

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 106

HON. RAYMOND CHOATE, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

CHARLES MANSON,

Defendant.

126
No. A-267861

OPENING STATEMENT

REPORTERS' DAILY TRANSCRIPT

Tuesday, August 3, 1971
Wednesday, August 4, 1971

VOLUME 26APPEARANCES:

For the People:

JOSEPH P. BUSCH, JR., District Attorney
BY: ANTHONY MANZELLA
Deputy District Attorney

For Defendant Manson; IRVING A. KANAREK, Esq.

KRELL

FARLEY

IRWIN

KATSUYAMA

PIET

WHITELEY

HOFSTADTER

COPY

MARY LOU BRIANDI, C.S.R.
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Official Court Reporters

I N D E XPEOPLE'S WITNESSES: DIRECT CROSS REDIRECT RECROSS

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ERWIN, Michael	4085			
PIET, Paul	4094	4100	4101	
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KATSUYAMA, David M.	4178			

E X H I B I T SPEOPLE'S: FOR IDENTIFICATION IN EVIDENCE

1 - 3 colored photos of Fiat automobile	4081
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3 - Gary Allen Hinman's driver's license No. J 359906	4082
4 - Portrait photograph	4082
5 - 6 color photos	4088
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E X H I B I T S

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1 LOS ANGELES, CALIFORNIA, TUESDAY, AUGUST 3, 1971 9:50 A.M.

2 - - - -

3
4 THE COURT: Will all the jurors in the Manson case talk
5 to the bailiff here, and double check to see that your license
6 plate, the type of your car, is properly listed?

7 The Court has found some parking places for you,
8 and I'll tell you where that is. I'll tell you where that
9 is, in just a while. We are not going to be able to try the
10 case today. The Court is starting another matter -- in
11 addition, there are other reasons why the case can't start
12 today. So we'll have to start tomorrow morning.

13 I don't want to keep you sitting around here in
14 this heat, when you could get back to your -- perhaps some
15 place that's cooler. I'll talk to you in a few minutes.

16 (Proceedings had on unrelated matters.)

17 THE COURT: In the case of People vs. Manson? All the
18 jurors are here?

19 THE BAILIFF: Yes, sir, they are.

20 THE COURT: Let's see. Excuse me. I have a note as to
21 where that parking lot is.

22 In the case of People vs. Manson, all the jurors,
23 the record should show, and the alternates are present.

24 The Court's been informed that the defendant this
25 morning is undergoing some dental work, and that presumably
26 is in progress at the moment.

27 In addition, this Court is engaged in some other
28 work, which it undertook yesterday; and accordingly, the case

1 would not be able to start this morning.

2 For those reasons, I see no reason in continuing
3 it until this afternoon, because as I understand, Mr. Manzella
4 and the Clerk -- the Clerk is still working on some exhibits
5 with you, --

6 MR. MANZELLA: Yes, your Honor.

7 THE COURT: -- numbering the exhibits?

8 MR. MANZELLA: Yes, your Honor.

9 THE COURT: Accordingly, the Court conveyed these
10 facts to Mr. Kanarek, who called via telephone and indicated
11 he was in Van Nuys some place, about 9:25 -- or 9:20.

12 And the Court told him that it would trail the
13 matter until tomorrow morning, and Mr. Kanarek consented to
14 trailing it until tomorrow morning. And I have ordered him
15 to return at 9:30 tomorrow morning, then.

16 And the Court will do likewise with all of you
17 jurors. Would you take note of the arrangements that I've
18 made? You are to -- you are to have parking facilities in
19 the northwest -- in parking lot 24. It's referred to as
20 parking lot 24. That's how the County designates it.

21 It's the northwest corner of Temple and Hill. I
22 thought that might be closer for you than any other lot that
23 you might ordinarily have parking in.

24 And you'll have those parking facilities
25 available to you during the course of the trial. Be sure
26 that the -- the bailiff has your correct license number of
27 the car you'll intend using. They may be giving you a
28 sticker or something of that nature, so that you can get in

1 and out of the lot.

2 I would hope that the arrangements can be made
3 so that you won't have any delay in parking there tomorrow
4 morning. But knowing how things work around here, I cannot
5 guarantee that to you.

6 We'll just do our best to see that there is some
7 liaison between this Court and that parking lot, so that you
8 won't be delayed.

9 That's about all I want to tell you this
10 morning, except to tell you that --

11 (Whereupon, a discussion off the record
12 ensued at the bench between the Court and the
13 bailiff.)

14 THE COURT: Tomorrow morning, when you come in, and
15 each morning when you come hereafter to this courtroom, if
16 you'll gather out in front, the bailiff will see that you are
17 taken to the jury room, the jury deliberation room, over
18 103, Department 103, wherever that may be.

19 And you can remain together in that place.
20 There's a -- presumably an air conditioner there, and it
21 might be a little more comfortable than the hallway, or
22 even in this courtroom.

23 Remember the admonition that I've given you, and
24 the admonition, of course, is that you are not to converse
25 amongst yourselves nor with anyone else, nor permit anyone
26 to converse with you on any subject connected with this
27 matter, nor are you to form or express any opinion on the
28 matter until it is finally submitted to you.

1 You are not to view, to hear, to see any
2 publicity in connection with this case.

3 Try to be punctual during the course of this
4 trial. The Court may not be able to start on time, but if --
5 at least, if every day, at the time that we are supposed to
6 start, you are available, then it will keep us from having
7 any appreciable delays.

8 And the Court will ask both counsel to likewise
9 be punctual, and keep the hours that are set, so that we can
10 move along.

11 I still anticipate that we will be dark between
12 the 23rd of August and -- through the 6th of September.

13 All right. Any questions from any of the jurors,
14 now?

15 All right. The matter, then, in the case of
16 People vs. Manson is trailed until tomorrow morning at 9:30.
17 And I'll see you all then.

18 (Whereupon an adjournment was taken until the
19 following day, Wednesday, August 4, 1971, at 9:30
20 o'clock a.m.)
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1 LOS ANGELES, CALIFORNIA, WEDNESDAY, AUGUST 4, 1971, 9:55 A. M.

2
3 THE COURT: All right, the record will show Mr. Manson
4 to be present with Mr. Kanarek, Mr. Manzella in chambers.

5 Mr. Manson, the Court talked with the dentist
6 yesterday who is now working in the County Jail dental office,
7 and his name is Otero, Dr. Otero. He's not the one that
8 examined you before. And he indicated to me yesterday that
9 although an appointment had been made, that you did not want
10 to proceed with him but wait until the other dentist --

11 THE DEFENDANT: Well, I entered into an agreement with
12 the other man.

13 THE COURT: I see.

14 What I am inquiring about, are you in pain?

15 THE DEFENDANT: I don't know any pain.

16 THE COURT: Or discomfort?

17 THE DEFENDANT: No, I don't know any discomfort either.

18 THE COURT: All right. I just wanted to check on it.

19 Now, I indicated to you before that during the
20 period from August 23rd to September 6th, that dental work
21 could be done. This doctor whom you had made arrangements
22 with will not be back until the 30th of August; understand
23 that? So it will be the 30th of August before the work will
24 be done.

25 But the doctor yesterday indicated that from the
26 look at the records that apparently it was nothing of urgency.
27 There is no infection that would cause you any complications.

28 Is that what you understood from the first dentist?

1-2 1 THE DEFENDANT: Yes. I never got a chance to speak to
2 the Court, you see, many times there's been many misunder-
3 standings.

4 THE COURT: I think, then, that from what they told me
5 that they would be prepared to begin that work, then, on the
6 30th day of August from the first day --

7 THE DEFENDANT: It is not that important then, either.
8 This, I imagine, is wholesale preference.

9 THE COURT: Now, Mr. Kanarek, you said you wanted the
10 reporter here so --

11 MR. KANAREK: Yes. Your Honor promised us, and I'm
12 sure your Honor will live up to it, that we could have a
13 meeting with Steven Grogan -- your Honor mentioned Tuesday --
14 with Steven Grogan and Mr. Manson and Mr. Davis. I just
15 wondered if your Honor did recall?

16 THE COURT: Yes.

17 MR. KANAREK: Would your Honor implement that by making
18 the appropriate order, so that County -- we would do it at the
19 convenience of the Sheriff.

20 THE COURT: The 10th, Tuesday the 10th.

21 MR. KANAREK: Well, today is the -- could we have it
22 sooner? Let's see, today is the 4th.

23 THE COURT: The 4th.

24 MR. KANAREK: Could we have it -- if your Honor made it
25 in the interim, a period during which it could take place,
26 the Sheriff -- we could work it out, the precise date, at
27 the convenience of the Sheriff, and Mr. Weedman, and Mr. Denny,
28 and the convenience of Judge Call, rather than a precise day.

1 If your Honor could do it that way. I don't know what there --

2 THE COURT: Well, we have to give the Sheriff some time
3 limitation. Let's say between now and the 10th day of August
4 the Sheriff is to permit a conference from 7:00 until 9:00
5 o'clock between defendants Manson, Grogan and Davis, and the
6 respective counsel, in the County Jail. The exact time to be
7 arranged by the attorneys involved and the officers in the jail.

8 MR. KANAREK: That's correct.

9 THE DEFENDANT: Ask him about the witnesses.

10 MR. KANAREK: Yes, your Honor, what is the status of --
11 your Honor has ordered Mr. Beausoleil?

12 THE COURT: The Court has ordered that Mr. Beausoleil
13 be brought to the Los Angeles County Jail for interview.

14 MR. KANAREK: When would that take place, your Honor?

15 THE COURT: I have forgotten the date you asked for.

16 THE DEFENDANT: Two weeks ago.

17 MR. KANAREK: I think it is past, if I am not mistaken.

18 THE COURT: No, it was August sometime, if I am not
19 mistaken.

20 MR. KANAREK: I can check it.

21 THE COURT: Check it, and if he has not been brought here,
22 then let me know that.

23 MR. KANAREK: Okay.

24 THE COURT: And the Court will follow through with you
25 in seeing that Mr. Beausoleil be made available to you.

26 THE CLERK: To my best recollection, I think it was
27 next week.
28

1 THE COURT: My recollection is that it was in the second
2 week in August.

3 MR. KANAREK: Yes, your Honor.

4 THE COURT: We are about to begin this trial. There's
5 probably no need to recount the rules. If you have any objections,
6 make the objections. State the objection on legal grounds.
7 Don't argue them, unless the Court grants you permission to
8 argue them, and then only at the bench.

9 In connection with cross examination, the Court
10 has indicated to you, Mr. Kanarek, before that it has no wish
11 to restrict proper cross examination. But as I have indicated
12 to you before, the Court believes that it's well to plan cross
13 examination, so that you achieve your best effect, and so that
14 you don't delay the Court.

15 THE DEFENDANT: Your Honor? This Davis woman is being
16 allowed to act as co-counsel.

17 THE COURT: Who?

18 THE DEFENDANT: Angela Davis.

19 THE COURT: Yes?

20 THE DEFENDANT: And it strikes my mind as being a
21 strange move on your part, to let a woman act as her own
22 counsel, but then a man to keep quiet.

23 THE COURT: It's -- that was the judgment of an
24 individual judge, and I haven't --

25 THE DEFENDANT: You all aren't one?

26 THE COURT: And I haven't any idea what Judge Arnason
27 had in mind in doing that.

28 I don't know anything about the facts, the facts

1 that entered into his judgment in making such a judgment.

2 THE DEFENDANT: I know that --

3 THE COURT: You are making a motion to be allowed to --

4 THE DEFENDANT: It's a constant motion.

5 THE COURT: Well, it's a constant denial.

6 THE DEFENDANT: Then it's just a matter of where it
7 breaks off. I don't wish to do that with you, but -- I'm going
8 to sit down.

9 THE COURT: I can't say I understand that. But there's
10 no reason in the Court's opinion to change its ruling --

11 THE DEFENDANT: There must be someone among --

12 THE COURT: -- heretofore made.

13 THE DEFENDANT: There must be somebody up there some-
14 where. It couldn't be a -- just an open sky. There must be
15 someone.

16 THE COURT: Incidentally, we are starting the trial now,
17 and the Court has suggested to you before that, if you can keep
18 from interrupting the proceedings, it would certainly, in the
19 Court's opinion, be to your advantage.

20 THE DEFENDANT: I can get six gas chambers or seven?
21 Just like: How many times can you kill a dead mouse?

22 THE COURT: Anything further, gentlemen?

23 MR. KANAREK: No, your Honor.

24 MR. MANZELLA: No, your Honor.

25 THE DEFENDANT: You've seen my good side.

26 THE COURT: All right. Let's go out in the court-
27 room, then, and begin.

28 (Whereupon, the following proceedings were

1 had in open court, within the presence and hearing of the jury:)

2 THE COURT: Good morning, ladies and gentlemen.

3 THE JURORS: Good morning, your Honor.

4 THE COURT: The case of People versus Manson. The record
5 will show that Mr. Manson is present; all of the jurors and
6 alternates are present.

7 Off the record.

8 (Whereupon, a discussion off the record was had.)

3 fls.

3-1

1 THE COURT: Back on the record.

2 Mr. Kanarek is present for the defendant.

3 Mr. Manzella for the People.

4 Both sides ready?

5 MR. MANZELLA: People are ready, your Honor.

6 MR. KANAREK: Yes, your Honor.

7 THE COURT: Does the defendant waive reading of the
8 indictment, Mr. Kanarek?

9 MR. KANAREK: Yes, your Honor.

10 THE COURT: The Court will simply restate briefly that
11 this is an indictment in three Counts.

12 The first Count alleges a violation of Section
13 187 of the Penal Code, and it is alleged that on or about
14 the 27th day of July, Mr. Manson, Susan Denise Atkins and
15 Bruce McGregor Davis did willfully, and feloniously, and
16 with malice aforethought, murder Gary Alan Hinman.

17 The second Count charges Mr. Manson, Miss Atkins
18 and Mr. Davis with a violation of Section 182.1 of the Penal
19 Code, conspiracy to commit murder and robbery. And three
20 overt acts are alleged.

21 And Count III alleges that Mr. Manson, Mr. Bruce
22 McGregor Davis, and Steven Grogan did commit the crime of
23 murder in violation of Section 187 of the Penal Code, in
24 that between the 16th day of August, and the first day of
25 September, 1969, in the County of Los Angeles, they did
26 willfully, and unlawfully, and feloniously, and with malice
27 aforethought, murder Donald Jerome "Shorty" Shea, a human
28 being.

3-2

1 Mr. Manson has entered pleas of not guilty to
2 those Counts in the indictment.

3 People ready to proceed with the opening statement?

4 MR. MANZELLA: Yes, your Honor.

5 THE COURT: You may begin.

6 MR. MANZELLA: Your Honor, before I begin, I'd ask that
7 all witnesses for both the prosecution and the defense be
8 excluded from the courtroom during the course of the trial,
9 your Honor.

10 I would ask that that begin with the opening
11 statement.

12 THE COURT: Are there witnesses here?

13 Are there any persons in the courtroom who are
14 seated here as witnesses?

15 MR. KANAREK: We join in that, your Honor.

16 THE COURT: Your name, sir?

17 MR. ERWIN: Michael Erwin.

18 THE COURT: Would you wait outside, then. The Court
19 orders you to wait until you are called.

20 MR. KANAREK: Whether they are subpoenaed or not, your
21 Honor.

22 THE COURT: Is there anyone who anticipates that he or
23 she will be a witness in this case?

24 I see no other hands.

25 Both counsel satisfied that the order has been
26 carried out at this point?

27 Mr. Kanarek? Mr. Manzella?

28 MR. MANZELLA: Yes, your Honor.

3-3

1 THE COURT: Mr. Kanarek?

2 MR. KANAREK: Uh, I'm sorry?

3 THE COURT: Are you satisfied the order has been
4 carried out?

5 MR. KANAREK: To the best of my knowledge, yes, your
6 Honor, of the people that are here.

7 THE COURT: That will be a standing order during the
8 course of this trial. Any counsel -- either counsel should
9 note that any witness that's in the courtroom, would you
10 please notify the Court and the Court will order them to
11 leave the courtroom at any time during the course of the
12 trial.

13 You may begin.

14 Mr. Manzella, you may wish to use that other
15 microphone.

16 MR. MANZELLA: Your Honor, I thought my voice did pick
17 up a little bit with this microphone.

18 Does it?

19 THE COURT: If anyone has any trouble hearing anyone,
20 a witness, any counsel, raise your hand, ladies and gentlemen,
21 and let me know.

22 Let me urge all of you during the course of this
23 trial to take notes on the evidence.

24 Remember that the statements of counsel, including
25 the opening statement, argument, any statement by counsel,
26 unless it is by way of a stipulation concerning a factual
27 matter or evidence, is not evidence.

28 You may take notes on the opening statement, if

3-4

1 you wish, but the notes that you take on the opening statement
2 should be distinguished from the notes that you later take on
3 the evidence.

4 The Court would urge you to take notes because I
5 have found that the taking of notes will very often assist you
6 measureably in your deliberations. But don't let your note
7 taking keep you from observing the conduct of a witness on the
8 stand or in the courtroom.

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9 You may begin.
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1 MR. MANZELLA: Thank you, your Honor.

2 Does anyone have any trouble hearing me? It
3 sounds to me as though my voice does pick up on this
4 microphone.

5 My opening statement will be short. It shouldn't
6 take longer than 20 or 25 minutes to make.

7 My purpose in making an opening statement is just
8 to give you a brief outline of what the People expect to
9 prove, so you can better follow the evidence as it comes in
10 from the witness stand and by way of exhibits. As Judge
11 Choate has pointed out, it is not evidence in the case.

12 Now, in Count I of the indictment, the Grand Jury
13 has accused Mr. Manson of the murder of Gary Hinman during
14 the last week of July, 1969.

15 In Count II, the Grand Jury has accused him of
16 the conspiracy to commit the murder and robbery of Gary
17 Hinman.

18 And in Count III, the Grand Jury has accused Mr.
19 Manson of the murder of Donald Shea during the last half of
20 August, 1969.

21 Now, during the trial, as much as possible, I'll
22 try to separate the evidence concerning the two murders.
23 And I'll try to present the evidence concerning the Hinman
24 case first, the Hinman murder first, and then present the
25 evidence concerning the Shea murder.

26 Gary Hinman attended UCLA off and on. He was
27 working towards a degree in political science. He played
28 several musical instruments and he taught music at a small

1 music school in West Los Angeles. And he lived at 964 Old
2 Topanga Canyon Road in Topanga.

3 He practiced the Buddhist religion, and he belonged
4 to an organization called the Nichiren Shoshu of America.

5 During the late afternoon of Friday, July 25,
6 1969, he came downtown with a friend of his to get his
7 passport for a trip that he was planning to make to Japan.

8 Now, he owned three cars, a Nash Metropolitan,
9 which was not in working condition, and two other cars, a
10 Fiat station wagon and a Volkswagen microbus. Now, Gary
11 Himman was last seen alive at 7:00 p.m. on that Friday,
12 July 25, 1969. At that time, at the time he was last seen,
13 he was leaving the music school in West Los Angeles to go
14 to his home on Old Topanga Road.

15 And one of the instruments that Gary played was
16 the bagpipes. And other members of the Nichiren Shoshu
17 played the bagpipes, were scheduled to play in a -- play and
18 march in a parade in Santa Monica on a following Sunday,
19 which was July 27th, 1969, two days later. And Gary did not
20 show up for that parade on July 27th.

21 On July 31st, his dead body was found in the
22 living room of his home on Old Topanga Road. It was bloated,
23 decomposed and infested with maggots.

24 On the wall, on the living room wall above his
25 head was drawn in blood a paw print. And, again, drawn in
26 blood, the words "Political Piggy."
27
28

4. fls.

4-1
1 The autopsy showed that Hinman was killed by a
2 stab wound through the chest, which penetrated his heart. The
3 autopsy showed that he also had these other wounds:

4 He had a stab wound in the chest, another stab
5 wound in the chest which did not penetrate his rib cage -- it
6 hit the bone, it did not penetrate the rib cage -- he had a
7 gash on the top of his head, and he had a gash behind his right
8 ear.

9 He had a large laceration on the left side of his
10 face, which cut through his ear and part of his cheek. And
11 those wounds were not fatal.

12 The autopsy showed that he was killed by the stab
13 wound which went through his chest and penetrated his heart.

14 Now, the evidence will show that Charles Manson was
15 the leader of a small group of followers who called themselves
16 the Family. The members of the Family included Bobby Beausoleil,
17 Bruce Davis, Mary Brunner, and Susan Atkins.

18 Now, Manson and members of the Family knew Gary
19 Hinman, and Gary Hinman knew them. And during July of 1969,
20 the month in which Hinman was killed, Mr. Manson and the
21 members of the Family were living at the Spahn Ranch.

22 The Spahn Ranch is a ranch in Chatsworth,
23 California, near Topanga Canyon Boulevard.

24 In the early summer of 1969, Mr. Manson began
25 making plans to move himself and the Family to the desert,
26 permanently. In order to do that, they needed supplies; and
27 in order to get the supplies, they needed money.

28 Manson and the Family believed that Gary Hinman

1 had a lot of money in stocks and bonds. Now, Manson was
2 wrong about that, but he didn't know that until after Mr. Hinman
3 was killed.

4 Because Mr. Manson was wrong, Gary Hinman was
5 killed for two small cars and \$27 in cash.

6 MR. KANAREK: Your Honor, that's argument, --

7 MR. MANZELLA: Now --

8 MR. KANAREK: If I may, because --

9 THE COURT: The Court would -- the objection is over-
10 ruled.

11 MR. MANZELLA: The evidence will show --

12 THE COURT: I wish to again remind you, however, that
13 Mr. Manzella's statement or Mr. Kanarek's opening statement,
14 if one is made, is not evidence, and shouldn't be regarded as
15 evidence.

16 Go ahead.

17 MR. MANZELLA: The evidence will show that while at the
18 Spahn Ranch, on Friday, July 25th, 1969, Charles Manson called
19 together Bobby Beausoleil, Susan Atkins, Mary Brunner, and
20 Bruce Davis; and he sent them to Gary Hinman's home to force
21 Gary to sign over the property that they thought he had.

22 Now, Bruce Davis drove Beausoleil, Atkins and
23 Brunner to Hinman's home. Then he himself returned to the
24 Spahn Ranch.

25 Beausoleil was armed with a gun and a knife.
26 After he and the two girls arrived at Gary Hinman's home,
27 Beausoleil sometime thereafter gave the gun that he was
28 carrying to Susan Atkins, to hold on Gary Hinman.

1 Somehow, Gary got the gun away, and a struggle
2 followed over the gun. During the struggle, it fired once,
3 in the kitchen, fired into the -- the bullet went into the
4 kitchen wall.

5 Sometime after that struggle, during that same
6 weekend, between Friday the 25th and Sunday the 27th of July,
7 1969, Beausoleil called Charles Manson from Hinman's home in
8 Topanga -- Mr. Manson at this time was up at the Spahn Ranch
9 and -- and Mr. Manson left the ranch, with Bruce Davis, drove
10 to Gary's home in Topanga.

11 When Mr. Manson arrived at the Hinman home, he saw
12 that Gary was not cooperating, and in order to keep him quiet,
13 he slashed Gary's ear and face with a sword that he was carry-
14 ing.

15 Manson then left Gary's house and returned with
16 Bruce Davis to the Spahn Ranch.

17 Sometime later that same weekend -- probably on
18 Sunday, July 27th of 1969 -- another call was made to the
19 ranch. And after that call, Gary Hinman was murdered.

20 We believe the evidence will show that his murder
21 was planned, organized and ordered by this defendant, Charles
22 Manson.

23 Now, with regard to the third count of the
24 indictment, the murder of Donald Shea, we expect to prove that
25 about a month after the murder of Gary Hinman -- that is, some-
26 time between August 16th and September 1st of 1969 -- Charles
27 Manson and at least three or four others murdered Donald Shea,
28 and then buried his body somewhere on or near Spahn Ranch.

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1 Now, intensive investigation on the part of the
2 investigating officers of the Sheriff's Office of this
3 County, including digging at Spahn Ranch, has failed to
4 date to produce the body of Donald Shea.

5 However, we will introduce evidence that proves
6 that Shea is dead, and that Charles Manson is responsible for
7 and participated in the murder of Donald Shea.

8 We will show why Shea was murdered, and why we
9 have been unable to locate the body.

10 Now, the evidence will show that Donald Shea was
11 born in 1933, in Massachusetts; and that his mother still
12 lives there. He served in the Armed Forces during the
13 Korean War, and was discharged in 1956.

14 He returned to Massachusetts briefly, and then
15 came out to California in 1957. While in California, since
16 1957, he was in contact with his mother regularly, through-
17 out each year. He either returned to Massachusetts to visit
18 her, or he called or sent her little gifts.

19 Now, she has not seen or heard from her son in the
20 two years since August 16th of 1969.

21 Donald Shea married in 1961, and was divorced
22 from his first wife in 1965. He married again in April of
23 1969, to a girl by the name of Magdalene.

24 Now, Magdalene has not seen or heard from her
25 husband since August 16th of 1969.

26 Shortly after Shea came to California, he went
27 to work at Spahn Ranch as a ranchhand.

28 Now, Spahn Ranch, as I have said, is in Chatsworth,

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1 California. It was owned by George Spahn, and he made the
2 ranch and his horses available for the production of
3 Western movies.

4 Now, from that point, Shea became interested in
5 doing stunt work in Western movies, and eventually began
6 meeting people who produced movies, and he saw them
7 frequently in the hopes of getting work.

8 Now, none of those people -- and they will
9 testify at the trial -- none of those people have seen
10 Donald Shea since August of 1969.

11 Now, Shea was kind of a drifter. At various
12 times he worked as a tree trimmer; he managed bars; and he
13 held various other jobs.

14 But he always returned to Spahn Ranch, and Spahn
15 Ranch, by that time, had become a kind of second home to him.
16 But no one at the ranch had seen him since August of 1969.
17 Those people will testify at the trial.

18 Now, Shea made some good friends here in
19 California. None of those people have seen him since August
20 of 1969. They will testify as well at the trial.

21 Now, as we all have, Shea had some personal
22 possessions of which he was very proud; and those possessions
23 have turned up, but Shea has not.

24 Charles Manson and the Family knew Shea, because,
25 as I have said, by this time, the summer of 1969, Mr. Manson
26 and the members of the Family were living at Spahn Ranch,
27 and Shea was working there most of the time as a ranchhand.

28 The Family also, during this period of time, the

4a-3

1 summer of 1969, began going on the property of a nearby
2 ranch owned by a man by the name of Frank Retz.

3 Now, Retz did not like Manson and the Family.
4 He considered them trespassers, and in early August of 1969,
5 he offered Donald Shea the job of guarding the ranch and
6 getting rid of Manson and the Family.

7 Manson became aware of Retz' offer to Shea. Now,
8 on August 16th, 1969, Spahn Ranch was raided by Sheriff's
9 Deputies. Manson and members of his Family were arrested
10 on various charges.

11 Manson was released a few days later, but on
12 August 24th, 1969, he was arrested again, this time on
13 Frank Retz' ranch.

14 Manson believed that Shea was responsible for his
15 trouble with the law, and this gave him his motive to kill
16 Donald Shea.

17 One night, in the last half of August of 1969,
18 Charles Manson caught up with Donald Shea. Charles Manson,
19 Bruce Davis, Steve Grogan, and another Family member, -- and
20 maybe one or two others -- caught up with Shea at the Spahn
21 Ranch.

22 They took him somewhere away from the main ranch,
23 and began stabbing him.

24 Now, Shea's screams of fear and pain were heard
25 at the main ranch buildings that night. Shea pleaded with
26 Manson, but Manson and his friends continued stabbing Shea
27 until he was dead.

28 That night, or the next, Shea's body was buried

4a-4

4b

1 by members of the Family on or near Spahn Ranch.

2 The evidence will establish that Charles Manson
3 is guilty of the murder of Gary Hinman, the murder of Donald
4 Shea, and that both murders are murders of the first degree.

5 Thank you.

6 I appreciate your attention.

7 THE COURT: Does the defendant wish to make an opening
8 statement at this time?

9 MR. KANAREK: No, your Honor.

10 THE COURT: You wish to reserve it?

11 MR. KANAREK: Yes, your Honor. Thank you.

12 THE COURT: Very well.

13 Call your first witness, Mr. Manzella.

14 MR. MANZELLA: The People call Mr. Glenn Krell, your
15 Honor.

16 THE CLERK: Would you raise your right hand, please,
17 and be sworn?

18 You do solemnly swear that the testimony you may
19 give in the cause now pending before this court shall be the
20 truth, the whole truth, and nothing but the truth, so help
21 you God?

22 THE WITNESS: Yes, I do.

23
24 GLENN KRELL,

25 called as a witness by and on behalf of the People, having
26 been first duly sworn, was examined and testified as follows:

27 THE CLERK: Please take the stand and be seated.

28 Please state and spell your full name.

1 THE WITNESS: Glenn Krell; G-l-e-n-n, K-r-e-l-l.

2
3 DIRECT EXAMINATION

4 BY MR. MANZELLA:

5 Q All right. Mr. Krell, I am the Deputy District
6 Attorney. And if I ask you -- I'll be questioning you first.
7 If I ask you any questions you don't understand, please ask
8 me to rephrase the question, and I will be glad to do so.

9 Mr. Krell, did you know a man by the name of Gary
10 Hinman?

11 A Yes, I did.

12 Q And what was your relationship with Mr. Hinman?

13 A He was an associate of mine at a music school in
14 West Los Angeles.

15 Q And what was your connection with the music
16 school?

17 A I was the director of the music school.

18 Q Now, what did Gary Hinman do at the music school?

19 A Mostly teach.

20 Q Did he teach others how to play particular instru-
21 ments?

22 A Yes, he did.

23 Q What instruments did Mr. Hinman play, if you know?

24 A Uh -- piano, guitar, bagpipe, a little trumpet.

5 fls.

5-1

1 Q Now, how long had you known Mr. Hinman, up until the
2 time, say, July 25, of 1969?

3 A I have forgotten, but I believe it was about a year
4 and a half or two years.

5 Q Do you know whether or not he owned any automobiles?

6 A Yes, I do.

7 Q What automobile did he own?

8 A One was a V.W., one was a Fiat, and one was a
9 Rambler.

10 Q The V. W., what kind of Volkswagen was it?

11 A It was a microbus with an Indian Thunderbird
12 painted on the side.

13 Q Was there anything unusual about the Fiat?

14 A The -- it had a replacement engine and the engine
15 didn't fit and, therefore, the front bulged out. There was
16 something different about the front end of the appearance,
17 because the motor didn't quite fit. I don't think it had a
18 bumper, but I'd probably recognize it.

19 Q Was the Fiat a station wagon?

20 A Yes, a small one.

21 Q What color was it?

22 A I don't recall. I think it was light.

23 Q All right.

24 Directing your attention to the date of July 25,
25 1969, did you see Mr. Hinman on that date?

26 A Was that a Friday?

27 Q Yes.

28 A Yes, I did.

5-2

1 Q Where did you see him?

2 A We came to Los Angeles and returned to West --
3 uh, West Los Angeles.

4 Q When you came to Los Angeles, how did you -- you
5 mean downtown Los Angeles?

6 A Yes. He drove the Fiat.

7 Q And what was your purpose in coming downtown?

8 A He was going to get a passport and needed someone
9 to, uh, uh, sign.

10 MR. KANAREK: Your Honor, object on grounds of hearsay.

11 THE WITNESS: Hearsay?

12 THE COURT: Sustained. It is stricken.

13 MR. MANZELLA: Mr. --

14 THE COURT: That last statement is stricken. The last
15 statement of the witness is stricken from the record. And
16 when the Court indicates to you that something is stricken,
17 you are to treat it, ladies and gentlemen, as if it had
18 never been uttered. You are not, in any way, to consider any
19 item, any testimony the Court strikes.

20 Go ahead.

21 THE WITNESS: He asked me to go downtown.

22 THE COURT: Excuse me, just a minute.

23 And wait until the next question.

24 THE WITNESS: All right.

25 MR. KANAREK: May that be stricken, that voluntary --

26 THE COURT: "He asked me to go downtown," is stricken.

27 BY MR. MANZELLA:

28 Q Mr. Krell, what was your purpose of coming downtown

1 with Mr. Hinman?

2 MR. KANAREK: Immaterial, your Honor.

3 THE COURT: Overruled.

4 A He asked me to accompany him.

5 Q And was that for a purpose of being a witness for
6 him?

7 A That's what he said.

8 MR. KANAREK: That's hearsay, your Honor.

9 THE DEFENDANT: I keep asking this man to be quiet, your
10 Honor. He's not speaking for me, he's speaking for you.

11 THE COURT: Mr. Manson, now, you'll have to remain quiet
12 and not disturb these proceedings or you'll have to leave the
13 courtroom.

14 The last answer of the witness is stricken.

15 BY MR. MANZELLA:

16 Q Were you able to complete the business that you had
17 come downtown to complete on that following Friday?

18 A No.

19 MR. KANAREK: Calling for a conclusion and hearsay.

20 MR. MANZELLA: Your Honor, I would --

21 THE COURT: The objection is overruled.

22 MR. MANZELLA: Your Honor, I would appreciate the
23 opportunity to finish my question before the objection is in.

24 THE COURT: Yes, Mr. Kanarek, let Counsel finish his
25 question before you make your objection.

26 MR. KANAREK: Yes, your Honor.

27 THE COURT: The objection is overruled. The -- was there
28 an answer?

1 (Whereupon, the record was read by the reporter
2 as follows:

3 "ANSWER: No.")

4 THE COURT: Pardon?

5 (Whereupon, the record was read by the reporter
6 as follows:

7 "ANSWER: No.")

8 THE COURT: The answer may remain.

9 BY MR. MANZELLA:

10 Q Now, when you returned to West Los Angeles, did
11 you go back to the music studio?

12 A Yes, we did.

13 Q Approximately what time was that that you arrived
14 back there?

15 A It was in the early evening. I think it was about
16 6:30 -- 5:30 or 6:30.

5a fls.

5a-1

1 Q Now, at some point thereafter, did Gary leave the
2 studio?

3 A Yes, he did.

4 Q All right. Were you there when he left?

5 A Yes, I was.

6 Q Approximately what time did he leave?

7 A I believe it was a little after 6:30.

8 Q And did he say where he was going when he left?

9 A Uh, he was late for a meeting.

10 MR. KANAREK: Your Honor, that's hearsay, and ask that
11 be stricken. "He was late for a meeting."

12 THE COURT: Overruled.

13 Q BY MR. MANZELLA: Now, approximately what time was
14 it that you last saw Mr. Hinman on Friday, July 25, 1969?

15 A Now, when -- when I gave previous testimony, I
16 did remember the time. And I verify that answer, but that
17 has been about a year and a half ago, and I'm not completely
18 sure, but I think that I last saw him about a little after
19 6:30. But my first answer was very accurate.

20 MR. KANAREK: May that conclusion be stricken, your
21 Honor, about the accuracy?

22 THE WITNESS: Oh --

23 THE COURT: The entire statement is stricken.

24 BY MR. MANZELLA:

25 Q All right, Mr. Krell, if I told you that you
26 testified the time was between 7:00 and 7 -- approximately
27 7:10 p.m., would that refresh your memory as to the last time
28 you saw Mr. Hinman?

5a-2

1 A Yes, it would.

2 Q Was that the last time you saw Mr. Hinman?

3 A Yes, it was.

4 Q That Friday, July 25, 1969?

5 A Yes, it was.

6 Q Now, have you seen Gary Hinman since that time when

7 you last saw him that Friday?

8 A No, I have not.

9 MR. MANZELLA: Your Honor, I have here a cardboard

10 containing three color photographs of a Fiat station wagon.

11 May I have that marked People 1 for identification

12 by reference to People's --

13 MR. KANAREK: May we approach the bench, your Honor?

14 THE COURT: Yes, you may.

15 (Whereupon, the following proceedings were had at

16 the bench among Court and counsel, outside the hearing

17 of the jury:)

18 THE COURT: Before you make your objection -- incidentally,

19 this is for the guidance of both of you.

20 If you are going to ask about refreshing memory,

21 don't ask in the presence of the jury "Would it refresh your

22 memory if I were to tell you so and so, and so and so,"

23 recounting the facts. Let the witness see whatever it is

24 that you believe will refresh his memory and ask whether it

25 refreshes his memory rather than stating it in front of the

26 jury.

27 MR. MANZELLA: I couldn't find it in the transcript.

28 That's why I --

1 THE COURT: All right.

2 What did you wish to say?

3 MR. KANAREK: Yes, your Honor.

4 The point I want to make is this: I think with
5 the expense that's gone to in this trial, as to Mr. Manson,
6 and the hardship that Mr. Manson is undergoing, the least the
7 People can do is retake those pictures. I know those pictures
8 had to be used in Bobby Beausoleil, but I object to the
9 reference, continual -- we're dealing with a lay jury.

10 I make the objection that it is a violation of
11 equal protection and due process under the 14th Amendment and
12 a denial of a fair trial to Mr. Manson to keep reiterating
13 by reference to another case. And the expense is minimal
14 of retaking the pictures. I will stipulate to those pictures
15 there retaken, and I can observe them. I won't -- as far as
16 any foundation, as far as the retaking is concerned, I will
17 stipulate to that. But I think Mr. Manson is going to be --
18 has a hard enough time getting a fair trial without --

19 THE COURT: What is the reason --

20 MR. KANAREK: Because on the back is the reference to
21 the Bobby Beausoleil case, and if those jurors see all of that,
22 Bobby Beausoleil and so forth, it is a horrendous burden on
23 Mr. Manson's defense. And the least they can do is retake
24 the pictures, as I say, so the jury do not have these exhibits
25 taken into the jury room and do not have anything -- concerning
26 the doing and redoing before the Grand Jury, and all of those
27 notations on the back. And we're dealing with a lay jury,
28 and due process requires it enough -- it is immaterial,

1 irrelevant, all of that material on the back with reference
2 to previous exhibits, use as previous exhibits, and the
3 prejudicial effect is obvious. And that's my motion, that
4 they not use any of that when it goes to the jury.

5 Now, if we can have the ground rules --

6 THE COURT: The Court finds it is not prejudicial in
7 any way. It therefore denies your motion. The Court can't
8 see there would be any purpose in requiring the People to
9 produce whole new photographs.

10 What were you going to add? Was it on some other
11 subject?

5b fls.

5b-1

1 MR. KANAREK: My point is, it is not necessary to do it
2 at this time.

3 In other words, the People can -- it is a very small
4 effort to retake those pictures, to have copies -- they
5 probably already have copies. Why should the jury have before
6 it all the Beausoleil and grand jury imprint stamps.

7 THE COURT: Well, the Court has looked at the notations
8 on the backs of those photographs and it is simply the usual
9 notation referring to it as an exhibit in another case.

10 MR. KANAREK: But if he is going to refer --

11 THE COURT: The reference to Beausoleil is necessarily
12 to be made in the course of this trial. He's already --
13 Mr. Manzella has already mentioned the name Beausoleil --

14 MR. KANAREK: That adds greater --

15 THE COURT: -- in the opening statement.

16 MR. KANAREK: That adds great dignity and makes the
17 prejudice even greater. It can be obviated.

18 THE COURT: The Court doesn't find there would be any
19 prejudice.

20 You wanted to add something else on another
21 subject?

22 MR. KANAREK: No. No, your Honor, that was my point,
23 your Honor. I --

24 THE COURT: All right, the motion --

25 MR. KANAREK: Is he going to be allowed to say "by
26 reference to the case of People versus Bobby Beausoleil"?

27 MR. MANZELLA: No. I would like to make one point, if
28 I could?

5b-2

1 THE COURT: I should think that in reference -- instead
2 of referring to the case of People versus Bobby Beausoleil --

3 MR. MANZELLA: I'm not.

4 THE COURT: -- listen,

5 Simply adopt new markings right from the start.

6 MR. MANZELLA: I would like to be heard very briefly.
7 It is a matter I worked out with Mrs. Holt and the clerk's
8 office with regard to the marking of exhibits. The clerk has
9 asked that I mark them by reference to the case numbers which
10 appear on the exhibits.

11 I intended to make no reference to Beausoleil's
12 name. Merely the case number and the exhibit number. And
13 that's the way I've been asked to do it by the clerk's office.

14 THE COURT: Very well. Let's simply refer to them by
15 number in this case.

16 MR. MANZELLA: Well, I will, your Honor.

17 THE COURT: And then, on the back of the exhibits, we may
18 show which case the exhibit pertains to.

19 MR. KANAREK: We can do that outside the presence of the
20 jury.

21 THE COURT: Yes, of course.

22 MR. KANAREK: In other words, the reference does not have
23 to be done in open court in the presence of the jury. The
24 court reporter is here and we can make reference, if it is for
25 the convenience of the clerk, but --

26 THE COURT: Excuse me, let's just move on with this. I
27 don't believe it is a subject that should require a great deal
28 of time. You could simply --

5b-3

1 MR. KANAREK: Give them a number in this case.

2 THE COURT: -- give them a number in this case --

3 MR. KANAREK: Without referring to any other case. Then,
4 we do it outside the presence of the --

5 THE COURT: Well, the record will show that the exhibit,
6 respective exhibits should bear the number of this case, how-
7 ever.

8 MR. MANZELLA: Yes, your Honor. Perhaps I'd better make
9 it clear. My marking for identification was as follows:

10 I asked that a particular exhibit be marked People's
11 1, the first exhibit in this case, with its own number for
12 identification. That's the number it has for this case.

13 Now, Mrs. Holt asked me to mark that with reference
14 to the case numbers which appear on the exhibit already, so
15 that -- well, the reason for that I'm not sure of, but she's
16 asked me to mark the exhibits with our number, but by reference
17 to these other cases.

18 Now, there are several different case numbers. If
19 we let it go to the end of the case -- I suppose we can do
20 that, let it go to the end of the case and we can take the time
21 to go through each exhibit and get out the case number and mark
22 it by reference out of the presence of the jury at that time.

23 THE COURT: As long as it is mainly marked in this case,
24 I think we can pick that up at a later time.

25 MR. KANAREK: Furthermore, there is a conspiracy charge
26 here and the implication is obvious from other cases.

27 THE COURT: The Court doesn't believe so. The motion is
28 denied.

MR. MANZELLA: All right.

(Whereupon, the following proceedings were had in open court within the presence and hearing of the jury:)

THE COURT: You were requesting that certain photographs be marked.

MR. MANZELLA: Yes, your Honor.

May I have one moment to talk to Mrs. Holt?

THE COURT: Yes, you may.

(Whereupon, the District Attorney had a conference with the Clerk, outside the hearing of the jury:)

MR. KANAREK: Your Honor, while he's -- may I approach the bench without the reporter?

THE COURT: Yes, you may.

(Whereupon, Mr. Kanarek approached the bench and had a conference with the Court, outside the hearing of the jury, which was not reported:)

(Whereupon, the following proceedings were had in open court within the presence and hearing of the jury:)

MR. MANZELLA: Your Honor, I have a cardboard, on which are three colored photographs of a Fiat stationwagon, and I ask that be marked People's 1 for identification.

THE COURT: So ordered.

MR. MANZELLA: I have a cardboard containing four colored photographs of the Volkswagen bus, and ask that that be marked People's 2 for identification.

THE COURT: So ordered. People's 2 for identification.

5c-1

1 Id.

2 Id.

5c-2

1 MR. MANZELLA: I have here what appears to be a driver's
2 license in the name of Gary Allen Hinman. Middle name is
3 spelled A-l-l-e-n, bearing the license number J 359906, and
4 ask that that be marked People's 3 for identification.

3 Id.

5 THE COURT: So ordered.

6 I have here a cardboard bearing a black and white
7 photograph, and ask that that be marked People's 4 for
8 identification.

9 THE COURT: Is it a portrait, a portrait photo?

10 MR. MANZELLA: Yes, your Honor.

4 Id.

11 THE COURT: So ordered.

12 BY MR. MANZELLA:

13 Q Now, Mr. Krell, directing your attention to the
14 photographs which have been marked People's 1 for identifica-
15 tion, would you tell us what is shown in those three colored
16 photographs?

17 A This is Gary Hinman's Fiat.

18 Q Directing your attention to the photographs
19 marked People's 2 for identification, showing the Volkswagen
20 bus.

21 Would you tell us what are depicted in those
22 photographs?

23 A That's Gary Hinman's VW bus.

24 Q Depicted in all four photographs?

25 A Yes.

26 Q And directing your attention to People's 3 for
27 identification, which appears to be a driver's license in
28 the name of Gary Allen Hinman.

1 Would you tell us whose photograph appears
2 thereon?

3 A That's Gary Hinman.

4 Q And directing your attention to the photograph
5 marked People's 4 for identification, can you tell us who
6 appears in that photograph?

7 A That is Gary Hinman.

8 Q And is that as substantially -- that is, as he
9 appears in People's 3 and People's 4, is that substantially
10 how he appeared when you last saw him?

11 A Yes.

12 MR. MANZELLA: All right, thank you, Mr. Krell. I
13 have no further questions, your Honor.

14 THE COURT: Any cross?

15 MR. KANAREK: I have no questions, your Honor.

16 THE COURT: You may step down.

17 MR. KANAREK: Thank you, Mr. Krell.

18 THE COURT: Would this be a convenient time to recess?

19 MR. MANZELLA: Yes, your Honor.

20 THE COURT: During this recess, ladies and gentlemen,
21 you are admonished that you are not to converse amongst
22 yourselves, nor with anyone else, nor permit anyone to converse
23 with you on any subject connected with this matter, nor are
24 you to form or express any opinion on the matter until it
25 has finally been submitted to you.

26 That admonition is to be given to you each time
27 that we take a break, each time that we recess, and it pertains
28 during any recess. It is my obligation to tell you that

1 admonition, give you that admonition each time we break. IF
2 I forget, would somebody raise their hand and I'll know what
3 you are doing.

4 All right, about ten minutes.

5 (Morning recess.)
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6 fls.

6-1
1 THE COURT: Mr. Kanarek and Mr. Manzella, would you
2 approach the bench, please?

3 (Whereupon, proceedings were had at the bench
4 among Court and Counsel, outside the hearing of the jury,
5 which was not reported.)

6 THE COURT: All right. The record will show Mr. Manson
7 to be present with Mr. Kanarek.

8 We are ready to proceed. Go ahead.

9 MR. MANZELLA: The People call Mr. Michael Erwin,
10 your Honor.

11 THE COURT: Very well.

12 THE CLERK: Would you raise your right hand, please?

13 You do solemnly swear the testimony you may give
14 in the cause now pending before this Court shall be the truth,
15 the whole truth, and nothing but the truth, so help you God?

16 THE WITNESS: I do.

17
18 MICHAEL ERWIN,

19 being called as a witness by and on behalf of the People and
20 so forth.

21 THE CLERK: Please take the stand and be seated.

22 Please state and spell your full name.

23 THE WITNESS: Michael Erwin, M-i-c-h-a-e-l, E-r-w-i-n.

24
25 DIRECT EXAMINATION

26 BY MR. MANZELLA:

27 Q Mr. Erwin, as of the month of July, 1969, did you
28 know a man by the name of Gary Hinman?

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A Yes, I did.

Q And approximately how long as of that month had you known Gary Hinman?

A I'd say about a year and a half.

Q All right. Directing your attention to the photograph which is marked People's 4 for identification, is that the man you knew as Gary Hinman?

A Yes, it is.

Q And what relationship did you have with Mr. Hinman?

A He was my piano teacher; and also, he practiced the same religion as I do.

Q Is that the Buddhist religion?

A Yes, it is.

Q Did you both belong to the Nichiren Shoshu of America?

A Yes.

Q Now, at sometime in the latter part of July, 1969, did you go to Mr. Hinman's home at 964 Old Topanga Road?

A Yes, I did.

Q And was there a particular reason why you went there?

A Well, I was called by a friend, who said, you know, that Gary hadn't been around for about two weeks, and he was in a parade, playing the bagpipes, and he also taught me piano, and my brother guitar, and he didn't show up for about two weeks, for lessons.

1 Q All right. Let me ask you -- I'm sorry. Let me
2 interrupt you and ask you this. Was Mr. Hinman due at your
3 home at some point during July of 1969 --

4 A Yes, he was.

5 Q -- to give you a music lesson?

6 A Yes, he was.

7 Q Did he fail to arrive at your home?

8 A Yes, he did.

9 Q Now, when you arrived at Mr. Hinman's home on Old
10 Topanga Canyon Road, what if anything did you do?

11 A At first I walked up the stairs, and I smelled --
12 you know, an extremely bad stench; and I heard a lot of flies
13 buzzing around, so -- you know, I went to the window, and --
14 you know, there was a lot of flies. You know, the odor
15 increased as I got closer to the house.

16 So, you know, I got -- you know, I -- excuse my
17 stuttering.

18 First, you know, I saw -- I thought, you know, I'd
19 better call the police, because I figured that there was --

20 THE COURT: Get closer to that microphone.

21 THE WITNESS: Oh.

22 MR. KANAREK: Your Honor, may his thinking and what he'd
23 better do, may that be stricken, your Honor?

24 THE COURT: So ordered.

25 THE WITNESS: I'm sorry.

26 THE COURT: It will be stricken.

27 THE WITNESS: Okay. So, you know, I saw the flies, and I
28 smelled it, and so I know -- I knew he was -- you know, in

1 there.

2 So I called the Sheriff.

3 BY MR. MANZELLA:

4 Q All right. And from where did you call the
5 Sheriff's Office?

6 A At a next-door neighbor's house.

7 MR. MANZELLA: Your Honor, I have here a cardboard
8 containing six color photographs of the same home. May I have
9 that marked People's 5 for identification?

10 THE COURT: So ordered.

5 ID

6a fls,

6a-1

1 Q BY MR. MANZELLA: All right. Mr. Erwin,
2 directing your attention to the photographs which have been
3 marked People's 5 for identification -- perhaps I can hold
4 it here, so everyone will be able to see --

5 Do you recognize the home that's depicted in
6 those photographs?

7 A Yes, sir. That's Gary Hinman's home.

8 Q Now, would you start with photograph A and tell
9 us what is in photograph A?

10 A In photograph A is the stairs that I first went
11 up, at the first. That's the first window (indicating) that
12 I encountered.

13 Q All right. Let me interrupt you for a minute.
14 Is Mr. --

15 THE COURT: Excuse me just a minute. Would you take
16 that microphone.

17 Q BY MR. MANZELLA: Is Mr. Hinman's home up on a
18 hill? Above Old Topanga Canyon Road?

19 A Yes, it is.

20 Q And these stairs would show in photograph A of
21 People's 5, do they -- they show the stairs leading up from
22 the road to the level where the house is?

23 A Yes.

24 Q Could you tell us what's shown in photograph B
25 of People's 5 for identification?

26 A Photograph B is the front of the house.

27 Q Is that facing from the road?

28 A Facing Old Topanga Road, yes.

6a-2

1 Q And in photograph C, what is shown in photograph
2 C?

3 A That's also the front of the house.

4 Q Does that show a walkway across the front of
5 the house?

6 A Yes, it does.

7 Q Now, in People's D of People's 5 for identifica-
8 tion -- I'm sorry; photograph D of People's 5 for identifica-
9 tion, what is shown in that photograph?

10 A It shows the stairway leading to the side entrance
11 to the house. It's a small patio.

12 Q And People's E, what does that -- strike that.
13 Photograph E, what does that show?

14 A That's the same stairway.

15 Q And photograph F, of People's 5 for identifica-
16 tion, what does that show?

17 A That's the patio, the little patio on the side of
18 the house.

19 Q All right. Now, did you at any time enter the
20 house, either before or after you called the Sheriff's office?

21 A Yes, I did.

22 Q When was that? Before or after?

23 A Before and after.

24 Q Okay. And is the doorway through which you
25 entered shown in any of these photographs?

26 A Yes, it is. F. People's F.

27 Q Thank you.

28 Now, directing your attention to the date of

6a-3

1 Sunday, July 27th, of 1969, on that date, were you to do
2 anything in connection with the Nichiren Shoshu of America,
3 in Santa Monica?

4 A Yes, sir. We were having a convention in
5 Santa Monica, and there was a parade scheduled.

6 Q Were you to play and march in the parade?

7 A Yes. I play in a band.

8 Q Was Gary Hinman scheduled to play and march in
9 that same parade?

10 A Yes, he was.

11 Q Did he appear -- strike that.

12 Did you go to the parade and march and play?

13 A Yes, I did.

14 Q Did Gary Hinman appear and play and march in the
15 parade?

16 A No, he didn't.

17 Q All right. Now, let me ask you this: Were you
18 familiar with any automobiles owned by Mr. Hinman?

19 A Yes, I was.

20 Q All right. Directing your attention to the
21 photographs which have been marked People's 1 for identifica-
22 tion, which appear to show a Fiat stationwagon, do you
23 recognize that vehicle?

24 A Yes, I do.

25 Q And what vehicle is that?

26 A That's Gary's car.

27 Q Directing your attention to the photographs
28 marked People's 2 for identification, do you recognize the

1 Volkswagen bus depicted in those photographs?

2 A Yes, I do. That's also Gary Hirman's car.

6b fls.

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1 Q Now, do you recall the date on which you
2 arrived -- strike that.

3 Do you recall the date on which you went to
4 Gary's house?

5 A Yeah. That was July 31st.

6 Q Do you recall the approximate time when you
7 arrived at the house?

8 A Approximately 6:00 P. M.

9 Q Now, do you recall whether or not you saw the two
10 vehicles you've identified, Gary's Fiat station wagon and his
11 Volkswagen bus, at the house when you arrived there on July
12 31st?

13 A They weren't there. That's one of the reasons
14 I -- you know -- went up to the house. Because they weren't
15 there.

16 Q Do you know where Gary usually parked the
17 vehicles when he was at the --

18 A Yes. He parked them in the front, in the front
19 of the house.

20 Q Now, is that on the road?

21 A Yes.

22 Q That's not on a level with the house
23 (indicating); am I correct?

24 A No, it's not. It's down on the road level there.

25 MR. MANZELLA: All right. Thank you, Mr. Erwin. I have
26 no further questions.

27 THE COURT: Any questions?

28 MR. KANAREK: I have no questions, your Honor.

1 THE COURT: You may step down, sir. Thank you. And you
2 may stay or go as you wish.

3 MR. MANZELLA: Our next witness, your Honor, is Deputy
4 Paul Piet; P-i-e-t.

5 THE CLERK: Would you raise your right hand, please?
6 You do solemnly swear the testimony you may give in
7 the cause now pending before this Court shall be the truth,
8 the whole truth, and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10
11 PAUL PIET,

12 being called as a witness by and on behalf of the People,
13 was first duly sworn and testified as follows:

14 THE CLERK: Please take the stand and be seated.

15 Please state and spell your full name.

16 THE WITNESS: Deputy Paul Piet; P-i-e-t.

17
18 DIRECT EXAMINATION

19 BY MR. MANZELLA:

20 Q All right. Deputy Piet, what is your occupation?

21 A Deputy Sheriff, Los Angeles Sheriff's Department,
22 presently attached to the Civil Division.

23 Q And how long have you been employed by the Los
24 Angeles County Sheriff's Office?

25 A Approximately 13 years.

26
27
28
7 fls.

7-1

1 Q Now, directing your attention to the date of
2 July 31st, of 1969.

3 On that date, where were you assigned?

4 A Malibu Sheriff's Station, Patrol Division.

5 Q Again, directing your attention to that same date.

6 On that date, did you receive a call directing
7 you to go to 964 Old Topanga Canyon Road in Malibu?

8 A Yes, sir.

9 Q Did you go to that location?

10 A Yes, I did.

11 Q Approximately what time did you arrive there?

12 A I received the call at 8:05, and it took me
13 approximately ten minutes. It should be 8:15.

14 Q When you arrived at the location, what, if
15 anything, did you observe?

16 A I was met by three -- three boys. One was
17 named Er -- Erwin.

18 Q And did you have a conversation with them?

19 A Yes, I did.

20 Q Now, after that, the conversation you had with
21 them, did you approach the house itself?

22 A Yes, I did.

23 Q What did you observe, and what did you do after
24 you approached the house?

25 A I went to the front door, and the door was
26 locked. And I went out around the front and I noticed a
27 window approximately ajar on the southeast side of the
28 building with numerous flies around the window. And I took a

7-2

1 ladder and put the ladder up to the window and climbed the
2 ladder up to the window so I could observe into the window.
3 And I had a flashlight.

4 Q And what, if anything, did you observe when you
5 looked into the window?

6 A I observed the victim lying on the west -- on
7 the floor with his head towards the west wall and his feet
8 east.

9 MR. KANAREK: Your Honor, I would object to the use
10 of the word "victim."

11 THE COURT: Very well, the word "victim" is stricken.

12 A I observed the body.

13 Q BY MR. MANZELLA: All right. Directing your
14 attention to the photographs which have been marked People's
15 5 for identification,

16 In Photograph D there appears to be a ladder
17 standing against the Hinman home.

18 Is that the ladder to which you referred in your
19 testimony?

20 A Yes.

21 Q And is the -- is that position of the ladder in
22 which you put it?

23 A Yes, it is.

24 Q Window above the ladder in photograph D, is that
25 the window through which you entered the home?

26 A No, sir.

27 Q Well, how did you enter the home?

28 A I entered the home by going back to the front

1 door and found a kitchen window unlocked, had no lock. I
2 opened the lock and stepped inside the kitchen, and then I
3 entered what is the living room-bedroom-type room.

4 Q All right. Let me ask you this: The living
5 room that you entered, was that the room in which you saw
6 the body?

7 A Yes.

8 Q Was it through the window which shows in
9 Photograph D?

10 A Yes.

11 Q And that window, then --

12 A No, this isn't the window I entered.

13 Q No, I know that.

14 But the window through which you looked and saw
15 the body, is that the window shown ^{OPEN} up here in photograph D?

16 A Yes, sir.

17 Q Does the window through which you entered the
18 house show in these photographs marked People's 5 for
19 identification?

20 A Yes.

21 Q Where is that?

22 A No, the house -- well, I can't quite see it. It
23 is in the kitchen area.

24 Q All right. Is it behind the house?

25 A No, it is going through this room here
26 (indicating on photograph), beyond this side (indicating).

27 Q I see. You're pointing to the room in
28 photograph E of People's 5 for identification?

1 A Let me -- I believe this door (indicating on
2 photograph) was locked. I entered through this door here
3 (indicating), and walked in. And there's a window here
4 (indicating), leading into the kitchen. There's another
5 door.

6 Q And you just pointed to the photograph F, is
7 that correct?

8 A F.

9 Q Now, when you entered the house, other than the
10 body you have already described, was there anyone inside the
11 house?

12 A No. No, there was nobody inside.

7a fls.

7a-1

1 Q And you've observed that to which you've testified.
2 What did you do?

3 A I went up to the body and examined the body.
4 I observed the face to be black and partially
5 decomposed. Maggots on and about the face area.

6 I observed three splotches of blood on the chest
7 area.

8 I then went to the phone and advised Sergeant
9 Whiteley, Homicide Bureau, of what I had, and he told me to
10 secure the location until he arrived.

11 Q And what did you do to secure the location?

12 A I exited the house and posted my partner down
13 below. And I stayed right at the front entrance.

14 Q Was that to prevent anyone else from entering the
15 location?

16 A Yes, sir.

17 Q And were you there when investigators from the
18 Sheriff's Office arrived at the home?

19 A Yes, sir.

20 Q And who arrived?

21 A Sergeant Whiteley and Deputy Guenther.

22 Q Is Sergeant Whiteley the man seated to my right
23 at the counsel table?

24 A Yes, he is.

25 Q And had anyone entered the home since the time you
26 discovered the body until the time Sergeant Whiteley arrived,
27 other than yourself?

28 A No, sir.

7a-2

6 ID

1 My partner.

2 MR. MANZELLA: Your Honor, I have here a cardboard
3 containing two black and white photographs of what appears to
4 be a male body.

5 May I have that marked People's 6 for identification?

6 THE COURT: So ordered, People's 6 for identification.

7 BY MR. MANZELLA:

8 Q All right, Deputy Piet, directing your attention
9 to the two different photographs marked People's 6 for
10 identification.

11 Do you recognize what is depicted in that photo-
12 graph?

13 A Yes, that's the body that was at the location.

14 Q And the body as depicted in those two photographs,
15 is that the position in which you found the body when you
16 entered the location?

17 A Yes. I didn't even -- touch it.

18 MR. MANZELLA: All right, thank you, Deputy Piet.

19 Your Honor, I have no further questions.
20

21 CROSS EXAMINATION

22 BY MR. KANAREK:

23 Q What is the name of your partner that went --

24 A Deputy Lang, L-a-n-g.

25 Q What is his first name?

26 A I don't recall his first name.

27 Q Is he still with --

28 A If you want me to refer to my report --

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Q No.

Is he still with the Sheriff's Department?

A No, he isn't.

Q He's not with the Sheriff's Department?

A No, sir.

Q What does he do now?

A I don't know. He's a salesman of some type.

Q When did he leave the Sheriff's Department?

A It would be a guess, because I -- was in the six months after this incident.

MR. KANAREK: Thank you, Officer.

Thank you, that's all.

THE COURT: Anything further, Mr. Manzella?

MR. MANZELLA: Just one question.

REDIRECT EXAMINATION

BY MR. MANZELLA:

Q Deputy Piet, you entered the location through a window, is that correct?

A Yes.

Q Did you force any door at the location?

A No.

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1 MR. MANZELLA: Thank you. No further questions.

2 THE COURT: Step down.

3 MR. MANZELLA: People call Sergeant Paul Whiteley, your
4 Honor.

5
6 PAUL J. WHITELEY,

7 being called as a witness by and on behalf of the People, having
8 been duly sworn, was examined and testified as follows:

9 THE CLERK: You do solemnly swear the testimony you may
10 give in the cause now pending before this Court shall be the
11 truth, the whole truth, nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Please state and spell your full name.

14 THE WITNESS: Paul J. Whiteley, W-h-i-t-e-l-e-y.

15
16 DIRECT EXAMINATION

17 BY MR. MANZELLA:

18 Q Sergeant Whiteley, what is your occupation?

19 A I am a detective sergeant with the Los Angeles
20 County Sheriff's Office, Homicide Bureau.

21 Q And as of July, 1969, did you have a partner?

22 A Yes, I did.

23 Q What was his name?

24 A Detective Charles Guenther.

25 Q Is that spelled G-u-e-n-t-h-e-r?

26 A That's correct.

27 Q Now, directing your attention to the date of July
28 31st, of 1969.

1 On that date did you go to 964 Old Topanga Road in
2 Malibu?

3 A Yes, I did.

4 Q Did you go there with Sergeant -- with Deputy
5 Guenther?

6 A Yes, I did.

7 Q Approximately what time did you arrive at the
8 location?

9 A Approximately 10:00 P. M.

10 Q Now, when you arrived at the location, did you
11 meet Deputy Paul Piet there?

12 A Yes, I did.

13 Q He was the previous witness in this case?

14 A Yes.

15 Q And were there other persons present outside the
16 house?

17 A Yes.

18 Q Did you have a conversation with Deputy Piet and
19 others present there when you arrived?

20 A Yes, I did.

21 Q What did you do after you had that conversation
22 with the persons present outside the location?

23 A I climbed the stairs to the residence and entered
24 through the south door into the patio.

25 Q All right. Directing your attention to the
26 photograph which is marked -- the photographs which are marked
27 People's 5 for identification.

28 Is that the house to which you went at 964 Old

1 Topanga Road in Malibu?

2 A Yes, it is.

3 Q And what did you observe, and what did you do after
4 you entered the location?

5 Strike that.

6 What portion of the house did you enter first,
7 when you entered it?

8 A I entered the patio area. It is a small room off
9 on the side -- the south side of the house.

10 I then gained access through the door leading into
11 a hallway.

12 MR. MANZELLA: Your Honor, may I have a moment?

13 THE COURT: You may.

14 (Whereupon, the Deputy District Attorney Manzella
15 stepped into the Court's antechambers, returning shortly to the
16 courtroom, and the following proceedings were had:)

17 BY MR. MANZELLA:

18 Q All right, directing your attention first to the
19 photographs marked People's 5 for identification.

20 Now, does the portion of the house through which
21 you entered show in these photographs?

22 A Yes.

23 Q Would you point that out, please?

24 A It is People's F here.

25 Q Is that the porch to which you referred?

26 A Yes.

27 Q How did you enter the house, the rest of the house?

28 A I -- one of the deputies crawled through the

kitchen window and opened the doorway leading into the hall.

MR. MANZELLA: Your Honor, I have here a -- what appears to be a drawing to scale of the home at 964 Old Topanga Canyon Road.

I would ask that that be marked People's -- is that 7, Joyce?

THE CLERK: 7.

MR. MANZELLA: People's 7 for identification.

THE COURT: So ordered.

MR. MANZELLA: Do you want to come up and see it, Mr. Kanarek?

THE COURT: Mr. Manzella, there's a pointer over there.

MR. MANZELLA: Your Honor, may I inquire if the members of the jury can see the diagram?

THE COURT: Is there anyone who cannot?

(No affirmative response.)

THE COURT: You may proceed.

Q BY MR. MANZELLA: Now, Sergeant Whiteley, before describing further what you observed at the location, would you, referring to People's 7, tell us what People's 7 depicts?

A This is a floor plan of the residence at 964 Old Topanga Canyon. It's built on the side of a steep hill. Old Topanga Canyon Boulevard is running along here (indicating).

It's approximately 75 feet down to the roadway.

THE COURT: Indicating to the left of the diagram, for the record.

THE WITNESS: Yes. There's a pathway running along this portion here (indicating), on the left side of the

S-2

1 diagram, and there is a bedroom underneath this living room,
2 on the first level. Everything depicted in here (indicating)
3 is on a second level.

4 Q BY MR. MANZELLA: Do you want to get down and use
5 this microphone?

6 A There are stairways from Old Topanga Canyon Road,
7 which would be the upper left-hand corner here, that come up
8 to the first level.

9 The pathway runs along this location here
10 (indicating), with a stairway leading up to the porch, with
11 the doorway here.

12 The path continues around and comes up the hill
13 (indicating), along here. It's a very small footpath, and
14 leading into this den area (indicating).

15 Q All right. Now, can you enter this portion, the
16 portion of the house shown in People's 7 for identification,
17 from the bedroom which is under the living room or do you
18 have to come outside the house to enter this portion of the
19 house?

20 A You have to come outside. There's no stairway
21 from the inside of the house, from this portion, the second
22 level, to the bedroom on the first level.

23 Q All right. Now, when you entered that house,
24 would you describe what you saw in the portion of the house
25 which is marked as the Den, in People's 7 for identification?

26 A I entered the location through this doorway
27 (indicating), and I observed numerous packages of cleaning --
28 of clothes that had been cleaned and were in blue packages

8-3

1 here (indicating); and numerous clothing belonging to both
2 men and women here (indicating).

3 I observed a chain on the floor in this location
4 (indicating).

5 I instructed one of the deputies to crawl through
6 this window (indicating) and --

7 THE COURT: Indicating a window in the kitchen, on
8 the south side of the building?

9 THE WITNESS: That's correct. And to come around and
10 open up this door (indicating) which was locked.

11 THE COURT: Indicating a doorway in the hall.

12 THE WITNESS: I then entered through this doorway into
13 the hall and turned left, and went into the living room. And
14 I observed a body lying in this position here (indicating)
15 in the living room, in the northeast portion.

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1 Q BY MR. MANZELLA: All right. Let me interrupt
2 you for a moment.

3 Does this diagram, which is marked People's 7
4 for identification, substantially accurately depict the
5 distances and designations of the various rooms of the
6 second floor of the house?

7 A Yes, they are approximately proportionate.

8 Q All right. Directing your attention, for the
9 moment, to the photograph which has been marked People's
10 6 for identification, do you recognize what is depicted in
11 that photograph?

12 A Yes, I do.

13 Q And what is that?

14 A That's the body that I found in the living room.

15 Q Is that -- as depicted in these photographs,
16 People's 6 for identification, is that the position the
17 body was in when you found it?

18 A Yes, it is.

19 MR. MANZELLA: Your Honor, I have here a cardboard
20 containing four color photographs. May I have that marked
21 People's --

22 THE CLERK: 8.

23 MR. MANZELLA: -- People's 8 for identification?

24 THE COURT: So ordered.

25 MR. MANZELLA: I have another cardboard containing
26 color photographs. May I have that marked People's --

27 THE COURT: 9.

28 MR. MANZELLA: -- 9 for identification?

8 id.

8a-2 9 id. 1

THE COURT: So ordered.

2 MR. MANZELLA: And I have another cardboard containing
3 four color photographs. May I have that marked People's
4 10 for identification?

10 id. 5

THE COURT: So ordered.

6 Q BY MR. MANZELLA: All right.

7 Sergeant Whiteley, directing your attention to the
8 photographs marked People's 8 for identification, do you
9 recognize what is depicted in these photographs?

10 A Yes, I do.

11 Q And what is that?

12 A This is the porch, or -- in the -- in this
13 diagram, as the den.

14 Q All right. And is the door through which you
15 entered the residence shown in any of these photographs?

16 A Yes, it does, in A.

17 Q All right.

18 Before you go on describing the rest of the
19 house, is there anything -- strike that.

20 Was there anything unusual that you observed
21 about the door leading from the den to the hallway, which you
22 have already described?

23 A No. Only that it was locked.

24 Q Now, after you entered the home, did you examine
25 that door?

26 A The door in A? Yes, I did.

27 Q You found nothing unusual about that?

28 A No. There was nothing unusual.

8a-3

1 Q All right. Was there another door leading from
2 the den to another portion of the house, which you did
3 examine?

4 A Yes.

5 Q What doorway was that?

6 A That was the door leading from the den to a
7 utility room which was being used as a library.

8 Q Does that door show on People's 7, the scale
9 drawing?

10 A Yes, it does. In the right portion, marked
11 Utility Room.

12 Q All right. Would you point out that door to us?

13 A This door right here (indicating).

14 Q Now, does that door show --

15 THE COURT: You indicated where on the diagram?

16 THE WITNESS: Yes.

17 MR. MANZELLA: Yes, your Honor. It's the doorway
18 leading from the den, to that room marked the Utility Room.

19 There's just one doorway leading between the two.

20 Q All right.

21 Sergeant Whiteley, does that doorway, which you
22 just pointed out on People's 7, show in the photographs marked
23 on People's 8?

24 A Yes, it does, in both B and C.

9 fls.

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1 Q Did you notice anything unusual about that door?

2 A Yes, the door had been forced open.

3 Q Upon what did you base that conclusion?

4 A The lock had been torn out of the door.

5 Q Now, does that portion of the door which had
6 been -- strike that.

7 Are you saying that you noticed some damage to
8 the door?

9 A Yes, I did.

10 Q Is that damage shown in photographs B and C?

11 A Yes.

12 Q And is it marked in any way?

13 A Yes, it has red circles in both B and C.

14 Q Does it have the initials "CG" marked on the
15 photographs?

16 A Yes.

17 Q Are those the initials of your partner, Charles
18 Guenther?

19 A Yes.

20 MR. MANZELLA: Your Honor, may I have a moment?

21 THE COURT: You may.

22 (Pause.)

23 BY MR. MANZELLA:

24 Q All right, Sergeant Whiteley, you've testified
25 with regard to entering the living room and what you
26 observed in that portion of the room.

27 Did you then go into another room in the house?

28 A Yes. I subsequently went through all the rooms in

9-2
1 the house.

2 Q Did you observe -- strike that.

3 Have you testified to what you observed in the
4 living room?

5 A Yes, I observed a body on the floor.

6 Q All right. What room did you enter next?

7 A The bathroom.

8 Q And thereafter, did you go into the kitchen?

9 A Yes, I did.

10 Q What, if anything, did you observe when you went
11 into the kitchen?

12 A The kitchen table had been broken and two legs
13 were folded under. The -- there were contents on the floor
14 around the table.

15 I also observed what appeared to be a bullet hole
16 that had caromed off the kitchen drawers on the west side of
17 the kitchen cabinets and a hole through the kitchen cabinets
18 underneath the sink.

19 I also observed what appeared to be splatterings
20 of blood on both the east, west and north walls and the
21 ceiling of the kitchen.

22 Q Now, did the -- strike that.

23 Would you point -- using the diagram People's
24 7 for identification, would you point to that area of the
25 kitchen where you describe -- where you saw what you describe
26 to -- appear to be a bullet hole?

27 A There were two places.

28 One would be approximately right here (indicating

1 on diagram).

2 Q Is that on the --

3 A On the west -- excuse me, the east portion of the
4 kitchen.

5 And it was just below the counter level on one of
6 the kitchen doors.

7 It appeared to be a glancing blow or path of a
8 bullet. There was an entrance in the kitchen cabinet door
9 underneath the sink at this location (indicating on diagram),
10 and there was another hole in the exterior wall underneath the
11 sink (indicating on diagram).

12 Q Sergeant Whiteley, can you, using this pencil,
13 mark the area that -- on People's 7 for identification --
14 where the holes that you have described were located?

15 (Whereupon, the witness stepped down from the
16 witness stand and to the diagram and so indicated.)

17 Q BY MR. MANZELLA: All right. Have you drawn --
18 I see you have drawn one line and two circles; is that correct?

19 A Yes.

20 Q All right. Would you mark your initials under
21 each one of those designations so we can remember that you are
22 the one that put them there?

23 A (Witness complies.)

24 THE COURT: For the record, there is a plexiglass, a
25 piece of plexiglass or clear material covering the floor
26 plan on People's 7 for identification, and the witness has
27 marked in grease pencil on the plexiglass surface in the kitchen
28 three markings.

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1 Q BY MR. MANZELLA: All right, now, Sergeant
2 Whiteley, when you first observed the -- what appeared to
3 be bullet holes, did the hole in the outer wall, that is the
4 hole in the wall behind the sink appear to be in line with
5 the glancing blow off the cabinet and the hole in the cabinet
6 in the front of the sink?

7 A Yes.

8 Q Did that hole in the outer wall lead to the
9 outside of the house?

10 A Yes.

11 Q All right. Now, Sergeant, Sergeant Whiteley --
12 Your Honor, at this point I'm about to enter into
13 an area of description on the part of Sergeant Whiteley which
14 may take a good deal of time. Would you want me to go ahead
15 rather than interrupt at this time?

16 THE COURT: Why don't you go ahead for a few minutes.

17 MR. MANZELLA: All right, your Honor.

18 BY MR. MANZELLA:

19 Q Directing your attention to the body in the
20 living room.

21 Would you describe what you observed about the
22 body for us, please?

23 A I observed the body lying in a supine position
24 with the arms extended outward.

25 The body was dressed in a white T-shirt and
26 blue Levis with no shoes.

27 There was a preliminary examination at the -- in
28 the living room at the location which was hampered at the time

9a-2

1 by excessive flies and insects. However, it appeared that
2 the victim had been stabbed in the chest area. And I also
3 noticed a laceration of the left ear.

4 Q Now, did you notice any odor around the house
5 or in the living room?

6 A Yes, there was a very strong odor.

7 Q When did you first notice that odor?

8 A Uh, upon reaching the first level at the location,
9 when I came up the stairway and across the front of the house.

10 Q Were there any objects near the body or resting on
11 the body?

12 A There were some beads which appeared like a
13 Rosary beads adjacent to the victim's right hand.

14 Also, there were numerous ballpoint pens scattered
15 around with the -- with these beads.

16 Q Were these ballpoint pens near the body as well?

17 A Yes, they were.

18 Q Was there a pillow on or near the body?

19 A Yes, there was. There was a pillow adjacent
20 to the -- I believe, the right side of the face. Not covering
21 the face but just propped up alongside of it.

22 There was --

23 Q Did there appear to be any blood on the pillow?

24 A Yes, and body fluids.

25 Q Was there a sheet near the body?

26 A Yes, there was a sheet that had been crumpled
27 up, and it was just adjacent, I believe, to the left side of
28 the head and above it.

9a-3

1 Q Was there any blood -- did there appear to be any
2 blood on the sheet?

3 A It appeared to be blood and body fluids.

4 Q Now, would you, for us, in that portion of
5 People's 7 for identification designated "Living Room," draw
6 a stick figure showing substantially the position of the
7 body as you found it when you entered the living room?

8 (Whereupon, the witness stepped down from the
9 witness stand and approached the diagram and so
10 indicated.)

11 Q BY MR. MANZELLA: All right, would you put your
12 initials under the figure, please.

13 A (Witness complies.)

14 THE COURT: We'll recess at this time, ladies and
15 gentlemen.

16 Remember the admonition that I have heretofore
17 given you, and must give you at each recess.

18 Don't converse amongst yourselves, or anyone else.
19 Don't permit anyone to converse with you on any subject
20 connected with this matter, nor are you to form or express
21 any opinion on the matter until it has finally been submitted
22 to you.

23 MR. KANAREK: May that be 2:00 o'clock, your Honor?

24 THE COURT: All right, 2:00 o'clock, ladies and
25 gentlemen.

26 MR. KANAREK: Thank you.

27 THE COURT: For your guidance, we'll be going until
28 4:30 this afternoon.

9a-4

10 fls.

See you at 2:00 o'clock.

(Whereupon, at 12:00 o'clock noon an adjournment was taken, the herein proceedings to be resumed at 2:00 o'clock p.m. of the same day, Wednesday, August 4, 1971.)

1 LOS ANGELES, CALIFORNIA, WEDNESDAY, AUGUST 4, 1971, 2:05 P. M.

2
3 THE COURT: The record will show Mr. Manson to be present
4 with Mr. Kanarek. All the jurors and alternates are present in
5 the box.

6 Mr. Manzella, you may proceed.

7 MR. MANZELLA: Thank you, your Honor. Your Honor, the
8 People would ask permission to interrupt Sergeant Whiteley's
9 testimony and put on another witness whose testimony should not
10 take more than ten minutes, if that is agreeable.

11 MR. KANAREK: Agreeable.

12 MR. MANZELLA: All right. Your Honor, the People would
13 like to call at this time Mr. Jay Hofstadter.

14 THE CLERK: Would you raise your right hand, please?

15 You do solemnly swear that the testimony you may
16 give in the cause now pending before this Court shall be the
17 truth, the whole truth, and nothing but the truth, so help you
18 God?

19 THE WITNESS: I don't believe in God.

20 THE COURT: Would you like to affirm?

21 THE WITNESS: I do.

22 THE CLERK: You may lower your hand. But please stand.

23 THE COURT: Please stand.

24 THE CLERK: You do solemnly affirm that the testimony
25 you may give in the cause now pending before this Court shall
26 be the truth, the whole truth, and nothing but the truth; that
27 is, you do under pain and penalty of perjury?

28 THE WITNESS: (Indicating affirmatively.)

1 THE COURT: Is that a "Yes"?

2 THE WITNESS: Yes.

3
4 JAY HOFSTADTER,

5 being called as a witness on behalf of the People, having been
6 first duly sworn, was examined and testified as follows:

7 THE CLERK: Please state and spell your full name.

8 THE WITNESS: One, two, three. One, two, three. J-a-y,
9 H-o-f-s-t-a-d-t-e-r.

10
11 DIRECT EXAMINATION

12 BY MR. MANZELLA:

13 Q All right. Mr. Hofstadter, did you know Gary
14 Hinman?

15 A Yes, I did.

16 Q And as of the date of July 25th of 1969, approxi-
17 mately how long had you known him?

18 A I -- what date?

19 Q As of July of 1969, approximately how long had you
20 known him?

21 A About one year and ten months.

22 Q Now, had you ever stayed at Mr. Hinman's home at
23 964 Old Topanga Canyon Road, in Malibu?

24 A I had stayed there from about May of 1968 till
25 about July of that year.

26 Q Now, directing your attention to the date of
27 Saturday, July 26th of 1969, on that date did you make a
28 telephone call to Mr. Hinman's home in Malibu?

1 A Yes, I did.

2 Q Did anyone answer the telephone when you made the
3 call?

4 A A girl.

5 Q Now, did the girl speak in any accent that was
6 distinctive?

7 A British.

8 Q Would you tell us what the conversation was, if
9 any, that you had with the girl?

10 MR. KANAREK: Object, your Honor, on the grounds of
11 hearsay. Immaterial, irrelevant.

12 MR. MANZELLA: Your Honor, it is --

13 THE COURT: You may approach the bench.

14 (Whereupon, the following proceedings were had
15 at the bench among Court and counsel, outside the hearing of
16 the jury:)

17 MR. KANAREK: No foundation, also, and --

18 THE COURT: It does appear to be hearsay.

19 MR. MANZELLA: The People's position is, your Honor,
20 it's not hearsay, because it's not offered for the truth of
21 the matter asserted, which is one of the primary requirements
22 of hearsay.

23 My offer of proof --

24 THE COURT: Well, you are asking for the gist of the
25 conversation with this person, whoever it may have been, with
26 the British accent.

27 MR. MANZELLA: Right.

28 THE COURT: What are you offering it for?

1 MR. MANZELLA: Well, we are offering it for the -- the
2 fact that it established that there was a female at Gary's
3 residence on the weekend that we are alleging that Gary Hinman
4 was killed;

5 And that this female made -- told a lie about the
6 whereabouts of Gary Hinman; and that Hinman was in fact not at
7 -- in Colorado, with his family, but was in fact at the home.

8 In other words, this is -- my offer of proof would
9 be that the female --

10 THE COURT: Well, you've already established that there
11 was a female there.

12 MR. MANZELLA: Right.

13 THE COURT: Now, you are going to introduce -- what do you
14 believe that the conversation will be, that he is about to
15 testify to?

16 MR. MANZELLA: I believe that the female said that
17 Gary's family was in an accident in Colorado where they live,
18 and that Gary had gone back East to see them.

19 MR. KANAREK: Oh, that's hearsay.

20 MR. MANZELLA: And we are not offering that for the
21 truth of the matter, obviously, because we are contending that
22 he was dead in his home -- or, was in his home at that time.

11 fls.

11-1

1 MR. KANAREK: It is obviously -- first of all, the
2 'prejudicial value far outweighs any probative value, and it
3 is clearly immaterial, irrelevant and has to be connected
4 up to this defendant in some way or other. Otherwise, it
5 cannot be used, your Honor, and the fact that somebody may
6 have lied or it is a lie, he's offering it for the truth of
7 the matter asserted.

8 THE COURT: What do you intend to show --

9 MR. KANAREK: That it is a lie --

10 THE COURT: -- with respect to Mr. Manson?

11 MR. MANZELLA: Well, we will show who made the phone
12 call. By other evidence, not by this witness. We will show
13 by other evidence who made the phone call. I mean, who
14 received the phone call.

15 THE COURT: I see.

16 MR. MANZELLA: We will show how that person was
17 connected to Mr. Manson by other evidence.

18 MR. KANAREK: Then, I will object to -- there is -- it
19 is -- there is no showing of this being connected at this
20 time. They can bring back the witness at some other time.

21 THE COURT: The objection is overruled. The Court
22 would find it does have probative value if it is connected
23 with Mr. Manson.

24 MR. KANAREK: What --

25 THE COURT: The Court believes if it is not connected,
26 the People are unable to establish who did it, then, it will
27 be stricken.

28 MR. KANAREK: But it is prejudicial.

11-2

1 THE COURT: The Court will exercise its right to
2 control the order of proof in that respect, Mr. Kanarek. The
3 Court does find its probative value would outweigh any
4 prejudice it might have.

5 MR. KANAREK: But, your Honor --

6 THE COURT: In any event, the Court will, however,
7 give a limiting instruction at this time and tell the jury
8 that they are not to accept this testimony concerning the
9 conversation, the telephone conversation, to prove the truth
10 of what was said but merely to establish that it was said.

11 MR. KANAREK: But, your Honor, unless we can show --
12 you can't prove a telephone conversation this way.

13 THE COURT: Let's proceed.

14 MR. KANAREK: Then, I want to take this witness on
15 voir dire. I have a right to have a proper foundation laid
16 to a telephone conversation and I'll show your Honor that
17 in Witkin. You cannot prove --

18 THE COURT: Let's get back to it.

19 The Court -- that will be the Court's ruling.

20 MR. KANAREK: Then, I make a motion to inquire on
21 voir dire.

22 THE COURT: You may cross-examine. But the Court
23 doesn't believe it is a legitimate --

24 MR. KANAREK: But the fact --

25 THE COURT: -- a legitimate voir dire inquiry.

26 MR. KANAREK: But here there's no foundation, your Honor,
27 for the state -- a telephone conversation has to be proved
28 properly.

11-3

(Whereupon, the following proceedings were had in open court within the presence and hearing of the jury:)

THE COURT: What was the last question?

THE REPORTER: Mr. Williams has it in his take, your Honor.

THE COURT: Pardon?

THE REPORTER: The other reporter, Ken, has it.

THE COURT: Would you restate your question.

MR. MANZELLA: Yes, your Honor.

I would like to withdraw it for a moment and ask another question, if I may?

THE COURT: Very well.

BY MR. MANZELLA:

Q Mr. Hofstadter, did you recognize the voice of the female who answered the phone?

A No, I did not.

Q Would you tell us what the conversation was, if any, that you had with the female that answered the phone?

MR. KANAREK: Then, I object on the grounds enunciated--

THE COURT: The objection is overruled on the grounds the Court has stated at the bench.

Ladies and gentlemen, the Court will permit this conversation to come into evidence. It is not to be received by you, if you consider it at all, to prove the truth of what was said, but merely to establish that it was said.

You all -- is there any question about that?

All the jurors seem to understand that.

11-4

1 You may answer the question.

2 THE WITNESS: Okay, the girl said that -- well, No. 1,
3 I asked if I could rent out the downstairs to Gary's house,
4 which I had been renting out the year before. And, uh, the
5 girl said that Gary was not there. That he had gone back to
6 Colorado because his parents had got into an automobile
7 accident. And, uh, the girl stated -- I got into a conversa-
8 tion with her and she said that she had come from London about
9 three months earlier or several months earlier. I don't
10 remember exactly how many months. That was about the extent
11 of that conversation.

12 THE COURT: Mr. Hofstadter, get closer to that micro-
13 phone. You have to get about an inch away.

14 THE WITNESS: Tck, tck, tck, ready?

15 THE COURT: Hear it pick up?

16 THE WITNESS: Testing 1, 2 -- yes, I do.

17 BY MR. MANZELLA:

18 Q Did you ask the girl if you could stay at Gary's
19 house?

20 MR. KANAREK: Object, leading and suggestive, as well
21 as the previous objections.

22 THE COURT: Sustained.

23 MR. MANZELLA: I'm sorry, I didn't hear the ruling,
24 your Honor.

25 THE COURT: The objection is sustained.

26 MR. MANZELLA: All right.

27 Q BY MR. MANZELLA: When you asked the girl if you
28 could rent out the bottom floor of Gary's house, did she say

1 anything?

2 MR. KANAREK: Object, assuming facts not in evidence.

3 MR. MANZELLA: He testified --

4 MR. KANAREK: The question --

5 THE COURT: The objection --

6 MR. KANAREK: -- plus the fact the previous objections
7 enunciated to the Court.

8 THE COURT: The objection is -- the objection is
9 sustained.

10 What else was said by the girl?

11 THE WITNESS: Okay.

12 MR. KANAREK: Same -- may I have a continuing objec-
13 tion on all the grounds --

14 THE COURT: You do have, and there is a continual
15 ruling to the same effect that was made at the bench.

16 MR. KANAREK: Thank you, your Honor.

17 THE WITNESS: Okay, the girl also stated that she was
18 told by Gary that no one was supposed to come out to the
19 house, none of his friends or anything, because they had
20 a habit of wrecking the house, which I assumed, you know,
21 would be what Gary might do, because, uh --

22 THE COURT: Well, you can't say what you assumed.

23 THE WITNESS: Okay, but --

24 MR. KANAREK: May that be stricken, your Honor?

25 THE COURT: Yes, the statement "I assume," and
26 thereafter is stricken, ladies and gentlemen.

27 THE WITNESS: And she also stated-- said that Gary might
28 be calling her up in the next couple of days and that she'd
ask.

11B-1

1 Q All right.

2 Now, directing your attention to Sunday, July
3 27, 1969, the next day, did you make another phone call to
4 Gary's home on that date?

5 MR. KANAREK: Leading and suggestive. Assuming facts
6 not in evidence, as --

7 THE COURT: The objection is overruled. You may answer
8 the question.

9 A I don't think it was that day. I think it was
10 Monday that I had called up.

11 Q All right.

12 A If I am not mistaken.

13 Q That would have been Monday, the 28th?

14 A Uh, the -- two days from the date I made the
15 first phone call.

16 Q All right. Did anyone answer the phone when you
17 called the second time?

18 A The same girl.

19 MR. KANAREK: Well, your Honor, may I inquire on voir
20 dire as to that? That is a conclusion and ask that be
21 stricken over and above the continuing objections, the same --

22 THE COURT: The objection is overruled. You may answer.

23 Well, let's see, there is no call for an answer,
24 is there?

25 MR. MANZELLA: The question -- I believe the question had
26 already been answered.

27 THE COURT: Yes, it has already been answered. The answer
28 may remain.

1 BY MR. MANZELLA:

2 Q Did you have a conversation with the girl the second
3 time?

4 A She said that Gary had not --

5 MR. KANAREK: Your Honor, that can be answered yes or
6 no.

7 THE COURT: Yes, answer yes or no.

8 A Yes.

9 BY MR. MANZELLA:

10 Q And what was that?

11 MR. KANAREK: Same objection enunciated.

12 THE COURT: The objection is overruled. You may answer.

13 And, ladies and gentlemen, and, the conversations
14 with this person that are being admitted by the Court are
15 admitted not to prove the truth of what was said, but to
16 establish, if it does establish, that it was said.

17 A Okay, the girl, I believe, stated that Gary had not
18 called her up yet and that she couldn't -- uh, that she could
19 not do anything about letting me stay in the downstairs or
20 anything like that.

21 MR. MANZELLA: Thank you, Mr. Hofstadter.

22 I have no further questions, your Honor.

23

24

CROSS EXAMINATION

25

BY MR. KANAREK:

26

27 Q Mr. Hofstadter, sir, did you ever purchase any
narcotics from Gary Hinman?

28

A No.

1 Q Did you ever -- were you engaged in any narcotic
2 traffic with Gary Hinman?

3 A No.

4 MR. MANZELLA: Your Honor, I'll object to this line of
5 questioning as irrelevant.

6 THE COURT: The objection is sustained.

7 BY MR. KANAREK:

8 Q You say that you were at Gary Hinman's house for
9 some year and a half?

10 A No, I did not. I stated that I was there for
11 somewhere around three months or so.

12 Q At Gary Hinman's house?

13 A Right, downstairs in --

14 Q Yes.

15 A About the year before, 1968.

16 Q In your presence, did Gary Hinman engage in any
17 narcotic transactions?

18 THE COURT: You needn't --

19 MR. MANZELLA: Your Honor, objection.

20 THE COURT: The Court sustains the objection. Immaterial.

21 MR. KANAREK: May we approach the bench?

22 THE COURT: No, you may not.

23 MR. KANAREK: Well, the --

24 BY MR. KANAREK:

25 Q What were the months, Mr. Hofstadter, that you were
26 at the Gary Hinman home?

27 A May, June, July.

28 Q And on how many occasions did you see Gary Hinman

1 when you were at the Gary Hinman home?

2 A Almost every single day.

3 Q And while you were at the Gary Hinman home, did
4 people come there from time to time?

5 A Yes.

6 Q And did people appear to engage in some business
7 with Gary Hinman while you were there?

8 A Uh --

9 THE COURT: It is immaterial. You needn't answer it.

10 THE WITNESS: Well, if you want me to --

11 THE COURT: You needn't answer it.

12 MR. KANAREK: May we approach the bench, your Honor?

13 THE COURT: No, you may not.

14 BY MR. KANAREK:

15 Q Now, am I pronouncing your name right, sir,
16 Hofstadter?

17 A Right.

18 Q Directing your attention to these purported events
19 that you have testified to, these conversations that you have
20 testified to,

21 Have you -- When is the first time that you had
22 any occasion to put these matters down on paper?

23 A Uh, put them down on paper?

24 Q Yes.

25 A I don't believe I ever signed any statement.

26 Q Did you ever put them down on paper?

27 A No.

28 Q When is the first time you had any occasion to

1 recollect these matters that you have spoken of, these conversa-
2 tions, allegedly?

3 A Uh, the date that the body was discovered, because
4 another friend of mine who had lived --

5 Q Would you just answer the question, Mr. Hofstadter?

6 A About a week later.

7 Q About a week later.

8 And you made no notes?

9 A No.

10 Q Concerning these conversations when you took them?

11 A No.

12 Q When you supposedly heard them, right?

13 A No.

14 Q And so you at no time have reduced these conversa-
15 tions to writing, is that right?

16 A No.

17 Q Is that correct?

18 A Correct.

19 Q And you had no occasion to even think about them
20 until a week later?

21 A Correct.

22 MR. KANAREK: Thank you.

23 Thank you, your Honor.

24 THE COURT: Anything further?

25 MR. KANAREK: Yes, I have a motion at the bench, your
26 Honor.

27 THE COURT: All right, you may have it.
28

12-1

1 (Whereupon, the following proceedings were had
2 at the bench among Court and counsel, outside the hearing of
3 the jury:)

4 THE COURT: Off the record.

5 (Whereupon, a discussion ensued off the record.)

6 THE COURT: All right. On the record.

7 MR. KANAREK: My point is that we have a right -- we
8 have a right, when they open up a subject of a person, an
9 unknown person, who made a phone call -- or actually, was a
10 person who received a phone call -- we have a right to show
11 by this very witness -- we have a right to show that it could
12 be any number of people that this man was dealing in narcotics
13 with.

14 And we have reason to believe that he was dealing
15 in narcotics; and this is depriving Mr. Manson of a defense,
16 a very viable defense, that he was killed because of some
17 narcotic type of involvement.

18 And this -- this -- your Honor is denying us
19 this evidence that we are entitled to. They have to prove
20 their case.

21 THE COURT: You may make --

22 MR. KANAREK: And we are entitled to impeach --

23 THE COURT: You may make Mr. --

24 MR. MANZELLA: Hofstadter.

25 THE COURT: -- Hofstadter -- thanks -- your own witness,
26 and establish Mr. Hinman's habits and so forth.

27 But in regard to your cross examination, it is
28 outside the scope of the direct. If -- and it would be

12-2

1 immaterial, in many ways, in the direction in which you are
2 heading.

3 Now, I don't mean to preclude you from making
4 Mr. Hofstadter your own witness, if you wish to have him
5 called back to establish that possibly this was somebody who
6 -- who was a customer of Mr. Hinman's, if that is the case,
7 that he was dealing in narcotics.

8 All right.

9 MR. KANAREK: Well -- well, your Honor, I -- as I say,
10 my motion, in view of all of the -- all of what's occurred,
11 and my previous objections, I make a motion to strike this
12 witness's testimony.

13 THE COURT: That motion --

14 MR. KANAREK: All of his testimony. And with particular-
15 ity, the testimony concerning the purported gist or, the
16 purported lack -- the words testified to between himself and
17 this supposed female.

18 THE COURT: All right. That --

19 MR. KANAREK: But I do ask that he --

20 THE COURT: -- motion is denied.

21 MR. KANAREK: Well, I ask that he be ordered to return.

22 THE COURT: What day do you want him?

23 MR. KANAREK: Well, I would like to speak with him
24 before -- and I would like him not to be ordered back in open
25 court, though, in the presence of the jury. Because I -- but
26 I do --

27 THE COURT: Well, you -- Mr. Manzella, are you in a
28 position to make Mr. Hofstadter's whereabouts known to

12-3

1 Mr. Kanarek?

2 MR. MANZELLA: Sure.

3 MR. KANAREK: Well, his present instantaneous where-
4 abouts.

5 MR. MANZELLA: Well, we got hold of him this morning, to
6 get him into court. I'll give you the same information we used
7 to get him in this morning.

8 MR. KANAREK: What's that?

9 MR. MANZELLA: I don't know what it is. Sergeant
10 Whiteley --

11 THE COURT: But you'll make it available?

12 MR. MANZELLA: Sure.

13 MR. KANAREK: Thank you, your Honor.

14 (Whereupon, the following proceedings were had in
15 open court, within the hearing of the jury:)

16 THE COURT: All right. Mr. Hofstadter, you may step
17 down, and you are excused, if you wish to go.

18 MR. KANAREK: May the record reflect that Mr. Hofstadter
19 left the courtroom in very -- at a great speed, practically a
20 running walk. I don't know -- for whatever that may be worth,
21 your Honor.

22 THE COURT: Mr. Manzella, go ahead.

23 (Pause in the proceedings while a discussion off
24 the record ensued at the counsel table between Mr. Manzella
25 and Sergeant Whiteley.)

26 MR. MANZELLA: Your Honor, the People would like to
27 recall Sergeant Whiteley to the stand.

28 THE COURT: All right. You may do so.

12-4

12a:fls.

1 MR. MANZELLA: Your Honor?

2 THE COURT: Yes?

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12a-1

1 MR. MANZELLA: I would like to say for the record
2 that I do object to Mr. Kanarek's comment regarding the
3 witness' exit from the courtroom.

4 THE COURT: Yes, Mr. Kanarek. It has no place in
5 here, --

6 MR. KANAREK: I believe it does.

7 THE COURT: -- in the record, and --

8 MR. MANZELLA: Our witnesses come from work here to
9 testify, your Honor.

10 THE COURT: Well, neither does your comment, Mr.
11 Manzella, have any place in the record.

12 The jury is able to observe everything that goes
13 on in the courtroom. They don't need the help of either
14 counsel, and we don't need any remarks from either of you in
15 respect to this matter any further.

16 Mr. Latiner?

17 MR. LATINER: Yes, your Honor.

18 (Whereupon, a discussion off the record ensued
19 at the bench between the Court and counsel in another
20 matter.)

21 THE COURT: Go ahead, Mr. Manzella.

22
23 PAUL J. WHITELEY,

24 having been previously duly sworn, resumed the stand and
25 testified further as follows:

26
27 DIRECT EXAMINATION (Continued)

28 BY MR. MANZELLA:

12a-2

1 Q Sergeant Whiteley -- strike that.

2 (Pause in the proceedings.)

3 THE COURT: Go ahead.

4 MR. MANZELLA: Your Honor, I want to withdraw one of
5 these exhibits and substitute another one for it.

6 Your Honor, I would like to withdraw People's 7
7 for identification and substitute an identical drawing for
8 People's 7 for identification.

9 THE COURT: Very well. The Court will permit you to do
10 that, and you may mark the diagram that's now on the board as
11 People's 7 for identification.

12 It appears to be an exact copy of the other more
13 permanent, framed one that had a -- some sort of a glasscene
14 surface or transparent surface of some type over it.

15 Q BY MR. MANZELLA: Sergeant Whiteley, would you
16 show us, by using a marking pencil, and drawing a stick
17 figure, the location of the body that you found in the
18 living room of the Hinman residence?

19 A (Witness drawing on the exhibit.)

20 THE COURT: The record will show that the sergeant has
21 done that and put his initials -- the initials are what? PW?

22 THE WITNESS: Yes, sir.

23 Q BY MR. MANZELLA: All right. Sergeant Whiteley,
24 in the kitchen of the Hinman residence, you have described
25 a -- what appeared to you to be the path of a bullet.

26 Would you mark the present People's 7 for
27 identification with those markings, please?

28 (Witness drawing on the exhibit.)

12a-3

1 THE COURT: All right. The record may show he has
2 done that on the copy which is now People's 7 for identifica-
3 tion.

4 Q BY MR. MANZELLA: All right. Thank you,
5 Sergeant Whiteley.

6 Now, with regard to the body which you found in
7 the living room, you stated that the body was dressed in
8 part in a T-shirt.

9 Was the T-shirt intact, or did it have any
10 damage? Was any damage noticeable to the T-shirt?

11 A There was damage on the front of the T-shirt.

12 Q And what -- would you describe that, please?

13 A There were two large holes in the T-shirt, in
14 the middle chest area (indicating); and there were several
15 small holes in the stomach area of the T-shirt. They were
16 very small, approximately a thirty-second of an inch, the
17 smaller holes; the larger holes were perhaps an inch and a
18 half to two inches in diameter.

19 Q Now, was there anything covering the body other
20 than the clothing to which you have already testified?

21 A Yes.

22 Q And what was that, please?

23 A There was a green blanket over the body when I
24 first observed it. It was covering the victim up, just below
25 the chin (indicating).
26
27
28

12b fls.

12b-1

1 MR. MANZELLA: Your Honor, I have here what appears
2 to be a color photograph of a green blanket. May this be
3 marked People's 11 for identification?

11 id.

4 THE COURT: So ordered. People's 11.

5 Q BY MR. MANZELLA: All right. Sergeant Whiteley,
6 directing your attention to the photograph -- is this yours?

7 A No, but I'll take it.

8 MR. MANZELLA: Oh, pardon me. It's a juror's.

9 Q Directing your attention to the photograph which
10 is marked People's 11 for identification, do you recognize
11 what is shown in that photograph?

12 A Yes, I do.

13 Q And what is that, sir?

14 A This is the green blanket that was covering the
15 body.

16 Q Were there any -- did there appear to be any
17 bloodstains on the green blanket?

18 A Yes, there appeared to be blood stains on the
19 green blanket.

20 Q So do those stains show in the photograph marked
21 People's 11?

22 A Yes, they do.

23 Q Would you point them out, please?

24 A Yes. Do you want me to circle them?

25 Q Yes. Would you circle them?

26 A (Witness drawing on the exhibit.)

27 MR. MANZELLA: May the record reflect the witness
28 has complied, your Honor?

12b-2

1 THE COURT: Yes, it may so show.

2 Q BY MR. MANZELLA: All right. Sergeant Whiteley,
3 now, directing your attention to the walls of the living
4 room, did you notice anything unusual about the walls of the
5 living room in which you found the body?

6 A Yes.

7 Q And what was that, please?

8 A There appeared to be writing in blood on the
9 north wall.

10 Q And where was that location in relationship to
11 the location of the body?

12 A It was directly above the body.

13 Q Would you tell us what that -- strike that.
14 Would you describe the writing, please?

15 A It was written: "Political Piggy" and what
16 appeared to be a paw print of an animal.

17 Q Now, did the paw print of the animal -- or,
18 strike that.

19 Did what appeared to be the paw print of the
20 animal, did that appear to be an actual paw print of an
21 animal, or did it appear to have been drawn?

22 MR. KANAREK: Calling for a conclusion.

23 THE COURT: Overruled.

24 THE WITNESS: It appeared to have been done with a
25 finger.

26 Q BY MR. MANZELLA: Now, sometime after you
27 observed the body, did you telephone the Coroner's office?

28 A Yes, I did.

12b-3

1 Q Did a representative of the Coroner's office
2 come to 964 Old Topanga Road?

3 A Yes, he did.

4 Q Do you know who that representative was?

5 A I believe it was Dr. -- Deputy Coroner Green.

6 Q At some point thereafter, did he take custody of
7 the body?

8 A Yes, he did.

9 Q And was it removed from the location?

10 A Yes, we removed it from the location.

11 MR. MANZELLA: Your Honor, I have here what appears to
12 be a string of beads. May I have them marked People's 12
13 for identification?

14 THE COURT: So ordered.

15 Q BY MR. MANZELLA: Sergeant Whiteley, directing your
16 attention to these beads which have been marked People's 12
17 for identification, have you ever seen those before?

18 A I've seen a pair just like them.

19 Q And when and where have you seen a pair just like
20 them?

21 A They were adjacent to the right hand of the victim
22 in the living room, Mr. Hinman.

23 Q All right. Directing your attention to
24 photograph A of People's 6 for identification, do these --
25 strike that.

26 Do the beads about which you are speaking appear
27 in this photograph?

28 A Yes, they're in picture A, in the lower left-hand

12 id

12b-4

1 portion, in the foreground.

2 Q Now, directing your attention to the kitchen
3 of the location, 964 Old Topanga Canyon Road, would you
4 describe what you observed in the kitchen area?

5 A Uh -- I found a table that was broken in the
6 kitchen, on the south portion of the kitchen. The two legs
7 were buckled under it (indicating).

8 There were clothes, a dish, a trumpet case, and
9 some other miscellaneous things lying on the floor.

10 There also appeared to me to be what was blood
11 splattered on the refrigerator, the cabinets on the east
12 side, on the walls above the sink, on the front of the range,
13 and above the range on the walls on the west side, and on the
14 ceiling.

15 MR. MANZELLA: Your Honor, I have here what appears to
16 be a checkbook, with three blank checks left remaining in the
17 checkbook, and bearing the name Gary A. Himman.

18 May I have the checkbook marked People's 13 for
19 identification?

20 THE COURT: So ordered.

21 Q BY MR. MANZELLA: Sergeant Whiteley, directing
22 your attention to the checkbook which has been marked
23 People's 13 for identification, have you ever seen that
24 checkbook before?

25 A Yes, I have.

13 id.

13 fls.

13-1

1 Q And when and where have you seen it?

2 A This was at the Hinman residence on August 1st,
3 1930 -- or 1969.

4 Q And where did you find it?

5 A In the kitchen area, adjacent to the broken table.

6 Q Was it on the floor?

7 A I don't believe so. I believe it was inside a
8 jacket that was hanging on the wall adjacent to the broken
9 table.

10 Q All right.

11 Sergeant Whiteley, directing your attention now
12 to the photographs which have been marked People's 9 for
13 identification.

14 Would you describe -- starting with photograph
15 A, would you describe what each photograph depicts?

16 A Yes. This photograph shows the northeast wall of
17 the living room as in my -- in People's 7 there.

18 There's an outline in chalk of where the body was
19 laying. The blood writing on the wall is just above it
20 there, in what appears to be blood.

21 The -- uh, small tinfoil item on the wall there is
22 a Buddhist shrine.

23 And moving on to B here, this is the same picture
24 showing the outline of where the body was lying in the north-
25 east corner of the living room.

26 The first picture here is an angle being shot east
27 of where the body was lying in the northeast portion of the
28 living room.

1 Picture D is taken from the first place in the
2 living room, which is the northwest corner, showing the entrance-
3 way from the hall into the living room.

4 Picture E is the south wall of the living room.

5 Picture F is the southwest wall showing the window
6 at the southwest corner at the front of the building.

7 Picture G shows the fireplace in the northwest
8 corner of the living room.

9 And picture H is just a little bit different angle
10 of the northwest corner of the living room, showing the fire-
11 place.

12 Q Thank you.

13 Now, directing your attention to the photographs
14 which have been marked People's 10 for identification.

15 Again, starting with Photograph A, would you tell
16 us what is depicted in each of these photographs?

17 A The picture A is a kitchen table in the kitchen
18 on the south wall. And the contents around the table. A
19 trumpet case and some clothing.

20 Picture B is also the south portion of the kitchen
21 showing the broken table and the refrigerator.

22 Picture C is the northeast portion of the kitchen
23 showing where the bullet caromed off of the kitchen cabinet,
24 and then the hole underneath the sink.

25 Q Now, let me interrupt you for a minute.

26 In Picture C, which has been marked People's 10
27 for identification, are the markings you described appear to
28 be the result of a bullet, are they marked in any way on the

1 photograph?

2 MR. KANAREK: Your Honor, improper foundation, calling for
3 a conclusion.

4 THE COURT: Would you read that answer to me?

5 I mean, the question.

6 (Whereupon, the record was read by the reporter
7 as follows:

8 "QUESTION: Now, let me interrupt you for a minute.

9 In Picture C, which has been marked People's 10
10 for identification, are the markings you described appear to be
11 the result of a bullet, are they marked in any way on the
12 photograph?")

13 THE COURT: The objection is overruled. You may answer.

14 A Yes, they're both circled in red and have the
15 initials "CG."

16 BY MR. MANZELLA:

17 Q All right, going on to photograph D, would you tell
18 us what it depicted in that photograph?

19 A Photograph D shows again the broken table and the
20 south portion of the kitchen.

21 And, also, the window that the deputy climbed
22 through to gain access to the main portion of the house. This
23 is the south window between the kitchen and the den.

24 Q All right. And --

25 Now, do the photographs appear in People's 9 for
26 identification and People's 10 for identification, that is the
27 photographs you just looked at, and the photographs you just
28 looked at previous to this, do they appear to depict the

1 residence substantially the same as it was when you entered?

2 A Yes.

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13 a fls.

13a-1 1

MR. MANZELLA: Your Honor, I have here what appears to be a certificate of ownership in the name of "Gary Allen Hinman." May I have that marked People's 14 for identification?

14 Id. 3

THE COURT: So ordered.

MR. MANZELLA: Your Honor, I have here two sheets of 8-1/2 X 11 paper containing typewriting and an envelope. May I have that marked People's 15 for identification?

15 Id. 8

THE COURT: So ordered.

BY MR. MANZELLA:

Q Sergeant Whiteley, directing your attention to the document marked People's 14 for identification.

Have you ever seen that document before?

A Yes.

Q When and where have you seen it?

A I found this in the living room on August the 1st, 1969.

Q All right. Now, you testified that you first went to the Hinman residence on July 31st, 1969; is that correct?

A That's correct.

Q All right. Did you return the following day?

A Yes, I did. I left in the early morning hours of July 31st, and I returned again at approximately 11:00 a.m. of the same day.

Q And it was on that date that you found the People's 14 for identification?

A That's correct.

Q Now, did you find any vehicles parked at the

13a-2

1 location?

2 A Yes, I did.

3 Q Would you describe those vehicles, please?

4 A One was a small black and white Nash Metropolitan.

5 Q Would you describe the condition of that vehicle?

6 A The vehicle was inoperable. It had large amounts
7 of dust on it. It appeared it had been there a great length
8 of time.

9 We raised -- I raised -- someone else raised the
10 hood on the car and I observed that it did not have any
11 carburetor.

12 Q Were there any other vehicles parked at the
13 location, other than police vehicles?

14 A No.

15 Q Now, were the license plates on the Nash Metro-
16 politan?

17 A Yes, they were.

18 Q What was the license number of the Nash Metro-
19 politan?

20 MR. KANAREK: Uh, your Honor, if I may, is this -- is
21 he reading from something or does he have an independent
22 memory? I object on the grounds the question -- on the
23 grounds of improper foundation.

24 THE COURT: Well, Sergeant, do you have a notation
25 there that you were consulting?

26 THE WITNESS: No, sir.

27 THE COURT: The objection is overruled. You may answer
28 if you know the number of the -- the license number of the

13a-3

1 car, you may answer.

2 THE WITNESS: I do not independently know the license
3 number of the vehicle. I checked it against the registration
4 pink slip.

5 Q BY MR. MANZELLA: And when you checked it against
6 the certificate of -- strike that.

7 When you refer to pink slip, are you referring
8 to the certificate of ownership?

9 A That is correct.

10 Q All right. When you checked it against the
11 pink slip, was the license number on the vehicle itself the
12 same as that appearing on the pink slip?

13 A Yes.

14 MR. KANAREK: Object, your Honor, on the grounds of
15 improper foundation, conclusion. It is not the best evidence.
16 Hearsay. There's no foundation. Immaterial and irrelevant.

17 THE COURT: The objection is overruled. The answer may
18 remain.

19 MR. MANZELLA: I'm sorry, your Honor, I didn't hear
20 the answer.

21 THE COURT: The answer may remain.

22 MR. MANZELLA: I didn't get the answer.

23 THE COURT: The Court heard the answer.

24 Did you get an answer?

25 THE REPORTER: Yes.

26 (Whereupon, the record was read by the reporter
27 as follows:

28 "A Yes.")

13a-4

1 BY MR. MANZELLA:

2 Q Now, directing your attention to the document
3 marked People's 15 for identification, have you ever seen
4 that document before?

5 A Yes, I have.

6 Q And when and where did you first see that?

7 A On August 1st, 1969, I found it.

8 Q Where did you find it?

9 A I found it in the den area of 964 Old Topanga
10 Canyon Road.

11 Q And was it -- strike that.

12 Can you be any more specific about where you
13 found it?

14 A It was in something like a night stand that had
15 numerous papers in it.

16 Q All right. Directing your attention to the
17 photograph marked People's 8 for identification.

18 Is that night stand shown in any of the photographs
19 appearing on this exhibit?

20 A Yes, in picture B.
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28

1 Q And is that night stand partially circled in
2 what appears to be black pen or pencil?

3 A Yes.

4 Q Now, Sergeant, the pink slip that you referred
5 to, the license plate on the Nash Metropolitan, is that pink
6 slip the one which has been marked People's 14 for identifica-
7 tion?

8 MR. KANAREK: Object, your Honor, on the grounds of
9 improper foundation. Calling for a conclusion and hearsay.
10 It is not the best evidence, and I would like to approach
11 the bench on this, your Honor.

12 THE COURT: The objection is overruled. You may not.
13 You may answer.

14 A Yes, this appears to be the same pink slip.

15 Q BY MR. MANZELLA: Now, at some time after --
16 strike that.

17 Did you at any time issue an all-points bulletin
18 for --

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

20 THE COURT: Well, I see no reason for it --

21 MR. KANAREK: Well, an all-points --

22 THE COURT: -- at this time.

23 MR. KANAREK: Well, an all-points --

24 THE COURT: Excuse me, just let him finish the question.
25 You may be seated.

26 Q BY MR. MANZELLA: Did you at any time, Sergeant
27 Whiteley, issue an all-points bulletin for a Volkswagen
28 microbus and a Fiat stationwagon?

1 A Yes, I did.

2 Q And when did you -- strike that.

3 What is an all-points bulletin?

4 MR. KANAREK: Immaterial, irrelevant.

5 THE COURT: Sustained.

6 Q BY MR. MANZELLA: Directing your attention to the
7 Fiat shown in People's 1 for identification, the Volkswagen
8 shown in People's 2 for identification.

9 Are those the vehicles for which you issued the
10 all-points bulletin?

11 A Yes, they are.

12 Q And when did you issue that bulletin?

13 A I believe it was August 1st, 1969.

14 MR. MANZELLA: May I have a moment, your Honor?

15 THE COURT: Yes, you may.

16 We'll take a recess at this time, ladies and
17 gentlemen.

18 Remember the admonition that you are not to
19 converse amongst yourselves, or anyone else, nor permit
20 anyone to converse with you on any subject connected with
21 this matter, nor are you to form or express any opinion on
22 it until it has finally been submitted to you. About 15
23 minutes, ladies and gentlemen.

24 (Afternoon recess.)

14 fls.

14-1

1 THE COURT: All right. The record will show that all of
2 the jurors and alternates are present, with Sergeant Whiteley
3 on the stand. Mr. Manson is present with Mr. Kanarek.

4 We are ready to proceed.

5 BY MR. MANZELLA:

6 Q Sergeant Whiteley, directing your attention to
7 the Volkswagen bus shown in People's 2 for identification,
8 when and where did you first see that vehicle?

9 A At the impound garage in Santa Monica, on October
10 the 8th, 1969.

11 Q Is that the police impound garage?

12 A That's correct.

13 Q Now, you testified concerning what appeared to
14 be blood in certain portions of the kitchen. Were those
15 portions of the kitchen in which you found what appeared to
16 you to be blood -- were those shown in any of the photographs
17 which have been marked People's 10 for identification?

18 A Yes.

19 Q And in which photographs do those locations show?

20 A In Picture B, on the front of the ice box
21 (indicating); and in Picture C, on the wooden cabinets above,
22 and on the cabinets below;

23 Also, on the curtain on the north side of the wall,
24 above the sink.

25 And Picture D, again on the front of the
26 refrigerator.

27 Q All right. Now, do those spots or stains of
28 what appeared to be blood show in the photographs marked

14-2
1 People's 10 for identification?

2 A No, they don't.

3 Q And can you describe the spots that you saw in the
4 kitchen?

5 A They were very small spots, very small droplets,
6 sprayed (indicating).

7 Q Now, directing your attention to the scale
8 drawing marked People's 7 for identification, and in particular
9 that portion of the diagram designated The Hall of the Main
10 Residence, did you find anything that appeared to be blood in
11 the hallway?

12 A Yes.

13 Q Where was that?

14 A That was in the hallway, between the kitchen and
15 the living room. There were spots on the carpeting.

16 MR. MANZELLA: Your Honor, I have here one colored
17 photograph, which depicts the head, shoulders and chest area
18 of a male person.

19 May I have that marked People's 16 for identifica-
20 tion?

21 THE COURT: So ordered.

22 MR. MANZELLA: And I have here a photograph which
23 appears to depict the torso -- that is, the stomach and chest
24 area -- of a male person. May I have that marked People's
25 17 for identification?

26 THE COURT: So ordered.

27 BY MR. MANZELLA:

28 Q All right. Sergeant Whiteley, directing your

16 ID

17 ID

1 attention to the photograph marked People's 16 for identifica-
2 tion, do you recognize what is depicted in that photograph?

3 A Yes, I do.

4 Q And what is that?

5 A That's Mr. Hinman, taken at the morgue, on
6 August 1st, 1969.

7 Q And were you present when the photograph,
8 People's 16, was taken?

9 A Yes, I was.

10 Q Directing your attention to the photograph
11 marked People's 17 for identification, do you recognize what
12 is depicted in that photograph?

13 A Yes. That's the torso of Mr. Hinman, taken at the
14 same time, at the County Morgue.

15 fls.

15-1

1 Q And you were present when that photograph was
2 taken?

3 A Yes, I was.

4 Q All right. And in that photograph -- strike
5 that.

6 Are there any markings on the photograph which
7 depict the locations of things about which you testified
8 concerning the condition of Mr. Hinman's body when you found
9 it?

10 A Yes.

11 Q Would you describe that, please?

12 A The two holes, large holes that I found in the
13 chest area on the T-shirt are circled in this photograph of
14 the torso in the chest area.

15 Q That's in People's 17 for identification?

16 A That's correct.

17 MR. MANZELLA: Thank you. I have no further questions,
18 your Honor.

19
20 CROSS EXAMINATION

21 BY MR. KANAREK:

22 Q Now, Mr. Whiteley, where is Charles Guenther
23 at the present time?

24 A I don't really know.

25 Specifically where he is right now?

26 Q No, I mean presently he's still with the
27 Sheriff's Department?

28 A Yes, he is.

15-2

1 Q Now, you testified previously in matters concern-
2 ing Mr. Hinman, is that right?

3 A Yes, I have.

4 Q And you previous -- you were the investigating
5 officer in this case, right?

6 A Yes, I am.

7 Q And you've been in this case from the very
8 beginning, right?

9 A Yes.

10 Q And you caused -- you caused the initial
11 indictment in this case to be filed in which Mr. Manson
12 wasn't even named, right?

13 MR. MANZELLA: Your Honor, excuse me, I think I have
14 to object to that question on the grounds it is not relevant.
15 It calls for a legal conclusion as to what caused the
16 indictment.

17 THE COURT: Sustained. The objection is sustained.
18 You needn't answer it.

19 Q BY MR. KANAREK: Has someone else been convicted
20 of this alleged murder previously, Mr. Whiteley?

21 A Yes.

22 Q And that person stood trial alone, right?

23 A Yes.

24 Q And that person -- and that person was a person
25 who was indicted alone?

26 A No.

27 Q Mr. Manson was not part of that indictment,
28 right?

1 A I don't know which indictment you are speaking
2 of.

3 Q I'm speaking of the -- I'm speaking of the
4 process whereby this previous person was brought before the
5 Superior Court.

6 A He was not indicted.

7 Q He was brought before the court as a single
8 defendant, right?

9 A That is correct.

10 Q And you've been in this case from the very
11 beginning?

12 A Yes.

13 Q Was there -- was there a hearing, a preliminary
14 hearing before he was brought before the Court?

15 A Yes.

16 Q At that time Mr. Manson was not made a defendant
17 in that case, right?

18 A That's correct.

19 Q You've been the chief investigating officer?

20 A I suppose so.

21 Q Well, that's true? You are, aren't you?

22 A Well, I have a supervisor, also. I don't know
23 what you mean by "chief."

24 Q Well, what I mean is this case -- you are the --
25 you are the man in the Sheriff's office who is assigned to
26 this case and you have the primary responsibility?

27 A Yes.

28 Q And is it a fact, Mr. Whiteley, that you are

1 the motivating force behind that initial prosecution that
2 took place, that we have been talking about?

3 MR. MANZELLA: If the Court please, I object again,
4 your Honor, on the grounds the question is --

5 THE COURT: The objection is sustained.

6 Q BY MR. KANAREK: And you testified in connection
7 with that other matter? There's no question about that,
8 right?

9 A No, there is none. I testified.

10 Q Now, directing your attention to the -- what
11 you call "appear to be spots."

12 Did you cause any of that material to be analyzed?

13 A Yes, I did.

14 Q Do you have those analyses here?

15 A I do not, no.

16 Q Now, would you tell us in connection with what
17 you observed at that time, Officer?

18 Did you make a diagram of these spots that you
19 tell us you can't see on the pictures?

20 A No, I did not.

21 Q Do you have any -- do you have any kind of --
22 of, uh, record that was made as of the time that you tell
23 us you saw the spots, either photographic or otherwise?

24 A Yes, I believe there is a record.

25 Q Well, may I see it?

26 A I believe it is in the Sheriff's Manual, the blue
27 book.

28 Q Well, will you show it to me?

1 MR. MANZELLA: Your Honor, I object to the question.
2 Asking Sergeant Whiteley to show to Mr. Kanarek that book
3 which was positively part of the discovery motion.

4 MR. KANAREK: I would like to see it, if I may, your
5 Honor, at this point.

6 THE COURT: It is the Court's remembrance it was made
7 available to the defendants.

8 MR. KANAREK: Well, yes, your Honor. He's now
9 testifying. I didn't know what this man was going to testify
10 to. I would like to have it at this time so I can interrogate
11 him with it. Or if it is inconvenient, we can do it tomorrow.
12 I mean, I'm not -- but I would like for him to show me --

13 THE COURT: He's -- the Court sustains the objection.
14 You need not show it to Mr. Kanarek. The witness need not
15 show it to Mr. Kanarek. That record has been made available
16 to the defendant.

17 MR. KANAREK: Well, yes, your Honor, but I didn't
18 make the record. The -- purportedly someone else did.
19 And I -- this is somebody else's record. I am asking him
20 to show us where.

21 THE COURT: Do you have it now, Sergeant?

22 THE WITNESS: I believe it is in my folder.

23 MR. KANAREK: Well, may I see it, then, your Honor.

24 THE COURT: Yes, if it is in your folder and you can
25 find it, you may show it to Mr. Kanarek.

26 (Whereupon, the witness stepped down from the
27 witness stand and obtained a folder, and then the
28 witness resumed the witness stand.)

16-1

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

2 THE COURT: You may.

3 (Pause in the proceedings while the witness
4 peruses a multi-paged document.)

5 THE WITNESS: I can't find it right now, through here. If
6 I had a half an hour or so to go through the book I might.

7 THE COURT: Go ahead with your next question.

8 MR. KANAREK: I have no further questions at this point,
9 your Honor. I assume that -- that the officer will find it.
10 And when he does, then --

11 THE COURT: The Court is not directing him to find
12 anything.

13 MR. KANAREK: Well, I --

14 THE COURT: The Court would make the book available to
15 both counsel. It is available to both counsel.

16 MR. KANAREK: Yes, I have --

17 MR. MANZELLA: Your Honor, may I add, the book is already
18 on file with the clerk of this court. Could the book be made
19 available, as it has been, to Mr. Kanarek, so that -- I
20 believe Sergeant Whiteley's found it, your Honor.

21 THE WITNESS: I have found a portion of it.

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

23 THE COURT: Yes, you may.

24 THE WITNESS: Starting right here, and it goes down to
25 here (indicating).

26 BY MR. KANAREK:

27 Q Now, Sergeant Whiteley, can you tell us -- you have
28 testified concerning certain spots that you say were blood,

16-2

1 but you say the pictures did not show the blood.

2 Do you recall that testimony?

3 A Yes.

4 Q This is just descriptive, right? What you've just
5 shown me in this series of documents is merely a description?

6 THE COURT: Would you identify the reference there,
7 Mr. Kanarek?

8 MR. KANAREK: Yes, your Honor. It has a numbering,
9 069-2378-776-016, Page 29869 at the top.

10 THE COURT: Yes. What is it, a page of a --

11 MR. KANAREK: I don't know. It's the --

12 THE COURT: -- a page of what appears to be --

13 MR. KANAREK: A page of a long report, your Honor.

14 THE WITNESS: A supplemental report that was made by
15 myself.

16 THE COURT: Speak into that microphone.

17 THE WITNESS: It's a page from a supplemental report made
18 by myself and Deputy Charles Guenther.

19 BY MR. KANAREK:

20 Q Well, my question is --

21 THE COURT: Purportedly dealing with what subject?

22 THE WITNESS: With the murder of Gary Allen Hinman.

23 THE COURT: All right. Go ahead with your questioning,

24 Mr. Kanarek.

25 BY MR. KANAREK:

26 Q My question is: You have pointed out to me,
27 Page 2 here, "Descriptive matters;" right?

28 A Yes.

1 Q My question is: Do you have any diagram or any
2 picture or any photo micrograph or anything by way of
3 scientific evidence which positions the so-called drops of
4 blood, absent your mere description?

5 A I already answered that. No.

6 Q You haven't? So, in other words, you did not
7 preserve -- you did not take any pictures or preserve the --
8 preserve the -- the geography, so to speak? So there's no way
9 that any -- that the ladies and gentlemen of the jury, or any-
10 one here, can look at anything, by way of a physical representa-
11 tion taken at the premises -- a picture, a diagram, the actual
12 -- the actual pieces of the wall, so to speak, or the pieces of
13 curtain -- you didn't preserve any of that, did you?

14 A I'm not sure.

15 Q Well, you were the one that's in charge of this
16 investigation, Officer?

17 A I am still not sure, from your question.

18 Q You mean my question's ambiguous?

19 A Your question is all-encompassing. And I have a
20 lot of photographs of the Hinman scene that haven't been
21 presented here.
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16a fls.

16a-1

1 Q I am referring -- you stated, in your testimony,
2 my notes reveal -- perhaps, maybe I'm in error, but I don't
3 think so -- but you've testified that there were certain
4 spots, certain droplets of blood, in a certain area, but
5 that the pictures didn't show it.

6 Do you remember that testimony?

7 A I was speaking of the picture that he was just
8 showing me.

9 Q All right.

10 Now, my question is -- my question is: Do you --
11 did you do anything to make that physical evidence permanent?
12 Other than your mere conversation to that effect? Your
13 just coming here and telling us about it? But you did not
14 take -- you did not take any pictures, so that you could
15 bring them to court and show us where the droplets were,
16 the so-called droplets that you are talking about of blood,
17 what appeared to be blood?

18 A Are you asking me a question, now?

19 Q Yes. Yes, did you do anything by way of
20 preserving that physical evidence, by way of anything
21 tangible, so that we might look at it, and you could say
22 that, "This blood is on that drape; this blood is on that
23 wall."

24 A Yes, I think I do have some pictures.

25 Q Well, may we have them?

26 A I do not have them with me.

27 Q I see. But you will bring them to court?

28 A I didn't say that.

16a-2

1 MR. KANAREK: Well, may I -- my motion is that they
2 be brought to court, your Honor.

3 THE COURT: If you have any such pictures, Sergeant,
4 bring them to court tomorrow.

5 THE WITNESS: Your Honor, I don't believe that I could
6 get them here by tomorrow. In this one file here, there's
7 probably over 3,000 pictures, I'm going to have to go
8 through the negatives to pick these pictures out for him.
9 And then, they will have to be developed.

10 THE COURT: Well, when you can, get them to Mr. Kanarek,
11 at your earliest convenience.

12 THE WITNESS: All right.

13 THE COURT: Anything further?

14 MR. KANAREK: Not at this time, your Honor.

15 THE COURT: Any redirect?

16 MR. MANZELLA: Yes. Thank you, your Honor.

17
18 REDIRECT EXAMINATION

19 BY MR. MANZELLA:

20 Q Sergeant Whiteley, did you, as part of your
21 investigation of the case, have various representatives
22 of the Sheriff's Crime Lab examine and analyze various
23 pieces of evidence, including what you thought appeared to
24 be blood at the scene of the murder?

25 A Yes, I did.

26 Q All right.

27 Did you have specifically a chemist from the
28 Sheriff's Crime Lab go to the Hirman residence, at 964 Old

1 Topanga Canyon Road, and analyze what you've testified
2 appeared to be blood?

3 A Yes, I did.

4 Q And is that chemist's name Mr. Francis Turney?

5 A Yes, sir.

6 MR. MANZELLA: Thank you. I have no further questions,
7 your Honor.

8 THE COURT: You may step down.

9 MR. MANZELLA: Your Honor, the People's next witness
10 is Dr. Katsuyama. He's at the Coroner's office, downstairs,
11 now. And he is on call.

12 I spoke to him just an hour or so ago. If we may
13 have a short recess to give him time to get upstairs, we can
14 call him now and have him on his way.

15 THE COURT: All right. The Court would prefer that you
16 anticipate these matters, so that there will not be any
17 delay.

18 However, Mr. Manzella, we will have to recess
19 now so that you can get your witness here.

20 Try to have them present, so that we won't have
21 to delay the proceedings.

22 MR. MANZELLA: Yes, your Honor.

23 THE COURT: During the recess, this Court will admonish
24 you -- the Court admonishes you that you are not to converse
25 amongst yourselves nor with anyone else, nor permit anyone
26 to converse with you on any subject connected with this
27 matter, nor form or express any opinion on the matter until
28 it is finally submitted to you.

1 MR. MANZELLA: Your Honor, excuse me. I forgot.
2 Sergeant Whiteley just reminded me. There is a witness
3 in the hall.

4 THE COURT: Oh, you do have one now, that you could
5 put on?

6 MR. MANZELLA: Yes. He's getting her now.

7 THE COURT: All right. I'll retract that order, then.
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17 fla.

17-1

1 MR. MANZELLA: The People call Miss Joan Farley.

2 THE COURT: Come forward and raise your right hand,
3 please.

4 THE CLERK: Please raise your right hand.

5
6 JOAN FARLEY,

7 having been called as a witness on behalf of the People, was
8 examined and testified as follows:

9 THE CLERK: You do solemnly swear the testimony you give
10 in the cause now pending before this Court shall be the truth,
11 the whole truth, and nothing but the truth, so help you God?

12 THE WITNESS: Yes.

13 THE CLERK: Please take the stand and be seated.

14 Please state and spell your full name.

15 THE WITNESS: Joan Farley, F-a-r-l-e-y.

16
17 DIRECT EXAMINATION

18 BY MR. MANZELLA:

19 Q Miss Farley, as of July of 1969, did you know a
20 man by the name of Gary Hinman?

21 A Yes, I did.

22 Q And did you belong to a -- uh, the same religious
23 organization?

24 A Yes, I did.

25 Q What was the name of that organization?

26 A Nichiren Shoshu of America.

27 Q Directing your attention to the photograph which
28 has been marked People's 4 for identification.

17-2

1 Is that the person you knew as Gary Hinman?

2 A Yes, it is.

3 Q And directing your attention to the date of Sunday,
4 July 27th, 1969.

5 On that day was there a parade scheduled for Santa
6 Monica?

7 A Yes, there was.

8 Q Did you have anything to do with that parade?

9 A Yes, I handled all of the press relations and
10 the publicity for that whole convention weekend.

11 Q Now, was Gary Hinman supposed to march in that
12 parade?

13 A Yes, he was.

14 Q Had you -- strike that.

15 What was he to do specifically in the parade?

16 A He was part of an adult male bagpipe group that
17 was to march in the parade.

18 Q Now, had any prior arrangements been made with
19 regard to that parade in which Mr. Hinman participated?

20 A Oh, yes.

21 Q Would you describe them, please, briefly.

22 A The prior arrangements of which he was a part?

23 Q Yes.

24 In other words, what I am getting at, were there
25 any meetings --

26 A Oh, yes.

27 Q -- conferences held at which Gary Hinman was
28 present before the arrangement of the parade?

1 A Right. There was scores of meetings. Gary was
2 very instrumental of the bagpipe group. I think he very much
3 handled that whole segment of the parade.

4 Q Now, were you present -- strike that.

5 Did the parade actually take place on Saturday,
6 July 27th, 1969, in Santa Monica?

7 A Yes, it did.

8 Q Were you present?

9 A Yes, I was.

10 Q Did Gary Hinman appear at the parade?

11 A Not to my knowledge. I never saw him.

12 Q Now, directing your attention to the beads which
13 have been marked People's Exhibit 12 for identification.

14 Have you ever seen beads similar to those before?

15 A Yes, I have.

16 Q Do they have any particular significance in
17 regard to the religious organization to which you and
18 Mr. Hinman belong?

19 A Yes, they are prayer beads, jizu, j-i-z-u.

20 Q And are these beads to which you refer held by
21 the person who uses them while he's praying?

22 A Yes.

23 MR. MANZELLA: All right, thank you, I have no further
24 questions.

25 THE COURT: Any questions?

26 MR. KANAREK: I have no questions.

27 THE COURT: You may step down.

28 THE WITNESS: Thank you.

1 MR. MANZELLA: Your Honor, Dr. Katsuyama has been called
2 and he is on the way up. He has not arrived yet.

3 THE COURT: We'll wait a few minutes. We'll be in recess.

4 The same admonition applies that I have just given
5 you, you are not to converse amongst yourselves, nor with any-
6 one else during the course of this recess. More or less stay
7 in place and not wander too far. As soon as he arrives,
8 we'll resume the proceedings. We're in recess at this moment.

9 (Short recess.)

17 a fls.

1 (Whereupon, the following proceedings were had at
2 the bench among Court and counsel, outside the hearing of the
3 jury:)

4 MR. MANZELLA: Your Honor, the People, for the purposes
5 of illustrating Dr. Katsuyama's testimony, intend to mark
6 as an exhibit the mannequin which is not in the courtroom now,
7 but is in the anteroom to the courtroom. I wanted to -- I
8 don't know if Mr. Kanarek has gone to look at the mannequin or
9 not or whether he's seen it, but I wanted to give him the
10 opportunity to make whatever objection he might have to the use
11 of the mannequin.

12 THE COURT: Has it heretofore been marked?

13 MR. MANZELLA: Yes, your Honor.

14 THE COURT: In the Hinman case?

15 MR. MANZELLA: Yes, in the Beausoleil trial.

16 THE COURT: The previous Hinman-Beausoleil trial?

17 MR. MANZELLA: Yes.

18 THE COURT: Does it bear those markings now?

19 MR. MANZELLA: I don't think the mannequin itself bears
20 any markings. I think it was tagged, and I'm not sure whether
21 the tags are on it now or not.

22 THE COURT: Well, when you say you are going to ask him
23 to mark it --

24 MR. MANZELLA: No, I say that I am going to ask that it
25 be marked.

26 THE COURT: Oh, I see.

27 MR. MANZELLA: I mean, I am going to bring it out now,
28 and for the purposes of illustrating Dr. Katsuyama's testimony,

1 and I wanted to give Mr. Kanarek the notice of that fact in case
2 he wanted to object before I brought it out.

3 MR. KANAREK: Oh, I haven't any objection. It is a
4 mannequin. A mannequin is a mannequin.

5 MR. MANZELLA: Have you seen it?

6 MR. KANAREK: No, I haven't seen it.

7 MR. MANZELLA: All right.

8 MR. KANAREK: But I assume -- I mean, I'd be glad --

9 THE COURT: Is it just an ordinary mannequin? Is there
10 anything that's unusual?

11 MR. MANZELLA: Well, it is right in the anteroom to the
12 courtroom. We can look at it.

13 THE COURT: Have you seen it?

14 MR. KANAREK: No, I haven't seen it.

15 THE COURT: All right, let's take a look at it.

16 Want to bring the -- bring the machine around?

17 (Whereupon, the following proceedings were had
18 in the anteroom to the judge's chambers among Court and
19 counsel, outside the hearing of the jury:)

20 THE COURT: The record will show we're in the room, small
21 room between chambers in the courtroom.

22 Mr. Manzella is --

23 MR. KANAREK: Removing the mannequin.

24 THE COURT: And it appears to be a torso, head and
25 torso of a mannequin.

26 MR. KANAREK: Oh, I see.

27 Well, I do. I see, now.

28 THE COURT: It has a case number, apparently, written

1 across the shoulders.

2 MR. KANAREK: I thought it was diagrammatic, your Honor.
3 I do oppose it because it purports to be a -- it is a little
4 bit gruesome and macabre, and it is like a statue. It is not
5 a -- not a -- not just diagrammatic. There's no necessity --
6 that is, for this statue of Mr. Hinman to go into the jury
7 room. I do oppose -- it is not a mannequin. This is an
8 actual, as I term it, statue, bust.

9 THE COURT: It appears to be a bust, really.

10 MR. KANAREK: Yes, I do oppose that.

11 THE COURT: From about the navel up.

12 What --

13 MR. KANAREK: I think the prejudicial value far outweighs
14 the probative value in view of the fact the man is dead, and
15 I do object to its being used. There is no necessity for it.
16 They've got plenty --

17 THE COURT: Now, you've stated it.

18 What do the People believe the probative value
19 would be?

20 MR. MANZELLA: The probative value would be, of course,
21 it is illustrative of the wounds that Dr. Katsuyama will
22 testify that was suffered by the body that he autopsied.

23 Now, I would like to make one point.

24 The mannequin -- although I agree it is an
25 unusual exhibit in a murder case to have a mannequin
26 representing the body of the deceased, at least the torso and
27 head of the deceased, nevertheless, the mannequin itself, the
28 appearance of the mannequin is in much better shape than the

1 appearance of Hinman's actual body which shows in the photo-
2 graphs.

3 Now, I believe under the cases I am entitled
4 to get in something which shows the wounds of Gary Hinman.

5 Now, this mannequin clearly shows him more or less
6 as he would appear in life except for the fact that the wounds
7 are shown on the mannequin. But the photographs of him, his
8 actual body, would show the actual wounds themselves, show the
9 decomposed body, the maggot infested, bloated body of Gary
10 Hinman.

11 THE COURT: Do you intend to introduce those as well as
12 this?

13 MR. MANZELLA: What I intended to do was introduce one
14 or the other.

15 MR. KANAREK: Well, as far as I am concerned, it is
16 a Hobson's choice, your Honor. I mean, it is, uh, -- I
17 mean, each bit of evidence -- you don't trade one bit of
18 prejudicial evidence for another bit of prejudicial evidence.
19 There's no necessity for all of this -- all of this, this --
20 what I have termed macabre-type of evidence. They can do it
21 by way of diagrams. They can do it by way of inert -- what I
22 term inert mannequins. That is, just a blank type of human
23 figure, and that way they can show whatever they want to
24 show and have the expert testify of the pathologies. And
25 it -- there's no -- the prejudicial aspect of it is removed
26 or minimized. There's no necessity for this. It doesn't
27 prove -- as I say, the prejudicial value far outweighs the
28 probative value.

1 What difference does it make as far as proving the
2 case goes? They can -- I've said it. I mean --

3 THE COURT: All right, the Court --

4 MR. KANAREK: No question about it.
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17b

1 THE COURT: All right, in view of Mr. Manzella's statement,
2 the Court does believe that this mannequin would have probative
3 value and that probative value would outweigh its prejudicial
4 effect.

5 MR. KANAREK: An actual picture and mustache -- they're
6 going to have in the jury room what is the body, what purports
7 to be the body of Gary Hinman. That is preposterous, your
8 Honor.

9 THE COURT: The Court doesn't believe so.

10 MR. KANAREK: It looks like --

11 THE COURT: There is no blood. The Court believes it
12 would be far less gruesome, in effect, than the pictures
13 which the Court itself has observed, of the partially
14 decomposed body of Mr. Hinman.

15 MR. KANAREK: Well, they don't have to use either.

16 THE COURT: The Court --

17 MR. KANAREK: I'm not saying I am choosing one over the
18 other. They're both -- so far --

19 THE COURT: That is true.

20 However, the Court does believe that the People have
21 a right to establish by their proof the nature and the type of
22 wounds that are involved. And, therefore --

23 MR. KANAREK: Not the actual physical replica of his
24 body, though, your Honor, down to the mustache and his eyes.
25 It is a statue.

26 THE COURT: Therefore, the Court would permit it.

27 MR. KANAREK: Well, I do -- I make a motion for a mis-
28 trial based on this, your Honor.

18-1

THE COURT: The motion for mistrial is denied.

(Whereupon, the following proceedings were had in open court, within the presence of the jury:)

THE COURT: You may proceed, Mr. Manzella.

MR. MANZELLA: Your Honor, the People's next witness is Dr. David Katsuyama.

THE COURT: The record will show the defendant to be present; all the jurors are present. Mr. Kanarek is present for the defendant.

THE CLERK: Would you raise your right hand, please?

You do solemnly swear that the testimony you may give in the cause now pending before this court shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

DAVID M. KATSUYAMA,
called as a witness by and on behalf of the People, having been first duly sworn, was examined and testified as follows:

THE CLERK: Please take the stand and be seated.

Please state and spell your full name.

THE WITNESS: My name's David M. Katsuyama; last name spelled, K-a-t-s-u-y-a-m-a.

DIRECT EXAMINATION

BY MR. MANZELLA:

Q Dr. Katsuyama, would you tell us, what is your occupation?

A I am a physician and surgeon, licensed to practice

18-2

1 in the State of California.

2 Q You are licensed to practice medicine in the
3 State of California?

4 A Yes. I am also the acting Chief Deputy Medical
5 Examiner, for the Coroner, County of Los Angeles.

6 Q Now, do you engage in any specialty?

7 A Yes, I do. I am a forensic pathologist, which is
8 the study -- which is a specialized field of medicine, which
9 deals with diseases, the causes of and findings of disease,
10 and one of the other -- one of the portions of the specialty
11 is the determination of the cause of death.

12 Q Right. And as a forensic pathologist, do you
13 specialize in the study of and the examinations of wounds,
14 in relation to the causes of death?

15 A Both the wounds and the remains of a decedent,
16 for determination of the cause of the death, yes.

17 Q Have you ever testified as a forensic pathologist,
18 in the courts of the State of California before?

19 A Yes. In the courts of the Counties of Los Angeles
20 and Orange, I have testified.

21 Q And approximately how many times?

22 A Well -- uh --

23 Q If you can give us an --

24 A Well over 50 times. I have not kept an accurate
25 number.

26 Q All right. Now, Doctor, what type of medical
27 procedure do you follow, to determine the cause of death in
28 a human being? What is that called?

18-3

1 A The examination is called an autopsy. The
2 examination itself consists of both -- examining both the
3 external portions of the body and the internal portions of
4 the body; and after careful, due consideration of the
5 findings, determining the cause of death and submitting a
6 report so stating.

7 Q Approximately how many autopsies have you
8 performed?

9 A At one time, I kept a running count, until it
10 reached well over 2,000. And that was several years ago.
11 And I have not really kept an accurate count since.

12 Q Now, have you examined bodies in various stages
13 of decomposition?

14 A Yes. Decomposition occurs very shortly after
15 death, and progresses as time goes on. And I have examined
16 bodies at varying stages, including where only bones remain.

17 Q Now, Dr. Katsuyama, directing your attention to
18 the photographs which have been marked People's 16 and
19 People's 17 for identification, did you perform an autopsy
20 on the body of the person shown in those two photographs?

21 A Yes, I did. I recognize the photographs, and
22 I recognize some of the markings on them, the markings upon
23 the body. The tag on it -- on the body indicates 69-8448,
24 which is also the number for which I have been called to
25 testify presently.

18a fls.

18a01

1 Q Now, that number you are referring to, is that
2 number placed on some document to identify the case?

3 A This particular number is the accession number,
4 the numerical sequence number assigned by the office, for
5 this particular case, when it was reported.

6 Q Now, what date did you perform the autopsy?

7 A The autopsy was performed on August 1, 1969, at
8 approximately 10:45 a.m., in our facilities on the ground
9 floor of this building.

10 Q Now, during the performance of an autopsy, do
11 you make some notations about your procedures and about your
12 findings, as you go along?

13 A During the course of a -- let's back off a
14 moment. Prior to the actual dissection, diagrams of the
15 remains are made, showing whatever injuries, whatever
16 abnormal changes of traumatic nature and/or otherwise that
17 can remain on the diagrams.

18 Now, also notations are made, and which are
19 subsequently incorporated into the report.

20 Q Now, are these notes made as you perform the
21 autopsy, or are they made subsequently?

22 A Some of the information is placed on a blackboard
23 in our facilities, and the information transferred to the
24 working sheet that is kept at the same time.

25 Q Are your notes, then, formalized into some sort
26 of document?

27 A The information contained therein is actually
28 utilized in the -- in putting into words in a descriptive

18a-2

1 fashion the Findings of the examination.

2 Q I see. And is that document called your
3 autopsy report?

4 A That portion is called the autopsy report, yes.

5 Q And do you write that report yourself?

6 A I dictate the report, and it's transcribed by our
7 clerical transcription personnel. And after reviewing it,
8 I sign it.

9 Occasionally, a word or two is misspelled, or
10 not used judiciously.

11 Q All right. Did you prepare such a report for
12 this case?

13 A Yes, I did.

14 Q And do you have that report with you now?

15 A I have an original of the report, and I believe
16 I also have a copy of it also.

17 Q All right.

18 Now, do you presently remember all the details of
19 your findings with regard to this autopsy, or would you need
20 that report to refer to periodically to refresh your memory?

21 A I would prefer to refer to it periodically.

22 Q All right. With the Court's permission, then,
23 you may do so during the course of your testimony.

24 THE COURT: Do you need to use that to refresh your
25 recollection?

26 THE WITNESS: There are some items about it that I
27 would -- that the -- the immediate -- the specific cause of
28 death, I recall quite well. However --

18a-3

1 THE COURT: In part, you need it?

2 THE WITNESS: Yes.

3 Q BY MR. MANZELLA: All right.

4 Doctor, would you tell us, then, what procedures
5 you followed, and what your findings were with regard to the
6 autopsy of the body you've identified, and which is shown in
7 People's 16 and People's 17 for identification?

8 A All right. After a preliminary examination,
9 and the ordinary record photographs taken by our personnel,
10 the body was placed on our examining tables, and following
11 the external descriptive diagrams, I performed an examination
12 which included examining the internal organs of the remains.

13 Q Would you tell us what your findings were?

14 A The findings included two definite stab wounds
15 of the front part of the chest, one which went through the
16 rib cage into the chest, into the right side of the heart;
17 and this stab wound, in penetration into the heart, is the
18 cause of death that I attributed to this particular case.
19

18b fls.

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18b-1

1 The wound itself opened a rather large hole in
2 the -- one side of the heart, allowing the blood to escape
3 into the chest space. And that in itself caused the -- I
4 believe -- the deceased's heart to cease functioning.

5 Another rather large wound was present on one
6 side of the face -- I believe on the left side of the face --
7 which opened up a rather large area of the skin and the
8 connective tissue, up to his lip (indicating).

9 The -- the body was in a rather extensive state
10 of decomposition, with bloating, gaseous changes, with a
11 certain number of insect larva already present.

12 Q Doctor, let me interrupt you for the moment.
13 Would you explain -- well, strike that.

14 Do certain changes take place in a body, after
15 death?

16 A Yes.

17 Q Would you explain what those changes are for us?

18 A The body is a rather dynamic state of building
19 up and breaking down, and after there is a cessation of
20 life, the breakdown process continues. Decomposition begins,
21 and the result of the decomposition may or may not attract
22 insect life, which will cause further effect of decomposition,
23 devouring of the portions of the body.

24 There is gaseous changes, because of the
25 composition of the material of the body, causing it to swell
26 up, distorting of the features of the body. The body turns
27 from the ordinary appearance to one which is -- ranges from
28 a reddish color to a blackish-green, and rather offensive

18b-2

1 odors become pronounced as time progresses.

2 Q Dr. Katsuyama, directing your attention to the
3 photograph which is marked People's 17 for identification --

4 THE COURT: Counsel, would you approach the bench?

5 MR. MANZELLA: Yes, your Honor.

6 (Whereupon, the following proceedings were had
7 at the bench, outside the hearing of the jury:)

8 THE COURT: I notice now you are referring to a torso --
9 you may hold it down -- a torso of a male, and --

10 MR. MANZELLA: That is -- your Honor, that's the only
11 photograph I intend to use of the body.

12 MR. KANAREK: If he's going to use that, and the mannequin,
13 he is not even following --

14 MR. MANZELLA: Your Honor, that's for the purpose of
15 illustrating the -- everything about which the witnesses have
16 testified concerning the decomposition of the body.

17 I have -- the record should reflect that the
18 photograph does not contain a portion of the -- does not show
19 the head of the body; just the torso.

20 And it explains the doctor's testimony with
21 regard to the changes that take place in a body after death,
22 and the location of these two wounds.

23 THE COURT: Do you intend to show the head in a
24 photograph?

25 MR. MANZELLA: No, your Honor. This is the only
26 photograph that I intend to use.

27 THE COURT: Now, you stated in your opening statement
28 that Mr. Manson -- Mr. Manson severed the ear of the decedent

1 with a sword.

2 MR. MANZELLA: Um-hmm.

3 THE COURT: Is your purpose in showing the head in the
4 way that you propose to show it in the mannequin --

5 MR. MANZELLA: In the mannequin, yes, --

6 THE COURT: I see.

7 MR. MANZELLA: -- your Honor. Exactly. The photographs
8 of the head -- well, they're -- it -- they're extremely
9 offensive. They show the -- the head is grossly distorted
10 by decomposition and the bloating.

11 MR. KANAREK: Well, your Honor --

12 MR. MANZELLA: And I -- I did not intend to offer
13 those photographs, but rather to use the mannequin, to
14 illustrate the extent of the injuries to the head and to the
15 face.

16 THE COURT: Why use both the -- the photograph and the
17 mannequin, with respect to the chest?

18 MR. MANZELLA: Well, I need one photograph to establish
19 that the body which was found in the Hinman home was the
20 body upon which Dr. Katsuyama performed the autopsy.

21 MR. KANAREK: You don't have to do it that way.
22 You don't have to do it visually. You can do it diagrammatically.
23 You can do it -- I would be willing to stipulate that the
24 body of Gary Hinman was the one that he operated on.

25 The only reason the District Attorney wants --
26 the District Attorney wants all this horrendous -- this
27 evidence in is for prejudicial value. It has no probative
28 value whatsoever.

19-1

1 THE COURT: The Court believes it does have probative
2 value.

3 MR. KANAREK: The prejudicial value far outweighs any
4 probative value.

5 MR. MANZELLA: Your Honor, this is -- I've tried several
6 murder cases, and I know Mr. Kanarek has. And it is unusual
7 that a prosecutor would offer only one photograph of the -- of
8 a dead body and one that's not the most offensive photograph
9 that he has in his possession. Certainly, if I wanted to offer
10 photographs just for prejudicial value, I could.

11 THE COURT: Well, the Court doesn't believe that you are
12 offering it for its prejudicial value. The Court believes
13 that -- well, the photograph that you have in your hand, 17,
14 is a gruesome photograph.

15 MR. KANAREK: It is very --

16 THE COURT: Nevertheless, it does have probative value.

17 MR. KANAREK: It doesn't outweigh --

18 THE COURT: In view of what you have stated to the Court
19 and to the jury that the evidence will prove, and in view of
20 what you have stated concerning the other pictures, the Court
21 finds that it would be less prejudicial than those other
22 pictures. I think the probative value in the case -- in this
23 matter, does outweigh its prejudicial effect.

24 You intend to utilize just this one picture plus
25 the torso?

26 MR. MANZELLA: That's right, your Honor.

27 MR. KANAREK: Well, I --

28 THE COURT: The reason you wished to use the torso,

19-2

1 mainly, was to show the head wounds?

2 MR. MANZELLA: That's right.

3 THE COURT: Inflicted upon the decedent; is that right?

4 MR. MANZELLA: That's right.

5 THE COURT: All right, I'll permit you to do that.

6 In each case I think the prejudicial effect is
7 outweighed by the probative value.

8 MR. KANAREK: Well, it is our contention in each instance,
9 that if People's 17 -- is that the number?

10 MR. MANZELLA: Right, right, 17.

11 MR. KANAREK: -- People's 17, and the mannequin which
12 has not yet been brought into the courtroom, in each case the
13 prejudicial value far outweighs the probative value and these
14 pictures are immaterial, irrelevant and incompetent. And
15 there's no necessity -- that the use of them denies Mr. Manson
16 a fair trial and due process under equal protection -- I
17 mean, denies equal protection and due process under the
18 Fourteenth Amendment of the United States Constitution.

19 THE COURT: All right, the Court does not so find.
20 Accordingly, you may proceed.

21 MR. MANZELLA: Thank you.

22 (Whereupon, the following proceedings were had
23 in open court within the presence and hearing of the jury:)

24 BY MR. MANZELLA:

25 Q Dr. Katsumaya, directing your attention to the
26 photograph which has been marked People's 17 for identifica-
27 tion, are any of the wounds about which you have testified
28 shown in that photograph?

1 A Uh, yes, the two wounds on the chest that I
2 talked about earlier are shown as, uh, outlined in red ink
3 with a letter "F," and initials "DMK" underneath it.

4 Q All right. Now, can you tell us -- strike that.

5 After examining those wounds, did you form an
6 opinion as to what type of instrument would have caused those
7 wounds?

8 A In the course of examination the size of these
9 openings are measured, and the course of the wounds were also
10 observed during the course of the examination.

11 The upper wound on the chest, which in this
12 photograph would be the wound to the left, uh, is partially
13 verticle. In other words, they are more or less up and down,
14 rather than from side to side, is -- was found to be super-
15 ficial, penetrating only to the sternum, causing a cutting
16 mark on the front part of the sternun, which is the breastbone,
17 and not penetrating deeply into it.

18 The one below that --

19 THE COURT: Doctor, wasn't the question the type of
20 instrument?

21 THE WITNESS: Oh, I'm sorry.
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19a-1

1 MR. KANAREK: Well, your Honor, that -- I would like
2 to inquire on voir dire as to -- I don't think that the --
3 there is any foundation for the type of instrument --

4 THE COURT: The -- if that is an objection, it is
5 overruled. The answer thus far is stricken.

6 Would you restate the question to the doctor?

7 MR. MANZELLA: Yes, your Honor.

8 Q BY MR. MANZELLA: Dr. Katsuyama, after you
9 examined the two wounds which are shown encircled in
10 People's 17 for identification, did you form an opinion as
11 to the nature or shape of the object which may have -- which
12 could have caused those wounds?

13 THE COURT: You may answer that yes or no.

14 A Yes.

15 Q BY MR. MANZELLA: All right, what was that
16 opinion?

17 A That it was a knife-like instrument of which the
18 approximate measurements could be estimated.

19 Q All right. Now, would you describe the two
20 wounds which show in People's 17 for identification?

21 A The wound in the photograph, to the left of the
22 photograph or to the upper portion of the chest is more or
23 less in an up-and-down fashion rather than from side to
24 side. This particular wound was rather superficial,
25 penetrating and causing a cutting-like mark on the outer
26 portion of the breastbone.

27 The lower wound or the one to the right of the
28 two in the photograph, penetrated much more deeply. It

19a-2

1 was approximately one and one-fourth of an inch -- no,
2 approximately one and one-half of an inch in length,
3 approximately one-fourth of an inch in width, and it
4 penetrated into the chest space, penetrated into the
5 heart, causing a gaping wound of the right ventricle,
6 a portion of the heart, which was, uh, the -- and the cause
7 of death was attributed to the results, the effects of this
8 wound.

9 Q Now, the wound about which you've testified,
10 which penetrated only as far as the breastbone, in your
11 opinion would that wound have been fatal by itself?

12 A Not in itself, unless a person did not get a
13 significant -- not unless there is rather extensive bleeding
14 that could not be controlled.

15 MR. MANZELLA: Your Honor, may I have a moment to get
16 an exhibit out?

17 THE COURT: Yes, you may.

18 (Short pause in the proceedings.)

19 MR. MANZELLA: Your Honor, I have what appears to be a
20 knife.

21 May I have that marked People's 18 for identifica-
22 tion?

23 THE COURT: So ordered.

24 BY MR. MANZELLA:

25 Q All right, Dr. Katsuyama, directing your
26 attention to the knife which has been marked People's 18
27 for identification.

28 Do you recall seeing that exhibit before?

18 Id.

1 A Yes, I do.

2 Q And when and where have you seen it?

3 A The exact dates I cannot recall. However, I
4 saw it when Mr. Guenther and Mr. Whitaley showed it to me
5 subsequent to the examination on this -- on the decedent.

6 And I believe I also saw it in court on -- in
7 relation to this particular matter.

8 Q All right, now --

9 MR. KANAREK: Your Honor, may that last portion be
10 stricken?

11 THE COURT: Well, the motion is denied.

12 Q BY MR. MANZELLA: All right, Dr. Katsuyama,
13 did you compare the knife which has been marked as People's
14 18 for identification with any of the wounds which you found
15 in the body depicted in People's 17 for identification?

16 MR. KANAREK: Improper foundation, calling for a
17 conclusion, immaterial, irrelevant, incompetent.

18 THE COURT: Sustained.

19 Q BY MR. MANZELLA: All right, Dr. Katsuyama,
20 as a forensic pathologist, is part of your specialty the
21 determination of the types of objects which cause particular
22 types of wounds?

23 A The evaluation of, uh, of, uh, the wound and the
24 types of objects that may have caused the wound does come
25 into the field of forensic pathology.

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1 Q All right. And have you had occasion in the past
2 to compare particular physical objects with particular wounds?

3 A Yes, both by measurement and by approximation.

4 Q All right. On approximately -- if you can give us
5 an approximation, how many occasions have you done that; that
6 is, made that comparison?

7 A Probably well over 15, 20 times.

8 Q Now, directing your attention to People's 17 for
9 identification.

10 After Sergeant Whiteley gave you that knife, did
11 you compare the knife with the -- any of the wounds about
12 which you've testified?

13 MR. KANAREK: Object, your Honor, on the grounds of
14 improper foundation, incompetent, irrelevant and immaterial,
15 and assumes facts not in evidence.

16 THE COURT: The objection is overruled.

17 You may answer.

18 THE WITNESS: I measured the knife and compared with my
19 notations in regards to the wounds which I described and
20 examined upon the remains of the decedent --

21 Q And which wounds, in particular, are you talking
22 about?

23 A In relation to the two wounds on the abdo- --
24 on the part of the body, the lower portion of the chest.

25 Q Are those the two wounds encircled and shown in
26 People's 17 for identification?

27 A Yes, they are.

28 Q All right. And what was the result of that

19b-2

1 comparison?

2 A It was my opinion that the wounds on the chest
3 could have been caused by the particular instrument in evidence
4 as 18.

5 MR. KANAREK: Your Honor, I ask that be stricken on the
6 grounds it is a statement of conjecture, the prejudicial value
7 far outweighs the probative value. It is not relevant, it is
8 not material, it is not competent.

9 THE DEFENDANT: "Could have been" goes a long way.

10 THE COURT: The objection is overruled. The motion will
11 be denied.

12 THE DEFENDANT: It is ridiculous, knife-like.

13 THE COURT: It is now 4:20 --

14 THE DEFENDANT: It is knife-like.

15 THE COURT: Mr. Manson.

16 THE DEFENDANT: I did pretty good today.

17 THE COURT: Mr. Manson, you have to be quiet or you will
18 have to leave the courtroom.

19 THE DEFENDANT: You must admit that.

20 I want you to know this, this courtroom is afraid
21 to let me stand up and talk like a man. They keep me hid in
22 the back.

23 Want to know why they keep me hid in the back?
24 You are a smart boy. You know that.

25 (Whereupon, as the defendant Manson was exiting
26 the courtroom to the holding tank, the following statements
27 were made:)

28 THE DEFENDANT: I have been in court all my life, too.

1 THE COURT: Mr. Manson.

2 THE DEFENDANT: You don't want the truth getting out,
3 do you, Pops.

4 THE COURT: Ladies and gentlemen, we are in recess now
5 until tomorrow morning at 9:30. If any of you have any
6 problems in connection with a parking place, finding that
7 parking place, let me know, or getting into it, let me know.

8 MR. KANAREK: Your Honor, would your Honor ask the jury
9 not to consider the statements for any purpose? I do make that
10 motion, your Honor.

11 THE COURT: Ladies and gentlemen, the statements of
12 Mr. Manson, likely -- in the courtroom here, the court orders
13 that you not in any way utilize such statements to the
14 prejudice of the defendant.

15 Remember the admonition that I have given to you
16 in respect to the publicity. You are not to hear, see or
17 read anything, of anything concerning this trial concerning
18 Mr. Manson or any other trial during the time that you are
19 jurors or alternate jurors during the course of this case. You
20 are to ignore such material.

21 Don't converse with anyone. Don't permit anyone
22 to converse with you. Don't form or express any opinion on
23 this matter until it is finally submitted to you.

24 Good night, I'll see you tomorrow morning at
25 9:30.

26 (Whereupon, an adjournment was taken at 4:30
27 P. M. to resume on Thursday, August 5, 1971 at 9:30 A. M.)
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