15 this exhibit. Supposedly this exhibit had some kind of
16 reference to events at the Spahn Ranch.

4c fls.

4p-1
1 we feel the evidence makes it very clear that
2 this exhibit, this panel which was in the cupboards of
3 Nandy Starr's trailer, this exhibit wasn't even in existence
4 on August the 8th, 9th and 10th of 1969.

5 The panel may have been in existence, but the
6 evidence in this case is clear, crystal-clear, that what
7 was written on here was not in existence on August 8th, 9th
8 and 10th.

9 And the interesting thing to think about is
10 that the prosecution still has the original of this. They
11 took the picture. I am sure we can infer they took the
12 picture because the picture -- we may not know why they
13 took the picture instead of bringing in the panel, but they
14 chose to take the picture instead of bringing in the panel,
15 this panel is in existence, and the prosecution could have
16 brought it in here.

17 Again, this is very significant. This was
18 found in Juan Flynn's trailer. And Juan Flynn was not
19 brought in here. And Juan Flynn certainly is a witness
20 that is friendly to the prosecution.

21 Juan Flynn was not brought here to refute the
22 absolutely unrefuted testimony before us which we have
23 received during this penalty phase that this panel
24 with the "happy, one, two, three, four, five, six, seven,
25 all good children go to heaven," this "helter skelter,"
26 there had been nothing to refute the synthetic evidence

1 that this panel is, because it certainly is clear that
2 this panel with that wording on it wasn't in existence at the
3 time of the so-called race war type ideas.

4 So, in exercising our absolute discretion,
5 this is something that we can think about. Because why
6 wasn't this refuted?

7 Even the police officer that testified
8 concerning this wasn't brought in to refute this as far as
9 what we have discussed here.

10 This is of extreme significance in this case
11 especially where the prosecution is doing the things that
12 they are doing.

13 I submit it is something to turn our minds on.

14 This is the testimony of Patricia Krenwinkel.
15 Patricia Krenwinkel testified, in answer to the question:

16 "It makes you feel good, is that it,
17 when you take acid?

18 "A I take acid because I take acid.
19 When it is there, I take it. I don't even think
20 about taking it. If I see it and it is there
21 and I feel like taking some, I take it.

22 "Q Does it open up new areas of
23 thought for you? Is that one of the reasons
24 you take it?

25 "A I have taken so much acid, I am
26 acid. I don't ever come down. I don't even know

1 how to try to relate to you between what something does
2 then or how or whatever. All of that is just, phew, it is
3 sure a lot of meaningless words. It is just there."

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1 Now, in deciding this case we have to use the
2 English language in conveying ideas in the courtroom. That
3 is our language.

4 But don't we get the feel, somehow or other,
5 that the English language is inadequate as a means of
6 expressing whatever happens to people when they take LSD
7 the way these people take it?

8 And that includes Linda Kasabian.

9 Don't we get to feel that no matter how there
10 is the attempt to describe and put into words what occurs
11 that in fact this is almost impossible to convey, whatever
12 happens to somebody who takes acid, and when we consider --
13 when we consider that these people were on acid and that
14 Tex Watson was doing what he was doing, when we consider
15 that Linda Kasabian certainly has, you know what material
16 she has ingested.

17 When Patricia Krenwinkel says, "I am acid."
18 How is she any different than Linda Kasabian?

19 Now, Linda Kasabian is a smoothie.

20 I mean, there is no question about it that
21 Linda Kasabian -- plus Linda Kasabian had very capable
22 lawyers.

23 Mr. Fleischman and Mr. Goldman did a beautiful
24 legal job for Linda Kasabian, beautiful! There is no question
25 about the fact that they did.

26 And I suppose the same thing would have resulted

1 for Susan Atkins if Mr. Younger's friends had stayed in as
2 representing her.

3 But apart from lawyers and legalities, is there
4 any reason to believe, is there any reason to believe that
5 Linda Kasabian is any different in her thinking and her
6 observations and her perception than Katie Krenwinkel is
7 in connection with what she testified to?

8 We suggest this is something for us to consider
9 because again we get back to the possible innocence aspect
10 of this case, because Linda Kasabian, speaking from that
11 witness stand, knowing that she is the darling of the
12 prosecution, knowing that no matter what she does it's
13 right, it has got to be right, and knowing that she has
14 the results, the benefits that she is getting, this is
15 specially -- specially important and significant in a
16 penalty phase where the result -- where the result is
17 irreversible.

18 Death is irreversible.

19 And so we are asked to commit murder ourselves.
20 The prosecution is asking us to do that, to deliberately
21 kill, based upon -- based upon this type of evidence.

22 And so this is something to consider because
23 certainly Linda Kasabian is Katie Krenwinkel, as far as
24 the ingestion of LSD is concerned.

25 Now, you remember, ladies and gentleman of the
26 jury, you can choose not to believe this if you so wish.

1 but do you remember that we -- the first question, I think,
2 that we asked Miss Krenwinkel:

3 "Miss Krenwinkel, have I ever discussed
4 this case with you?"

5 The answer was no.

6 Now, we suggest that that is true; that is true.

7 Now, if you observed, the prosecution has made
8 much of what has taken place in the courtroom itself. I
9 don't know if those of us on the jury observed it or not.

10 But when fellow counsel went upstairs during
11 these times to see these girls, the question for you to
12 consider is where was I?

13 I mean, in other words, is this true? Do any
14 of us that are on the jury think that that statement is
15 untrue?

16 We suggest that the statement is true; that
17 Patricia Krenwinkel never, never -- I never discussed this
18 case with Patricia Krenwinkel.

19 And that is significant because of this picture.
20 This is the first time that I discussed this case with
21 Patricia Krenwinkel, and so I brought out this picture to
22 her and I said: "Now, directing your attention to this
23 what appears to be a panel on the door, there was a door
24 knob there," that language.

25 "Well, first the picture itself, you have never
26 seen before -- that is, you may have seen this picture

1 before but you have never seen what is pictured there before,
2 is that correct?

3 "A No, I have not.

4 "Q To your knowledge do you know who put --
5 who wrote, who drew or whatever, whatever is set out in that
6 picture?

7 "A No, I have no idea.

8 "Q Now, then, are you telling us that people at
9 Spahn Ranch never gathered around this as a rallying point
10 for some race war?

11 "A No.

12 "Q Pardon?

13 "A No.

14 "Q Directing your attention to the people at
15 Spahn Ranch, was there ever a gathering where people, where
16 everybody sat down and discussed or planned some kind of a
17 race war or confrontation between black people and white
18 people?

19 "A No."

20 Now, so the question is whether or not Patricia
21 Krenwinkel is telling the truth in that regard.

22 The question is whether Mary Brunner is telling
23 the truth in that regard.

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5a-1

1 Now, again getting back to the proximate
2 cause -- that is why we think that the testimony here is
3 much better than anything that we can use by way of
4 synopsis or summary;

5 "Q What was going through your mind,
6 Miss Krenwinkel, when you were moving the knife
7 that you have spoken of in this courtroom?

8 "A Nothing.

9 "Q Your mind was a complete blank?

10 "THE COURT: What was the answer?

11 "THE REPORTER: 'Nothing.'

12 "Q Is that a fair statement?

13 "A Yes, I would imagine so."

14 Now, again, does that have any bearing, does
15 that have any bearing on the possible innocence of Mr.
16 Manson?

17 Does that have any relationship to his
18 possible innocence, which is what we can use our absolute
19 discretion in evaluating?

20 I'm sure that none of us -- none of us -- no
21 matter how emotional we are -- wish to kill someone who
22 is innocent.

23 We may remember -- I'm sure all of us remember
24 the case -- we don't have to go back to the 18th Century.

25 I am sure we will remember the case in
26 England just a few years ago where a person -- after a

5a-2

1 person was killed, executed, it was conclusively proved,
2 the Crown, the Home Secretary, the government of England
3 conceded there was no question that the person was wrong-
4 fully executed.

5 And when we have what we have in this case,
6 the possible innocence of Mr. Manson, it overwhelms us.

7 There is no question that he is possibly innocent,
8 to say the least.

9 And so some of these things are significant in
10 evaluating that matter of possible innocence, because, if
11 Patricia Krenwinkel, Patricia Krenwinkel were the robot,
12 if she were operating the way the prosecution would have us
13 operate, then she would have a pre-existing intent at some
14 time -- at some time she would know what she was going to
15 do.

16 And in connection with that use of the word,
17 robot, the prosecution has -- has -- they have weasled on
18 the use of that word, as we recall undoubtedly from the
19 first address that the prosecution gave us in the guilt or
20 innocence phase, these people were called robots.

21 And then when it came out -- when we discussed
22 that robots are unthinking, have no thoughts, and the word
23 automaton was used, then the prosecution changed the meaning
24 of the word robot.

25 But these are robots that think!

26 So therefore the prosecution is giving us now a

5a-3

1 new definition. They are playing Webster or something like
2 that because they say in one breath that these people are
3 robots, and then when it is pointed out what robots really
4 are and what automatons really are, then they say "Well,
5 they are not."

6 But no matter what, what words or what label you
7 put on it, the fact remains that there was no pre-existing
8 intent to go out and do whatever these people did.

9 And if they had no pre-existing intent to do it,
10 then Mr. Manson has no culpability and no responsibility
11 any more than anyone of us would have a responsibility for
12 any relative or friend or child that we are close to who
13 may go out and do something.

14 So it is something to consider, something to
15 consider as far as possible innocence is concerned.

16 Because I am sure -- I am sure we would all of
17 us be very disappointed, be very unhappy, whether we have
18 a religious bent or not; whether we are people who go to
19 church every Sunday; whether we are devout in a particular
20 way or whether we are devout in a way that is not particular-
21 ized, that is, whether we follow a particular denomination
22 or whether we have faith in God based upon something that
23 is not set out as particular ritual.

24 I am sure we would be very unhappy to pick up
25 Linda Kasabian's book some day and find out that she made
26 a few mistakes that, let's say, she is now writing her

1 memoirs, and in writing her memoirs and in discussing her
2 memoirs with whoever is writing the book for her or
3 collaborating with her, she points out a few things that
4 may be just a little bit inconsistent or a little bit at
5 odds with what we heard in this courtroom, and it may
6 strike us as suggesting one thing or the other.

7 If these people are dead at that time, it is a
8 little bit late, even though Linda Kasabian may still be
9 picking up her royalty checks on her book.

5b fls.

5b-1

1 So the fact of the matter is that this possible
2 innocence that we are speaking about is something that
3 should perhaps have been brought into the discussion with
4 the things like this.

5 This is a question of Patricia Krenwinkel:

6 "Q At sometime that evening did
7 you find yourself inside the house?

8 "A Yes.

9 "Q Had any of the family come to
10 the house with you?

11 "A Yes.

12 "Q Would you tell us the people that
13 were inside the house at the time?

14 "A We were all inside the house.

15 "Q Would you name the people?

16 "A Linda, Sadie, Tex and myself.

17 "Q Were all inside the house,
18 right?

19 "A Yes."

20 Now, furthermore, and this is evidence from the
21 witness stand because these girls are defendants does not
22 mean that they should be demeaned the way the prosecution
23 would have us believe.

24 There are indications here -- we look at what
25 motivates people -- there are indications here that what
26 these girls are saying is the gospel truth rather than

1 something else.

2 The question:

3 "Do you know who the person was that made
4 the statement that you referred to?

5 "A No."

6 I have to go back. I want to make sure I just
7 read what the Court offered into evidence.

8 This is Page 23,882 if Mr. Bugliosi wishes to
9 check on this.

10 "Q I see, they were all in the living
11 room at the same time?

12 "A I believe so.

13 "Q At a time when Linda was there?

14 "Now, at some time when all these people
15 were in the living room with you, were these
16 people, these two women and these two men that
17 you have spoken of, were they unrestrained, that
18 is, was there a time when you were in the living
19 room with them and a time Linda Kasabian was
20 in the living room with them when they were not
21 restrained by ropes or any other physical
22 device?

23 "Do you follow me?

24 "A Yes.

25 "Q Did that occur?

26 "A Yeah.

1 "Q And how long was it after you
2 came inside of the Tate residence that these
3 two women and these two men were in the living
4 room unrestrained?

5 "A I don't know.

6 "Q Was it shortly after or can
7 you give us any kind of an estimate how long
8 it was?

9 "A I have no idea, none whatsoever.

10 "Q So now we have a picture of these
11 two women and these two men who are people
12 who did not come to the Cielo residence with,
13 who are now in the living room.

14 "At some time -- at some time did there
15 develop an altercation, a fight or some kind of
16 difference of opinion between the two women and
17 the two men that you are speaking of and those
18 of you that came to the Cielo residence address
19 in the car?

20 "(No response.)

21 "Q Did that develop into some kind
22 of a physical encounter?

23 "A Yes.

24 "Q And would you tell us, how did
25 this physical encounter come about, what happened?

26 "A I don't know, words were said, some ^{one}

1 "was shot.

2 "Q Pardon?

3 "A I said words were said, some-
4 one was shot.

5 "There began a struggle among us all.
6 Whatever you want to call it, a fight, whatever.

7 "Q Words were said. Could you tell
8 us what words were said?

9 "A I don't know what words were said.

10 "Q Can you give us some kind of --

11 "A If I would even be giving you
12 an example I would be giving you a lie.

13 "If any of you can remember what you said
14 five minutes ago, you know, I don't understand,
15 I really don't understand your thinking or even
16 trying to believe what somebody would say what
17 they said about three years ago.

18 "If you would believe somebody saying that,
19 it would seem foolish to me, because you don't --
20 unless all of you try to completely remember
21 everything everyone has already said to you from
22 the time you get up" --

23 "THE COURT: You answered the question. You
24 don't know the answer, is that right?

25 "THE WITNESS: Right.

26 "THE COURT: All right. Ask your next

1 "question.

2 "Q Do you know who the person
3 was that made the statement that you have
4 referred to?

5 "A No.

6 "Q When a shot was fired, where
7 were you in the room when the shot was fired?

8 "A I don't know, wherever I was
9 standing.

10 "Q Where was Linda?

11 "A I don't know, wherever she was
12 standing.

13 "Q She was standing in the room when
14 the shot was fired?

15 "A Yes, she was there as we were all
16 there."

17 Now, is that -- what Miss Krenwinkel is saying
18 there -- is that fabricated? Is that unbelievable? Is
19 that untrue?

20 The fact of the matter is that when you read her
21 colloquy here, when you read what she says, she is not a
22 friendly witness.

23 When I am asking her those questions, she says
24 it's foolish; she says the question -- how can you remember
25 what happened three years ago?

26 Linda Kasabian -- Linda Kasabian was tutored.

Linda Kasabian was spoken to and respoken to.

Linda Kasabian was told what to say by -- and we say this is a fair inference -- by what happened at the Grand Jury.

What the prosecution did in this case with Linda Kasabian is, they took, when they no longer had Susan Atkins, they took the Grand Jury testimony and the tape that Mr. Caballero had and then they tortured Linda Kasabian.

MR. BUGLIOSI: There is no evidence of this, your Honor, and I object on that ground, absolutely no evidence.

MR. KANAREK: It's a fair inference, your Honor.

THE COURT: You did not state it that way, sir. The objection is sustained.

MR. KANAREK: It is a fair inference, we suggest, that if we considered the testimony here in court as to what Susan Atkins said, when we consider what the prosecution had when they were at the interview at Mr. Caruso's office, when you consider those words, the word-for-word answers that were given there by Susan Atkins supposedly, and compare them with what Linda Kasabian said, what we have is a Broadway production.

6-1.

1 What we have is Linda Kasabian being schooled
2 by virtue of the interview with Mr. Caballero.

3 We say this is an inference that can be made,
4 And this is done by the very clever technique of not taking
5 Linda Kasabian's statement down on tape.

6 Now, it is very interesting, it is very
7 interesting, when the prosecution was going to go before
8 the Grand Jury, the prosecution went to great pains, the
9 prosecution saw to it, along with using the power of the
10 court to see to it that Susan Atkins was brought to the
11 offices of Mr. Caballero, she was brought to the offices
12 of Mr. Caballero and there was a tape recording made. The
13 prosecution used that tape recording as they saw fit,
14 taking what they wished to use at the Grand Jury, not
15 taking everything, and they used that at the Grand Jury.

16 They had this tape. They had these questions
17 all prepared.

18 But there was no tape recording made of Linda
19 Kasabian.

20 Now, that was for us in this courtroom. And
21 there was a deliberate reason, we suggest, why there was no
22 tape recording or stenographic notes made of Linda Kasabian.
23 So that when she came to this courtroom there would be no
24 way of impeaching her. No way. Because the only way -- if
25 she just gives it orally that way, there is no tape.

26 The prosecution wasn't going to let happen what