

COPY

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.

93

No. A253156

REPORTERS' DAILY TRANSCRIPT

Monday, September 21, 1970

A. M. SESSION

APPEARANCES:

For the People:

DONALD A. MUSICH,
STEPHEN RUSSELL KAY,
[REDACTED] and
VINCENT T. BUGLIOSI,
DEPUTY DISTRICT ATTORNEYS

For Deft. Manson:

I. A. KANAREK, Esq.

For Deft. Atkins:

DAYE SHINN, Esq.

For Deft. Van Houten:

[REDACTED]
RONALD HUGHES, Esq.
PAUL FITZGERALD, Esq.

For Deft. Krenwinkel:

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JOSEPH B. HOLLOMBE, CSR.,
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Official Reporters

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X - Photograph of female Caucasian 10872
Y - Photograph of 2 male Caucasians 10872
Z - Photograph of jacket 10872
AA - Photograph of 2 male Caucasians
and two guns 10876
BB - Photograph of a gun 10876

1 LOS ANGELES, CALIFORNIA, MONDAY, SEPTEMBER 21, 1970

2 9:50 A.M.

3 ---o---

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

6 Were you examining, Mr. Hughes, on Friday?

7 MR. HUGHES: Yes, I was, your Honor.

8 I believe that Mr. Kanarek had a motion, your
9 Honor, which he wanted to bring up outside of the presence
10 of the jury.

11 May we approach the bench on that first?

12 MR. KANAREK: It is a request for a contempt citation,
13 your Honor.

14 THE COURT: I have the papers, Mr. Kanarek. I am not
15 going to take it up at this time.

16 Let's proceed.

17
18 DANNY DE CARLO,
19 the witness on the stand at the time of the adjournment,
20 resumed the stand and testified further as follows:

21
22 FURTHER CROSS-EXAMINATION

23 BY MR. HUGHES:

24 Q Mr. De Carlo, you said that your truck was
25 traded for a .22 caliber gun, is that correct?

26 A Yeah.

1 Q And did anyone tell you why your truck was
2 traded for that .22 caliber gun?

3 A They did not want the pistol. They did not want
4 no guns there.

5 Q Did Mr. Manson want that particular gun or did
6 he get it that gun from Bill Vance and order -- for some
7 other reason than getting the gun itself?

8 MR. BUGLIOSI: That calls for a conclusion, your Honor.

9 THE COURT: Sustained.

10 Q BY MR. HUGHES: Did he or someone else tell you
11 that he had got that gun from Bill Vance for some reason
12 other than getting the gun itself?

13 MR. BUGLIOSI: Compound, calls for hearsay.

14 THE COURT: Sustained.

15 Q BY MR. HUGHES: Now, you stated in your
16 previous testimony that Mr. Manson was not attracted or
17 attached to guns, is that correct?

18 A Yeah.

19 Q Did Mr. Manson tell you that he did not want that
20 gun?

21 A He didn't want no guns.
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1 Q And didn't he tell you that he traded your
2 truck for that gun in order to prevent the ranch from
3 being shot up?

4 A Yes.

5 Q Now, did that .22 caliber that was at the
6 ranch, did that belong to everyone as much as it belonged
7 to Mr. Manson?

8 A Yes.

9 Q And didn't Mr. Manson tell you that he didn't
10 want it and asked you if you would put it with the rest of
11 your guns, and didn't he promise you that he would get
12 your truck back?

13 A Yes.

14 Q Now, Danny, I would like to ask you some
15 questions about the rope.

16 Was the rope bought for general use at the
17 Spahn Ranch?

18 A Yes.

19 MR. BUGLIOSI: Calls for a conclusion. Manson
20 bought the rope.

21 THE COURT: The answer is in, Mr. Bugliosi.

22 BY MR. HUGHES:

23 Q Now, Spahn Ranch is a horse ranch; is that
24 correct?

25 A Yes.

26 Q Were there many ropes at that horse ranch?

2-2

1 A Yes.

2 Q Did Randy Starr have a rope similar to that
3 rope?

4 A I don't know.

5 Q You have seen Randy Starr use rope, haven't
6 you?

7 A Yes.

8 Q Now, this 150 feet of rope, wasn't it used
9 for general work and left in a place where everyone at
10 the ranch who needed a rope could have access to it?

11 A Yes.

12 Q And wouldn't it be a true statement, Danny,
13 that the rope and the gun and the sword and the dune buggies
14 belonged to themselves, they didn't belong to anyone in
15 particular?

16 MR. BUGLIOSI: Compound and ambiguous, your Honor.

17 THE COURT: Sustained.

18 BY MR. HUGHES:

19 Q Isn't it true that anyone who wanted to take
20 or use any of these items was welcome to pick them up, take
21 them, and do anything he wished with them?

22 MR. BUGLIOSI: Compound. Also calls for a conclusion.

23 THE COURT: Sustained.

24 BY MR. HUGHES:

25 Q Could you have taken any of those items and
26 done what you wished with them?

2-3

1 A Yes.

2 Q If I'd have come up to the ranch, could I have
3 taken them and done what I wished with them?

4 MR. BUGLIOSI: Calls for a conclusion.

5 THE COURT: Sustained.

6 BY MR. HUGHES:

7 Q Danny, were there other long-barreled guns
8 up at the ranch?

9 A Not pistols.

10 MR. HUGHES: May I have a moment, your Honor, for
11 some of these pictures?

12 (Mr. Hughes and Mr. Fitzgerald confer.)
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1 MR. HUGHES: Your Honor, I have a photograph which
2 depicts a male Caucasian. May it be marked Defendants'
3 next in order, I believe V.

4 THE CLERK: W, I believe. V is a copy of the
5 Information.

6 THE COURT: There is a V, Mr. Hughes. It would be W
7 for identification.

8 MR. HUGHES: W.

9 I have a picture of a female Caucasian; may it
10 be marked Defendants' next in order, X?

11 THE COURT: It will be so marked.

12 MR. HUGHES: I have a photograph of two male
13 Caucasians, may it be marked Defendants' next in order,
14 Y?

15 THE COURT: It will be so marked.

16 MR. HUGHES: I have a photograph of a jacket, may it
17 be marked Defendants' next in order, Z?

18 THE COURT: It will be so marked.

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

20 THE COURT: Yes, you may.

21 Q BY MR. HUGHES: Danny, directing your
22 attention to Defendants' W for identification, would you
23 tell who is depicted in that photograph.

24 A George.

25 Q Is that George Spahn?

26 A Yeah.

1 Q And does that appear to have been taken inside
2 of his house?

3 A Yeah.

4 Q Looking at Defendants' X, who is depicted in that
5 photograph?

6 A I think that is Linda's kid.

7 Q Directing your attention to Defendants' Y,
8 is that a picture of yourself and Charles Manson?

9 A Yeah.

10 Q And does that picture appear to be taken at the
11 time of the arrest, August 16th?

12 A Yeah.

13 Q Directing your attention to the portion of that
14 picture of Mr. Manson, do you recognize the thong that
15 appears on Mr. Manson's neck?

16 (No response.)

17 Does there appear to be a leather thong around his
18 neck?

19 A Yeah.

20 Q Now, of all the leather thongs that you were
21 shown Friday, which of the thongs do you believe that is?

22 MR. BUGLIOSI: Assumes a fact not in evidence, your
23 Honor.

24 THE COURT: Sustained.

25 Q BY MR. HUGHES: Now, directing your attention to
26 People's Z, would you tell us what is depicted in that

1 picture -- excuse me -- to Defendants' Z?

2 A A jacket.

3 Q Would you look again at Defendants' Y, the
4 picture of you and Mr. Manson?

5 (Witness complies.)

6 In that picture do you appear to have
7 a bloody nose?

8 A Yeah, they did the job on me.

9 Q Who is they, Mr. De Carlo?

10 A The Sheriff.

11 Q Did they work you over?

12 A Yeah.

13 Q What sort of jacket is that in photograph Z?

14 A A set of colors.

15 Q A set of colors? That was your colors for the
16 motorcycle club, is that right?

17 A Those were not mine, no.

18 Q That was somebody's motorcycle club colors, is
19 that right?

20 A Yeah.

21 Q Now, did Mr. Manson ever have anything other than
22 his colors that he would not give to anyone?

23 MR. BUGLIOSI: Assumes a fact not in evidence, your
24 Honor.

25 Also it calls for a conclusion.

26 THE COURT: Sustained.

1 Q BY MR. HUGHES: Would Mr. Manson give you his
2 life before he would give you his colors?

3 MR. BUGLIOSI: Calls for a conclusion, your Honor.

4 THE COURT: Sustained.
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1 MR. FITZGERALD: We would like to mark two more
2 photographs, if the Court please, and I am concerned
3 about should we begin with A-1?

4 THE COURT: AA.

5 MR. HUGHES: A photograph depicting two male
6 Caucasians and some guns, AA.

7 BB, a photograph of a gun.

8 THE COURT: They may be so marked.

9 MR. HUGHES: May I approach the witness, your Honor?

10 THE COURT: Yes, you may.

11 BY MR. HUGHES:

12 Q Directing your attention to AA. Will you tell
13 us what is depicted in that photograph, Danny?

14 A Two sheriffs.

15 Q Do you recognize the guns that the sheriffs
16 are holding?

17 A Two of them I do.

18 Q Would you identify those guns?

19 A A 303 British Enfield, and he has got a
20 machinegun in the violin case.

21 Q And is Defendants' BB marked for identification
22 a picture of a machinegun, of that machinegun in the
23 violin case?

24 A Yes.

25 Q Now, Mr. DeCarlo, can you tell us -- Danny --

26 A Yes?

AA&BB1d

4-2

1 Q -- can you tell us where you were on the
2 evenings of August the 8th and August the 9th of 1969?

3 A I don't know.

4 MR. HUGHES: I have no further questions at this
5 time, your Honor.

6 THE COURT: Redirect?

7 MR. BUGLIOSI: Yes, your Honor.

8
9 REDIRECT EXAMINATION

10 BY MR. BUGLIOSI:

11 Q Danny, do you consider yourself a pretty
12 independent guy?

13 MR. KANAREK: I object to that, your Honor.

14 MR. BUGLIOSI: It has already been gone into on
15 cross-examination.

16 MR. SHINN: Self-serving.

17 MR. BUGLIOSI: It was gone into on cross-examination.

18 MR. KANAREK: I object to the form of that ques-
19 tion, your Honor. It is calling for a conclusion, hearsay,
20 self-serving, an opinion that is not permissible.

21 MR. BUGLIOSI: I think it would be permissible even
22 if it was not gone into on cross-examination, but the
23 point is that it was gone into on cross-examination, your
24 Honor.

25 MR. KANAREK: He can't judge himself.

26 THE COURT: All right, that is enough, gentlemen.

1 I have heard the objections.

2 The objection is sustained.

3 BY MR. BUGLIOSI:

4 Q Danny, did Mr. Manson ask you for your
5 permission to give Bill Vance your truck?

6 A No.

7 Q What kind of a truck was it, Danny?

8 A It was a bread truck, a Hostess Twinkie truck.

9 Q What were you doing driving a bread truck,
10 Danny?

11 A Well, I had it all fixed up like a house.

12 Q What color was it?

13 A Cream colored.

14 Q Cream colored?

15 A Yes.

16 Q What year?

17 A '52.

18 Q What make?

19 A Ford.

4a fls.

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4A-1

1 Q Do you know the license plate number?
2 A K70683, I think.
3 Q K70683?
4 A Yes.
5 Q You testified that you eventually got the truck
6 back; is that correct?
7 A Yes.
8 Q When did you get the truck back?
9 A A couple of months later.
10 Q How did you get it back?
11 A It just pulled into the ranch.
12 Q Who pulled it into the ranch?
13 A Bill Vance.
14 Q And you took it back from him?
15 A Yes. He just gave it to me.
16 Q He gave it to you?
17 A Yes.
18 Q Did Manson get the truck back for you?
19 A Well, yes.
20 Q How did he get it back for you?
21 A Well, he said that when he came back to the ranch
22 I could have it back.
23 Q Manson told you that you could have your own
24 truck back; is that right?
25 MR. KANAREK: That is argumentative, your Honor.
26 THE COURT: Overruled.

4a2

1 A Well, I just told him I was going to take the
2 truck.

3 Q And he said what?

4 A He said, "All right."

5 Q You testified that at first Charles Manson never
6 wanted guns at the Spahn Ranch; is that correct?

7 MR. KANAREK: Your Honor, I will object to that as
8 assuming facts not in evidence, that he ever wanted them.
9 The implication there is --

10 MR. BUGLIOSI: These were his words on cross, your
11 Honor.

12 THE COURT: Overruled.

13 Do you have the question in mind?

14 THE WITNESS: No.

15 THE COURT: Read the question.

16 (The question was read by the reporter.)

17 MR. KANAREK: Your Honor, may I further suggest to
18 the Court that it is ambiguous in the sense is he asking
19 whether this is what the fact was, or is it what his
20 testimony was?

21 In other words, your Honor, it is ambiguous
22 as to whether he is asking him about his testimony or
23 the actual incident itself, your Honor.

24 THE COURT: Do you understand the question?

25 THE WITNESS: Yes.

26 THE COURT: Overruled.

1 MR. BUGLIOSI: Q So, at first, you say Charles
2 Manson never wanted guns at Spahn Ranch; is that correct?

3 MR. KANAREK: Asked and answered in the previous
4 question, your Honor.

5 THE COURT: It wasn't answered. You objected to it,
6 Mr. Kanarek.

7 MR. KANAREK: Very well.

8 THE COURT: Overruled.

9 THE WITNESS: Yes.

10 MR. BUGLIOSI: Q When you brought all your
11 guns out there to Spahn Ranch, Danny, did Manson order you
12 to take them off the ranch?

13 A No.

5-1

1 Q Many of the firearms, Danny, in the bunkhouse,
2 belonged to you, is that correct?

3 A Yes.

4 Q Were there any firearms in the bunkhouse that
5 did not belong to you?

6 A The .22.

7 Q .22 what?

8 A Pistol.

9 Q The revolver?

10 A Yeah.

11 Q That is the High Standard Buntline?

12 A Yeah, the .22, the carbine and the 9 millimeter
13 Radom.

14 Q Those three firearms did not belong to you, is
15 that correct?

16 A Yeah, but the rest did.

17 Q Did Charles Manson ever say anything to you
18 about knives as opposed to guns?

19 A He liked knives better than guns.

20 Q Is that what he told you?

21 A Yeah.

22 MR. KANAREK: Your Honor, may we have a foundation
23 as to that conversation, as to time and place?

24 THE COURT: Is this an objection or a motion or
25 what?

26 MR. KANAREK: It is an objection, your Honor, yes.

5-2

1 THE COURT: The answer is already in.

2 BY MR. BUGLIOSI:

3 Q Danny, you testified that you observed a
4 couple of carloads of black people come to Spahn Ranch
5 once, is that correct?

6 A Yeah.

7 Q When was that?

8 A Sometime in July, I guess.

9 Q In 1969?

10 A Yeah.

11 Q Did you observe what they did?

12 A They rented horses.

13 Q Directing your attention, Danny, to Volume 88,
14 page 10,483, please read lines 13 through 23 to yourself;
15 read it quietly to yourself.

16 (Witness complies.)

17 Have you read those lines to yourself, Danny?

18 A Yeah.

19 Q To these questions did you give these
20 answers:

21 "Q --"

22 MR. KANAREK: Just a moment.

23 Your Honor, there is no foundation for this,
24 your Honor. There is no foundation and I object to the
25 question.

26 THE COURT: What foundation?

5-3

1 MR. KANAREK: He cannot just pick something out of
2 the transcript willy-nilly, your Honor, and read it over.
3 There has to be a legal basis for it.

4 THE COURT: Overruled.

5 BY MR. BUGLIOSI:

6 Q To these questions did you give these answers:

7 "Q Who did he say pigs were?

8 "A Police.

9 "Q Did he say pigs were anything or anyone
10 in addition to police?

11 "A The white collar workers. The ones
12 that work from 8:00 to 5:00."

13 Did you give those answers to those questions,
14 Danny?

15 A Yeah.

16 Q Now, do you recall later on in your testimony
17 you said that the term "white collar workers" was your
18 term, is that correct?

19 A Yeah, that is my term.

20 Q All right, let me ask you again, who did
21 Charles Manson say pigs were?

22 MR. KANAREK: Object, your Honor, on the grounds
23 there is no foundation for the question.

24 It is an improper attempt to rehabilitate.

25 THE COURT: Overruled.

26 MR. HUGHES: Also hearsay, your Honor, beyond the

1. scope of the cross-examination.

2. MR. FITZGERALD: Hearsay as to Krenwinkel.

3. MR. SHINN: Hearsay as to Atkins.

4. MR. HUGHES: Hearsay as to Van Houten.

5. MR. BUGLIOSI: No objection as to that limitation,
6. your Honor.

7. THE COURT: All right, the testimony will be
8. received as to Mr. Manson only and not as to any of the
9. other defendants.

10. The jury is so admonished.

11. Go ahead.

12. THE WITNESS: The police and 8:00 to 5:00 workers.

13. BY MR. BUGLIOSI:

14. Q But the white collar worker, that term was your
15. term?

5a fls. 16. A Yeah, that was mine.

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5A-1

1 Q BY MR. BUGLIOSI: Directing your attention,
2 Danny, to Volume 90, Page 10674, would you please read
3 Lines 16 through 19 to yourself.

4 (Witness complies.)

5 MR. SHINN: Your Honor, may Mr. Bugliosi give us the
6 page number again, your Honor?

7 MR. BUGLIOSI: 10674.

8 MR. SHINN: Thank you.

9 Q BY MR. BUGLIOSI: Have you read those lines
10 to yourself, Danny?

11 A Yeah.

12 Q Was this question asked you and did you give
13 this answer:

14 "Q Mr. De Carlo, is it not true
15 from your discussions with Mr. Manson that
16 Mr. Manson indicated to you that he actually
17 loved the black people?

18 "A Yeah, there was one time he
19 said that."

20 Did you give that answer to that question?

21 A Yeah.

22 Q Would you relate, Danny, what Mr. Manson said
23 at that time with respect to black people?

24 MR. KANAREK: Your Honor, may I have a continuing
25 objection, your Honor, on the grounds it is an improper
26 attempt to rehabilitate; no foundation for the question.

THE COURT: You may not have a continuing objection.

Are you objecting now?

MR. KANAREK: Yes, your Honor.

THE COURT: Overruled.

THE WITNESS: Well, they fight against the police, you know, they fight, you know, they fight for what they want.

Q BY MR. BUGLIOSI: How did the word "love" come up in the conversation? What did Mr. Manson say?

A Well, he loves them for having the guts --

MR. KANAREK: Same grounds, improper foundation.

MR. BUGLIOSI: Interrupting the witness, your Honor, right in the middle of a statement.

THE COURT: Overruled, you may answer.

THE WITNESS: Well, he loved them for having the guts to fight against them.

Q BY MR. BUGLIOSI: The police, is that correct?

A Yeah.

Q With respect to the 10 buck knives, you say Gypsy bought, you testified she bought them in either July or August.

Do you know which month it was?

A I think the first part of August.

Q The first part of August?

A Yeah.

Q By "first part of August," you mean the first

5a3

1 couple of days in August?

2 A Yeah, around there.

3 Q You are using August the 16th, the date of your
4 arrest, as a basis of reference.

5 MR. KANAREK: Your Honor, leading and suggestive,
6 if I may suggest, your Honor.

7 THE COURT: Overruled.

8 THE WITNESS: Yeah.

9 Q BY MR. BUGLIOSI: With respect to Revelation 9,
10 Danny, did you ever hear Charles Tex Watson talk about
11 Revelation 9?

12 MR. KANAREK: I object to that, your Honor, on the
13 grounds the prejudicial value far outweighs any probative
14 value; also on the basis of the Sixth Amendment, the right
15 to confront.

16 Mr. Watson is not here.

17 I object on the grounds of hearsay and conclusion.

18 THE COURT: Overruled.

19 THE WITNESS: No.

20 Q BY MR. BUGLIOSI: Did you ever hear anyone else
21 in the Family other than Charles Manson talk about
22 Revelation 9?

23 MR. KANAREK: Calling for a conclusion, your Honor,
24 and hearsay.

25 THE COURT: Overruled.

26 THE WITNESS: No.

1 Q BY MR. BUGLIOSI: With respect to the dis-
2 cussions that Charles Manson had with the Family at dinner-
3 time, Danny, while he was talking did you ever hear any
4 member in the Family interrupt him?

5 MR. KINAREK: Your Honor, I must object to this, your
6 Honor, to this question, on the grounds it is calling for
7 a conclusion as to what an interruption is, when there is a
8 multitude of people.

9 The prejudicial value far outweighs any probative
10 value.

11 THE COURT: Overruled.

12 THE WITNESS: No.

13 Q BY MR. BUGLIOSI: Did you ever hear at any
14 time during these discussions anyone say anything to
15 Manson without his speaking to them first?

16 MR. KINAREK: Calling for a conclusion, your Honor,
17 the same objections as previously enunciated in the previous
18 question.

19 THE COURT: Overruled.

20 THE WITNESS: There was one time somebody interrupted
21 him.

22 Q BY MR. BUGLIOSI: Who was that party?

23 A I don't know; it was a couple of broads talking.

24 Q In other words, they were talking to each other?

25 A Yeah, and he was talking to me, and they
26 interrupted us.

↑ ↑

Q What happened?

MR. KANAREK: Object, your Honor, calling for a conclusion.

THE COURT: Overruled.

THE WITNESS: He threw a bowl of rice at them.

Q BY MR. BUGLIOSI: Charlie threw a bowl of rice at the girls?

A Not at them; he just slid it across the floor.

Q Did he say anything as he did that?

A Well, that he was talking and that he wanted their attention; he was being interrupted.

Q That is the only time you can recall anyone interrupting him as he was talking, is that correct?

A Yeah.

Q You testified at the Grand Jury in this case, in December of '69, is that correct?

A Yeah.

Q And I interviewed you before the Grand Jury, is that correct?

A Yeah.

Q You testified on cross-examination, Mr. De Carlo, that prior to your taking the witness stand during the trial here I showed you the rope, is that correct?

MR. KANAREK: Well, your Honor, if I may, as to the last two previous questions, unless Mr. Bugliosi is going to --

1 THE COURT: State your objection, Mr. Kanarek.

2 MR. KANAREK: I ask they be stricken unless there is
3 some connection going to be shown.

4 THE COURT: The motion is denied.
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1 BY MR. BUGLIOSI:

2 Q This was down in my office?

3 A Yes.

4 Q When I showed you the rope, did I ask you
5 anything, Danny?

6 A If I had seen anything like that.

7 MR. KANAREK: Your Honor, may that be stricken, that
8 answer?

9 The question solicited a yes or no answer,
10 your Honor.

11 THE COURT: The answer will be stricken.

12 The jury is admonished to disregard it.

13 BY MR. BUGLIOSI:

14 Q When I showed you the rope, Danny, did I ask
15 you anything?

16 You can answer that yes or no.

17 A Yes.

18 Q What did I ask you?

19 MR. KANAREK: I object on the grounds of hearsay and
20 conclusion.

21 MR. BUGLIOSI: Under Section 356, your Honor, of
22 the Evidence Code, where part of an act or conversation
23 is given in evidence, the whole of the act or conversation
24 can be brought out by the opposing party.

25 Your Honor, this was brought out on cross-
26 examination.

6-2

1 MR. KANAREK: Your Honor, I would like to approach
2 the bench in connection with this because I don't believe
3 there is any --

4 THE COURT: Are you making an objection, Mr. Kanarek?

5 MR. KANAREK: Pardon?

6 THE COURT: Are you making an objection?

7 MR. KANAREK: Well, yes, your Honor.

8 THE COURT: Overruled.

9 BY MR. BUGLIOSI:

10 Q What did I ask you with respect to the rope,
11 Danny?

12 A If I had seen it? Where I had seen it?

13 Q What did you say?

14 MR. KANAREK: I object on the grounds of hearsay,
15 your Honor.

16 THE COURT: Overruled.

17 THE WITNESS: I said I had seen it at the ranch.

18 BY MR. BUGLIOSI:

19 Q Did I show you a photograph of the .22 caliber
20 High Standard Buntline revolver?

21 A Yes.

22 Q When I showed you the photograph, did I ask
23 you anything?

24 You can answer that yes or no, Danny.

25 A Yes.

26 Q What did I ask you?

6-3

1 MR. KANAREK: Same objection, your Honor.

2 THE COURT: Overruled.

3 THE WITNESS: If I had seen a pistol similar to this.

4 BY MR. BUGLIOSI:

5 Q And what did you say?

6 MR. KANAREK: Same objection, your Honor.

7 THE COURT: Overruled.

8 THE WITNESS: I said yes.

9 BY MR. BUGLIOSI:

10 Q Did I ask you where you had seen it?

11 A Yes.

12 Q And what did you say?

13 A At the ranch.

14 Q Did I show you any thongs in my office, leather
15 thongs, or leather rope?

16 A Yes.

17 Q Did I ask you anything when I showed you the
18 thongs?

19 A If I had seen anything like this.

20 Q And what did you say?

21 A Yes.

22 MR. KANAREK: Objection on the grounds of hearsay,
23 your Honor.

24 THE COURT: Overruled.

25 BY MR. BUGLIOSI:

26 Q Did I ask you where you had seen thongs like

1 this before?

2 A Yes.

3 Q What did you say?

4 MR. KANAREK: Same objection, your Honor, on the
5 grounds of hearsay.

6 THE COURT: Overruled.

7 THE WITNESS: At the ranch.

8 BY MR. BUGLIOSI:

9 Q Did I show you a Buck knife down in my office?

10 A Yes.

11 Q When I showed you the Buck knife, did I ask
12 you anything, Danny?

13 Say yes or no to that.

14 A Yes.

15 Q What did I ask you?

16 A If I had seen it.

17 Q And what did you say?

18 A Yes.

19 Q Did I ask you where you had seen it?

20 A Yes.

21 Q What did you say?

22 A At the ranch.

6a fls.

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6A-1

1 Q Danny, you testified on cross-examination that
2 it was possible that Mr. Manson used the word or the
3 question contained the word "possible," and you answered it,
4 "yes," whether it was possible that Mr. Manson did not say
5 some things you said he did, and you said, "Yes."

6 Do you remember that?

7 A Yes.

8 MR. KANAREK: Your Honor, that is immaterial, whether
9 he remembers it or not.

10 I object to the form of the question.

11 His memory of a particular previous bit of
12 testimony, your Honor, is not a proper question.

13 THE COURT: Overruled.

14 MR. BUGLIOSI: Q Do you remember testifying to
15 that, Danny?

16 A Yes.

17 Q Now, when you said, "Yes," to the question whether
18 it was possible that Mr. Manson did not say the things you
19 said he did, what did you mean by that?

20 A I couldn't remember the exact words.

21 Q But was your testimony as to what he said the
22 gist of what he said?

23 MR. KANAREK: Calling for a conclusion, your Honor.

24 THE COURT: Overruled.

25 THE WITNESS: Yes.

26 MR. BUGLIOSI: Q You are sure about that?

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1 A Yes.

2 Q You testified on cross-examination, Danny, and
3 also on direct examination, that you were smashed quite a
4 bit out at the ranch; do you remember that?

5 A Yes.

6 Q What do you mean by the term smashed?

7 A Feeling pretty good.

8 Q So, the term smashed means feeling pretty good to
9 you?

10 A Yes.

11 Q When you are smashed, are you on your feet?

12 A Most of the time.

13 Q And your eyes are open, I take it; is that
14 correct?

15 A A little bit.

16 Q A little bit?

17 A Well, they are open.

18 Q And you can hear; is that correct?

19 A Yes.

20 Q Do you remember Friday afternoon you identified
21 Charles "Tex" Watson here in court?

22 A Yes.

23 Q Did he look the same to you here in court as he
24 did out at Spahn Ranch?

25 A A little skinnier.

26

1 Q He looked skinnier here in court?

2 A Yes.

3 Q He looked like he had lost some weight?

4 A Yes.

5 Q Quite a bit?

6 A Yes.

7 Q Did you ever see Charles Watson limping out at
8 Spahn Ranch?

9 MR. KANAREK: I object, your Honor. That is
10 certainly outside the scope.

11 MR. BUGLIOSI: May I reopen direct, your Honor, for
12 this?

13 THE COURT: You may.

14 MR. BUGLIOSI: Q Did you ever see him limping
15 out at Spahn Ranch?

16 A Yes.

17 Q When was this?

18 A Oh, it was during one day.

19 Q When in relation to August the 16th, 1969?

20 A I don't know.

21 Q Approximately?

22 A A couple of weeks.

23 Q Do you know what foot he was limping on?

24 A No.

25 Q Did you ask him anything about his foot?

26 A Yes.

1 MR. KANAREK: I object on the grounds of hearsay,
2 Your Honor.

3 THE COURT: Overruled.

4 MR. BUGLIOSI: Q What did you say to him?

5 MR. KANAREK: I object on the grounds of hearsay,
6 Your Honor.

7 MR. SHINN: Join in the objection, your Honor.

8 MR. BUGLIOSI: Q What did you say to him,
9 Danny?

10 THE COURT: Just a moment, Mr. Bugliosi.

11 It would appear that the objection is good.

12 MR. BUGLIOSI: May I approach the bench, your Honor?

13 THE COURT: Very well.
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6b-1

1 (Whereupon all counsel approached the bench and
2 the following proceedings occurred at the bench outside of
3 the hearing of the jury:)

4 MR. KANAREK: Your Honor, before we start, I would
5 like to enunciate for the record, I allege that there is a
6 denial of equal protection of the law as far as approach-
7 ing the bench is concerned.

8 I requested the Court for assistance and for
9 certain relief by way of approaching the bench while I was
10 examining Mr. DeCarlo, and at other times, and your Honor
11 has refused, markedly, my request, and I state for the
12 record that there has been a substantial denial of equal
13 protection of the law to Mr. Manson. I so allege.

14 THE COURT: Are you contending that when the trial is
15 over, Mr. Kanarek, that the number of times that counsel
16 approached the bench should be exactly equal?

17 MR. KANAREK: No, I am not contending that at all.
18 I am just stating it for the record for whatever it may be
19 worth.

20 THE COURT: Are you keeping some kind of a box score?

21 MR. KANAREK: No, I am not keeping a box score. I
22 am alleging it.

23 The reason I must do this, your Honor, is
24 because our Appellate Court has said, the same with
25 objections, the courts invariably say that if you don't
26 raise it at the trial level you can't do anything about

6b-2

1 it later. That is why I am obliged to do these things,
2 your Honor.

3 I will let the record speak for itself. It
4 is my position that your Honor is violating the equal
5 protection of law provision in approaching the bench.
6 For instance, in connection with Mr. Watson. That is a
7 for instance, your Honor, what occurred there. I was denied
8 equal protection.

9 THE COURT: Mr. Kanarek, we are going to go into
10 something else now.

11 MR. KANAREK: Very well.

12 MR. BUGLIOSI: Your Honor, my offer of proof is
13 that DeCarlo asked Watson why he was limping, and Watson
14 said he kicked someone, or that he got into a fight with
15 someone and he kicked someone, and he said he got \$75 from
16 him, which is similar to what he told Linda Kasabian.
17 He told Linda Kasabian he got \$70.

18 Now, your Honor, bear in mind --

19 THE COURT: \$70?

20 MR. BUGLIOSI: As they were driving away from the
21 Tate residence, Linda testified that Watson told her that
22 he had gotten \$70 from someone.

23 THE COURT: You mean from one of the victims?

24 MR. BUGLIOSI: Yes.

25 Now, granted her statement is hearsay, but
26 I think it comes in under the admission exception.

1 Mr. Watson is a co-conspirator, and I think the prosecution
2 has a right to connect him with the corpus delicti by any
3 means.

4 One means that we have already used, of course,
5 is his fingerprints. We have connected him with the murders.

6 Now, if he conversed with anyone, that connects
7 him with the murders, or if he made an admission.

8 I think the only problem would be if he made
9 an incriminating statement which incriminated a co-conspirator.
10 Then we would have the Aranda problem. But there is no
11 Aranda problem here.

12 I think the prosecution has the right to put
13 on evidence connecting a co-conspirator with the murders.

6c fls.

OC-1

1 THE COURT: I still don't see the connection. What
2 is the offer of proof?

3 MR. BUGLIOSI: The offer of proof, your Honor, is
4 that this was about two weeks before August 16th, which is --

5 THE COURT: First of all, the record doesn't show whether
6 it was two weeks before or after.

7 MR. BUGLIOSI: I am sorry. I thought I got that out.

8 THE COURT: All he said was, "two weeks."

9 MR. BUGLIOSI: I am sorry about that. That was an
10 error on my part.

11 I believe his testimony will be that it was two
12 weeks before.

13 In fact, he told me during my interview with him
14 it was one week before. Now he says it was two weeks.

15 But the offer of proof is that Watson told
16 Danny De Carlo that he got in a fight with someone and he
17 took \$75 from him.

18 AsI say, we have testimony in the record from
19 Linda Kasabian that Watson told her that he took \$70 from
20 someone, which is pretty close, and it is right around
21 the same time as the Tate murders, and he is limping.

22 I think it is circumstantial evidence that the
23 limping was as a result of his kicking one of the Tate
24 victims, and the \$75 he is talking about is the same amount
25 of money that he was talking to Linda Kasabian about.

26 MR. SHINN: Your Honor, I think it is too remote..

1 THE COURT: I think it is objectionable. I don't
2 consider it to be an admission.

3 I am going to sustain the objection.

4 MR. BUGLIOSI: I can go into the limping without the
5 conversation?

6 THE COURT: Certainly. That is a physical fact that
7 can be described.

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

12 MR. BUGLIOSI: Q Mr. De Carlo, you say that
13 Watson was limping, and you mentioned two weeks.

14 Was that two weeks before or after August 16th,
15 1969?

16 MR. KANAREK: Your Honor, I will object on the grounds
17 that it invades the Sixth Amendment right to confront.

18 THE COURT: Overruled.

19 MR. BUGLIOSI: You may answer.

20 THE WITNESS: It was before.

21 MR. BUGLIOSI: What?

22 THE WITNESS: Before.

23 MR. BUGLIOSI: No further questions, your Honor.

24 THE COURT: Mr. Fitzgerald?

25 MR. FITZGERALD: Yes, your Honor.
26

RECROSS-EXAMINATION

1 BY MR. FITZGERALD:

2 Q Do you consider that you have a very good
3 memory for conversations, Mr. De Carlo?

4 A Yes.

5 Q How many conversations did you have during
6 the period of time you were out at the Spahn Ranch with
7 any of the people who were living there?

8 A A lot of them.

9 Q Probably thousands of them; right?

10 A Yes.

11 Q Was there anybody out there who was deaf?

12 A No.

13 Q Was there anybody out there who was mute?
14 Couldn't speak?

15 A No.

16 Q Would there frequently be occasions where there
17 would be a number of people gathered together in
18 one location at the ranch?

19 A Yes.

20 Q Would it also be the case that frequently people
21 talked to one another at the ranch?

22 A Yes.
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6d-1

1 Q No one talked while anybody else was talking;
2 is that right?

3 A Yes, they talked.

4 Q But when Mr. Manson came up, then everybody
5 stopped talking; right?

6 MR. BUGLIOSI: I object on the grounds it is a
7 misstatement.

8 His testimony was that there was no talking
9 while Manson was conducting the discussion during dinner-
10 time, your Honor.

11 THE COURT: Overruled.

12 Do you have the question in mind?

13 THE WITNESS: You mean --?

14 BY MR. FITZGERALD:

15 Q Whenever Manson would walk up, then everybody
16 would be quiet; right?

17 A No.

18 Q Was there something sacred about dinner? ↓ ↓

19 A That is when everybody was together. But
20 during the day we were scattered all over.

21 Q But Manson would come in to dinner and every-
22 body would be quiet?

23 A Yes.

24 Q No one would talk?

25 A No.

26 Q They passed food around silently? ↑ ↑

6d-2

1 A Oh, there would be some kind of talking.

2 Q But never when Mr. Manson was talking?

3 A Well, yes, we talked a little bit.

4 I mean, if he was talking to everybody, then
5 nobody said -- then we sat and listened. You know, just
6 like if I was talking to someone, I'd want them to listen
7 to me.

8 Q You don't have any memory for dates at all,
9 do you?

10 A No.

11 Q If I were to ask you what you did on August 1st,
12 you couldn't tell me?

13 A No.

14 Q If I asked you about August 2nd, 3rd, 4th,
15 5th, 6th, 7th, you couldn't tell me?

16 A No.

17 Q You couldn't tell me when, on what particular
18 date, you had a particular conversation with any individual
19 at the Spahn Ranch, could you?

20 A No.

7 fls.

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7-1

1 Q Now, you testified in the case of the People of
2 the State of California versus Robert Beausoleil, did you
3 not?

4 A Yeah.

5 Q And you were asked by Mr. Salter, an attorney
6 representing Mr. Beausoleil, if you were drunk at the
7 Spahn Ranch 99 per cent of the time that you were there,
8 weren't you?

9 A Yeah.

10 Q And you answered yes, didn't you?

11 A Yeah.

12 Q What do you mean by "drunk"? Is that a
13 different word from smashed?

14 A Well, my version of drunk is -- well, I should
15 have said smashed.

16 My version of drunk is when I'm out to lunch on
17 the ground.

18 Smashed is just when I'm loaded, walking around.

19 Q Were you nervous when you were testifying in that
20 other case?

21 MR. BUGLIOSI: Argumentative, your Honor.

22 THE COURT: Overruled.

23 THE WITNESS: Yeah.

24 Q BY MR. FITZGERALD: Did you make a mistake over
25 there and use the word "drunk" when you should have used
26 the words "smashed"?

1 MR. BUGLIOSI: It's a misstatement, it seems to me
2 Mr. Fitzgerald indicated that Salter was the one who used
3 the word drunk, your Honor, and not Mr. De Carlo.

4 THE COURT: Sustained.

5 Q BY MR. FITZGERALD: Did you correct Mr. Salter
6 when he used the term "drunk"?

7 A No.

8 Q You knew what the word "drunk" meant, right?

9 A Yeah.

10 Q That is your principal avocation, isn't it?

11 MR. BUGLIOSI: That is argumentative, your Honor.

12 THE COURT: Sustained.

13 Q BY MR. FITZGERALD: You spent a good deal of your
14 life getting drunk, right, or smashed?

15 A I smoke weed, too.

16 Q You are not likely to confuse weed with
17 cigarettes, are you?

18 A No.

19 Q You could not tell us even what week, during
20 what week you had these conversations with Mr. Manson,
21 could you?

22 A No.

23 Q But there is no doubt in your mind that
24 Mr. Manson said exactly what you just testified to, is
25 that right?

26 A There is no doubt.

1 Q You've got a good memory for conversations,
2 right?

3 A I cannot remember the exact words; I could not
4 repeat the exact words to you.

5 Q What do you do, make up the words --

6 MR. BUGLIOSI: Argumentative, your Honor.

7 Q BY MR. FITZGERALD: -- when someone asks you to
8 relate a conversation?

9 MR. BUGLIOSI: Argumentative, your Honor.

10 THE COURT: Overruled. You may answer.

11 THE WITNESS: No, to the best of my knowledge --
12 I cannot repeat word for word.

13 Q BY MR. FITZGERALD: When you cannot repeat word
14 for word you use your own words to describe what some-
15 body else said, right?

16 A Yeah.

17 MR. FITZGERALD: I have nothing further.

18 THE COURT: Mr. Shinn?

19
20 RECROSS-EXAMINATION

21 BY MR. SHINN:

22 Q Mr. De Carlo, why are you testifying in
23 this trial?

24 MR. BUGLIOSI: That is too ambiguous, too broad a
25 question, your Honor.

26 MR. SHINN: Your Honor, it goes to his motive and

1 interest.

2 THE COURT: Overruled, you may answer.

3 THE WITNESS: Because he asked me to.

4 Q BY MR. SHINN: Who asked you to?

5 A Mr. Bugliosi.

6 Q When did he first ask you to testify in this
7 case, do you recall the date and time?

8 A No.

9 Q Was it last year or this year?

10 A Maybe six months ago.

11 Q And your testifying in this case has nothing to
12 do with the \$25,000 reward, correct?

13 A No.

14 Q You would not take it if they gave it to you,
15 is that correct?

16 A I told them what they can do with that money.

17 Q That has nothing to do with the charges pending
18 against you?

19 MR. BUGLIOSI: Assuming facts not in evidence. I
20 believe he said "charges pending," I don't believe there are
21 any charges pending at all, but if there are I don't know
22 where he gets the plural.

23 MR. SHINN: Criminal charges, your Honor.

24 MR. BUGLIOSI: Plural.

25 MR. KANAREK: Cross-examination, your Honor.

26 MR. BUGLIOSI: Assumes a fact not in evidence.

1 THE COURT: Overruled, you may answer.

2 Do you have the question in mind, Mr. De Carlo?

3 THE WITNESS: You asked me if I was testifying for
4 any charges.

5 Q BY MR. SHINN: No, because you had charges
6 pending against you, criminal charges pending against you
7 at the time you had a conversation with either the police
8 officers or with the District Attorney's Office, concerning
9 your testifying in this case.

10 A There was a charge against me.

11 Q One charge or two charges?

12 MR. BUGLIOSI: Your Honor, what case is he talking
13 about now? Is he talking about the Tate case? It's
14 ambiguous.

15 THE COURT: Overruled.

16 Q BY MR. SHINN: Do you know what charge was
17 pending against you at that time?

18 MR. BUGLIOSI: At what time? It's ambiguous.

19 MR. SHINN: I said already, your Honor. I believe
20 I asked him the question before when he had a conversation
21 with either the District Attorney's Office or the Police
22 Department regarding his testimony in this case, your Honor,
23 and he said yes.

24 THE COURT: It is unclear, Mr. Shinn. Reframe the
25 question.

26 Q BY MR. SHINN: You had a conversation with
either the District Attorney's Office or the Police

1 Department regarding your testimony in this case, do you
2 recall that time?

3 A I don't know what you mean.

4 Q Well, did anyone have a conversation with you
5 concerning your testimony in this case?

6 A Yeah.

7 Q When was the first conversation?

8 A Last year.

9 Q Was it before December 5th and December 8th?

10 A I don't know.

11 Q Or was it sometime in December?

12 A Yeah.

13 Q And at that time you had some felony charges
14 pending against you, is that right, Mr. De Carlo?

15 A No, not then I didn't.

16 Q You did have a receiving stolen goods charge
17 against you at that time in December of 1969

18 A I don't know.

19 Why don't you look in the record? I don't
20 know.

21 THE COURT: We will take the recess at this time,
22 Mr. Shinn.

23 Ladies and gentlemen, do not converse with
24 anyone or form or express an opinion regarding the case
25 until it is finally submitted to you.

26 The Court will recess for 15 minutes.

(Recess.)

7a-1

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

3 You may continue, Mr. Shinn.

4 MR. SHINN: Thank you, your Honor.

5 BY MR. SHINN:

6 Q Mr. DeCarlo, do you remember the charge I
7 asked you about?

8 A Yeah.

9 Q Do you recall the charge now?

10 A Yeah.

11 Q What charge was that?

12 A Grand theft of an engine.

13 Q And now that charge has been dropped?

14 MR. BUGLIOSI: Your Honor, I object unless there
15 can be some co-relation between that charge and this
16 particular case.

17 If there is none, this is improper conduct
18 on the part of Mr. Shinn, and I believe he knows it.

19 THE COURT: I did not hear the question. What was
20 the question.

21 (Whereupon the reporter reads the pending
22 question.)

23 MR. SHINN: May I be heard?

24 THE COURT: The objection is sustained.

25 MR. SHINN: May I approach the bench, your Honor?

26 THE COURT: There is no need to. The objection is

7a-2

a good one as it now stands.

Let's proceed.

MR. SHINN: No further questions.

THE COURT: Mr. Kanarek, any questions?

MR. KANAREK: Yes, your Honor.

RECROSS-EXAMINATION

BY MR. KANAREK:

Q Mr. DeCarlo, since last Friday, have you spoken to Mr. Bugliosi?

A Yeah.

Q And you have been with Mr. Gutierrez all weekend?

A Yeah.

Q You have been with law enforcement people all weekend, right?

A Yeah.

Q And since then you have spoken with Mr. Bugliosi concerning what you testified to today, right?

A Yeah.

Q Since you have been in Los Angeles have you had anything to drink?

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

THE COURT: Sustained.

BY MR. KANAREK:

Q Have you had, since you have been in Los Angeles, have you had any marijuana?

7a-3

1 MR. BUGLIOSI: That is ridiculous.

2 THE COURT: Sustained.

3 MR. KANAREK: Is your Honor sustaining that?

4 THE COURT: Sustained.

5 BY MR. KANAREK:

6 Q Now, Mr. DeCarlo, in the entire time that you
7 were at the Spahn Ranch you saw Mr. Manson, heard Mr.
8 Manson interrupted once, is that right?

9 MR. BUGLIOSI: That is a misstatement, that is not
10 what he said, your Honor.

8 fls.

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1 MR. KANAREK: Cross-examination, your Honor.

2 THE COURT: You may answer.

3 THE WITNESS: Yes.

4 BY MR. KANAREK:

5 Q Just once in the whole time that you were at
6 the Spahn Ranch; right?

7 A (Pause.)

8 Q Is that correct?

9 A Well, that is the only time I remember.

10 Q That is the only time you remember?

11 So, you are telling us now that you only
12 remember one time that Mr. Manson ever interrupted anybody?

13 A That's right.

14 Q Right?

15 A Yes.

16 Q Now, directing your attention, Mr. --

17 DEFENDANT MANSON: Your Honor, I object to these
18 questions. I have asked the man not to ask any questions.

19 THE COURT: All right, Mr. Manson, be silent.

20 DEFENDANT MANSON: He is still your attorney.

21 THE COURT: No more remarks in open court, Mr. Manson.

22 Let's proceed.

23 BY MR. KANAREK:

24 Q Mr. DeCarlo, is it a fair statement that many
25 people spoke to -- I will withdraw that -- that people
26 spoke to each other at the Spahn Ranch? That is a fair

8-2

statement, is that right?

A Yes.

Q And is it a fair statement that people spoke to each other in groups when Mr. Manson wasn't even present?

A Oh, yes.

Q Right?

A Sure.

Q Now, is it a fair statement, Mr. DeCarlo, that as you look back or try to look back to the time when you were at the Spahn Ranch, that you do not remember who participated in conversations you had?

Is that a fair statement?

A I don't know what you mean.

Q Well, directing your attention now to the time when you were at the Spahn Ranch, Mr. DeCarlo, do you remember the people that you spoke to on any particular day?

A I don't know.

Q Pardon?

A I don't know.

I don't even understand what you are trying to ask me.

Q You don't understand the question?

A No.

MR. KANAREK: May it be read, your Honor?

THE WITNESS: He can read it to me a hundred times.

8-3

1 I still don't understand.

2 THE COURT: He doesn't understand it.

3 MR. KANAREK: Very well.

4 Q Now, directing your attention, Mr. DeCarlo,
5 to the time when you were at the Spahn Ranch, is it a
6 fair statement that you don't recall who you spoke to on
7 any particular day?

8 A I know who I talked to. I talked to a lot
9 of people up there.

10 Q You don't understand this question?

11 A I don't see what you are getting at.

12 Q I am only asking you a question, Mr. DeCarlo.
13 I am not getting at anything.

14 A I don't understand the question; sir.

15 Q Directing your attention to any particular day
16 while you were at the Spahn Ranch. Do you remember who
17 you spoke to on any one day?

18 A Yes.

19 Q All right.

20 Tell us what day it was and who you spoke to?

21 A It was on a Saturday afternoon. No, it was
22 on a Saturday evening.

23 Q You spoke to whom?

24 A I spoke to Gypsy.

8a fls.

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3A-1

1 Q All right.

2 Now, tell us another time on any particular
3 date that you remember when you spoke to somebody, outside
4 of this time that you spoke to Gypsy?

5 A I still don't understand you.

6 Q Well, you understood the previous question.

7 I am only asking now for any other instances
8 other than the time that you just told us about when you
9 spoke to Gypsy?

10 MR. BUGLIOSI: I object, your Honor, on the ground
11 that this line of questioning is irrelevant.

12 THE COURT: Overruled.

13 THE WITNESS: Well, I talked to everybody every day.
14 BY MR. KANAREK:

15 Q You talked to everybody at the ranch every day?

16 A Right.

17 Q I see. But you don't remember any particular
18 day when you spoke to any particular person; right?

19 A I don't know.

20 Q Pardon?

21 A I don't know.

22 Q You don't know?

23 A No, I don't know.

24 Q I see.

25 What do you mean when you say you don't know,
26 Mr. DeCarlo?

1 MR. BUGLIOSI: That is argumentative, your Honor.

2 THE WITNESS: I don't know.

3 MR. KANAREK: Pardon?

4 THE WITNESS: I don't know.

5 BY MR. KANAREK:

6 Q What do you mean? You don't know what when
7 you say you don't know? What do you mean by that?

8 A I don't know. I remember -- I mean I don't
9 know.

10 Q Not only, Mr. DeCarlo, do you not remember
11 who you spoke to, but is it a fair statement that you
12 don't know what you discussed with any particular person
13 on any particular day? Is that a fair statement?

14 A No, I know.

15 Q Pardon?

16 A Yes, I remember.

17 Q You remember?

18 A Yes.

19 Q All right.

20 Will you tell us the days that you remember
21 speaking on any particular subject?

22 MR. BUGLIOSI: It is ambiguous, your Honor.

23 THE COURT: Do you understand the question?

24 THE WITNESS: Yes.

25 THE COURT: Overruled.

26 You may answer it.

1 THE WITNESS: Well, one night Gypsy got mad at me
2 because I wouldn't take my boots off when I made love to
3 her.

4 MR. KANAREK: All right. That is one instance.
5 Will you give us another instance?

6 THE WITNESS: Well, I remember things like that.

7 BY MR. KANAREK:

8 Q That is all you remember, really? All you
9 really remember that is pinpointed in your mind at that
10 ranch has to do with sex; right?

11 A Well, you are asking me days.

12 Q Yes.

13 A If I remember days.

14 Q Yes.

15 A On a certain day or night.

16 Q Right.

17 The only things that are really pinpointed in
18 your mind that you really remember is that you had a lot
19 of sex; right?

20 A (Pause.)

21 Q Right, Mr. DeCarlo?

22 A Yes.

23 Well, even some of that I can't remember.

24 MR. KANAREK: Right. Even some of that you can't
25 remember; right?

26 Thank you, Mr. DeCarlo.

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THE COURT: Any questions, Mr. Hughes?

MR. HUGHES: I have no questions, your Honor.

THE COURT: Anything further, Mr. Bugliosi?

MR. BUGLIOSI: No, your Honor.

THE COURT: You may step down.

MR. FITZGERALD: May I approach the bench in connection with the excusal of Mr. DeCarlo?

THE COURT: Very well.

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

3 MR. FITZGERALD: Mr. De Carlo is under subpoena by
4 myself, Mr. Shinn, Mr. Hughes and Mr. Kanarek, and I
5 wanted to approach the bench in connection with excusing
6 him as a witness.

7 He has indicated to us on his direct examination
8 and cross-examination that he lives in the State of Oregon,
9 and we may have difficulty getting him here.

10 There are materials we would like him to testify
11 to during the defense portion of the trial.

12 I personally would be amenable to Mr. De Carlo
13 being excused if he could be returned by the prosecution
14 without any difficulty.

15 I have discussed it with other counsel; other
16 counsel are not of the same mind.

17 MR. KANAREK: Yes, your Honor, my position is that I
18 have no objection, I don't wish to inconvenience Mr. De
19 Carlo or any witness, but I do want Mr. De Carlo back when
20 we need him.

21 THE COURT: Why are you telling me this?

22 MR. KANAREK: Then I will oppose his being excused.

23 THE COURT: He will be excused subject to being
24 recalled, of course.

25 MR. KANAREK: Yes, but he is going to be out of the
26 State, in Oregon.

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1 I am not interested in having to file a
2 certificate where your Honor then signs a certificate and
3 sends it to a corresponding court up in Oregon.

4 Your Honor, I am sure, is familiar --

5 THE COURT: What are you proposing?

6 MR. FITZGERALD: If I can explain the problem:

7 He is under subpoena, and there is not a consen-
8 sus of opinion on placing him on call.

9 So the defendants are going to ask that he be
10 ordered to return each day.

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

12 MR. FITZGERALD: We have in personam jurisdiction.

13 Mr. Kanarek's objection is he is afraid if he
14 leaves we will lose that jurisdiction. He is going to
15 Oregon.

16 We are having a difficult time indeed getting
17 him back to the State of California.

18 THE COURT: If he is bent on leaving, he can leave even
19 if ordered to return.

20 MR. KANAREK: The prosecution had him in custody while
21 he was here. I think if he could be put in protective
22 custody until we need him.

23 He has been given police protection or police
24 surveillance or whatever you call it to the point where we
25 cannot even talk to the man.

26 So I think that it's necessary -- I hate to do it,

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1 I don't want to do it if the District Attorney will make a
2 representation that he will be here. Otherwise, we will
3 strike all of his testimony todate, or something like that.

4 MR. BUGLIOSI: Strike all his testimony! That is when
5 you cannot cross-examine. You have had an opportunity to
6 cross-examine.

7 THE COURT: Do you have anything to say, Mr. Bugliosi?

8 MR. BUGLIOSI: Other than that, your Honor, we know
9 where he will be up there.

10 If the defense wants him we will certainly do our
11 best to get him back here.

12 I cannot make any representation that we will be
13 successful, but we will always help the defense if they want
14 a particular witness, if we can help we will.

15 THE COURT: What is the estimate? How much longer do
16 you think the People's case will take?

17 Do you have any estimate?

18 MR. BUGLIOSI: I would say about two and a half to
19 three weeks.

20 THE COURT: And do you have any estimate as to when
21 in the defendants' case you would want Mr. De Carlo?

22 MR. KANAREK: The point is, if the People will
23 guarantee his presence, I will do it at his convenience.

24 I am sure other counsel will agree.

25 I don't wish to impose upon him.

26 THE COURT: Answer my question. You did not answer my

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1 question, Mr. Kanarek; it is not unusual, but you didn't.

2 MR. KANAREK: The situation is fluid, your Honor.

3 THE COURT: You are asking me to hold him here. I am
4 trying to find out how long you are talking about.

5 MR. KANAREK: Well, we would put him on first if your
6 Honor held him here so he would be inconvenienced the least
7 amount.

8 THE COURT: I don't see how I can hold him here for
9 three weeks; by what authority?

10 MR. FITZGERALD: This is the only legal process we
11 have to hold him here.

12 We want him as a witness. There are seven counts
13 of murder here. We have got to keep him.

14 MR. KANAREK: That's right, your Honor.

15 The People have kept Mr. Hendricks in custody
16 here from Atascadero where he was supposed to be cured or
17 analyzed, for a couple of months already.

18 They have had him down here in the Los Angeles
19 County Jail.

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1 MR. KANAREK: It is a denial of due process under the
2 Federal and California law, your Honor, to --

3 THE COURT: Mr. Bugliosi, what defense counsel are
4 suggesting is that I order Mr. De Carlo to return to court
5 every day until he finally testifies for the defense and is
6 ultimately excused.

7 Is that right?

8 MR. KANAREK: Absent a guarantee.

9 THE COURT: I cannot guarantee; no one can guarantee
10 what a witness does, Mr. Kanarek.

11 MR. FITZGERALD: In other words, we are not of a mind
12 to place Mr. De Carlo on call.

13 THE COURT: I may order him to return, say, in three
14 weeks, which would seem to me to be as effective as ordering
15 him to return each day.

16 MR. FITZGERALD: All right.

17 THE COURT: It doesn't make any difference whether
18 it's an order outstanding or not.

19 MR. FITZGERALD: That is agreeable with me.

20 MR. BUGLIOSI: A safe time might be a month, a safe
21 time.

22 MR. FITZGERALD: That's all right, 30 days from today.

23 THE COURT: All right, pick a date and we will order
24 him to return on that day.

25 MR. FITZGERALD: October 21st, that is a Wednesday.

26 THE COURT: All right.

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1 MR. BUGLIOSI: Good.

2 THE COURT: Very well.

3 MR. KANAREK: Thank you.

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

6 THE COURT: Mr. De Carlo, you are excused this time,
7 but I order you to return to this court on October 21st
8 at 9:45 a.m.

9 Do you understand, sir?

10 THE WITNESS: All right.

11 MR. KANAREK: Would your Honor inquire if there is
12 going to be any difficulty in that for Mr. De Carlo, your
13 Honor?

14 THE COURT: There is no need to inquire. That is
15 what the order is.

16 The witness says he understandsthe order.

17 All right, sir, you are excused at this time.

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

19 MR. BUGLIOSI: People recall Sergeant Bill Lee.

20 THE CLERK: Be seated, sir.

21 Would you state your name, please.

22 THE WITNESS: William J. Lee, L-e-e.

23 THE CLERK: You are still under oath, sir.

24 THE WITNESS: Thank you.

25 WILLIAM J. LEE,

26 called as a witness by and on behalf of the People, having
been previously duly sworn, resumed the stand and testified

further as follows:

DIRECT EXAMINATION (CONTINUED)

BY MR. BUGLIOSI:

Q Sergeant Lee, I believe where we left off about a week ago you were testifying about shell casings, is that correct?

A Yeah.

Q And when a revolver is fired, apparently the shell casings are not automatically ejected from the chamber onto the ground, is that correct?

A Yes.

Q They remain in the chamber?

A That's correct.

Q And they have to be ejected manually?

A Yes.

Q And with a .22 caliber revolver that you were shown a week or so ago, that would also be true with that revolver, the shell casings would remain in the chamber after the revolver was fired, is that correct?

A Yes, sir.

Q And they would have to thereafter be ejected manually by the person firing the revolver or some other person?

A That's correct.

Q With firearms other than revolvers, such as automatics or semi-automatics, the shell casings are automatically ejected onto the ground after they are fired?

1 A Yes.

2 Q On the date, November the 19th, 1969, did you
3 proceed to the Spain Ranch?

4 A Would you repeat the date?

5 Q November 19th, 1969.

6 A Yes, I did.

7 Q And did you conduct a search of any particular
8 area out at the Spain Ranch?

9 A I did.

10 Q Did you find any shell casings?

11 MR. KAMAREK: Your Honor, I gather the foundational --
12 We have the objection on Foundation, is that
13 correct, your Honor?

14 THE COURT: If you make it, you have.

15 MR. KAMAREK: Well, yes, your Honor, may I
16 object on the grounds of improper foundation and the Fourth
17 Amendment rights, your Honor?

18 THE COURT: Overruled.

19 MR. SHINE: Join in the objection, your Honor.

20 MR. KAMAREK: May that be a continuing objection so I
21 need not interrupt this witness as to all of his testimony?

22 THE COURT: Very well.

23 MR. KAMAREK: Thank you.

24 Q BY MR. BUGLIOSI: Do you remember my last
25 question?

26 A Yes, it was if I recovered any shell casings.

1 The answer would be yes.

2 Q How many did you recover on November 19th,
3 1969?

4 A 22 shell casings, the number is 22, and also the
5 caliber.

6 Q 22 caliber?

7 A Yes, that is correct.

8 Q From what part of Spahn Ranch did you recover
9 the shell casings?

10 A These were in a gully area which I believe it
11 would be approximately 200 feet south or west of Mr. Spahn's
12 residence.

13 Q I show you People's 252 for identification, do
14 you know what is shown in that photograph?

15 A Yes, I do.

16 Q What is shown in that photograph?

17 A This is the gully area with some white panels
18 indicating the general area at which I located the shell
19 casings.

20 Q White panels, you say?

21 A Yes, sir.

22 Q Where are the white panels?

23 A There are two panels; one is a white panel
24 draped over a gate across the road.

25 Q The right side of the photograph here in the
26 center?

1 A Yes, sir.

2 Q What was the purpose for doing that?

3 A This is a large panel which may be viewed from
4 the air.

5 Q All right.

6 A The second was a smaller white panel made of the
7 same material, on the left side of the photograph, and this
8 is against a board fence.

9 Q People's 252, then, is a photograph actually of
10 the particular area where you found shell casings on
11 November 19th?

12 A Yes.

13 Q This photograph is a fair and accurate
14 representation of the way that area looked on November 19th?

15 A Yes, to the best of my recollection it is.

16 Q I show you People's 253 for identification. Do
17 you know what is shown in that photograph?

18 A Yes, 253 is a view of the same area, but a close-
19 up view of the location where the smaller panel is placed
20 in the preceding photograph, and I am viewed in this
21 photograph pointing to the ground, and the general area
22 where I located the shell casings.

23 Q 253 is also a fair and accurate representation of
24 the area?

25 A Yes.

26 Q On the date, April 15th, 1970, did you again go

1 to the Spahn Ranch to recover shell casings?

2 A I did.

3 Q Why did you go back again on that date?

4 A You, Mr. Bugliosi, asked me to.

5 MR. KANAREK: Object on the grounds of a conclusion,
6 your Honor, if I may.

7 THE COURT: Overruled.

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1 Q Did you recover any shell casings on April
2 the 15th, 1970?

3 A I did.

4 Q How many?

5 A 23.

6 Q What caliber?

7 A .22 caliber.

8 Q Where did you recover these shell casings
9 from?

10 A In the same general area as depicted in the
11 photograph in my previous testimony.

12 Q Sergeant, when a revolver is fired are any
13 marks left on the shell casing by the firing pin?

14 A Yes, sir.

15 Q What type of marks are these?

16 A These are compression marks which are left
17 by the firing pin striking the shell casing head, or
18 in this particular case, the rim portion of the head.

19 Q Does each firing pin leave an identifying
20 mark on the shell casing it strikes?

21 A Yes.

22 Q What part of the shell casing, the rim?

23 A In this instance, the rim.

24 Q You say in this instance. You are referring
25 to the .22 caliber revolver?

26 A Yes, sir.

10-2

1 Q Can you, therefore, identify the firearm from
2 which a shell casing came by examining the firing pin
3 marks on the shell casing?

4 A Yes, sir.

5 Q Showing you People's 40 for identification
6 again, the revolver.

7 You test fired that revolver, Sergeant?

8 A I did.

9 Q And I take it, then, you manually ejected the
10 shell casings after you fired the revolver?

11 A That is correct.

12 Q Did you examine the rim of the shell casings?

13 A I did.

14 Q Did you ever make a comparison of the firing
15 pin marks on the test fire shell casings with the firing
16 pin marks on the shell casings found at Spahn Ranch?

17 A I did.

18 Q Did you form any opinion as a result of your
19 comparison?

20 A Yes, sir.

21 Q What opinion did you form?

22 MR. KANAREK: I will object, your Honor, on the
23 ground that there is an improper foundation at this point.
24 The best evidence is not before the court from which this
25 opinion could be made.

26 THE COURT: Would you care to explain what you mean

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1 by that, Mr. Kanarek?

2 MR. KANAREK: Yes, your Honor.

3 In that the officer has not brought us any
4 photographs, he hasn't brought us any exhibits.

5 THE COURT: He is being asked for an opinion.

6 MR. KANAREK: I understand. But it is my position
7 that the foundation is not there for the opinion absent
8 the fundamental showing of the best evidence, which is,
9 namely, going through and putting up the exhibit and showing
10 us what he did, how many shots he fired; something along
11 that line.

12 THE COURT: Overruled.

13 BY MR. BUGLIOSI:

14 Q Did you form an opinion as a result of your
15 comparison? ↓ ↓

16 A Yes, I did. T T

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Q What opinion is that?

A It is my opinion that four of the shell casings that I recovered on 11/19/69 were fired from this particular revolver.

Q People's 40?

A People's 40.

And eleven of the shell casings I recovered on April the 15th, 1970, were fired from People's 40, the .22 caliber revolver No. 1902708.

Q Would you tell the jury in detail the examination you conducted which was the basis of your opinion.

A Yes.

The test consisted of recovering the test fired shell casings. This was after I had fired the bullets into a water recovery tank.

I then manually unloaded the firearm and obtained my test shell casings.

I, at that time, utilized the comparison microscope again. This is, in essence, the two microscopes with the common prism bridge so that I can see both microscope stages by viewing through one set of ocular eye pieces.

I placed one test shell in an iris so that the head was visible on the left stage. I took an evidence shell casing from that which I recovered from the Spahn Ranch and I placed it in an iris which I placed on the

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1 right-hand stage.

2 I was able to view both of the shell casings
3 at the same time, and by rotating the irises and manipulating
4 my focus, I was able to look at both images in juxtaposi-
5 tion or next to each other and determine their markings
6 as related to one another.

7 Q You found, then, a total of 45 shell casings
8 on November the 19th, 1969, and April the 15th, 1970;
9 is that correct?

10 A That is correct.

11 Q And out of those forty-five, you say, 15 you
12 positively identify as being fired from this revolver,
13 People's 40; is that correct?

14 A Yes.

15 Q Were there any characteristics on the remain-
16 ing thirty shell casings which would rule out the possibility
17 that they were fired from People's 40?

18 MR. KANAREK: Calling for conjecture, your Honor.

19 THE COURT: Overruled.

20 THE WITNESS: Yes.

21 The other shell casings appeared to be fired
22 from different weapons.

23 MR. BUGLIOSI: Okay.

24 BY MR. BUGLIOSI:

25 Q I show you People's 249 for identification,
26 two live cartridges and seven shell casings.

1 Have you ever seen those seven shell casings
2 before?

3 A Yes, sir, I have.

4 Q Did you ever examine the firing pin marking
5 on these seven shell casings?

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6 A I did.
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1 Q Did you ever compare the firing pin marks on
2 the seven shell casings with the test fire shell casings
3 from People's 40?

4 A I did.

5 Q Did you form any opinion as a result of your
6 comparison?

7 A Yes, sir.

8 Q What is that opinion?

9 A My opinion is that the seven shell casings in
10 front of me were fired from People's 40.

11 MR. BUGLIOSI: No further questions.

12 MR. FITZGERALD: No questions, your Honor.

13 THE COURT: Mr. Shinn, any questions?

14 MR. SHINN: Yes, your Honor.
15

16 CROSS-EXAMINATION

17 BY MR. SHINN:

18 Q Mr. Lee, you talked about these lands and
19 grooves in a barrel of a rifle or pistol.

20 A Yes, sir.

21 Q These lands and grooves, what are they actually?

22 A They are a portion of the surface of the gun
23 barrel.

24 A gun barrel originally has a hole drilled
25 through it which is then reamed and smoothed to an approxi-
26 mate caliber.

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1 Within this, then, we have a portion of the
2 metal cut out which forms grooves, or grooves cut into the
3 reamed barrel.

4 The portion remaining which has not been cut
5 away is called the land, and the portion which has been
6 cut away is the groove.

7 Q In other words, the grooves are indented; is that
8 correct?

9 A Yes, sir.

10 Q And when you look at a barrel of a pistol or
11 rifle, it spirals; is that correct?

12 A Yes.

13 Q In other words, it spirals either to the left or
14 to the right?

15 A Yes, sir.

16 Q And did you, yourself, Mr. Lee -- your Honor, may
17 I approach the witness?

18 THE COURT: Yes.

19 MR. SHINN: Q Directing your attention to this
20 Exhibit 40, Mr. Lee. Did you examine this gun thoroughly?

21 A Yes.

22 Q And did you examine the barrel of this pistol?

23 A I looked down the barrel.

24 Q How did you look down the barrel?

25 A Excuse me.

26 (The witness breaks open the gun and demonstrates.)

1 THE WITNESS: By placing my thumb into the receiver
2 end and looking down the gun barrel. (Demonstrating.)

3 MR. SHINN: Q Now, did you use any mechanical
4 device or microscope to examine the lands and grooves of
5 this particular pistol?

6 A No, sir.

7 Q Then how did you arrive at six lands and grooves?

8 A I test fired a bullet and counted them on the
9 bullet.

10 Q Did you look at this pistol for imperfections?

11 A No, I did not take the weapon down from its
12 original -- I didn't take the slide apart or anything else.

13 I noted some imperfections from a new weapon.

14 Q But you did not yourself examine the inside of
15 this barrel to determine whether or not there was any
16 imperfections; is that correct?

17 A You mean, the actual bore surface?

18 Q Yes. Inside?

19 A No, I did not.

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1 Q Was this gun, by examining this gun now, was
2 it in the same condition when you received it?

3 A Yes, sir.

4 Q When did you receive it?

5 A I first observed this gun December the 16th,
6 1969.

7 Q Someone brought you this gun?

8 A No.

9 Q Where did you see the gun?

10 A I got it out of the Police Department Central
11 Property Division.

12 Q And when did you take it to your lab to test
13 fire it?

14 A Well, I took it up to the lab on the 16th of
15 December, but before test firing it I turned it over to
16 Manuel J. Granado.

17 Q And did you observe what he did with this gun?

18 A No, I did not.

19 Q When did you fire this gun?

20 A The next day, December the 17th, 1969.

21 Q And examining this gun closely now, did you
22 state that it is in the same condition?

23 A Yes.

24 Q Was the barrel loose at that time?

25 A It was.

26 Q And you did fire this particular gun?

10c-2

1 A Yes, sir.

2 Q Now, was it dirty at the time you saw this
3 gun, when you first got this gun?

4 A In what regard dirty, Mr. Shinn?

5 Q I will withdraw that question and ask you this.
6 Did someone tell you, or did you know, that
7 this gun was exposed to the elements for approximately
8 two or three months?

9 When I say "the elements," I mean out in the
10 sun, the rain, the dew, the dirt.

11 Did you know that, Mr. Lee?

12 A I didn't know it of my own knowledge, but I
13 had heard that it was found. I didn't know where it was
14 found.

15 Q You had knowledge that it was found out in the
16 open?

17 A I didn't really know where it was found,
18 Mr. Shinn.

19 Q Well, now, do you know where it was found?

20 A No, sir.

21 Q No one has told you that this gun was found
22 out in the open? Is that your testimony?

23 A That would be my testimony.

24 Nobody ever told me where it was actually
25 found. I really don't know where it was found.
26

1 Q Now, did you ever make a report on this gun
2 that was handed to you? At a later time, did you make a
3 report on this gun?

4 A Yes, I believe I did.

5 Q How many reports did you make?

6 A Oh, regarding the firearms, I probably made
7 five, six reports. Four or five or six reports, something
8 like that.

9 Q Did someone else hand you a report on this
10 particular gun?

11 A I did see a form regarding this particular
12 weapon.

13 Q Now, do you have these reports with you, or
14 are they available?

15 A I have some of my carbon copies.

16 Q And do you have a report, say, of the person
17 that found this gun?

18 A No, I don't have.

19 Q Do you know who found this gun?

20 A No, I don't.

21 Q Now, assuming this gun was found out, say,
22 in the open where it was dirty, and out in the elements
23 for two or three months. Would that affect the imperfec-
24 tions in the gun?

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1 MR. BUGLIOSI: I object, your Honor. It is not
2 based on the evidence. It is a hypothetical that is not
3 based on the evidence.

4 The evidence, I believe, is that it was found
5 on September the 1st, if I am not mistaken.

6 THE COURT: Sustained.

7 MR. SHINN: Q Assuming, Officer, that a similar
8 gun like Exhibit 40 here was exposed to the elements for
9 two or three months. In your expert opinion, would that
10 affect, have some effect, on the imperfections?

11 MR. BUGLIOSI: Same objection, your Honor.

12 THE COURT: Sustained.

13 MR. SHINN: Your Honor, I am only asking for his
14 opinion, your Honor.

15 THE COURT: Objection sustained.

16 MR. SHINN: Q Officer, if the gun was exposed to
17 the elements for two or three months, in your opinion,
18 would it affect the imperfections in the gun?

19 MR. BUGLIOSI: Same objection.

20 THE COURT: Sustained.

21 MR. SHINN: Your Honor, may I be heard on this matter,
22 your Honor?

23 THE COURT: Yes.

24 MR. SHINN: I believe this witness is qualified as
25 an expert ballistics man.

26 MR. KANAREK: I would not want to stipulate to that,

1 your Honor, that last statement of Mr. Shinn.

2 MR. SHINN: He is well qualified.

3 THE COURT: No one has asked you to, Mr. Kanarek.

4 MR. KANAREK: Very well.

5 MR. BUGLIOSI: The further objection, your Honor, is
6 that his testimony would be irrelevant if he did answer the
7 question. It wouldn't pertain to that gun.

8 THE COURT: The objection is sustained.

9 Let's proceed.

10 MR. SHINN: Q Now, would the fact that a different
11 type of a bullet was fired than the one that you are
12 comparing it with, Mr. Lee, would that have any effect
13 on the comparison?

14 MR. BUGLIOSI: That is ambiguous, irrelevant, and
15 also not based on the evidence, your Honor.

16 THE COURT: Read the question.

17 (The question was read by the reporter.)

18 THE COURT: Overruled.

19 You may answer.

20 THE WITNESS: I really don't know if I understand the
21 question, Mr. Shinn.

22 MR. SHINN: All right. Let me clarify it, then.

23 Q You testified that you compared a bullet that
24 you fired from this gun with the bullets, I believe, that
25 were the Sebring bullets; is that correct?

26 A Yes.

1 Q You made a comparison; is that correct?

2 A Yes.

3 Q And you stated that you fired a bullet from this
4 revolver and you compared these two bullets; is that
5 correct?

6 A That is correct.

7 Q Now, my question is: If you fired the test bullet
8 which is a different type of a bullet from the Sebring
9 bullet, would your comparison be different?

10 A I don't know what you mean. As far as a different
11 type of bullet that I fired?

12 Q Yes.

13 A In what manner?

14 Q Let me ask you this --

15 A What type of bullet?

16 Q Are there different types of .22 bullets?

17 A Yes.

18 Q Various types; right?

19 A Yes.

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1 Q What are the different types of .22 bullets
2 that you could fire from this revolver?

3 A Different lengths and different like lead
4 and coated.

5 Would that be sufficient?

6 Q Yes.

7 How about, do they have other types of bullets
8 besides lead bullets?

9 A Yes, they do.

10 Q What kind of bullets are they?

11 A Gallery loads, which are compressed iron.

12 Q How about the mini load for .22's?

13 A Well, the .22 is the caliber. There is a
14 cartridge called the mini-mag.

15 Q Yes?

16 A Well, that is very similar to the ones that
17 I test fired in here. That is simply a coated bullet
18 manufactured by CCI in Idaho.

19 Q My question was: If you fired a different type
20 of a bullet from the Sebring bullet, your comparison would
21 not be the same, would it?

22 A If I fired a lead or iron bullet?

23 Q Yes.

24 A Or the one that I did fire?

25 Q Let me ask you this: What type of bullet did
26 you fire in your test?

10e-2

1 A I fired a Remington coated bullet similar to
2 the one that Mr. Sebring was shot with.

3 Q Well, what kind of a bullet is that? A long?
4 A short? A long-rifle? A mini-mag, or what?

5 A Well, the mini-mag is just a term, and the
6 bullet Mr. Sebring was shot with was a 40-grain bullet,
7 which is a .22 long-rifle.

8 My test fire was also a .22 long-rifle coated
9 bullet.

10 Q Well, did you determine the vintage of the
11 bullet from the Sebring bullets?

12 A No, I did not.

13 Q Don't you think that the vintage has something
14 to do with the markings and the testing of the two bullets?

15 A Not necessarily.

16 Q Well, to a certain degree?

17 A Not necessarily.

18 Q Well, to a certain degree it may make a
19 difference; is that correct?

20 A Well, it may. It may.

21 Q Now, you testified that you compared these two
22 bullets, the test bullet and the Sebring bullet; correct?

23 A Yes.

24 Q Now, did you look at, examine, the whole
25 circumference of the bullet?

26 A Yes.

1 Q The Sebring bullet first?

2 A Yes.

3 Q The whole circumference?

4 A Yes.

5 Q And do you have a record of that in your
6 office?

7 A I have it in my pocket.

8 Q May I see it?

9 THE WITNESS: Yes.

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

11 THE COURT: Yes, you may.

12 THE WITNESS: First of all, I have a record of when
13 I received the bullets from the Coroner's Office, and on
14 page 2 of this yellow sheet I state -- do you wish me to
15 read from this report or do you want to just see it?

16 MR. SHINN: May I look at it first, your Honor,
17 before he reads it?

18 THE COURT: Yes.

19 (Pause while Mr. Shinn looks at the document.)

20 MR. SHINN: Your Honor, may I take this up later?
21 I will go into some other questions. So I will have time
22 during the recess to digest this.

23 I will withdraw my last question and come
24 back to this later if I may.

25 THE COURT: Very well.

26

1 BY MR. SHINN:

2 Q Now, getting back to these imperfections,
3 Mr. Lee. You call them what? The imperfections that leaves
4 markings on the bullet.

5 A Yes?

6 Q You call them what, stria?

7 A Yes.

8 Q And under the microscope, is it possible that
9 under a microscope there may be hundreds of strias, markings?

10 A It is possible, yes.

11 Q And under electronic devices, may be thousands;
12 is that correct?

13 A I don't know that you can see them all at
14 once.

15 Q I mean, if you ever looked at the whole circum-
16 ference of the bullet electronically, there are thousands
17 of stria; isn't that correct?

18 A I don't know that there would be thousands,
19 but several.

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AK-1

1 Q Several thousands?

2 A No, I don't think so, Mr. Shinn.

3 Q Did you ever test a bullet electronically?

4 A I have seen enlargements of electronic micro-
5 scopes, but not bullets.

6 Q But you know they do test bullets electronically?

7 A No, I don't.

8 Q You don't know that?

9 A No, I don't.

10 Q How about by computer?

11 A Not to my knowledge.

12 Q Now, you stated that you examined the bullets --
13 Sebring's bullet hole circumference, is that correct?

14 A Yes.

15 Q You did take a picture of this?

16 A No.

17 Q You did not take a picture?

18 A No.

19 Q Did you take any notes regarding each striation
20 or the markings of the imperfections of the Sebring bullet?

21 A No.

22 Q Is there a reason for that?

23 A I never do.

24 Q Isn't it true, officer, that in many cases a
25 ballistic expert brings in pictures of the two bullets for
26 comparison for the jury and the Court to see?

11-2

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

2 THE COURT: Sustained.

3 Q BY MR. SHINN: Well, have you ever introduced
4 pictures comparing two bullets in the past?

5 A I don't recall ever doing that, no.

6 Q Where is this record of the Sebring bullet, do
7 you have it with you?

8 A On the paper where I show that I have made a
9 comparison.

10 Q Are you referring to this two yellow-page sheet
11 handwritten --

12 A I also have some additional carbons of my
13 reports.

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

15 THE COURT: You may.

16 MR. SHINN: I will withdraw the last question,
17 your Honor.

18 Q BY MR. SHINN: Now, these imperfections you
19 testified to, maybe hundreds sometimes, is that correct?

20 A Sometimes.

21 Q As long as you use the gun, isn't it possible
22 that some of these imperfections disappear?

23 A It is possible.

24 Q Now, these imperfections, what are they, pits,
25 and little -- would you call them?

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11-3

1 A Protrusions.

2 Q Like little nipples?

3 A They would be imperfections, yes.

4 Q It would be either by indentations or by --

5 A Protrusions.

6 Q Protrusions.

7 And the more you fire, it may possibly erase
8 the protrusions eventually, isn't that correct?

9 A Eventually it may, or some of them.

10 Q Yes, and then because of non-use, and exposure
11 to the elements, new imperfections could be made, is that
12 possible?

13 A It is possible but not necessarily.

14 Q And isn't it also true that if new -- say you
15 purchase a brand new gun, you fire the first bullet.

16 If you compare that with the gun with 500 shots,
17 you compare those two bullets from the 500th shot and the
18 first bullet, it would be different, isn't that correct?

19 A No, sir, it would not be correct.

20 Q Are you saying by firing bullets from this gun,
21 it would not erase some of the imperfections?

22 A Not necessarily 500 shots, depending on many,
23 many factors.

24 Q How about a thousand shots, then?

25 A Not necessarily.

26 Q When you say, "Not necessarily," you mean it is

1 possible, is that correct?

2 A It is possible what, Mr. Shinn?

3 Q It is possible to erase maybe some of the
4 imperfections?

5 A Some of them?

6 Q Yes.

7 A Yes.

8 Q Is that correct?

9 A Yes.

10 Q And you take 5,000 shots, the imperfection may
11 be altogether different from the first shot if you compare
12 them, is that true?

13 A I don't know if I would go so far as to say
14 altogether, but I have never looked at one after having
15 5,000 shots fired through it.

16 Q I am asking you if it is possible.

17 Is it possible?

18 A I would say it is possible.

19 Q Now, examining the circumference of a bullet
20 for stria, what percentage is needed in comparison with
21 another bullet to say that possibly the bullet has been
22 fired from the same gun?

23 A No definite percentage.

24 Q There is no standard?

25 A No, sir.

26 Q Would 10 per cent be enough to make the comparison?

1 A It very well could be, yes.

2 Q In other words, it is not that exact of a science,
3 is that correct?

4 A Well, it is not the science involved; it is the
5 markings which are present.

6 Q And your testimony is that in some instances
7 10 per cent is sufficient?

8 A Yes.

9 Q And you can disregard the other 90 per cent of
10 the circumference of the bullet?

11 A Yes.

12 Q Now, you talked about the shell casings, correct?

13 A Yes, Mr. Shinn.

14 Q And you identified a casing --

15 I believe you identified two shell casings,
16 one at the Spahn Ranch and one from this gun, is that
17 correct?

18 A I talked about some of those, yes.

19 Q And I believe you testified that by looking at the
20 shell casing --

21 A Yes.

22 Q -- where the fire pin hit the shell casing --

23 A Yes.

24 Q -- you determined that those two shells came
25 from the same gun, is that correct?

26 A Yes, sir, it is.

Q Now, what kind of a marking did it leave?

A This is a compression marking by the hammer or firing pin striking the rim of the .22 shell casing.

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11a-1

1 Q And on the basis of that only you testified
2 that it came from the same gun, fired from the same gun?

3 A Yes.

4 Q Did you make a comparison on the impact of
5 that shell casing when the shell was fired?

6 A That is where the impact forms, at the hammer
7 or firing pin, that's correct, yes.

8 Q Doesn't the shell bounce back into the revolver
9 when it is fired?

10 A It hits, yes, and explodes with the hammer.

11 Q All right, now, what do you call that part
12 where it hits back?

13 A The recoil.

14 Q Yes.

15 A Yes.

16 Q Does it leave an impression on the shell at
17 that time?

18 A Depending on the type of gun. In this it
19 did not double strike.

20 Q In other words, the only marking left by this
21 gun was that hammer mark, is that your testimony?

22 A There may be slight traces of the recoil pad,
23 which I did not take into consideration.

24 Q Didn't you think that was important?

25 A No.

26 Q Why?

11a-2

1 A It is not important. The markings which may
2 have appeared were not of sufficient volume, not of
3 sufficient clarity or any other consideration for me to
4 determine whether they were fired from this particular
5 weapon or not.

6 Q Well, then, let me ask you this:

7 Did you compare a shell fired from a similar
8 gun as this gun, another Longhorn .22 Buntline High
9 Standard?

10 A I did not.

11 Q You did not?

12 A No.

13 Q Then for all you know all these guns may leave
14 the same impression on this shell, isn't that correct?

15 A No, it is not.

16 Q Officer, you just stated you did not make any
17 comparison with other guns similar to this?

18 A That's correct.

19 Q How do you know it doesn't leave the same
20 marks on the shells, then?

21 A Because of my experience, the fact that I have
22 never seen two markings from the same weapon -- from
23 different weapons leave the same marking.

24 No two things are exactly the same in nature.

25 Q You have not compared these -- a type of gun
26 like this, a similar type of gun like this to this gun,

11a-3

1 is that right, Officer?

2 A The test firing?

3 Q Yes.

4 A Yes.

5 Q To determine whether or not it leaves the same
6 mark on the shells?

7 A That's correct.

8 Q So you don't know whether or not it may be the
9 same markings, is that correct?

10 A I do know it would not.

11 Q How do you know it would not?

12 A Because I have never seen a duplicate.

13 Q Describe the markings you found on this shell
14 casing --

15 A Yes.

16 Q -- wait a minute now -- from the one you found
17 on the ranch.

18 A You want me to describe the markings on the
19 shell casing I found at the ranch?

20 Q Yes, as compared to the one you found in this
21 gun.

22 A They were similar.

23 Q In what manner were they similar?

24 A The indentations in the firing pin marks had
25 the same configuration.

26 MR. SHINN: Excuse me, your Honor, may this witness go

1 to the board and draw a diagram in comparison, your Honor?
2 I think we would understand it more clearly if we see a
3 diagram, your Honor.

4 Do you have any objection?

5 MR. BUGLIOSI: No.

6 THE COURT: He may if he is able.

7 MR. SHINN: What was that?

8 THE COURT: He may if he can do so.

9 MR. SHINN: Would you draw a diagram of these two
10 shell casings?

11 THE COURT: It is almost 12:00 o'clock, I think we'd
12 better put this over until this afternoon.

13 Ladies and gentlemen, do not converse with
14 anyone or form or express an opinion regarding the case
15 until it is finally submitted to you.

16 The court will recess until 2:00 p.m.

17 (Whereupon the court stood in recess until
18 2:00 o'clock p.m.)
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