

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

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

Defendants.

84

No. A253156

REPORTERS' DAILY TRANSCRIPT  
Friday, September 4, 1970  
P. M. SESSION

APPEARANCES:

For the People:

AARON H. STOVITZ and  
VINCENT T. BUGLIOSI,  
DEPUTY DISTRICT ATTORNEYS

For Deft. Manson:

I. A. KANAREK, Esq.

For Deft. Atkins:

DAYE SHINN, Esq.

For Deft. Van Houten:

RONALD HUGHES, Esq.

For Deft. Krenwinkel:

PAUL FITZGERALD, Esq.

VOLUME 84

PAGES 10,002 to 10,094

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

COPY

I N D E X

PEOPLE'S WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	VC DL
LEE, William J. (Cont'd)	10,002				
HENDRICKS, MICHAEL	10,057) 10,090)	By the Court			10,04 10,071S 10,0

E X H I B I T S

DEFENDANTS':	FOR IDENTIFICATION	IN EVIDENCE
--------------	--------------------	-------------

S - Letter dated 9/2/70 from Atascadero State Hospital	10,052
---	--------



1 LOS ANGELES, CALIFORNIA, FRIDAY, SEPTEMBER 4, 1970

2 2:00 P.M.

3 ---O---

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

6 You may continue, Mr. Bugliosi.

7  
8 WILLIAM J. LEE,

9 the witness on the stand at the time of the noon recess,  
10 resumed the stand and testified further as follows:

11  
12 DIRECT EXAMINATION (RESUMED)

13 BY MR. BUGLIOSI:

14 Q Sergeant, you say you test fired a .22 caliber  
15 revolver, and the purpose for test firing was to compare the  
16 test-fired bullets with the four bullets you got from the  
17 Coroner's Office and determine whether the test-fired  
18 bullets and the four bullets were fired from the same gun,  
19 is that correct?

20 A Yes, sir, it is.

21 Q As a result of your examination did you form  
22 any opinion with respect to each of the four bullets?

23 A I did.

24 Q I show you People's 177 for identification.  
25 For simplicity, let's call it the Frykowski bullet.

26 Did you form any opinion with respect to that

bullet?

1 A Yes, sir, I did.

2 Q What is that opinion?

3 A It is my opinion that this bullet lacked  
4 sufficient stria for positive identification as to coming  
5 from this particular .22 caliber longhorn revolver,  
6 number 1902708 -- I just checked the serial number --  
7 190708.

8 MR. KANAREK: What was that exhibit number,  
9 Mr. Bugliosi?

10 MR. BUGLIOSI: 177.

11 Q BY MR. BUGLIOSI: Now, you say there were  
12 insufficient stria. That means insufficient markings on  
13 this bullet for you to make a comparison, is that correct?

14 A A comparison to find out if that bullet actually  
15 came from this particular firearm, yes, sir, that is  
16 correct.

17 Q Is it your conclusion that the Frykowski bullet  
18 did not come from this firearm?

19 MR. KANAREK: I object, your Honor, I object to the  
20 form of the question. The question is improper.

21 There is no foundation for it.

22 THE COURT: Why is it improper?

23 MR. KANAREK: Because your Honor, he could ask that  
24 question about every firearm in the United States of  
25 America.

26 In the context of these proceedings it is an

1 unfair question.

2 Just because the police have brought forth a  
3 single gun does not mean that Mr. Bugliosi can ask that  
4 kind of a question.

5 THE COURT: The objection is overruled.

6 MR. KANAREK: It's improper.

7 THE WITNESS: Would you repeat the question, please?

8 Q BY MR. BUGLIOSI: Is it your conclusion that the  
9 Frykowski bullet did not come from People's 40, the  
10 revolver?

11 A No, it is not.

12

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

12-1

1 Q That is not your conclusion?

2 A That is correct.

3 MR. KANAREK: Your Honor, I will object on founda-  
4 tional grounds. There is no foundation ~~for~~ the question,  
5 for the purported expert opinion, your Honor.

6 THE COURT: Overruled.

7 BY MR. BUGLIOSI:

8 Q Are there any markings or characteristics  
9 on the Frykowski bullet that would rule out the possibility  
10 that it was fired from this .22 caliber revolver?

11 A No.

12 MR. KANAREK: Objection, your Honor.

13 May I enunciate it before the answer?

14 May the answer be stricken?

15 THE COURT: Go ahead.

16 MR. KANAREK: I object, your Honor, on the same  
17 grounds, that there is no foundation in the record for  
18 this question.

19 It is immaterial, your Honor, it is irrelevant,  
20 and there is no basis, no foundational basis by evidence  
21 or otherwise, for this question, for this purported  
22 request for an expert opinion.

23 THE COURT: Overruled.

24 BY MR. BUGLIOSI:

25 Q I will ask you the question again, Sergeant.

26 Did you observe any markings or characteristics



12-2

1 on this Frykowski bullet which, in your expert opinion,  
2 would rule out the possibility that it was fired from  
3 this revolver, People's 40 for identification?

4 MR. KANAREK: Same objection, your Honor.

5 THE COURT: Overruled.

6 THE WITNESS: No, sir.

7 BY MR. BUGLIOSI:

8 Q You found no such markings or characteristics  
9 that would rule out the possibility that it was fired from  
10 this revolver?

11 A That is correct.

12 Q Looking at the Frykowski bullet.

13 Were you able to determine the number of lands  
14 and grooves in the barrel of the firearm from which it was  
15 fired?

16 A I was.

17 Q How many lands and grooves?

18 A Six lands and six grooves.

19 Q This is the Frykowski bullet?

20 A That is correct.

21 MR. KANAREK: Your Honor, may we approach the bench  
22 momentarily on this? Or may I inquire on voir dire as to  
23 how many guns in the United States have six lands and six  
24 grooves?

25 THE COURT: You may ask that on cross-examination,  
26 Mr. Kanarek.

Let's proceed.

BY MR. BUGLIOSI:

Q Did you measure, on the Frykowski bullet, the width of the lands and grooves?

A Yes, I did.

Q And what measurements did you have or did you reach for the width of the lands?

A The grooves on the bullet, which would be made by the lands of the gun, would be fifty-five thousandths, approximately; and the lands of the bullet, which were formed by the grooves of the gun, would be approximately sixty-thousandths.

Q The lands were sixty-thousandths?

A In width. Approximately sixty-thousandths in width.

Q Of an inch?

A Yes.

Q Sixty-thousandths of an inch as to the width of the lands?

A Yes.

Q And fifty-five thousandths of an inch as to the width of the grooves; is that correct?

A Yes, sir.

Q Now, what about the test fire bullet?

What was the width of the lands and the grooves on the test fire bullet?



42a-1

1 MR. KANAREK: Your Honor, it is immaterial and it is  
2 irrelevant because counsel is trying to bootstrap something  
3 where it doesn't exist.

4 This man has candidly told us that he can't  
5 form an opinion. Therefore, these questions that  
6 Mr. Bugliosi is asking are prejudicial and they have no  
7 probative value. They are immaterial and they are  
8 irrelevant.

9 THE COURT: Overruled.

10 THE WITNESS: Would you repeat the question?

11 MR. BUGLIOSI: Yes.

12 Q Did you measure the width of the lands and the  
13 grooves on the test-fired bullet?

14 A Yes.

15 Q What measurements did you receive?

16 A The same, approximately.

17 Q So both on the test-fired bullet and on the  
18 Frykowski bullet, you had the same width in lands and grooves;  
19 is that correct?

20 A Yes, sir.

21 MR. KANAREK: That question, your Honor, is  
22 immaterial and irrelevant in view of the witness' statement  
23 that he cannot form an opinion.

24 THE COURT: Overruled.

25 MR. BUGLIOSI: Q Were you able to determine by  
26 looking at the Frykowski bullet, Sergeant, the type of twist

12a2

1 that the firearm had from which it was fired?

2 MR. KANAREK: Immaterial, irrelevant, and the  
3 prejudicial value outweighs any probative value, in view  
4 of this man's statement that he cannot form an opinion.  
5 Your Honor.

6 THE COURT: Overruled.

7 THE WITNESS: Yes, I was able to form an opinion as  
8 to the direction of the twist.

9 MR. BUGLIOSI: All right.

10 Q What is that?

11 A It is a right-hand twist.

12 Q Did the test-fired bullet fired from the .22  
13 caliber revolver also have a right-hand twist?

14 A It did.

15 Q So, the test-fired bullet and the Frykowski  
16 bullet then had the same number of lands and grooves; is  
17 that correct?

18 A Yes.

19 Q And the same width of lands and grooves?

20 A Yes, sir.

21 Q And the same twist?

22 A Yes, sir.

23 Q But you say there were insufficient stria upon  
24 which to form a conclusion that the Frykowski bullet was  
25 fired from that .22 caliber revolver; is that correct?

26 A That is correct.

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

3 THE COURT: You interrupted the answer, Mr. Kanarek.

4 Read the question and the answer.

5 MR. KANAREK: I am sorry, your Honor.

6 (The record was read by the reporter.)

7 MR. KANAREK: Your Honor, may we approach the bench,  
8 then, your Honor? I would like to make a point to the  
9 Court outside of the presence of the jury, if I may.

10 THE COURT: Very well.

11 MR. KANAREK: Thank you.  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

13-1

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

3 MR. KANAREK: Your Honor, I believe; your Honor, that  
4 in view of -- I mean, the law is clear that in connection  
5 with expert testimony you cannot --

6 You cannot have a synthetic sort of a halfway  
7 quasi type of expertise placed before -- that is, the  
8 expert opinion placed before the jury by asking these  
9 questions that are meaningless, that have only prejudicial  
10 value, because the jury will not be able, conceivably,  
11 they are not experts, they will not be able to make any  
12 comparison.

13 They are not allowed to infer that the bullets  
14 came from that gun.

15 If the expert who is being offered for his  
16 expertise -- therefore the question and the answer has to  
17 be immaterial, irrelevant and prejudicial.

18 THE COURT: What about the inference that they could  
19 not have come from that gun.

20 MR. KANAREK: Pardon?

21 MR. FITZGERALD: He answered that question. He said  
22 he cannot rule this gun out.

23 MR. BUGLIOSI: Your Honor, I think it is so obvious  
24 that it is an admissible question, it is ridiculous, and  
25 Mr. Kanarek -- I think this man should be charged with  
26 contempt of court no less than 100 times.



13-2

1 We are getting into important evidence now and  
2 he is making silly, ridiculous objections, and I have to  
3 have the question reread, and the jury is confused.

4 That is his only purpose.

5 This evidence I am offering could not be more  
6 relevant. We are talking about the test fire bullet.  
7 I am comparing the test fire bullets with bullets that  
8 came from the victim's body.

9 THE COURT: The objection is overruled.

10 I want to caution you again, Mr. Kanarek, I do  
11 not intend to stop you from making objections. As a lawyer  
12 you have the right to make objections if they are made in  
13 the proper manner and if they do not disrupt or interrupt  
14 testimony.

15 But your last objection interrupted the answer  
16 so that I could not have an understanding of any coherence.

17 I am not going to permit you to do it. I have  
18 seen you do this before in this case; you have done it  
19 at great length. I am convinced you do it as a tactical  
20 trial weapon, as I stated on the record before, I'm not  
21 going to let you do it.

22 You may state your objection, but don't do  
23 it to disrupt the testimony of witnesses.

24 MR. KANAREK: I want to disabuse the Court that this  
25 is done for any practical use --

26 THE COURT: I have seen enough to know better.

1 MR. KANAREK: The question elicits answers staccato.  
2 He answers almost automatically.

3 The last colloquy read back by the reporter  
4 shows clearly I did not do that, because the witness gave  
5 his answer, as evidenced by the court reporter.

6 THE COURT: Unfortunately the transcript does not  
7 reflect everything that happens, including the sequence  
8 and timing of questions, answers and objections, and I  
9 cannot understand an answer because you have made an  
10 objection right in the middle of the answer.

11 Occasionally this can happen accidentally.  
12 But this has happened a great number of times.

13 MR. KANAREK: Your Honor will certainly agree for  
14 many many days I am not making objections, except in the  
15 most urgent of necessity.

16 THE COURT: I am not trying to deprive you of any  
17 right to make objections, Mr. Kanarek, but I want the  
18 record to be perfectly clear that you have the right to  
19 make objections but you do not have the right to disrupt  
20 the witness's testimony.

21 MR. KANAREK: The point is, your Honor --

22 THE COURT: That is the point. I just stated what  
23 the point is.

24 MR. KANAREK: While we are at the bench I assume  
25 we have a continuing objection on all of these witnesses.

26 THE COURT: Do not assume anything. I told you a



1 dozen times and I will tell you once more, if you want a  
2 continuing objection as to a particular witness, ask for  
3 it. If you don't ask for it, you don't have it.

4 MR. KANAREK: I will ask for a continuing objection  
5 as to this witness on the grounds of irrelevancy and  
6 immateriality.

7 THE COURT: You may have it.

8 MR. KANAREK: Thank you.

13a fls.

3A1

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

3 Q BY MR. BUGLIOSI: Sergeant, would you say every  
4 time a bullet is fired and it passes through the barrel of a  
5 firearm into a human body, would you say that there is  
6 always stria on the bullet remaining?

7 A No, not necessarily.

8 Q Why not?

9 A Well, the fact is that the bullet may be right  
10 by the clothing, the skin and the tissue of the individual  
11 it strikes, and certain actions of coating on the bullets  
12 going through the gun barrel may have an effect on it.

13 Q With respect to the Frykowski bullet, you say  
14 much of the stria was removed?

15 A Yes.

16 Q Do you have any opinion on how the stria on that  
17 Frykowski bullet was removed?

18 MR. KANAREK: Improper foundation in the record, your  
19 Honor, no showing that this witness has been apprised of  
20 anything based upon which he can make this purported expert  
21 opinion.

22 MR. SHINN: Also it is highly speculative, your  
23 Honor.

24 THE COURT: Overruled.

25 THE WITNESS: No, I don't.

26 Q BY MR. BUGLIOSI: Could the stria have been

a2

1 removed by the bullet entering Mr. Frykowski's body and  
2 passing a distance through the body?

3 MR. KANAREK: Your Honor, that is assuming facts  
4 clearly not in evidence. I must object on those grounds.

5 MR. BUGLIOSI: The bullet was removed from  
6 Mr. Frykowski's body, Mr. Kanarek.

7 MR. KANAREK: But there is no evidence, your Honor,  
8 that this particular bullet, that these stria were removed  
9 by the events that Mr. Bugliosi would lead us to believe.

10 It is not in this record, your Honor. This  
11 would be conjecture and speculation.

12 THE COURT: Overruled.

13 THE WITNESS: Yes.

14 Q BY MR. BUGLIOSI: The stria could have been  
15 removed from the bullet as it passed through Mr. Frykowski's  
16 body, is that correct?

17 A Yes.

18 Q The four bullets that I showed you that you  
19 got from the Coroner's office, they are coated bullets,  
20 c-o-a-t-e-d.

21 A They are.

22 Q Are some bullets non-coated?

23 A Yes, some bullets are non-coated.

24 Q Which bullets more readily lend themselves to  
25 receiving stria, coated or uncoated bullets?

26 A Uncoated bullets.

3a3

1 Q They more readily lend themselves to receiving  
2 stria?

3 A They do, yes.

4 Q These four bullets were coated, is that correct?

5 A Yes.

6 Q Now, you say it is not your opinion, or you  
7 have not formed an opinion that the Frykowski bullet was  
8 not fired from that revolver, is that correct?

9 MR. KANAREK: That question is unintelligible, your  
10 Honor, the form of the question.

11 THE COURT: Read the question.

12 MR. BUGLIOSI: It is a double negative, perhaps I  
13 should rephrase it.

14 THE COURT: Reframe the question.

15 Q BY MR. BUGLIOSI: In view of your examination of  
16 the test-fired bullet and the Frykowski bullet, could the  
17 Frykowski bullet have been fired from that .22 caliber  
18 revolver?

19 MR. KANAREK: Improper foundation for the purported  
20 expertise, your Honor, and also calling for a conclusion.

21 THE COURT: I think the question is ambiguous.  
22 Sustained.

23 He has already testified that the bullet could  
24 have been fired from that kind of a weapon.

25 The question is ambiguous.

26 Q BY MR. BUGLIOSI: I show you People's 136 for



1 identification, removing the slug which was contained in  
2 the envelope, let's call that the first Parent bullet, for  
3 simplicity purposes, is that all right, Sergeant?

4 A That is fine with me.

5 Q You have no argument with me on that?

6 A That's correct.

7 Q Okay, now, what is your opinion with respect  
8 to the first Parent bullet as to whether or not it was  
9 fired from this .22 caliber revolver?

10 A I was unable to form an opinion as to it  
11 positively coming from this particular weapon, although it  
12 would be the same or similar to the other bullet that I  
13 have testified to, except that this bullet, besides not  
14 being able to observe the stria on this particular bullet,  
15 this particular bullet is also deformed.

16 MR. KANAREK: Then, your Honor, may I inquire -- I  
17 would ask if I may make a motion in the alternative:

18 Either that this answer be stricken or that I be  
19 allowed to inquire on voir dire.

20 I would ask first that the answer be stricken as  
21 incompetent because of what the officer himself has candidly  
22 stated.

23 THE COURT: The motions are denied.

24 Let's proceed.

25 Q BY MR. BUGLIOSI: Now, you are putting the first  
26 Parent bullet then in the category of the Frykowski bullet --

1 A Yes.

2 Q -- insufficient stria on the first Parent bullet  
3 from which you could form an opinion that it was fired by  
4 this revolver, is that correct?

5 MR. KANAREK: Your Honor, if I may, it is assuming  
6 facts not in evidence.

7 The officer has candidly stated that there is an  
8 additional defect, namely, the damage to the bullet.

9 So counsel's question is unfair and it assumes  
10 facts not in evidence.

11 THE COURT: Overruled.

12 THE WITNESS: Will you repeat the question, please.

13 (Whereupon, the reporter reads the record as  
14 follows:

15 "Q BY MR. BUGLIOSI: Now, you are  
16 putting the first Parent bullet then in the  
17 category of the Frykowski bullet --

18 "A Yes.

19 "Q -- insufficient stria on the  
20 first Parent bullet from which you could form an  
21 opinion that it was fired by this revolver, is  
22 that correct?"

23

24

25

26



14-1

(The record was read by the reporter.)

THE WITNESS: Yes, plus the additional fact that this bullet appears to be distorted.

BY MR. BUGLIOSI:

Q Is it your opinion that this first Parent caliber bullet was not fired from this .22/revolver?

A No.

MR. KANAREK: I must object to that, if I may, on the grounds that the question calls for conjecture. It calls for a conclusion wherein there is not sufficient basis in the evidence for the officer to give an expert opinion.

THE COURT: Overruled.

Repeat the question.

(The record was read by the reporter.)

BY MR. BUGLIOSI:

Q In other words, this first Parent bullet could have been fired from this revolver; is that correct?

A Yes, sir.

Q Are there any markings or characteristics on this first Parent bullet which would rule out the possibility that it was fired from this revolver?

A Not that I observed.

Q By looking at this first Parent bullet and by examining it, did you determine the number of lands and grooves on the inside of the barrel of the weapon from

14-2

1 which it was fired?

2 A Yes.

3 Q How many lands and grooves?

4 A Six lands and grooves.

5 Q And what type of twist?

6 A A right-hand twist.

7 Q Did you measure the width of the lands and  
8 grooves of the first Parent bullet?

9 A Yes.

10 Q What measurement did you obtain?

11 A These were the same as my test shots.

12 Q Fifty-five thousandths of an inch on what?

13 A On the gun land, and sixty-thousandths to the  
14 gun groove, approximately.

15 Q I show you People's 185 for identification,  
16 a yellow envelope.

17 I am removing the slug.

18 You have seen that slug before, of course?

19 A Yes, sir, I have.

20 Q And as a result of your examination, did you  
21 form any opinion as to whether or not this bullet was fired  
22 from this .22 caliber revolver?

23 A I did.

24 Q What is that opinion?

25 A I was unable to form an opinion as to this  
26 bullet coming positively from this .22 caliber revolver.

14-3

1 Q Insufficient stria?

2 A Yes.

3 Q Did you form an opinion that -- we will call  
4 this the second Parent bullet -- did you form an opinion  
5 that the second Parent bullet was not fired from this  
6 revolver?

7 A No, sir.

8 Q It could have been?

9 A Yes, sir.

10 Q Are there any markings or characteristics on  
11 this second Parent bullet which would rule out the  
12 possibility that it was fired from this revolver, People's  
13 40?

14 A No, not that I observed.

15 Q Did you determine by looking at the second  
16 Parent bullet the number of lands and grooves on the inside  
17 of the barrel of the firearm from which it was fired?

18 A I did.

14a fls.

4A-1

1 Q How many lands and grooves?

2 A Six lands and six grooves.

3 Q What about the twist?

4 A Right-hand twist.

5 Q Did you measure the dimensions, the width of the  
6 lands and grooves on the second Parent bullet?

7 A I did.

8 Q What measurements did you obtain?

9 A The gun land of 55 thousandths, approximately,  
10 and gun groove of approximately 60 thousandths.

11 Q I show you People's 166 for identification, a  
12 yellow envelope, from which I have just removed a slug or  
13 a bullet.

14 THE COURT: What was the number?

15 MR. BUGLIOSI: 166 for identification, your Honor.

16 Let's call this the Sebring bullet; all right,  
17 Sargeant?

18 THE WITNESS: Yes, sir.

19 MR. BUGLIOSI: Q Did you form any opinion as to  
20 whether or not the Sebring bullet was fired from this .22  
21 caliber revolver?

22 A I did.

23 Q And what is that opinion?

24 A It is my opinion that the Sebring bullet was  
25 fired from this .22 caliber revolver.

26 Q Is that a positive opinion on your part?

77



1 A It is.

2 Q Is there any doubt in your mind that the Sebring  
3 bullet was fired from this revolver, People's 40 for  
4 identification?

5 A No, sir.

6 Q Did you form that opinion from an examination of  
7 the test fire bullets in relation to the Sebring bullet?

8 A Yes, sir.

9 Q I show you People's Exhibit 250 for identification,  
10 which I am removing from a small yellow envelope. It  
11 appears to be a fragment of a bullet.

12 Have you seen that fragment of a bullet before?

13 A Yes, sir.

14 Q When did you see that for the first time,  
15 Sergeant?

16 A I believe the first time I observed this fragment  
17 was on April the 7th, 1970, to the best of my recollection.

18 Q And where did you see it at that time?

19 A When I received it from Central Property Division  
20 of the Police Department.

21 Q All right.

22 Did you attempt to form any opinion as to whether  
23 or not this fragmentary bullet, People's 250 for  
24 identification, was fired from this revolver?

25 A No. I made no specific examination of this  
26 particular fragment against this particular firearm.

1 Q Why is that?

2 A It was too small.

3 Q Do you know where this fragment was found?

4 A Not of my own knowledge.

5 Q Do you know, do you have any opinion, what this  
6 fragment is?

7 A I do.

8 Q What is that opinion?

9 A I believe it to be a portion of a bullet.

10 Q Any particular type of a bullet, Sergeant?

11 A A coated bullet.

12 Q A coated bullet?

13 A Yes.

14 Q What about the caliber?

15 A I don't know.

16 Q What about the material that it is made out of?

17 A It appeared to be lead.

18 Q All right.

19 I show you People's 251 for identification,  
20 the cellophane bag contained within a yellow envelope.

21 I am removing from the cellophane bag four  
22 fragments, what appear to be four fragments of a bullet.

23 Have you ever seen those four fragments before,  
24 sir?

25 A Yes, I have.

26



14b-1

1 Q When did you see them for the first time,  
2 Sergeant?

3 A I first observed these fragments on the ninth  
4 day of the eighth month of 1969; August the 9th, 1969.

5 Q At the Tate premises?

6 A Yes.

7 Q Where at?

8 A In a vehicle, an Ambassador, license number  
9 MPK 308.

10 It was between the upholstery section and the  
11 exterior metal of the passenger door.

12 MR. BUGLIOSI: May it be stipulated that the officer  
13 is referring to Steven Parent's 1965 Rambler?

14 MR. FITZGERALD: So stipulated.

15 MR. SHINN: So stipulated.

16 BY MR. BUGLIOSI:

17 Q Did you ever attempt to compare -- strike  
18 that.

19 Did you ever attempt to determine whether or  
20 not these four fragments were fired from the revolver,  
21 People's 40 for identification?

22 A No, sir, I did not.

23 Q Why not?

24 A Too small, the particles themselves.

25 Q Do you know what these four fragments are?

26 A I have an opinion.

14b-2

1 Q What is that opinion?

2 A In my opinion, they are a portion of a bullet.

3 Q Do you have any opinion as to the caliber?

4 A Yes.

5 Q What is that opinion?

6 A I believe it to be a .22 caliber.

7 Q What about the material of the bullet, Sergeant?

8 A It is lead coated. A coated lead bullet.

9 Q Did you form any opinion as to whether People's  
10 250 and 251 -- 250 is the small fragment, the lone fragment,  
11 and 251 are the four fragments -- did you form any opinion  
12 as to whether or not 250 and 251 originally came from the  
13 same bullet?

14 A Yes, I did.

15 Q And what is that opinion?

16 A It is my opinion that they did not; that the  
17 250 was not part of 251.

18 Q Why did you form that opinion, sir?

19 A This is based on my opinion that if this much  
20 lead were removed from a bullet in flight, it would have  
21 upset the bullet and the bullet would not have penetrated  
22 the upholstery in such a manner that it did. It would have  
23 lost velocity and the bullet would not have suffered  
24 -- the bullet/<sup>marked</sup> 251 would not have suffered the  
25 fragmentation that it did.

26 Q You say 251. Do you mean the four fragments?

1 A Yes, sir.

2 Q Sergeant Lee, what is a shell casing?

3 A A shell casing is one part of a cartridge which  
4 is normally used for a firearm.

5 The shell casing is the metallic case which  
6 contains the powder, the gunpowder, the priming compound  
7 or priming cup, and it also contains the bullet or  
8 projectile.

14c fls.

14C-1

1 Q Sergeant, when a revolver is fired are the shell  
2 casings automatically ejected from the chamber of the  
3 revolver onto the ground?

4 A No, sir, they are not.

5 Q How are they ejected?

6 A In a revolver, it is necessary to manually  
7 eject the shell casings from the cylinder.

8 Q Now, People's 40 for identification, of course,  
9 is a revolver; is that correct, sir?

10 A Yes, sir.

11 Q So, would that revolver that you have in front of  
12 you, People's 40 for identification, when that revolver was  
13 fired, or if you ever fired the revolver, the shell casings  
14 would remain in the chamber; is that correct?

15 A Yes, sir.

16 Q And they would have to be manually ejected?

17 A Yes, sir.

18 Q Either by the person firing the gun or someone  
19 else?

20 A Yes.

21 Q With firearms other than revolvers, Sergeant,  
22 such as automatics or semi-automatics, when they are fired,  
23 are the shell casings automatically ejected out of the  
24 chamber?

25 A Yes, sir.

26 Q On the date of November the 19th, 1969, did you



1 proceed to Spahn Ranch in Chatsworth, California for the  
2 purpose of recovering shell casings, sir?

3 A I did.

4 Q Did you, in fact, recover any shell casings?

5 A I did.

6 MR. KANAREK: Objection, your Honor.

7 MR. FITZGERALD: Objection, your Honor.

8 May we approach the bench?

9 THE COURT: What was that date, Mr. Bugliosi?

10 MR. BUGLIOSI: November 19, 1969.

11 THE COURT: Yes, you may approach the bench.

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

15 MR. FITZGERALD: We contend that the shell casings  
16 obtained or seized from the Spahn Ranch located at 12000  
17 Santa Susana Pass Road in Chatsworth, California, during  
18 the month of November are the product of an illegal search  
19 and seizure.

20 MR. KANAREK: That is correct, your Honor.

21 MR. SHINN: Join.

22 MR. BUGLIOSI: I was assigned to this case, I think,  
23 On November 18th.

24 I happened to have been out at the Spahn Ranch  
25 that day, and I anticipated this objection. So, I con-  
26 fronted Mr. Spahn and I had a tape recorder there, and I

1 secured his consent.

2 Mr. Spahn, apparently, is the owner of the ranch.  
3 I secured his consent to search the Spahn Ranch, and I  
4 believe we have that on tape.

5 Sergeant Calkins should have it. He was there  
6 with me.

7 MR. KANAREK: May I respond, your Honor?

8 THE COURT: One moment. Wait until Mr. Bugliosi  
9 finishes.

10 MR. KANAREK: Isn't he finished?

11 MR. BUGLIOSI: No.

12 MR. KANAREK: I am sorry.

14d-1

1 MR. BUGLIOSI: Furthermore, your Honor, I think that  
2 you yourself have said that searching implies looking into  
3 hidden places. You / <sup>seemed</sup> to imply that.

4 THE COURT: Did I say that?

5 MR. SHINN: I never heard you say that.

6 MR. BUGLIOSI: If something is open to view, it is  
7 not a search.

8 I thought maybe you said that, your Honor.

9 Now, I believe these were on the ground. I  
10 think they were open to view. I don't think any search  
11 is involved here.

12 MR. FITZGERALD: We request a hearing outside of  
13 the presence of the jury to determine the circumstances  
14 surrounding the seizure or the obtaining of the evidence.

15 The record does not indicate that Mr. George  
16 Spahn is, in fact, the owner of the property and, B, if  
17 he is the owner of the property, that he has the authority  
18 to give consent; C, that these matters, these shell  
19 casings, were in open and plain view.

20 We would like to controvert the source of the  
21 evidence.

22 MR. SHINN: I could also represent to the Court that  
23 Mr. Spahn is an old man and I don't think he is competent.

24 He is old and he is blind, your Honor, and I  
25 don't think when Mr. Bugliosi and the detectives went out  
26 there that they explained why they wanted to search the

14d-2

1 premises.

2 MR. KANAREK: Keep your voice down.

3 Furthermore, your Honor, this is all supposed  
4 to be done under oath with an evidentiary hearing.

5 I recognize that this is the "crime of the  
6 century," so far as Mr. Bugliesi is concerned.

7 MR. BUGLIOSI: I didn't say that.

8 MR. KANAREK: But we are entitled to a hearing.

9 THE COURT: No one said you are not entitled to a  
10 hearing. We are trying to find out by way of a conference  
11 at the bench how to proceed.

12 MR. FITZGERALD: In order to assist the Court, I might  
13 usurp the prosecutor's function and indicate to the Court  
14 that I believe the import of this testimony is going to be  
15 that shell casings were seized or obtained from the Spahn  
16 Ranch that identically matched samples of shell casings  
17 that have been fired from People's Exhibit No. 40.

18 MR. BUGLIOSI: That's right.

19 MR. FITZGERALD: Consequently, this is extremely  
20 important. In fact, it ties the gun to the Spahn Ranch.

14e fls.21

21 MR. BUGLIOSI: That is correct.

22

23

24

25

26



14E-1

1 THE COURT: I would assume so.

2 MR. KANAREK: Except if it were taken up there and shot  
3 in advance, and then they came back and found the bullets  
4 that they had shot previously.

5 THE COURT: That makes a good argument, Mr. Kanarek,  
6 if it is supported by anything.

7 MR. KANAREK: That is what I am saying. That is why we  
8 should have an evidentiary hearing. And, of course, we  
9 are entitled to it on the search and seizure aspect.

10 THE COURT: Well, Mr. Bugliosi, as I explained to the  
11 defendants when I took their 1538.5 motions off calendar  
12 before the trial, I was not denying the motion and I would  
13 permit them to make the motion during the course of the  
14 trial.

15 MR. BUGLIOSI: Yes, I remember the Court saying that.

16 THE COURT: If there was an offer made which they  
17 contended was the result of an illegal search.

18 So, it would appear that we have arrived at that  
19 time.

20 MR. BUGLIOSI: I think the defense's position is  
21 meritorious.

22 I feel that there should be a hearing on this.  
23 It is a legal issue, of course, that the Court is going to  
24 have to resolve. So, it should be outside the presence of  
25 the jury.

26 THE COURT: Do you want to take the time to do it now?

1 Do you want to do it at this time, or could you  
2 defer it to a later time?

3 I am sure the defendants don't care as long as  
4 they get their hearing.

5 MR. FITZGERALD: We don't care, your Honor. If he  
6 wants to pass over it and question on other things, that is  
7 all right with us.

8 MR. BUGLIOSI: This case, in my opinion, and my  
9 experience, is an extremely awkward, clumsy case intrinsi-  
10 cally. So, I am trying to keep it down to an absolute  
11 minimum.

12 I think we should proceed in kind of an  
13 orderly process.

14 It seems to me, your Honor, at this point I  
15 should get Sergeant Calkins over here and play the tape,  
16 rather than come back.

17 Because of the Tate and the La Bianca murders,  
18 we have been going back and forth, we have been having  
19 problems with witnesses, and things like that.

20 So, if the Court please, I would prefer to meet  
21 the issue head-on at this point and then proceed rather than  
22 coming back. But it is up to the Court.

15-1

1 THE COURT: Is there going to be any problem about  
2 the authentication of the tape?

3 MR. KANAREK: Yes.

4 MR. BUGLIOSI: Well, in addition to the tape there  
5 were witnesses there. I made sure of that when I spoke  
6 to Spahn, there were four or five witnesses.

7 Even assuming, arguendo, that the Court held  
8 the tape inadmissible for some reason, certainly we have  
9 other witnesses who say they were present.

10 It is a matter of credibility whether the Court  
11 would believe these other people.

12 I made sure there were people present when we  
13 got the consent from Mr. Spahn, and I can call him to the  
14 witness stand.

15 THE COURT: There is going to be an objection to the  
16 tape.

17 MR. KANAREK: I think we can end it right here.

18 If counsel, who is a lawyer for the prosecution,  
19 had held it so important in his mind, he should have gotten  
20 a warrant. I think the law is clear. I would ask your  
21 Honor --

22 THE COURT: If he obtained consent, a warrant has  
23 nothing to do with the matter.

24 MR. KANAREK: Query, at this stage of our law, your  
25 Honor, with counsel --

26 THE COURT: Mr. Kanarek, we are just wasting time.



1 MR. KANAREK: Very well.

2 MR. BUGLIOSI: I would cite Rabinowitz vs. the United  
3 States, followed in California by People vs. Lorensen, and  
4 there are other cases which I have in my notebook with the  
5 proposition, even if you have time to get a search warrant,  
6 you don't have to do it if you have probable cause and  
7 consent.

8 MR. KANAREK: I would cite Chimel vs. California.

9 MR. FITZGERALD: Let me observe that even if it is  
10 established that Mr. Spahn is the owner of the property  
11 known as the Spahn Ranch, his consent does not necessarily  
12 indicate that the materials were properly seized.

13 In many situations an owner or possessor of  
14 property is unable to give consent to the search, for  
15 example, of tenants.

16 THE COURT: I cannot rule on it before I hear the  
17 evidence.

18 MR. FITZGERALD: This is simply informing the Court  
19 that inasmuch as most of the defendants are charged with  
20 seven counts of murder, it probably would be advisable for  
21 one side or the other to physically bring Mr. Spahn to  
22 court so that he will testify under oath as to the consent  
23 and the circumstances surrounding the consent, whether or  
24 not he submitted to authority or whether or not it was free  
25 and voluntary consent.

26 In that respect, obviously it is a quarter to



1 3:00 in the afternoon. It is incumbent upon the defense  
2 to bring Mr. Spahn. We obviously cannot get him here this  
3 afternoon.

4 MR. BUGLIOSI: Can we also play the tape?

5 MR. FITZGERALD: We can start the hearing. I just  
6 want to illuminate our position for the Court so the Court  
7 can make a decision on it.

speaker?

8 <sup>if</sup> Also/Mr. Bugliosi is going to testify as to  
9 the circumstances surrounding the seizure, there will be  
10 other counsel here to represent the People.

11 MR. BUGLIOSI: I don't think I will testify.

12 MR. KANAREK: He may be called as a witness, your  
13 Honor, because he was percipient; he injected himself  
14 personally into it.

15 We may, out of necessity, have to call him as  
16 a witness.

17 MR. FITZGERALD: What I am attempting to do is  
18 just present those issues to the Court that are relevant  
19 in determining the method by which we should proceed, that  
20 is all.

21 THE COURT: How did you want to proceed, Mr. Bugliosi?

22 MR. BUGLIOSI: I would like to play the tape. First  
23 I would like to call Sergeant Calkins to the stand and  
24 interrogate him as to the circumstances surrounding the  
25 consent, play the tape for the Court.

26 THE COURT: All of this out of the presence of the

1 jury?

2 MR. BUGLIOSI: Oh, yes, I think it is clearly a legal  
3 issue for the Court to resolve. And then I wouldn't have  
4 anything further to offer on that.

5 And I guess they can cross-examine Calkins or  
6 bring in Spahn -- whatever you want to do on that.

7 Other than putting on Calkins and maybe another  
8 officer and the tape, I don't have anything else to offer.

9 THE COURT: Who is going to testify to the alleged  
10 consent.

11 MR. BUGLIOSI: Calkins.

12 THE COURT: He was present?

13 MR. BUGLIOSI: He was present, his voice is on the  
14 tape just like mine; so is Mr. Spahn's voice on the tape.

15 THE COURT: How do you get by the hearsay objection?

16 MR. BUGLIOSI: Hearsay -- actually it is not offered  
17 for the truth of the matter.

18 THE COURT: Consent?

19 MR. BUGLIOSI: If a person gives consent, I think the  
20 law is clear that what we are dealing with is whether the  
21 response at the consent was reasonable.

22 If someone said "Yes, you can search," you can  
23 go to a person who does not want you to search. If he says  
24 so, and you act on it, it is a lawful search.

25 I think I have cases for that. Whenever you  
26 talk about consent, by definition, it has to be verbalized.

1 THE COURT: However, no objection has been made yet.  
2 You'd better be thinking about that.

3 MR. BUGLIOSI: Yes, your Honor.

4 MR. KANAREK: I wonder if I can make the record just  
5 briefly on this, I'm sure your Honor will overrule me.

6 THE COURT: We are not having the hearing, we are just  
7 trying to determine how to proceed.

8 MR. KANAREK: Right, your Honor, but I think this is  
9 something that has plagued me for some time. I would like  
10 to make the record on this.

11 15a fls. THE COURT: All right.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26



.5A-1

1 MR. KANAREK: I would like to ask that this question  
2 of fact as to the reasonableness, and all of that, that is,  
3 the factual question of the consent, be submitted to the  
4 jury.

5 Now, if I don't raise that issue, I am sure your  
6 Honor is going to overrule me, but I think in some area, in  
7 some states the factual issue of consent, the fact  
8 question, even though there are legal matters that flow --  
9 there are legal resolutions that flow from the fact of  
10 consent or not is a jury issue, and I would like to raise  
11 the issue here at this time and ask your Honor to allow  
12 that issue to be decided by the jury as a fact question.

13 The fact of consent.

14 If I don't raise the issue, it is not there.

15 THE COURT: The admissibility of the evidence is a  
16 determination which the Court must make.

17 MR. KANAREK: I am just raising the issue. If I  
18 don't raise it, it's not there.

19 MR. BUGLIOSI: It is only an issue for the Court.

20 MR. KANAREK: May I have a ruling then? I am asking  
21 the jury decide that fact question as to whether there is  
22 consent or not.

23 THE COURT: If it is a motion, it is denied.

24 MR. KANAREK: Very well, thank you.

25 THE COURT: Well, then, shall we excuse the jury for  
26 the day? I don't want to waste the afternoon.



15A2

1 If it is going to take you an hour to get set  
2 up, we are just going to waste an hour and the day will be  
3 over.

4 Can you put on something else for an hour?  
5 We will use that hour and you can start your hearing out of  
6 the presence of the jury on the next court day, which will  
7 be next Thursday.

8 MR. SHINN: Your Honor, why can't the witness stop  
9 here now and let us cross-examine him on what he has testified  
10 to?

11 THE COURT: Is there any reason why defense counsel  
12 could not cross-examine for the rest of this afternoon,  
13 or whatever time you need?

14 MR. BUGLIOSI: There are other things I can question  
15 about.

16 Let me go ahead with direct. There are a  
17 couple of things I want to talk to him about, a very, very  
18 few things, and then they can cross-examine, then we will  
19 go back to the shell casings later.

20 MR. FITZGERALD: No objection.

21 MR. KANAREK: In order to perhaps expedite and save  
22 time, may Mr. Bugliosi excuse this witness, and go on to  
23 some other matters because I think there will be a  
24 certain redundancy because what is going to happen in  
25 connection with those shells were certainly perhaps cause --

26 THE COURT: Well, he has some other matters he can go

15a3

1 into, I don't know how long that will take.

2 MR. KANAREK: I would be willing to defer my cross-  
3 examination.

4 THE COURT: Mr. Fitzgerald apparently has cross-  
5 examination that may take up the rest of the afternoon.

6 MR. FITZGERALD: It will be very short.

7 MR. KANAREK: I would prefer to defer mine until this  
8 witness has completed, and then we don't have this problem  
9 of opening up again, your Honor.

10 And Mr. Bugliosi can do it that way, I would  
11 request it.

12 MR. FITZGERALD: Actually, I agree with the Court, if  
13 we could handle other things today, as long as we have the  
14 jury here, and as long as we have the witnesses here, and  
15 defer the major portion of the search and seizure issue  
16 until Thursday morning of next week, we can have our  
17 witnesses here, we could be prepared to proceed.

18 We could have authorities for the Court. I think  
19 it would be much more expeditious.

20 I agree with the Court, if we could utilize the  
21 services of this witness in other areas --

22 THE COURT: Why don't you go ahead with your direct  
23 examination as far as it goes. When that is finished you  
24 can put on another witness and they can defer their  
25 cross-examination.

26 I don't like to ask them to cross-examine before  
you have completed your direct. I don't think I have a

15a4

1 right to ask them to cross-examine until you have  
2 completed your direct examination.

3 MR. KANAREK: Good, thank you.

4 MR. BUGLIOSI: I will finish my direct with the  
5 exception of the shell casings.

6 The Court says you don't want them to cross-examine  
7 at this point?

8 THE COURT: Unless they want to.

15-B

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

15B-1

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

3 Q BY MR. BUGLIOSI: Sergeant, we are going to pass  
4 for the moment a discussion on shell casings. We will get  
5 back to it later on.

6 I show you People's 120 for identification, 121  
7 for identification, and 197 for identification.

8 Have you ever seen those three items before?

9 A Yes, sir, I have.

10 Q When did you see them for the first time?

11 A As I recall, the 14th of August, 1969 when I  
12 received them from Manuel Granado of the Crime Laboratory.

13 Q That is the Officer Granado who has been  
14 testifying in court here the last week or so?

15 A Yes, sir.

16 Q And what did you do with these three items when  
17 you received them from Officer Granado?

18 A I observed them to determine the type of fire-  
19 arm they may have come from.

20 Q What are these three items, 120, 121 and 197?

21 A Together they make up the right-hand grip of a  
22 revolver.

23 Q Did you ever attempt to mate 120, 121 and 197  
24 together?

25 A I did.

26 Q Would you demonstrate that for the jury?



1           A     Yes, as a physical match I placed the three  
2 pieces side by side to determine if the broken portions  
3 physically matched each other.

4           Q     Do they appear to match each other?

5           A     They did to me, yes.

6           Q     You say now 120, 121 and 197 are the right-hand  
7 grip of a revolver.

8           A     Yes.

9           Q     Did you form any opinion as to whether or not  
10 they came from this revolver?

11          A     At this time?

12          Q     At any time.

13          A     After I obtained the weapon it was my opinion  
14 they could have, yes.

15          Q     Come from this revolver, People's 40 for  
16 identification?

17          A     Yes.

18          Q     120, 121 and 197, then, in your opinion, appear  
19 to be the right-hand grip on this revolver here, People's 40  
20 for identification?

21          A     Yes.

22          Q     By an examination of these three pieces of grip,  
23 did you form any opinion as to the manufacturer of the  
24 firearm from which these three pieces of grip came?

25          A     I did.

26          Q     What is that opinion?

1 A It was my opinion that the firearms that these  
2 grips came from was manufactured by the High Standard  
3 Manufacturing Company.

4 Q They manufacture quite a few firearms?

5 A They do.

6 Q Just by looking at the three pieces of grip  
7 could you tell the make or the model of the firearm to which  
8 the three pieces belong, without looking at the revolver?

9 A The make I determined, but the model I did not  
10 know, I did not know what model it came from.

11 Q By looking at the three pieces of grip you  
12 determine they came from a firearm manufactured by High  
13 Standard?

14 A Yes.

15 Q But you could not tell the model of the firearm?

16 A No, I had an opinion it was a Western type.  
17 Beyond that, no.

18 Q When you looked at these three pieces of grip you  
19 had not seen People's 40 for identification?

20 A That's correct.

21 Q You saw that later?

22 A Yes, sir.

23 Q Did you ever attempt to determine the model of  
24 firearm manufactured by High Standard from which these  
25 three pieces came?

26 A I did.

1 Q What did you do in that behalf?

2 A In regard to this I contacted the High Standard  
3 Manufacturing Company and I made an appointment with  
4 Mr. Ed Lomax of that concern.

5 Q What position did he occupy with High Standard  
6 at that time?

7 A I'm really not sure of his position with the  
8 company.

9 Q You knew he was working there, though?

10 A I knew he was a representative of the High  
11 Standard Manufacturing Company.

12 Q Did you show Mr. Lomax these three pieces of  
13 grip?

14 A Yes, I did.

15 Q Where did you show him these three pieces of grip?

16 A At the Los Angeles Police Academy.

17 Q When was that?

18 A The next day which would be August 15th, 1969.

19 MR. BUGLIOSI: Your Honor, I have no further questions  
20 of this witness at this time.

21 However, the People do intend to recall him  
22 for further testimony with respect to the revolver.

23 MR. FITZGERALD: With leave of the Court we would ask  
24 permission to defer our cross-examination until such further  
25 time as has been indicated.

26 THE COURT: Do all of you join?

1 MR. HUGHES: Join.

2 MR. SHINN: Join.

3 MR. KANAREK: Join.

4 THE COURT: We will take our afternoon recess.

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

8 The Court will recess for 15 minutes.

9 (Recess.)  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26



16-1

1 (The following proceedings were had in open  
2 court, all defendants, counsel and jurors present:)

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

5 You may continue, Mr. Bugliosi.

6 MR. BUGLIOSI: Your Honor, I have no further questions  
7 of Sergeant Lee at this time.

8 May he be excused?

9 THE COURT: Very well.

10 You are excused, sir.

11 THE WITNESS: Thank you, your Honor.

12 MR. KANAREK: Your Honor, I wonder if we might  
13 approach the bench on a legal matter.

14 I am sorry. I am a half a minute premature,  
15 your Honor.

16 THE COURT: Call your next witness.

17 MR. BUGLIOSI: People call Michael Hendricks.

18 MR. FITZGERALD: We will object to this witness  
19 being sworn pursuant to Evidence Code Section 701.

20 May we approach the bench in connection there-  
21 with, your Honor?

22 THE COURT: Very well.

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

26 MR. FITZGERALD: We are objecting to the witness being

16-2

1 sworn on the grounds that he is or may be incompetent to  
2 testify because he is, A, incapable of expressing himself  
3 concerning the matters so as to be understood; and B,  
4 that he is incapable of understanding the duty of witness  
5 to tell the truth, in that this witness may be mentally  
6 defective.

7 And in connection therewith, I would ask the  
8 Court to take judicial notice of a document contained  
9 within the Superior Court file in connection with this  
10 witness that indicates that the witness about to be sworn,  
11 Mr. Hendricks, is a patient at Atascadero State Hospital,  
12 an institution for the mentally ill and criminally insane  
13 in the State of California.

14 I make no other further offer of proof other  
15 than that this witness is currently an inmate of a Cali-  
16 fornia mental institution.

17 I would like the opportunity to inquire outside  
18 of the presence of the jury as to his mental acumen.

17 fls. 18

19

20

21

22

23

24

25

26

X 17-1

1 THE COURT: Do you want to have this marked? It  
2 is dated September 2, 1970, from Atascadero on State  
3 Hospital stationery, regarding Michael Dennis Hendricks.

4 Is that this man's name?

5 MR. FITZGERALD: Can that be marked Defendants' next  
6 in order with reference to the Superior Court file?

7 I have no objection to its remaining in the  
8 file.

9 MR. BUGLIOSI: I have spoken to him, and his answers  
10 are responsive to the questions. I don't know the state  
11 of his mind.

12 THE COURT: Just a minute, I will mark this letter  
13 as Defendants' next. That would be --

14 MR. KANAREK: S.

15 THE COURT: Yes, S.

16 MR. FITZGERALD: I wanted to be clear on that. I  
17 have no information concerning this defendant's mental  
18 inability.

19 I only have the information that he is presently  
20 a patient in the Atascadero State Hospital.

21 Now, Mr. Hughes and myself made an attempt to  
22 talk to the witness and ask him about his presence in the  
23 Atascadero State Hospital, and in response to a direct  
24 question by Mr. Hughes as to the nature of his commitment,  
25 if any, in Atascadero, he refused to answer.

26 MR. HUGHES: In response also to the nature of where

Ds' S Id.



1 he was currently residing, whether he was indeed residing  
2 at Atascadero, he said "I refuse to answer that question."

3 THE COURT: Maybe he is trying to assert some  
4 constitutional privilege.

5 MR. FITZGERALD: I just wanted the record to be  
6 clear that we are representing only what we are repre-  
7 senting.

8 MR. KANAREK: I would ask this witness be deferred,  
9 your Honor.

10 I think the Court has the discretion to  
11 control its own proceedings. In view of the fact that  
12 the man is committed to a mental hospital I would ask  
13 that -- either for a continuance so that we can look into  
14 it or else, your Honor, ask that Mr. Bugliosi put on some  
15 other witness so we can, over the interim, determine  
16 something.

17 Because I am sure the Court does not wish  
18 an incompetent witness to testify.

19 THE COURT: The question is, how do you determine  
20 whether it is incompetence.

21 The Code Section says just what Mr. Fitzgerald  
22 stated was the ground for his motion, Section 701 of  
23 the Evidence Code.

24 MR. FITZGERALD: Section 405 says the determination  
25 is to finally be made by the trial judge without a  
26 resubmission of the issue to the jury.



1 THE COURT: That is true, but my question is where  
2 am I going to base that determination on if I don't hear  
3 the man?

4 MR. KANAREK: I suggest we do it outside the presence  
5 of the jury because I can represent to the Court --

6 I am informed and believe that he is --

7 This testimony will allegedly tie Mr. Manson to  
8 this gun, and it is a very crucial type of evidence.  
9 The bell, when it is rung, cannot be unrung.

10 THE COURT: Let me hear from Mr. Bugliosi.

11 MR. BUGLIOSI: Your Honor, I have spoken to this  
12 witness twice. He answered questions in an intelligent  
13 fashion.

14 THE COURT: Why don't we have a voir dire examination  
15 outside of the presence of the jury.

16 After all, we do have a letter here from the  
17 superintendent of the Atascadero State Hospital that he  
18 is apparently one of their inmates there.

19 At least that raises some kind of a question,  
20 whether or not it is a prima facie question, at least it  
21 raises a question.

22 I think the defendant should have an opportunity  
23 to examine this man on voir dire outside the presence of the  
24 jury before we have him sworn as a witness.

25 MR. BUGLIOSI: Very well, your Honor, I have another  
26 witness whom I can call to the stand if the Court desires

1 that.

2 THE COURT: Well, we are going to have to do this  
3 sometime if Mr. Hendricks is going to testify, unless you  
4 intend to keep him down/<sup>here</sup>over the five-day holiday.

5 MR. BUGLIOSI: Maybe there should be voir dire now.

6 THE COURT: All right, we don't know how long it  
7 will take so I will ask the jury to go back upstairs.

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

10 THE COURT: Will the bailiffs please take the jury  
11 back up to the jury room for the time being.

18 fls.

18-1

1 (The following proceedings were had in open  
2 court, the jury not being present:)

3 THE COURT: The record will show the jury has  
4 departed from the courtroom.)

5 You may call your next witness, Mr. Bugliosi.

6 MR. BUGLIOSI: The People call Michael Hendricks.

7 THE CLERK: Would you raise your right hand, please.

8 Would you please repeat after me.

9 I do solemnly swear.--

10 THE WITNESS: I do solemnly swear --

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

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

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

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

15 THE CLERK: -- before this Court --

16 THE WITNESS: -- before this Court --

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

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

19 THE CLERK: -- the whole truth --

20 THE WITNESS: -- the whole truth --

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

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

23 THE CLERK: -- so help me God.

24 THE WITNESS: -- so help me God.

25 THE CLERK: Would you be seated, please.

26 Would you state and spell your name:



18-2

1 THE WITNESS: Michael Hendricks.

2 THE CLERK: Would you spell it, please.

3 THE WITNESS: M-i-c-h-a-e-l, H-e-n-d-r-i-c-k-s.

4 MR. FITZGERALD: Your Honor, before this witness  
5 testifies, may the defendants, on voir dire examination,  
6 inquire as to the witness' qualifications to testify as a  
7 witness within the purview of Evidence Code Section 701?

8 THE COURT: Yes.

9 That is the reason, Mr. Fitzgerald, that the  
10 jury was taken from the courtroom, so that the defense  
11 counsel could examine Mr. Hendricks out of the presence of  
12 the jury before he testifies as part of the People's case  
13 in chief.

14 You may proceed, Mr. Fitzgerald.

15  
16 MICHAEL HENDRICKS,  
17 called as a witness by and on behalf of the People, being  
18 first duly sworn, was examined and testified as follows:

19  
20 VOIR DIRE EXAMINATION

21 BY MR. FITZGERALD:

22 Q Mr. Hendricks, where do you live now?

23 A I am being held in the New County Jail.

24 Q How long have you been in the New County Jail?

25 A About five weeks.

26 THE COURT: Keep your voice up, Mr. Hendricks. Talk



8-3

1 right into the microphone.

2 MR. FITZGERALD: Q About five weeks?

3 A Yes.

4 Q Do you recall the date that you entered the  
5 Los Angeles County Jail?

6 A July 31st.

7 Q Do you know why you are in the Los Angeles County  
8 Jail?

9 A Yes.

10 Q Why?

11 A For my testimony on behalf of this case.

12 Q There is no offense pending against you in  
13 Los Angeles County; is that correct?

14 A Right.

15 Q You are here as a witness in this case?

16 A Yes.

17 Q Where did you come from?

18 A YA.

19 Q From the California Youth Authority?

20 A Yes.

21 Q Did you come from a particular California Youth  
22 Authority institution to the New County Jail?

23 A Yes.

24 Q What particular Youth Authority institution were  
25 you an inmate in?

26 A I was in Atascadero.

JBA

18a-1

- 1 Q Were you in the Atascadero State Hospital?
- 2 A Yes.
- 3 Q That is a State Hospital operated by the
- 4 Department of Mental Hygiene?
- 5 A Yes.
- 6 Q Is that located at San Luis Obispo, California?
- 7 A (Pause.)
- 8 Q Do you know where it is located in California?
- 9 A Yes. It is located in the City of Atascadero.
- 10 Q And had you been at some Youth Authority
- 11 Institution before you were at Atascadero?
- 12 A Yes.
- 13 Q To your knowledge, was there some reason why
- 14 you went from a Youth Authority institution to Atascadero
- 15 State Hospital?
- 16 A Yes.
- 17 Q What was the reason, if you know?
- 18 A For 90-day observation.
- 19 Q Do you know what the nature of that observation
- 20 is?
- 21 A To find out certain reasons why I did certain
- 22 things when I was on the streets.
- 23 Q Well, to your knowledge, was the nature of the
- 24 commitment as a mentally disordered sex offender, or was
- 25 it pursuant to some mental or emotional disturbance?
- 26 A No.

1           It was, you know, like they tried to find out,  
2           you know, like my hangup with guns, and things like that.

3           Q       Do you have a hangup with guns?

4                   What is the nature of your hangup with guns?

5           THE COURT: Just a moment. There wasn't an answer  
6           to your question.

7           MR. FITZGERALD: Excuse me. I am sorry.

8           THE COURT: The question was: Do you have a hangup  
9           with guns? And you seemed to nod your head.

10                   What was the answer to that question?

11           THE WITNESS: Yes.

12           BY MR. FITZGERALD:

13           Q       What is your hangup with guns, if you can  
14           explain to us?

15           A       I'd rather not explain.

16           Q       Well, what is it with guns, as far as you are  
17           concerned, that they want to examine you about?

18           A       You know, like I was not convicted but I was  
19           accused of some other things that happened out there where  
20           I lived, and they sent me up for observation, you know.

21           Q       What makes you think that it was in relation  
22           to guns?

23           A       Because that is what the Board told me when  
24           I was in Norwalk.

25           Q       Were you in a State Hospital at Norwalk,  
26           California?

1 A No. I was in the Reception Center.

2 Q The Youth Authority Reception Center?

3 A Right.

4 Q Have you ever been under the care of a  
5 psychiatrist or a psychologist?

6 A No.

7 Q Have you seen a psychiatrist or a psychologist  
8 at Atascadero State Hospital?

9 A No.

10 Q Have you received any treatment in connection  
11 with any diagnostic procedures at Atascadero State  
12 Hospital?

13 A No.

14 Q Do you understand your duty as a witness?

15 A Yes.

16 Q What is your duty as a witness?

18b fls. 17 A To tell the truth, what happened.

18

19

20

21

22

23

24

25

26



18-B-1

1 Q Now, if you are asked to testify about guns,  
2 do you think you will be able to tell the truth?

3 A Yes.

4 Q You have a hangup in regard to guns; is that  
5 right?

6 A Right.

7 Q Do you have any idea at all what the nature of  
8 your hangup is about guns?

9 A Yes.

10 Q What is it?

11 A I'd rather not go into that in this court.

12 Q Is there some reason for that?

13 A I don't believe it has any bearing on this  
14 court hearing.

15 Q Well, it is your understanding, is it not, that  
16 you are going to testify here today about a particular gun?

17 A Right.

18 Q And it is this gun I am holding in my hand,  
19 People's No. 40 for identification; isn't that correct?

20 A Right.

21 Q You have been shown that gun; right?

22 A Right.

23 MR. BUGLIOSI: Your Honor --

24 MR. FITZGERALD: Q At the same time, you have a  
25 hangup about guns?

26 MR. BUGLIOSI: May I briefly object, your Honor, on the

1982

1 grounds that this examination is going far beyond the scope  
2 of Section 701 of the Evidence Code.

3 As far as I know, the only purpose of voir dire  
4 is to ascertain whether this witness falls within the margins  
5 of Section 701. Whether he has any hangup on guns is  
6 totally irrelevant to Section 701-A and B.

7 MR. FITZGERALD: I would tend to agree with counsel  
8 that ordinarily the scope of the inquiry should be whether  
9 or not he understands the nature of his oath, and if he  
10 understands that it is his duty to testify as to the truth,  
11 and he is oriented as to time and place.

12 But inasmuch as the nature of his testimony is  
13 going to be in the very particular area in which he  
14 experiences some sort of mental abnormality, I think that  
15 it is not only germane, but it is extremely important.

16 As a matter of fact, your Honor, I think I have  
17 some authority right on point.

18 MR. BUGLIOSI: May I approach the witness, your Honor,  
19 and talk to the witness?

20 MR. KANAREK: Since this is voir dire, your Honor, why  
21 can't this be done on the record, whatever Mr. Bugliosi  
22 wishes to ask him?

23 THE COURT: He is entitled to confer with the witness,  
24 Mr. Kanarek.

25 You will have your opportunity to examine.

26 MR. KANAREK: Very well, Your Honor.

(Mr. Bugliosi approaches the witness and confers

with the witness.)

MR. FITZGERALD: Your Honor, I will wait for Mr. Bugliosi to finish.

(Pause.)

Your Honor, I would like to quote very briefly from a case, People vs. McLaughlan, a 1957 case, located at 49 Cal. 2d, Page 409 at Page 421.

MR. BUGLIOSI: Maybe we can avoid this.

I have spoken to the witness and I believe he is now willing to testify to his "hangup" on guns.

MR. FITZGERALD: Very well.

THE COURT: All right.

You may resume, Mr. Fitzgerald.

19-1

1 BY MR. FITZGERALD:

2 Q Could you describe then the nature of your  
3 hangup in regard to guns?

4 A I like guns. I like to carry them and make  
5 them and things like that, you know, and every time I have  
6 been arrested I have, you know, been arrested with a gun,  
7 so --

8 THE COURT: Keep your voice up, please, Mr. Hendricks.

9 THE WITNESS: Okay.

10 BY MR. FITZGERALD:

11 Q Do you like guns?

12 A Yes.

13 Q Do you love guns?

14 A Yes.

15 Q Do you play with them?

16 A No, not like a toy like, you know, they are not  
17 a toy.

18 Q Are they a hobby with you?

19 A Yes.

20 Q Are they more of a hobby? Are they almost an  
21 obsession with you?

22 A Well, like -- in a way you could say like  
23 -- I don't know, I cannot answer that.

24 Q Do you know what the word "obsession" means?

25 A No.

26 MR. BUGLIOSI: I would object to any line of



1 inquiry, your Honor, I think he satisfactorily answered  
2 the question. We are beyond the scope of 701.

3 THE COURT: I think so, Mr. Fitzgerald.

4 MR. FITZGERALD: Well, I would like to quote just  
5 very briefly from this case, and the quote is as follows:

6 "Although the trial judge determines  
7 competency, sound discretion demands the exercise  
8 of great caution in qualifying as competent a  
9 witness who has a history of insane delusions  
10 relating to the very subject of inquiry in a  
11 case in which the question is not simply whether  
12 or not the act was done but rather the manner in  
13 which it was done and in which the testimony as  
14 to details may mean the difference between conviction  
15 and acquittal."

16 Now, I would concede that ordinarily the scope  
17 of the inquiry under 701 is a basic understanding.

18 I would point out however that it is my under-  
19 standing that the prosecution is going to have this witness  
20 testify as to a particular gun, People's Exhibit 40.

21 It is my understanding that he is going to  
22 testify that he had seen Mr. Manson with this particular  
23 weapon in the vicinity of the Spahn Ranch, located on  
24 Santa Susanna Pass Road.

25 This witness has also indicated that he is an  
26 inmate, albeit for diagnostic purposes, in an institution

1 in California for the mentally ill, in all the very precise  
2 area in which he is going to testify.

3 I think in that respect, the fact that this  
4 witness is going to testify about guns, and the fact that he  
5 has in his own words a hangup in connection with guns, is  
6 very relevant.

7 I think that counsel ought to be allowed to  
8 pursue it. He purports to pursue it obviously in front of  
9 the jury, but we would pursue it because we may bring to  
10 light evidence that would render this witness incompetent  
11 to testify as to material in connection with a gun, but  
12 not necessarily as to material in other connections.

13 THE COURT: Of course the inquiry is directed to  
14 whether or not he has a capacity to perceive and recollect  
15 the matters as to which his testimony is elicited.

16 Now, I have no idea, and apparently no one else  
17 here has as to why he is in the Atascadero State Hospital.

18 You have not brought that out.

19 He said he had a hangup, whatever that means,  
20 about guns.

21 Apparently what he means is he likes guns.  
22 Guns are his hobby.

23 That does not seem to go to the question of  
24 whether or not he has a capacity to perceive or a recollec-  
25 tion of facts about guns.

26 You may continue.

1 MR. FITZGERALD: Well, that concludes my examination.

2 So the record is clear, I will be foreclosed  
3 from pursuing any other matters in the area of his mental  
4 or emotional disturbance in connection with guns.

5 If that is the Court's ruling, I will conclude  
6 my examination because I have no other questions in regard  
7 to 701.

8 THE COURT: I was not aware I was making a ruling.  
9 I was simply stating the principle of the voir dire on this  
10 particular subject. If you have another question you may  
11 ask it. I will have to rule on the questions as they are  
12 asked.

13 I am not foreclosing your examination.

14  
15 VOIR DIRE EXAMINATION (Continued)

16 BY MR. FITZGERALD:

17 Q Have you owned in the past a number of guns,  
18 Mr. Hendricks?

19 A Yes.

20 Q And has your owning of guns got you in trouble?

21 A No, I was never convicted of anything with guns.

22 Q But as far as you are concerned are guns the  
23 source of your trouble?

24 MR. BUGLIOSI: Irrelevant, your Honor, to 701.

25 THE COURT: Overruled.

26 THE WITNESS: Can you repeat that?

1 BY MR. FITZGERALD:

2 Q Are guns the source of your trouble?

3 A No. I would rather not go into, you know, my  
4 case, you know, in this case.

5 Q Is your use of guns related to some sexual  
6 activity?

7 A No.

8 Q Is there some other reason why you would not  
9 care to go into your hangup about guns?

10 19a fls. A Yes.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26



19-A-1

1 Q What is the reason?

2 A I would rather not go into that.

3 Q I noticed you smile. Is there something about  
4 your hangup with guns that is amusing?

5 A No, not really.

6 Q Why are you smiling?

7 MR. BUGLIOSI: This is beyond the scope of 701, your  
8 Honor.

9 THE COURT: I think so, Mr. Fitzgerald.

10 MR. FITZGERALD: I think he is displaying a decidedly  
11 inappropriate affect at this time. I am serious, I think  
12 the record should so indicate.

13 MR. BUGLIOSI: You mean from a psychiatric viewpoint  
14 you are using the word "affect"?

15 MR. FITZGERALD: Affect, yes.

16 THE COURT: I don't think that comment is appropriate.  
17 He did seem to give a half smile, but I cannot attach any  
18 significance to that.

19 I don't know what he was thinking about when he  
20 says he would rather not go into that.

21 MR. FITZGERALD: Would the Court direct him to go  
22 into it?

23 THE COURT: I don't really see what the relevancy is  
24 at this point.

25 It may become relevant on cross-examination, but  
26 this is voir dire examination as to capacity and competence.

19a2

1 MR. FITZGERALD: Well, I want to be honest with this  
2 Court. If I am forced to cross-examine him in front of the  
3 jury --

4 THE COURT: You don't have to apologize to me for  
5 cross-examination, Mr. Fitzgerald.

6 MR. FITZGERALD: Well, I will cross-examine him.

7 THE COURT: All right, is there anyone else?

8 MR. SHINN: Yes, your Honor.

9 THE COURT: Mr. Shinn?

10 MR. SHINN: Yes, your Honor.

11  
12 VOIR DIRE EXAMINATION.

13 BY MR. SHINN:

14 Q Mr. Hendricks, do you recall -- strike that.  
15 Did you attend grammar school, Mr. Hendricks?

16 A Yes.

17 Q And did you attend junior high school?

18 A Yes.

19 Q How about high school?

20 A Yes.

21 Q How far did you go in high school?

22 A I dropped out in my sophomore year.

23 Q The reason for dropping out in your sophomore  
24 year --

25 A Because I went to work.

26 Q Was it because also of your grades in school?

19a3

1 MR. BUGLIOSI: Irrelevant, your Honor.

2 MR. SHINN: It goes to his competency, your Honor.

3 THE COURT: Sustained.

4 Q BY MR. SHINN: You stated that you went to  
5 Norwalk Reception Center, is that correct?

6 A Yes.

7 MR. BUGLIOSI: Irrelevant.

8 THE COURT: Overruled, you may answer.

9 THE WITNESS: Yes.

10 Q BY MR. SHINN: Where was this Norwalk Reception  
11 Center located, in the Norwalk Hospital?

12 A No, Norwalk Southern Reception Center.

13 Q Is that part of the Y.A.?

14 A Yes, it is the Y.A.

15 Q It is the Y.A.?

16 A Reception Center.

17 Q Did they give you certain types of tests?  
18 Did they give you a certain type of test?

19 A Yes.

20 Q Like psychological tests and so forth?

21 A Yes.

22 Q And did they give you a rating on this test?

23 A Yes.

24 Q And did they explain your rating to you?

25 A Yes.

26 Q Do you recall what the rating was?

4

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

A Yes.

Q What was that rating?

A 142.

Q 142? What did they explain 142 was?

A He didn't say. He just said I've got a rating of 142.

Q From there they sent you to Atascadero?

A No, they sent me to Y.T.S.

Q Y.T.S.?

A Youth Training School.

Q How long did you stay there before you went to Atascadero?

A A couple of weeks, then they sent me back to the reception center.

Q A couple of weeks?

A Yes.

Q During your couple of weeks they gave you some more tests there?

A No.

Q Did they give you any kind of oral examination?

A No.

Q What did you do, just stay there?

A It takes about four weeks before -- actually three weeks before you start your tests.

It is a trade school like, in a way.

Q This trade school, before they put you in



19a5

1 different classes, do they give you some type of a test?

2 A Yes.

3 Q What type of a test did they give you at that  
4 time?

5 A I didn't have any. You have to be there about  
6 a month before they give you the test.

7 Q In other words, before you got your test they  
8 sent you back to Norwalk?

9 A No, you have to be there in the institution for  
10 about 30 days and then they start testing you.

11 Q But before you got tested they sent you back to  
12 Norwalk?

13 A Yes.

14 Q And at Norwalk did they give you some more  
15 psychological tests?

16 A No.

17 Q How long did you stay at Norwalk?

18 A The first time I went in there?

19 Q Yes, I mean when you went back to Norwalk.

20 A About two months.

21 Q Three months?

22 A Two months.

23 Q I'm sorry. During this two months did any doctor  
24 examine you?

25 A No.

26 Q No doctors examined you at all?

A No, I seen a psychologist and that was all.

1 Q You saw a psychologist?

2 A Yes.

3 Q Did they call him doctor or just call him  
4 Mr.?

5 A I don't really know, he works there at the  
6 clinic full time.

7 MR. BUGLIOSI: Your Honor, may I briefly be heard  
8 here now? The law is clear in the State of California, your  
9 Honor, that even an insane person can testify.

10 It is obvious this man is not insane, but even  
11 assuming arguendo that he is insane, the law is clear he  
12 can testify under 701.

13 There are only two issues:

14 Number one, can the witness express himself and,  
15 does he understand the duty of a witness to tell the truth.

16 If those two things are satisfied, ergo, the  
17 witness is qualified to testify in the State of California.

18 I just don't understand this in-depth cross-  
19 examination on peripheral matters that are far outside the  
20 perimeters of 701.

21 MR. FITZGERALD: That is a misstatement of the law.

22 If someone was insane, under McNaughton, they  
23 would not know the nature or quality of their act, or they  
24 would not know what they were doing is wrong. It is  
25 essentially the test set out in 701.

26 THE COURT: That is not 701. The McNaughton rule has  
nothing to do with this.

19b-1

1 MR. BUGLIOSI: No case has held that an insane person  
2 cannot testify.

3 MR. FITZGERALD: I think we can stipulate he is insane  
4 then.

5 MR. BUGLIOSI: I'm not going to stipulate to that at  
6 all.

7 I said assuming arguendo, it still would not  
8 disqualify him.

9 THE COURT: Do you have anything more, Mr. Shinn?

10 MR. BUGLIOSI: I object on the ground it is irrelevant.

11 THE COURT: Reframe the question.

12 MR. SHINN: I believe I asked this witness whether or  
13 not this psychologist gave him an examination.

14 MR. BUGLIOSI: I object, it is irrelevant, your Honor.

15 MR. SHINN: Could I be heard, your Honor?

16 THE COURT: All right.

17 MR. SHINN: I do believe if the doctors did give this  
18 witness an examination, your Honor, if he knows the results  
19 of the examination it would go to his competency.

20 THE COURT: Objection sustained.

21 BY MR. SHINN:

22 Q From there you went to Atascadero, is that  
23 correct?

24 MR/BUGLIOSI: Irrelevant.

25 THE COURT: Sustained.

26 He already testified he's gone to Atascadero.



1 MR. SHINN: I want to get into the reason.

2 THE COURT: Ask your next question, Mr. Shinn.

3 BY MR. SHINN:

4 Q Mr. Hendricks, do you know why you are in  
5 custody?

6 MR. BUGLIOSI: Irrelevant, calls for a conclusion.

7 THE COURT: Sustained.

8 BY MR. SHINN:

9 Q Before you were sent to Atascadero did someone  
10 give you various types of tests?

11 MR. BUGLIOSI: Irrelevant.

12 THE COURT: Sustained.

13 BY MR. SHINN:

14 Q How long did you stay at Atascadero?

15 MR. BUGLIOSI: Irrelevant.

16 THE COURT: Sustained.

17 BY MR. SHINN:

18 Q While at Atascadero did they give you any type  
19 of examination?

20 MR. BUGLIOSI: Irrelevant.

21 THE COURT: Sustained.

22 BY MR. SHINN:

23 Q And are you free to leave Atascadero?

24 MR. BUGLIOSI: Irrelevant, calls for a conclusion.

25 THE COURT: Sustained.

26 MR. SHINN: I have nothing further.



1 THE COURT: Mr. Kanarek?

2 MR. KANAREK: Yes.

3  
4 VOIR DIRE EXAMINATION

5 BY MR. KANAREK:

6 Q Sir, could you tell us, who was your lawyer?

7 MR. BUGLIOSI: Irrelevant, your Honor.

8 MR. KANAREK: Your Honor, this is in the nature of  
9 discovery.

10 I want to pull the file and get some realistic  
11 information here, and I want to find out the legal basis  
12 for his --

13 It's a preliminary type of question.

14 THE COURT: You should ask whether he has an attorney  
15 first.

16 BY MR. KANAREK:

17 Q Sir, did you have an attorney at the time that  
18 you were sentenced to the Youth Authority?

19 A No, I defended myself.

20 BY MR. KANAREK:

21 Q Now, sir, would you tell us did your case  
22 arise in Los Angeles County?

23 MR. BUGLIOSI: Irrelevant.

24 MR. KANAREK: I'm trying to find the file, your  
25 Honor, so during the interim I could look at the file.

26 THE COURT: Overruled, you may answer.

1 THE WITNESS: It was in San Bernardino.

2 BY MR. KANAREK:

3 Q San Bernardino County?

4 A Yes.

5 Q Was the name in the case the People of the  
6 State of California vs. -- what is your first name, sir?

7 A Michael.

8 Q Martin?

9 A Michael.

10 Q Michael Hendricks, is that correct?

11 A I think so.

12 Q You don't know your name?

13 A No, I said I believe that was the case.

14 Q Michael Hendricks, and was it one case?

15 A One in San Bernardino and one in Ventura.

16 Q One in Ventura County and one in San Bernardino  
17 County?

18 A Yes.

19 Q Were these cases in the Superior Court of each  
20 of these counties?

21 A No.

22 Q What court were they in?

23 A Juvenile Court.

24 Q Juvenile Court.

25 What is your present age?

26 A 18.

1 Q Your present age is 18.

2 And each of these cases came out of the Juvenile  
3 Court, is that right?

4 A Right.

5 Q Pardon?

6 A Yes.

7 Q Now, would you tell us when you were sent to  
8 Atascadero did you talk to a doctor before you were sent  
9 there?

10 MR. BUGLIOSI: Irrelevant.

11 THE COURT: Sustained.

12 BY MR. KANAREK:

13 Q Well, to your knowledge have you ever been in  
14 an adult court?

15 Have you been in a court --

16 MR. BUGLIOSI: It is ambiguous and irrelevant, your  
17 Honor.

18 MR. KANAREK: I am trying to see if the man is  
19 convicted of a felony so I can ask properly.

20 THE COURT: Ask him.

21 BY MR. KANAREK:

22 Q Have you ever been convicted of a felony?

23 A No.

24 Q But you have been convicted of what you call  
25 burglary?

26 A Right.

1 Q Pardon?

2 A Yes.

3 Q And the only reason it wasn't a felony is  
4 because it was in the Juvenile Court?

5 A Right.

6 Q Is that correct?

7 A Yes.

8 Q And was that in the Juvenile Court in San  
9 Bernardino?

10 A Yes.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
19c fls.



9C-1

1 Q What was the nature of the offense in Ventura  
2 County?

3 A They put a hold on me.

4 Q You mean you haven't gone to trial in Ventura  
5 County yet?

6 A I already went to trial.

7 Q And you went to trial before a juvenile officer  
8 or was it a Superior Court judge, juvenile referee, or  
9 before a Superior Court judge?

10 A A referee.

11 Q And when you say a hold, what do you mean by  
12 that?

13 A They had me transferred from San Bernardino to  
14 Ventura because that was the County that I was in. They  
15 let them handle the case.

16 Q Were these two separate offenses, Mr. Hendricks,  
17 or were they one offense?

18 A One.

19 Q I see. You were arrested in San Bernardino?

20 A Yes.

21 Q And then you went to Ventura County for your  
22 trial?

23 A I had my trial in San Bernardino and they said  
24 they would send it over to Ventura and let them give the  
25 verdict.

26 Q You had a trial before a juvenile referee in

19c2

1 San Bernardino County?

2 A Yes.

3 Q And then the case went to Ventura County for  
4 what purpose?

5 I'm sorry, I don't understand.

6 Q Well, they sent it to Ventura, and Ventura was  
7 the one that went ahead with prosecuting, because that was  
8 the County I lived in.

9 They transported me back to my own county.

10 Q I see, and the county you lived in was Ventura  
11 County?

12 A Yes.

13 Q And at all times you acted as your own lawyer?

14 A Yes.

15 Q Is that correct?

16 A Yes.

17 Q Now, the court or some Youth Authority  
18 personnel sent you to Atascadero, is that correct?

19 A It was the Board.

20 Q The Board?

21 A Yes.

22 Q The California Youth Authority, the Board  
23 sitting at Norwalk or somewhere -- would you know, was it  
24 Los Angeles?

25 A No, the Norwalk Board.

26 Q The Norwalk Board sent you to Atascadero?

19C3

1 A Yes.

2 Q Is that correct?

3 A After the third time that I went before the  
4 Board.

5 Q Then they sent you to Atascadero.

6 Did they make a finding? Did you hear someone  
7 make a finding that there was a doubt, a present doubt,  
8 as to your sanity or mental health at the time they sent you  
9 to Atascadero?

10 A Yeah, everybody said there was nothing the  
11 matter with me, you know, that I was putting on an act.

12 Q Oh, I see. Do I understand correctly someone  
13 said you were acting insane?

14 A Yes.

15 Q I see, so you acted insane, somebody said, so  
16 that you could get out of legal responsibility, is that  
17 right?

18 MR. BUGLIOSI: I object, your Honor, it is irrelevant.  
19 It is a matter of cross-examination.

20 MR. KANAREK: It goes directly to the point, your  
21 Honor.

22 THE COURT: Overruled, you may answer.

23 THE WITNESS: Can you repeat that question?

24 MR. KANAREK: Can I have it read, your Honor?

25 THE COURT: Read the question.

26 (Whereupon, the reporter reads the record as

9c4

1 follows:

2 "Q I see, so you acted insane,  
3 somebody said, so that you could get out of  
4 legal responsibility, is that right?"

5 MR. KANAREK: In other words, is it a fair statement,  
6 Mr. Hendricks, that you told people in the Youth Authority --

7 THE COURT: Are you withdrawing the last question?

8 MR. KANAREK: I'm sorry, your Honor. I am not  
9 withdrawing it, I'm sorry.

10 THE COURT: Do you have the question in mind,  
11 Mr. Hendricks?

12 THE WITNESS: You --

13 THE COURT: Reframe the question.

14 MR. KANAREK: Yes, your Honor.

15 Q BY MR. KANAREK: Is it a fair statement,  
16 Mr. Hendricks, that in order to avoid legal responsibility  
17 for your acts you told people in authority that you were  
18 insane?

19 A What do you mean by legal acts?

20 Q Well, is it a fair statement that in order not  
21 to have to be in custody, to be in jail or to be in an  
22 institution, that you told people in authority that you were  
23 insane? Is that a fair statement?

20



20-1

1 MR. BUGLIOSI: Calls for hearsay, your Honor. Calls  
2 for a conclusion. It is also irrelevant.

3 MR. KANAREK: Your Honor, it goes to his very  
4 utterance. I am merely asking what he said.

5 THE COURT: This is a matter for cross-examination.

6 The objection is sustained.

7 MR. KANAREK: Q Mr. Hendricks, were you  
8 sent to Atascadero so that your present sanity could be  
9 evaluated?

10 MR. BUGLIOSI: Calls for a conclusion and is also  
11 irrelevant.

12 THE COURT: Sustained.

13 MR. KANAREK: Well, your Honor, then under People vs.  
14 Crovedi, since it is now five minutes after 4:00, I would  
15 ask that we be allowed to adjourn at this time.

16 I will do what I can to obtain the file in this  
17 case between now and the next time that we convene, so that  
18 we don't inject error, because this man is going to testify  
19 in a very vital area.

20 So, I would ask, under People vs. Crovedi, to  
21 be able to get that file and study it, and perhaps ask the  
22 Court to take judicial notice of it.

23 THE COURT: Of course, Mr. Kanarek, you may obtain  
24 the file if you like. No one is keeping you from it.

25 MR. KANAREK: I would ask your Honor, since it is  
26 five minutes after 4:00, that we adjourn at this time so far

20-2

1 as this witness is concerned.

2 THE COURT: There may be other questions of other  
3 counsel.

4 You may terminate your examination if you wish.

5 MR. KANAREK: Q Mr. Hendricks, in connection  
6 with this hangup that you have spoken of concerning guns,  
7 is it a fair statement that you, yourself, feel a thrill  
8 at handling a gun?

9 MR. BUGLIOSI: Irrelevant.

10 THE COURT: Sustained.

11 MR. KANAREK: Q Now, directing your attention,  
12 then, to your stay in Atascadero. How long have you  
13 actually been in Atascadero?

14 MR. BUGLIOSI: Irrelevant.

15 THE COURT: Sustained.

16 MR. KANAREK: Is your Honor sustaining that?

17 THE COURT: Yes.

18 I think you have gone far enough on this voir  
19 dire, Mr. Kanarek. You are getting away from the purpose  
20 of voir dire examination.

21 MR. KANAREK: May I just ask just a couple of  
22 questions more, very, very briefly, your Honor?

23 THE COURT: All right.

24 MR. KANAREK: Q Do you have a piece of paper  
25 on you, a commitment paper of any type, that will give me a  
26 number, a case number?

1 MR. BUGLIOSI: I have some numbers here, Mr. Kanarek.

2 SC number A 253,156.

3 MR. HUGHES: That is the present case number.

4 MR. BUGLIOSI: And AT 021770-3.

5 Those are the two numbers on his file.

6 MR. KANAREK: Thank you.

7 THE COURT: That is the number on Defendants' S for  
8 identification?

9 MR. BUGLIOSI: Yes, your Honor.

10A

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

20a-1

1 BY MR. KANAREK:

2 Q Do you know, Mr. Hendricks, your case number  
3 in either Ventura County or San Bernardino County?

4 A No, I don't.

5 Q Do you have an A number or a B number?  
6 What is your Youth Authority number?

7 A YA number.

8 Q You have a YA number?

9 A Yes.

10 Q What is that?

11 A 94580.

12 Q 94 what?

13 A 580.

14 MR. KANAREK: Thank you very much, Mr. Hendricks.

15 THE COURT: Anything further?

16 MR. HUGHES: Are you done, Mr. Kanarek?

17 MR. KANAREK: Yes.

18 MR. HUGHES: May I inquire of Mr. Bugliosi, is this  
19 witness being offered as to all defendants, or merely as  
20 to the defendants other than Leslie Van Houten?

21 MR. BUGLIOSI: Other than Leslie Van Houten.

22 MR. HUGHES: In other words, per our stipulation?

23 MR. BUGLIOSI: On the Tate case, not the La Bianca  
24 case.

25 MR. HUGHES: It is not being offered, then, even on  
26 the conspiracy?



20a-2

1 MR. BUGLIOSI: Well, I think it goes toward the  
2 conspiracy, the conspiracy to murder the five Tate  
3 victims.

4 MR. HUGHES: Would he be part of the stipulation?  
5 Would it be part of the stipulation, Mr. Bugliosi?

6 MR. BUGLIOSI: I would agree to stipulate that his  
7 testimony should not be considered against Leslie Van  
8 Houten.

9 MR. HUGHES: For any purpose?

10 MR. BUGLIOSI: Yes.

11 MR. HUGHES: As to any of the eight counts, any one  
12 of the eight counts?

13 MR. BUGLIOSI: Yes.

14 MR. HUGHES: With that in mind, your Honor, I would  
15 not ask any questions of this witness.

16 THE COURT: All right.

17  
18 EXAMINATION

19 BY THE COURT:

20 Q Mr. Hendricks, you understand that you have  
21 been testifying under oath?

22 A Yes.

23 Q Did you understand the oath that was given to  
24 you by the Clerk when you first took the witness stand?

25 A Yes.

26 Q What do you think would happen to you if you

1 should testify falsely under oath?

2 A It would be perjury.

3 Q What is perjury?

4 A Contempt of court.

5 Q What do you think would happen to you if  
6 you perjured yourself?

7 A They would give me time in jail, or something  
8 like that, from what I have heard.

9 Q Do you know the difference between telling the  
10 truth and telling a lie?

11 A Yes.

12 Q And if you testify in this case, will you  
13 promise to tell the truth?

14 A Yes.

15 Q Have you been telling the truth today?

16 A Yes.

17 THE COURT: Any further questions, Counsel?

18 MR. SHINN: Nothing further.

19 THE COURT: Anything further, Mr. Bugliosi?

20 MR. BUGLIOSI: No, your Honor.

21 MR. KANAREK: Just this one thing.

22 I would like to adopt a statement of Mr.  
23 Fitzgerald, your Honor, that he made in his argument to  
24 the Court.

25 I, also, under the general idea of People vs.  
26 Crovedi, due to the lateness of the hour, ask that your

1 Honor postpone the decision until we can bring to this  
2 courtroom, perhaps, certified or copies of pertinent  
3 documents.

4 If this man is under commitment wherein his  
5 mental status is in doubt, I think your Honor should be  
6 apprised of it before your Honor rules.

7 I think this is pregnant with the possibility  
8 of injecting error into these proceedings.

20b fls.

-B-1

1 THE COURT: I see no reason at all for deferring the  
2 finding, Mr. Kanarek.

3 You are free to obtain any records you care to.  
4 If they are pertinent and you wish to offer them as part of  
5 your cross-examination, or in some other manner, you are  
6 free to make the offer.

7 MR. KANAREK: Then may he be held in abeyance at least  
8 until the next time we meet?

9 THE COURT: He is not going to testify today. It is  
10 time to adjourn now.

11 I do find, however, that Mr. Hendricks is  
12 competent to testify as a witness in this case under the  
13 provisions of Section 701 of the Evidence Code.

14 Since it is almost 4:15, we will adjourn.

15 MR. BUGLIOSI: Your Honor, could you order this  
16 witness back, then, for Thursday?

17 THE COURT: Yes.

18 You are ordered to return, Mr. Hendricks, on  
19 Thursday, September the 10th, at 9:45 a.m.

20 As I discussed with counsel, I believe earlier  
21 this week, or last week, since next Monday and next  
22 Wednesday are legal holidays, I agreed that we would take  
23 Tuesday, so that there would be an uninterrupted five-day  
24 weekend. And we will do that.

25 The Court will now adjourn until next Thursday,  
26 September 10th, at 9:45 a.m.



40B2

1 MR. KANAREK: Your Honor, I have another further  
2 request of the Court.

3 Could the Court see to it that we got this  
4 Atascadero case to your Honor's Court by next Thursday  
5 morning?

6 THE COURT: There is no way that I can see to it,  
7 Mr. Kanarek.

8 You may ask the clerk, and the clerk, I am sure,  
9 will cooperate with you in every way he can.

10 MR. KANAREK: Thank you.

11 MR. FITZGERALD: Can we meet briefly among ourselves  
12 after the Court adjourns, your Honor?

13 THE COURT: All defense counsel and defendants?

14 MR. FITZGERALD: Yes.

15 THE COURT: Yes, you may.

16 MR. FITZGERALD: Thank you, your Honor.

17 (Whereupon, at 4:13 p.m., the Court was in  
18 recess.)