

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.

160
No. A-267861

REPORTERS' DAILY TRANSCRIPT

Friday, October 15, 1971

VOLUME 60

APPEARANCES:

For the People:

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

For Defendant Manson: IRVING A. KANAREK, Esq.

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

1 LOS ANGELES, CALIFORNIA, FRIDAY, OCTOBER 15, 1971 9:45 A.M.

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4 THE COURT: All right. The case of People vs. Manson.

5 THE BAILIFF: The jury's on its way down, sir.

6 (Pause in the proceedings.)

7 THE COURT: Good morning, ladies and gentlemen.

8 (Whereupon, murmurs of "Good morning" were heard
9 from members of the jury.)

10 THE COURT: Off the record.

11 (Whereupon a discussion ensued off the record
12 among the Court and members of the jury:)

13 THE COURT: All right. Mr. Kanarek?

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

17 (Whereupon a discussion off the record ensued
18 at the detention room door between Mr. Kanarek and
19 the defendant.)

20 MR. KANAREK: He says, "No," your Honor.

21 THE COURT: Very well. You've asked him whether he
22 will behave if he comes into court, and he has said, "No"; is
23 that correct?

24 MR. KANAREK: No. I will ask him that.

25 THE COURT: All right.

26 MR. KANAREK: Charlie, the Judge wants to know whether
27 you'll behave, if he lets you come into court?

28 THE DEFENDANT: No. I'm a terrible guy, an awful beast.

1 THE COURT: All right. He'll have to remain in back,
2 then, in the detention tank.

3 Let's proceed.

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

7 THE COURT: All right. The record will show that the
8 jurors and alternates are all present; Mr. Kanarek --

9 MR. KANAREK: Yes, your Honor.

10 THE COURT: -- for the defendant, and Mr. Manzella for
11 the People.

12 Mr. Kanarek, you may continue.

13 MR. KANAREK: Thank you.

14 Good morning, your Honor, and ladies and gentlemen
15 of the jury, and Mr. Manzella.

16 We all heard an interesting statement just now,
17 before we went on the record, from the gentleman here from the
18 press and what he says there about getting his lawyer reminds
19 me of a very, very unusual situation that happened during the
20 Tate-La Bianca case.

21 When we had the temerity to subpoena a reporter
22 to the courtroom, within three or four days, we had points and
23 authorities about three inches thick (indicating), from a very
24 prestigious law firm on Spring Street.

25 They must have stayed -- they must have had 30
26 lawyers working all night, several nights, so that this one
27 person would not be made available as a witness. And all we
28 did was subpoena the man to court.

1 So, of course, what this gentleman told us before
2 we went on the record, what he stated here is not on the
3 record. But this is the kind of money and the kind of power
4 that the press has, in connection with whatever they wish to
5 do.

6 Now -- oh, pardon me.

7 (Whereupon a discussion off the record ensued
8 at the Clerk's desk between Mr. Kanarek and the Clerk.)

9 (Pause in the proceedings.)

10 MR. KANAREK: While Mrs. Holt is getting -- oh, she has
11 it here. I was just going to make a couple of points, if I
12 may.

13 Going over these transcripts, each night, you --
14 certain things occur to you, and there -- in this -- in this
15 trial, there is this pressure for time. And we -- we suggest
16 that if we look at how much time the defense has taken up --
17 including what we are discussing now, including these matters
18 that we have been going over for the last couple of days --
19 and then you equate that time that has been involved in what
20 we have been doing, and equate that with the time of the
21 prosecution in connection with this case, you equate that with
22 not only the time when we were all here in court, listening
23 to the evidence, but the time before that, the many weeks that
24 it took, because of the fact that the District Attorney's
25 office released this -- this horrendous information concerning
26 Mr. Manson, and then the mass media sent it out into the
27 public, necessitating great numbers of court hours in coming
28 to the courtroom, in picking a jury, all of that, the prejudice

1 being from what the District Attorney's office, in their
2 press releases give to the public -- Mr. Manson has no press
3 agent; the District Attorney does, though. The District
4 Attorney has a press agent, in fact.

5 And so, if we would, if you would bear with me in
6 connection with whatever time we -- we may --

7 THE COURT: Mr. Kanarek, would you please get around to
8 discussing the evidence --

9 MR. KANAREK: Yes, your Honor.

10 THE COURT: -- in this case?

11 MR. KANAREK: But I would just like to point out that
12 perhaps the time that we are using is not -- is not excessive.
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As fls.

1 Now, the fact is, the reason that we mention
2 time here, and the reason that we have -- we are doing this --
3 certainly by way of emphasis -- is because this lady, Betty --
4 or, Ella Jo Bailey, time is so important because of the
5 conspiracy charge. And that's the reason -- that's the reason
6 that we have suggested this -- this -- this part of the
7 record, that goes through her state of mind, her credibility,
8 when she has taken as many drugs and as many dangerous
9 chemicals as she tells us that she's taken.

10 And the -- the statements by her, wherein she
11 states -- and I would like to read this, if I may:

12 "Q Well, did you, during the summer of
13 1969 --"

14 Now, I know we've read this. I'm just going to
15 read a few sentences again, if I may, because of the time
16 aspect.

17 This rental agreement (indicating), do we know --
18 can we use this lady for any kind of credibility?

19 "Q Well, did you, during the summer of
20 1969, lay out on the ground under the influence
21 of LSD on the Spahn Ranch?

22 "A At any time during the summer?

23 "Q Yes.

24 "A I believe so.

25 "Q And you don't know what days, what months,
26 when these occurrences were that you were under the
27 influence of LSD, do you?

28 "A No."

1 And then she goes on to describe the effect that
2 it has on her:

3 "It depends on your environment, who you
4 are with. I couldn't tell you specifically. The
5 over-all effect could be different --" and so forth.

6 There's no question about it, that this girl
7 ingested these things, took these drugs -- including marijuana
8 -- and so it goes into our consideration of her credibility
9 when we talk about -- when we talk about reasonable doubt.

10 And there's -- as far as Ella Jo Bailey is
11 concerned, I think it's interesting -- I think it's interesting
12 to think of -- let's say that we were sitting here -- instead
13 of sitting here on the serious charges that we are now
14 considering, say that we were sitting here just as a small
15 claims court; say that Ella Jo Bailey was the witness on one
16 side of a small claims action, where only twenty-five or
17 fifty dollars was involved.

18 And Ella Jo Bailey was the one who would determine
19 whether the Judge finds in favor of the position that Ella Jo
20 Bailey fosters, with her credibility and her witnessing or
21 not, remembering the preponderance of evidence.

22 It's a civil case; it's a small claims action.
23 The mere preponderance of the evidence would dictate a
24 result.

25 And Ella Jo Bailey is the one that says that we
26 ought to pay for the shirts, or we ought to pay for the
27 clothing -- or not; whichever position she happened to take.

28 Would we, as small claims judges, find in favor

1 of her position? Absolutely not. There isn't one of us in
2 this courtroom that would find in favor of whatever Ella Jo
3 Bailey fostered, if even a small amount of money was involved.

4 But we are asked to take Ella Jo Bailey's testi-
5 mony, and we are asked to use it in this courtroom, for the
6 purposes that the prosecution is asking us, in -- in connec-
7 tion with Mr. Manson.

8 Now, here is a statement of Ella Jo Bailey about--
9 and I'm trying to find a particular -- a particular conversa-
10 tion that I think is significant.

11 "Q Miss Bailey, directing your attention
12 to this occasion that you were at the campsite in
13 Devil's Canyon, in the latter part of July, 1969,
14 during that conversation, during the one in which
15 you suggested Gary Hinman's name as somebody who
16 might come with the Family, during that conversation --
17 strike that."

18 Well, I don't know exactly how much -- so I'll
19 read exactly what's in the transcript. I don't know what the
20 "strike that" would exactly refer to, and -- well, the jury
21 certainly can decide.

22 "Q Miss Bailey, directing your attention to
23 this occasion when you were at the campsite in Devil's
24 Canyon, in the latter part of July, 1969, during that
25 conversation, during the one in which you suggested
26 Gary Hinman's name as somebody who might come with
27 the Family -- strike that.

28 "During that conversation, did you suggest

1 "Gary Hinman's name?

2 "A Yes.

3 "Q All right. And what did you say specifically
4 about Gary Hinman?

5 "A Well, the conversation was about money,
6 and I suggested Gary Hinman's name. I don't remember
7 what was said after that.

8 "Q All right. Now, was there any conversation
9 or any statements made during that conversation at
10 the campsite in Devil's Canyon?

11 "A Oh, yes. "

Ab fls.

Ab-1

1 "Q In which someone said, or anyone said,
2 that Gary Hinman was to be killed?

3 "A Not that I remember."

4 That's in the record before us.

5 Now, we come to a part of the -- we come to a
6 part of the case involving the testimony of Mr. Whiteley,
7 the testimony of Mr. Whiteley concerning Mr. Manson.

8 And because I am sure that the prosecution is
9 going to tell us -- and they're going to -- what they are
10 going to use or attempt to use, in connection with the Gary
11 Hinman case, they're going to attempt to use the statement
12 that Mr. Manson supposedly made to Mr. Whiteley, right here
13 in the courtroom, they're going to argue that that is the
14 corroboration; they're going to argue that this statement --
15 that this statement of Mr. Manson supposedly corroborates
16 these accomplices; that they -- that this means that the
17 accomplice testimony can be used, because this supposed
18 statement occurred.

19 So, let's look at that for a moment and see what
20 happened in that regard. Mr. Whiteley testified:

21 "Q Now, Officer, you were sitting here in
22 your capacity as the investigating officer, right,
23 at that time?

24 "A That's correct.

25 "Q And your -- as an investigating officer,
26 your intent was to have this conversation with Mr.
27 Manson -- I'm now referring to the conversation of
28 August the 11th, 1971; is that correct?

1 "A Sir -- no, sir, that's not correct."

2 Now, is that -- is that indeed the fact? We saw
3 Mr. Whiteley get up and leave the courtroom, get up and
4 leave the courtroom many times during the conversation of --
5 of whatever was going on in the courtroom, other than
6 testimony; and also, while testimony was going on.

7 We saw Mr. Whiteley get up and leave the immedi-
8 ate vicinity of the prosecutor. And so, when he says that
9 he had no intent, as a -- as a prosecuting officer, to have
10 this conversation, that's something for us to consider.

11 Is that true? Did he get up and walk away? Did
12 he have the intent to have this conversation?

13 Then he was asked, "Well, is that the date you
14 wrote it down?

15 "A No, sir."

16 We remember that in his notes -- in his notes,
17 the officer wrote down a different date. He says -- he says
18 -- we have -- the question was:

19 "You have '8-11-71' written down in
20 your own handwriting.

21 "Is that an error, Officer?

22 "A Possibly."

23 Well, from what occurred, from what was said, is
24 it "possibly" or is it true? I mean, it would seem like
25 there's no question about that that's in error, taking the
26 prosecution's viewpoint.

27 But he gives in very grudgingly, as far as
28 anything that the -- that the prosecution's side has -- has

1 brought before us as being in error or wrong or intentionally
2 wrong or anything like that.

3 "Q You would --

4 "May I show it to the officer, your Honor?

5 "THE COURT: --

6 "May I show it to the officer, your Honor?

7 "THE COURT: Yes, you may.

8 "Q I show you where it says 'Department 106,
9 8-11-71, 9:50 a.m.'

10 "A Yes, I see it.

11 "Q 'Attorneys at bench.'

12 "You wrote that, on what date are you
13 telling us now?

14 "You wrote that, on what date, are you
15 telling us now, then?

16 "A I wrote that on August the 10th."

17 Now, when he writes "Attorneys at bench," he's
18 laying a foundation -- he's knowing that what he's doing is
19 something that's going to later on come here and be intro-
20 duced as evidence; he's trying to authenticate and do things
21 to make it very accurate.

22 "Q Now, your function, then, is to obtain
23 information in connection with this case on behalf
24 of the District Attorney; right?

25 "A That's correct.

26 "Q When Mr. Manson told you --"

27 Well, that question was -- an objection was
28 sustained to that.

1 "Q So Manson says to you, words to the
2 effect that 'Springer is lying, I never saw the
3 man, he just jumped on,' right?

At fls.

4 "A That's what he said, yes.
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1 "Q And you then said what, Officer?

2 "A I said, 'I didn't put you in the Hinman
3 house, Mary Brunner did.'"

4 Now, let's compare that sentence with the officer's
5 statement to us:

6 "Q And your -- as an investigating officer,
7 your intent was to have this conversation with
8 Mr. Manson -- I'm now referring to the conversation
9 of August the 11th; is that correct?

10 "A No, sir, that's not correct."

11 Well, is that a true statement? Is that true?
12 Well, obviously, that statement -- he is not being candid with
13 us, because he brought up -- according to what he tells us --
14 "I didn't put you in the Hinman house, Mary Brunner did."

15 So clearly, the police officer, from what he's
16 telling us here, was interrogating, from -- from -- taking
17 what he says at face value, for the sake of argument -- just
18 for the sake of this discussion -- he was making a statement
19 in connection with the Gary Hinman matter to Mr. Manson,
20 according to what he tells us.

21 "Q Now, Mr. Springer was testifying con-
22 cerning matters, as far as your thinking was
23 concerned, that had nothing to do with Mary
24 Brunner; is that right?

25 "A That's right.

26 "Q You stated words subsequent to the
27 statement by Mr. Manson concerning Mr. Springer
28 that had nothing to do with Mr. Springer; is that

1 "correct?

2 "A No, that's not correct.

3 "Q Well, Mr. Springer had not been
4 testifying concerning Mary Brunner in any way;
5 is that right?

6 "A That's right."

7 So, from these words, we can sort of get an in-
8 sight into the thinking processes of Mr. Whiteley. Because
9 his thinking processes, as reflected by the words that are in
10 the transcript, are diametrically opposite to his protestation
11 to us that he -- that he was not -- that he had no intent to
12 have any conversation with Mr. Manson.

13 There's -- the language is here, and it can be
14 read. I am sure the Court will read -- or, will authorize
15 reading back anything, anything whatsoever, that the jury wants
16 read back.

17 "Q And so you uttered words
18 concerning Mary Brunner after Mr. Manson
19 made this statement, you tell us?

20 "A No.

21 "Q You didn't utter the words
22 about Mary Brunner putting Mr. Manson in the
23 Hinman house?

24 "A Yes, I did.

25 "The words were --"

26 Your Honor, because of this record, may we
27 approach the bench for a moment?

28 THE COURT: Yes, you may.

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

4 MR. KANAREK: Your Honor, I don't know if this occurred
5 at the bench or this occurred before the jury, and I don't
6 want to read it if it -- your Honor authorized -- said we
7 should approach the bench. This is at Page 5326. And then
8 (indicating) "The words were: --"

9 Now, I don't know whether that happened in the presence
10 of the jury or not. It would seem like it did.

11 You see, the record seems to be ambiguous there.
12 I am sure your Honor would agree with me.

13 (Pause in the proceedings while the Court perused
14 the transcript.)

15 THE COURT: Well, on Page 5326, the Court said to the
16 jury: "The words were: 'I didn't put you at the Hinman
17 house, Mary Brunner did.' Those were the words the Court
18 was referring to, ladies and gentlemen," -- speaking to
19 the jury, as I am at that time -- "previously, and those
20 are the words that are not to be considered by you to prove
21 the truth of what was uttered by Sergeant Whiteley, but just
22 to establish, if it does establish, what was said by him,
23 Sergeant Whiteley."

24 I think that was said in the presence of the
25 jury.

26 MR. KANAREK: All right. I just wanted to make it very
27 clear, then, your Honor.

28 Very well. Thank you.

1 THE COURT: And then, it goes on from there; the rest
2 of it is at the bench.

3 MR. KANAREK: Very well. Thank you, your Honor.

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

6 MR. KANAREK: And -- well, then, what happened here in
7 the courtroom was that after the question was asked, "And
8 what was your purpose and intent in uttering those words? Why
9 did you utter them?"

10 The Court stated: "The words were: 'I
11 didn't put you at the Hinman house, Mary Brunner
12 did.'"

13 That is, the Court is quoting what the words
14 were.

15 "Those were the words the Court was referring
16 to, ladies and gentlemen, previously, and those
17 are the words that are not to be considered by you
18 for -- to prove the truth of what was uttered by
19 Sergeant Whiteley, but just to establish, if it
20 does establish, what was said by him, Sergeant
21 Whiteley."

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AD 1 These are further statements by Officer Whiteley,
2 from the witness stand.

3 "Q Now, directing your attention to the notes
4 which have been marked for identification, Officer.

5 "Q When did you write those notes?

6 "A During and after the conversation.

7 "Q By that, you mean, you tried to get
8 them -- you tried to write them out as he was saying
9 it; is that right?

10 "A I started to, yes.

11 "Q And then, afterwards, you finished
12 it; did you finish it in the courtroom, or did you
13 finish it later on when the Court was not in session?

14 "A I finished it in the courtroom.

15 "Q How long after the words were
16 supposedly uttered?

17 "A Uh -- approximately a minute and a
18 half.

19 "Q And while you were writing, was
20 Mr. Manson talking?

21 "A Yes.

22 "Q And you didn't get down -- I'll with-
23 draw that.

24 "Did you get down all the words
25 that Mr. Manson uttered?

26 "A No.

27 "Q Mr. Manson also uttered, during
28 that conversation, words wherein he stated he was

1 "not guilty of killing Mr. Hinman; is that
2 correct?

3 "A No, I do not recall that statement
4 being made.

5 "Q Well, did -- well, you mean you don't
6 recall it, but it might have occurred?

7 "A No, I don't recall ever hearing a
8 statement like that being made, during this conver-
9 sation.

10 "Q Well -- but there are words that you
11 heard that are not down on this piece of paper;
12 is that correct?

13 "A That's correct.

14 "Q And can you give us, to the best of
15 your ability, please, what were the words that
16 were stated that are not down on the piece of paper?"

17 And this is the answer: Quote, "I never
18 killed anybody." And then end quote.

19 Now, if you never killed anybody, that includes
20 never killing Gary Hinman. But the police officer is playing
21 a little game with us, when -- so that when the question was
22 asked, whether he -- whether Mr. Manson stated, "He was not
23 guilty of killing Mr. Hinman; is that correct?"

24 And he said: "No, I do not recall that
25 statement being made."

26 This is someone who was a witness, who has a
27 position in this case, who is hardly a neutral. He -- when he
28 takes the witness stand and testifies, he's advocating matters

1 for the proposition that the prosecution fosters in this case.

2 And because of the nature of the -- the nature of
3 our -- our retentive processes, and because of the nature of
4 the human mind, the fact that we are not tape recorders, the
5 fact that the way -- whenever -- that whatever way our brains
6 function, they do not remember word for word what's happened,
7 we have a couple of factors coming into play when somebody
8 supposedly repeats a conversation.

9 We have one factor, which is the lack of retentivity,
10 the ability to remember word-for-word, even if we were in the
11 school room trying to remember word-for-word. That's one
12 factor.

13 Then the other factor we have is that which we
14 reject consciously -- or subconsciously -- because we don't
15 want to say -- we don't want to let go the words that might,
16 somehow or other, put us in making a statement that we don't
17 wish to foster.

18 We don't want that viewpoint to be recognized by
19 the person or persons who are listening. And so, in connection
20 with that second factor, of repeating or stating or recalling,
21 Officer Whiteley is less than candid with us, because he later
22 on says that Mr. Manson said, "I never killed anybody."

23 "Q All right, anything else?

24 "A 'Have you ever killed anybody?'

25 "Q Go ahead.

26 "A I can't recall any more specific
27 words.

28 "Q But there were others, right?

1 "A Yes, there were.

2 "Q Is there some reason that you
3 haven't, from the time that this occurred, until
4 this instant, written down the words that you have
5 recalled?

6 "A Yes.

7 "Q What's the reason?

8 "A Because I can't write everything
9 that Charlie Manson says."

10 In other words, he is -- he is picking and choosing
11 of what he's putting down, because he says -- and one of the
12 reasons, he says he can't write down everything that
13 Charlie Manson says.

14 Now, words -- words -- if I can -- if I might
15 show how words can be used, and have a diametrically opposite
16 meaning -- as a matter of fact, the example -- I think this
17 example that we are going to suggest is an example that the --
18 unless you describe it, even the -- even the court reporter
19 couldn't get it.

20 For instance, if I say, "I love you. I love you,"
21 like that, that would mean sort of that -- the feeling is I
22 love you.

23 Now, if I say, "I, love you? I, love you?" With
24 that kind of emphasis, that means just the opposite.

25 That would mean that we -- and we all would agree
26 that words used in that context would mean, "I don't love you."

27 But you see, the written record at best -- the
28 written record at best is not necessarily accurate.

1-1

1 Then, when you have a person, you have a person
2 who has a posture in the proceedings that this gentleman has,
3 then you have an aspect to consider.

4 There's been a lot of publicity, an awful lot of
5 publicity about -- supposedly about the cutting of Gary Hinman's
6 ear, and the cutting of Gary Hinman's cheek. There's been
7 diagrams of it in the press. There have been -- there have
8 been statements about it in books, books like Paul Watkins,
9 and perhaps all over the world.

10 So it is possible to discuss a statement of that
11 type without saying that I did it.

12 And so when we have a person who is a police
13 officer, stating what he stated here, the question is -- the
14 question is, can we depend upon the relia -- can we -- is
15 there reliability in what -- in what the man has stated?

16 "A 'Have you ever killed anybody?'"

17 Then -- that was his answer to the question:

18 "All right, anything else?"

19 Then,

20 "Q Go ahead.

21 "A I can't recall any more specific words.

22 "Q But there were others, right?

23 "A Yes, there were."

24 And after he stated,

25 "Because I can't write everything that
26 Charlie Manson says," the question was asked:

27 "Q I see. And so, as you wrote out this
28 memorandum, you were writing things down that you

1-2

1 "thought would help the prosecution, right? That
2 was your state of mind as you composed this piece
3 of paper?

4 "A Yes.

5 "Q Well, may I ask you this, then? You did
6 leave out words that you recalled, that's for sure?

7 "May that question be read, your Honor?"

8 The Court says:

9 "Do you remember the question?"

10 And the witness answers:

11 "No, sir."

12 "THE COURT: All right.

13 "May it be read?

14 "THE COURT: Yes."

15 And then, the question was read, which was:

16 "Well, may I ask you this, then? You did
17 leave out words that you recalled, that's for sure?

18 "A Yes, I possibly did leave out a word. I
19 don't recall. In the statement that I wrote in the
20 notebook, I tried to write that portion of what was
21 said as close as possible to what was said.

22 "Now, directing your attention to this
23 other conversation that you've spoken of, Officer.

24 "First, let me ask you -- I'll withdraw
25 that.

26 "At the time that this occurred, Mr.
27 Manzella and Mr. Alexander and myself were at the
28 bench with Judge Choate, with the court reporter; is

1-3

1 "that correct?

2 "A Yes.

3 "Q And, now, then, directing your attention
4 to the other statement that you made, where you wrote
5 it down.

6 "Do you recall that, the second one?

7 "A Yes, sir.

8 "Q Concerning what you've testified, right?

9 "A Yes.

10 "Q Well, would you tell us what was said at
11 that time?

12 "A Mr. Manson stated at that time that he
13 couldn't understand how so many people could be tried
14 for the murder of one person.

15 "Q Are those all the words that were uttered?

16 "A No, sir.

17 "Q Did you write down all the words that
18 were uttered?

19 "A No, sir.

20 "Q Did you write down any of the words that
21 were uttered?

22 "A Which conversation are you now speaking of?

23 "Q I'm talking now of this second -- the
24 second event concerning which Mr. Manzella interrogated
25 you?

26 "A No, sir, I didn't.

27 "Q You wrote none at all?

28 "A No, sir."

1-4

1 So do we have a person who is chronicling events
2 for us, he's taking things down with the impartiality of the
3 court reporter? Like we've seen in this courtroom, Miss
4 Briandi and Mr. Williams. They take down everything that's
5 uttered.

6 Now, can we depend upon what this man has told
7 us with that same type of impartiality?

8 Can we depend upon that?

9 Well, obviously, we cannot depend upon that for
10 reasons that we've discussed. It is clear -- it is clear
11 that what we have is something that's taken out of context,
12 something that's brought here, that's brought here before
13 us for purposes that the prosecution wishes to foster. And
14 so the -- the words that were uttered, and what actually
15 happened, is not before us.

16 "You wrote none at all?
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1 "A No, sir.

2 "Never have up to this instant?

3 "A Uh, yes, sir.

4 "Q Pardon?

5 "A Yes, sir.

6 "Q You did write them down?

7 "A I wrote some notes.

8 "Q Where are they?

9 "A They're right in front of you.

10 "Q Well, you did not write down --

11 "Would you show me, Officer, where in this
12 notebook you wrote down what you are speaking of now?

13 "A You didn't ask me that."

14 And -- I'm sorry, the statement of the witness
15 was stricken by the Court.

16 "Q What note --

17 "A Yes, your Honor.

18 "What notes were you referring to just an
19 instant ago, Officer?

20 "A What notes -- the notes that are right
21 here before me.

22 "Q Will you show me the page?

23 "A There are two pages here (indicating).

24 "Q But these two pages represent separate
25 events, don't they?

26 "A Yes, sir, they do.

27 "You have in mind the statement that you
28 made to Mr. Manzella concerning the time, other than

1-6

1 "the time on August 10th, when you wrote August the
2 11th, is that right?"

3 That question was sustained.

4 "Q Directing your attention, Officer, to the
5 conversation where you say Mr. Manson spoke about more
6 than one person being convicted, do you have that in
7 mind?

8 "A Yes.

9 "Q All right. Having that in mind, would you
10 show me where in your notes that is written down?

11 "A I cannot.

12 "Q Because it never was written down?

13 "A That's correct.

14 "Q Right.

15 "And is it a fair statement that the reason
16 you didn't write it down is because you thought that
17 that might somehow or other help Mr. Manson to prove
18 he's not guilty of this crime, is that right? Is that
19 the reason you didn't write it down?

20 "A No, sir."

21 Now, when he says, "No, sir," to that, when we
22 see the eagerness with which this man moved around, does
23 things on behalf of the proposition -- and he writes, and he
24 tells us, "No, sir," that he -- that he didn't write it down
25 because this might help Mr. Manson, might prove Mr. Manson
26 not guilty, can we believe that? There's a grave doubt that
27 we can believe -- that we can believe that statement.

28 And so when we look at -- when we look at Officer

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1 Whiteley's testimony here, and the context of the record and
2 the context of what actually happened here, and try to
3 determine -- try to determine guilt or innocence from that,
4 there's no question that within -- within, uh, anybody's
5 viewpoint, anybody's viewpoint, that that kind of -- that
6 that kind of chatter from the witness stand cannot be used
7 to prove anyone guilty of the horrible crimes that the
8 prosecution claims have occurred.

1a fls. 8

1a-1

1 We saw Officer Whiteley, we saw him during this
2 trial doing things and whatever, in testifying, and Mr. --
3 Officer Whiteley is not a neutral witness. Officer Whiteley
4 is a partisan witness, is a partisan witness who is here and
5 we'll show you the kind of partisanship, the kind of partisan-
6 ship that Officer Whiteley goes in for.

7 I'll show you the kind of partisanship he goes in
8 for. There was a certain day, a certain day that Mr. George
9 Denny, a lawyer in this community, representing someone in
10 connection with these matters, but not on trial here. Mr.
11 George Denny and I were to go over and speak to Ella Jo
12 Bailey, over here and down in the next block, the Old Hall of
13 Records. And this is in -- this is in the Sheriff's Depart-
14 ment.

15 And she comes down here at the expense of all of
16 us. She and her mother are flown down here for a little
17 vacation in Southern California. Her mother comes too.

18 And the idea was that we were to go over there,
19 myself and Mr. Denny, and speak with her, just talk to her.

20 And, "Now, Miss Bailey" -- this is what occurred
21 in connection with Miss Bailey and this will indicate the --
22 here we have -- here we have a witness who is brought here
23 for the purposes of this case, and this is what, in discussing
24 here -- here, uh, speaking with me and Mr. Denny, this is
25 what she testifies to:

26 "Q Now, Miss Bailey, did you have a conversa-
27 tion with Mr. Manzella a few days ago in which he took
28 notes while you were speaking with him?

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1 "A Yes, I did.

2 "And in that conversation, uh, at the
3 time you had the conversation, who was present?

4 "A Mr. Manzella, my mother and myself.

5 "Q That was after you had stated that you
6 didn't want to talk to me, is that right?

7 "A Yes, sir.

8 "And do you recall that when we met on
9 the tenth floor of the Old Hall of Records here?

10 "A Yes.

11 "Q A few days ago?

12 "A --" uh, and she nods her head evidently
13 "Yes."

14 "Q And you -- when did you form the intent
15 that you didn't want to speak to me?

16 "A The first time was a few days previous
17 to the time I saw you when I was told I had the choice
18 of whether or not I wished to make a statement to you
19 before I came on the stand."

20 "And this is the way they do this. Officer
21 Whiteley and/or Officer Guenther will have a person here.
22 And here is, again, the use of the English language -- use
23 of the English language so that superficially it sounds like
24 -- it sounds like everything is really on the up and up.

25 The person is here (indicating), and they say,
26 "Well, now, this lawyer, Mr. Kanarek is going to come over
27 here and he's going to want to talk to you.

28 "And this lawyer, Mr. Denny, he's going to

1a-3

1 come over here and he's going to want to talk to you.

2 "Now, I want to tell you this, I want to tell you
3 this, you can talk to him if you want to, but if you don't
4 want to, you don't have to talk to him."

5 Now, is the person who makes that kind of a
6 statement, is that person telling this witness -- this witness
7 who is -- who wants this forgery charge dismissed, this witness
8 who wants the favors and the benefits of -- of, uh, these
9 matters up in the State of Washington dismissed, is she
10 getting the message as to what Officer Guenther and Officer
11 Whiteley wants?

12 Of course she gets the message. When he says,
13 "You can talk to him if you want to," but he says, "You don't
14 have to talk to him," he's telling her "Don't talk to Kanarek,
15 Don't talk to George Denny. Don't talk to those people."

16 He is saying it as -- he is saying it as explicitly
17 as if he, in fact, uttered those words.

18 And the fact that he doesn't use that exact
19 language -- well, in this courtroom, "No" is meaningless.
20 There is no -- it is a distinction with no difference. And
21 so he tells her -- he tells her not to talk to us.

22 "The first time was a few days previous to the
23 time I saw you when I was told I had the choice of
24 whether or not I wished to make a statement to you
25 before I came on the stand.

26 "Q I see.

27 "And directing your attention, then,
28 there was another lawyer connected with this case

1 "that wanted to speak with you, also, right?

2 "A Yes.

3 "Q And you chose not to speak with him either,
4 right?

5 "A Yes.

6 "And he, uh -- he was a defense lawyer,
7 right?

8 "A Yes.

9 "Q When did you form the intent not to talk
10 to him?

11 "A At the same time I was told that he would
12 be -- you know, asking me -- when I was told about you,
13 I was told about him. I made my opinion then."

14 In other words -- in other words, these people
15 take this lady, they interject -- they interject this state-
16 ment to her. There's no need for the statement. There's no
17 need to tell her that she can talk or that she can't talk.
18 There's no reason for it except for the fact that they do not
19 wish this conversation to take place because of their own
20 viewpoint in this lawsuit.

21 "Q And you -- you didn't want to speak to
22 him or me, right?

23 "A Prior to the time I came on the stand,
24 that's right."

25 MR. KANAREK: Your Honor, I wonder if this would be a
26 convenient time --

27 THE COURT: We'll recess at this time.

28 MR. KANAREK: Thank you. Thank you, your Honor.

1 THE COURT: During the recess, you are admonished not
2 to converse amongst yourselves, nor with anyone else, nor
3 permit anyone to converse with you on any subject connected
4 with the matter, nor are you to form or express any opinion
5 on the matter until it is finally submitted to you.

6 See you back in the box at 11:00 o'clock.

7 (Morning recess.)
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1 MR. KANAREK: Yes, your Honor.

2 THE COURT: Mr. Kanarek, you may proceed.

3 MR. KANAREK: I apologize to the Court and jury and
4 Mr. Manzella for being late, your Honor.

5 THE COURT: The record may show the jurors are all
6 present.

7 MR. KANAREK: What I am going to discuss now is the --
8 is the tape that we heard concerning Mr. Arneson. And this is
9 the language as reflected by the tape, that is what the tape
10 stated.

11 "Q Okay."

12 And this is a -- on the tape.

13 "Q Okay. Can you tell me when you got
14 the bus? Can you remember the date that you got
15 the bus?

16 "A Uh -- see, what happens --

17 "Q --"

18 Now, that answer is (spelling) u-h -- see, what
19 happens --

20 "Q Well, think about that."

21 Then, the tape was played again. And then, the
22 answer on the record here reveals, "(unintelligible.)"

23 And then, it was played again, and the first
24 thing is:

25 "A (Unintelligible.)

26 "Let's go back to that. Do you remember
27 when Charlie gave you the bus?

28 "A (Unintelligible.)

1 "Q All right. Will you describe
2 the bus to me that Charlie gave to you?

3 "A Uh -- red, with a --" so forth.

4 And then, this tape was played again. I'm sure
5 we'll all remember. We had to go -- it had to be played a
6 couple of times, three times, maybe.

7 "Q Do you know any of the names he's
8 known by?

9 "A Uh -- (unintelligible.)

10 "Q Okay. Can you tell me when you got the
11 bus? Can you -- can you remember a date that you got
12 the bus?

13 "A Uh -- June -- June -- see, what happened --

14 "Q Well, think about that again.

15 "A It was some time in June. I can't
16 remember the date. I remember my birthday's June
17 24.

18 "Q Are you saying June, now, or July?

19 "A My birthday is June 24th --

20 "Q All right.

21 "A And -- oh, I think I got the bus
22 before my birthday."

23 Then, we went back and the tape was played again.

24 "The other guy -- (unintelligible) -- car kind
25 of -- (unintelligible) -- and -- (unintelligible) --
26 here's a good jack --"

27 Then, first, "(unintelligible) -- but I'll
28 tell you that you got the car at the end of July,

1 "or the first part of August.

2 "A --"

3 This is Mr. Arneson answering.

4 "Is that right?

5 "Q Yeah."

6 And then, it was played once again.

7 First, "(unintelligible) now, while --"

8 And then, it is played again.

9 "Q Now, I'm going to tell you -- and
10 you'll just have to believe -- (unintelligible) --
11 it's been a long time back, I know, but I'll tell
12 you that you got the car at the end of July or the
13 first part of August.

14 "A Is that right?

15 "Q Yeah."

16 And so, on that note, I would like to begin
17 discussing the Shea matter.

18 In connection with Shea, we have, of course, the
19 same -- the same principles, the same principles that apply,
20 the reasonable doubt, the doctrine of reasonable doubt.
21 And, of course, one of the primary -- one of the primary things
22 that we have to consider is the -- whether or not Mr. Shea
23 has passed away; whether or not Mr. Shea is living.

24 And in that regard, a lot of evidence has come in
25 before us, a lot of evidence, and the Court has told us, has
26 used the term "state of mind." And in going through the
27 transcripts and studying the evidence in connection with the
28 Shea -- uh, in connection with the Shea case, there is such a

1 wealth of evidence on state of mind, and the Court's telling
2 us that we are not to use this state of mind evidence to
3 prove what is alleged in the testimony itself.

4 For instance, if I say I'm going to Long Beach,
5 that statement could be used to prove that I went to Long
6 Beach.

7 And if I say I went to Long Beach, that statement
8 could be proved that I went, could be used to prove I went to
9 Long Beach.

10 But the statement, "I went to Long Beach" or "I'm
11 going to Long Beach" can also be used to prove my state of
12 mind without -- it may be used to prove that I have a certain
13 thinking in my mind, a certain process that's going on in my
14 mind. It doesn't have to be used to prove I went to Long
15 Beach.

16 For instance, the statement might be used to prove
17 that I speak the English language. It might be just -- just
18 somebody heard me utter those words, and this person is in
19 Singapore or something, where everybody doesn't speak English.
20 And these are the words that are used by someone who understands
21 English, to just prove that I speak English. So we can see
22 that language has a utility in a courtroom that is not
23 necessarily what we might at first blush believe the utility
24 to be.

25 And so when -- when the Court speaks of state of
26 mind, and it not being used to prove the truth of the matter
27 alleged in the statement, what the Court is telling us is
28 that these many, many statements pertaining to Mr. Shea are not

1 to be used to prove the truth or what is allegedly the truth
2 in these statements.

3 And so when you take -- when you take all the
4 evidence in connection with Mr. Shea, and attempt to boil it
5 down, what we are doing is we are saying that we must analyze
6 somehow or other Mr. Shea's state of mind.

7 And in order to assess whether or not Mr. Shea
8 has been killed, and before we even get to that, we have the
9 problem of whether Mr. Shea is living. Because a person --
10 a person may pass away without a criminal agency. Every time --
11 obviously, everytime someone dies, it is not necessarily a
12 crime.

13 So, uh, if a person -- if a person dies in a
14 hospital, we don't -- we don't say that the person is killed.
15 We say that the person died.

16 And so we have the situation wherein we must use --
17 we must use what has been brought before us here to make
18 certain determinations.

19 And now, again, again, like we've indicated here,
20 evidence does not equal fact. It is not for the jury to
21 determine whether anything that comes from the witness stand
22 by way of evidence is raised to the dignity of fact. And just
23 because it is uttered from the witness stand, doesn't make it
24 a fact.

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1 So the prosecution -- the prosecution in this case,
2 as I am sure that we all remember, calls some witnesses
3 pertaining to Mr. Shea. And remember that -- that Mr. -- Mr.
4 Shea was supposedly married -- excuse me just a minute.

5 (Pause in the proceedings while a discussion off
6 the record ensued at the clerk's desk between Mr. Kanarek and
7 the clerk.)

8 MR. KANAREK: Mr. Shea was supposedly married to this
9 lady who is now Sandra Harmon. And the prosecution has gone
10 all the way -- I think it was to Defiance, Ohio to bring that
11 lady here. And -- I mean, we can't -- we can't -- thank you.

12 (Pause in the proceedings.)

13 The first witness was Sandra Harmon. And there was
14 a lot of testimony, how this lady met Mr. Shea, and she said
15 the thing that -- in 1965 -- now, the Court is going to give
16 you a very interesting instruction, and that is that you don't
17 judge a case by the number of witnesses; that is, you don't --
18 in fact, the language is something like this:

19 You don't count up the number of witnesses on one
20 side and add them, and then balance that number of witnesses
21 against the other side.

22 What the Court tells us is: It's the convincing
23 force of the evidence that counts. That's what counts in
24 connection with the lawsuit, not just adding up witnesses.

25 So, we have this burden to prove each one of these
26 individual steps beyond a reasonable doubt; that is, first you
27 have to show that Mr. Shea is not living.

28 And so they call Sandra Harmon to the witness stand,

1 and Sandra Harmon testifies about her three children. And
2 it's -- it's interesting to know that, because later on --
3 in fact, right near the end of the prosecution's case --
4 excuse me just a moment.

5 (Pause in the proceedings while a discussion off
6 the record ensued at the clerk's desk between Mr. Kanarek and
7 the clerk.)

8 (Continuing) -- they introduced the Leslie Salt
9 exhibit that we all remember.

10 And in that, Mr. Shea, I believe, put down that
11 he had five exemptions, which is sort of powerful, in view of
12 the fact that we have -- we have spoken of Karen Arlene Shea.

13 So that -- that five would add up -- his four
14 children that he had would -- three children, with Sandra
15 Harmon, and one child with Phyllis Shea and himself, that
16 would add up to five.

17 He put that down, for whatever it may be worth,
18 in that -- in that exhibit that the -- the exhibit of the
19 Leslie Salt Company.

20 But what -- what really is -- what really is
21 more significant, perhaps, is the fact that we have brought
22 before us this -- this investigation. We've heard about the
23 investigation, and the sending of communications in many,
24 many directions, in order to determine -- in order to deter-
25 mine, supposedly, the whereabouts of Mr. Shea.

26 But -- and we -- and we have alluded to this
27 previously, when we spoke concerning the opening statement
28 that was made by the prosecution. But nobody chose to

1 bring us what was here in the New Hall of Records, the
2 certificate of marriage of Donald Jerome Shea.

3 Now, this certificate of registry of marriage shows
4 -- if I may, it shows that Donald Jerome Shea is the name; his
5 age is 25; his address was 950 Black Canyon Road, in Santa
6 Susanna, in the County of Ventura.

7 Well, that tells us something. We all know that
8 the Spahn Ranch, Santa Susanna -- it's all a little community,
9 unincorporated. And it's obviously in that same area.

10 The color of race is white; the status is:
11 divorced. And this is as of May the 20th, 1959, Mr. Shea
12 stated that he was divorced.

13 The number of times previously married: One.
14 And his birth place is Massachusetts.

15 And of course, we know, from this -- from the
16 testimony of his mother here in court that he was born in
17 Massachusetts.

18 The name of the father was John A. Shea, in
19 Massachusetts; his mother's name is Elizabeth Bellinger; she
20 was born in Canada. His mother was born in Canada.

21 We know that the lady that came here to testify
22 was Elizabeth Shea. We know that -- we know that the
23 bride's name is Phyllis Arlene Gaston; her age was 19.

24 And this is, of course, a -- on May the 20th, 1959.
25 She lived at 1031 Gaston Road -- which sounds -- sometimes
26 people have -- they live on a street that's their name;
27 if their family has lived there for many years, sometimes a
28 road -- there's -- like a subdivision or something, people who

1 subdivide, they'll name a street after their own family.

2 We can make that kind of inference.

3 And that's also Santa Susanna, Ventura County.

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1 The color of race: White. Never married. Number
2 of previous marriages: None. Birthplace: Illinois. Father:
3 Raymond Thomas Gaston; birthplace: Illinois.

4 Maiden name of her mother: Arlene Elizabeth
5 Vermillion. Illinois.

6 And then we have a signature, "Donald Jerome
7 Shea," which we can compare with what the prosecution has
8 said is the signature of Mr. Shea, on this record, which --
9 which the prosecution has not brought to this courtroom.
10 And when we -- when we think of -- when we think of the
11 burden of the prosecution to prove their case beyond a
12 reasonable doubt and to a moral certainty, this -- this
13 speaks eloquently about something that somebody doesn't want
14 to tell us.

15 The marriage took place. This is a certificate
16 of registry of marriage. This is not a marriage license.
17 This is the actual marriage itself.

18 And Mr. Shea was -- he says -- as of 1959,
19 divorced at that time. So the question is -- the question
20 is: Do we -- do we have the background, the complete
21 background of Mr. Shea?

22 Well, you would think -- you would think, with
23 this record available, instead of sending to the Coroners of
24 every -- or, so many states have so many things that the
25 prosecution did, it would seem like they would search the
26 County Clerk's, because marriage and divorce is a matter
27 of record throughout the United States, as far as County
28 Clerks go.

2a-2

1 And with the wealth and the resources available
2 to the prosecution, they could undoubtedly find -- they could
3 undoubtedly find this other marriage of Mr. Shea, if they
4 really wanted to. And the divorce and all of that.

5 They are telling us that there is a certain
6 life style that Mr. Shea had -- and he did. His life style
7 was that of a vagabond. He was a person -- I mean, the
8 evidence that we've seen here and heard here in this courtroom
9 clearly shows that Mr. Shea is a person who travels about,
10 is a person -- excuse me -- is a person who -- who, even
11 though I'm sure that he wanted to be in the movies and all
12 of that -- like all of us do -- he nevertheless did many kinds
13 of work; and he traveled in various and sundry places.

14 So this -- this record is important, and -- and
15 one of the main reasons that this record is important is
16 because it means that we just can't believe what people tell
17 us concerning Mr. Shea, in many respects.

18 One is: That -- it is clear that Mr. Shea has
19 been less than candid in connection with his marital responsi-
20 bilities. When he married Sandra Harmon, she certainly is
21 of the state of mind, from what we've heard in this courtroom,
22 she's certainly of the state of mind that Mr. Shea is her
23 first husband.

24 When he married Magdalene Shea, Magdalene -- or
25 Niki -- has no knowledge of this marriage -- the prior
26 marriage of Mr. Shea.

27 So there is a certain action of what we might call
28 lack of -- of knowledge that's brought here as a result of

1 Mr. Shea, when he talks to people -- and people that he's
2 close to -- of perhaps not being completely candid in what
3 he tells these people.

4 So that, as we -- as we look at the -- as we look
5 at the testimony of Sandra Harmon -- uh -- and we go and -- and
6 -- we go through this, we -- it makes a -- it makes a picture
7 for us, but the picture really stops concerning Sandra Harmon
8 many years ago, many years ago.

9 Because even though -- even though Mr. Shea uses
10 these children as a basis of five deductions -- "If you claim
11 exemptions for one or more dependents, write the number of such
12 exemptions: 4." And one for himself, 5.

13 In his mind, Mr. Shea -- Mr. Shea knows full well
14 that -- and is -- and is operating under the knowledge of
15 Karen Arline Shea and Phyllis Gaston; but he doesn't -- he
16 doesn't reflect that into people that he is closely associated
17 with -- like, for instance, Niki. So that -- so that, in
18 connection with first this proof about Mr. Shea being -- having
19 died, first of all, that -- there are -- there are many many
20 factors here which indicate that such is in fact not the
21 case.

22 Now, this -- and this lack of candor, I think, is
23 significant, if we take this Leslie Salt file, where he's
24 claiming these exemptions; and then we integrate that with,
25 say, the testimony of Sandra Harmon, "I told him I didn't
26 want him seeing them, and I didn't want any support or any
27 contact between us at all.

28 "Q --" well, that was sustained. And then:

1 "Q All right. When you say 'support,'
2 to what are you referring?

3 "A To money, any support in any manner.

4 "Q And you told him you did not want
5 support from him?

6 "A Right.

7 "Q And did you tell him anything with
8 regard to future visits?

9 "A I told him I didn't want him to come
10 around at all."

2b fls.

2b-1
1 Now, that goes on and on and on. So that Mr. Shea
2 is not -- is not clearly supporting these three children that
3 he's setting forth here as three of the four in the exemption.

4 Now, to show -- to show the lack, in connection
5 with -- with Mr. Shea, his -- we can reflect from the
6 transcript, wherein this kind of -- this kind of evidence is
7 before us:

8 "Now, during the period 1961 to 1965, while you
9 were married to Donald Shea, you said that you
10 spent the year 1963 in Arizona; is that right?

11 "A Yes.

12 "Q Did you also live in Texas during
13 those years?

14 "A Yes.

15 "Q Approximately how long did you live
16 in Texas?

17 "A We lived in Texas a couple of different
18 times; no longer than a couple of months at a time.

19 "Q And did you live anywhere else other
20 than California?

21 "A Boston.

22 "Q How long did you stay in Boston?

23 "A We were up there close to a year."

24 So that there's no question but what Mr. Shea is
25 an itinerant. And it's hard to be an itinerant when you have
26 a wife and three children.

27 And he's still an itinerant. It's easier to be
28 an itinerant when you are just by yourself, and all you have to

1 do is say, "I'm going," and then you go.

2 So that -- so that there's no question that the
3 life style -- the life style, the state of mind -- if you will,
4 the state of mind that -- of Mr. Shea is that of a person who
5 goes about from here to there, and goes more or less as he
6 desires and as he wills it, from day to day.

7 "Q Now, Mr. Shea has not visited the
8 children anywhere since 1965; is that correct?

9 "A Since June of 1965.

10 "Q Pardon?

11 "A Since June of 1965.

12 "Q He has not visited the children?

13 "A He didn't know where they were."

14 Now, those of us that are parents know that --
15 when she says that he didn't know where they were, what she
16 means is that he didn't care about finding them. Because when
17 there is that parental affection, when there is that desire --
18 that desire to be with your children, no -- there is no --
19 there is no stopping a parent; there is absolutely nothing
20 that a parent will not do to locate her or his children.

21 But Donald Shea is not interested in his children;
22 because if he was, he would -- he would do what -- what this
23 affection dictates; and he would be with them; he would -- he
24 would pay money on their behalf, and he would -- he would do
25 whatever -- whatever a person does who wishes to be with his
26 or her children.

27 Now, we come to -- before I go into the aspect of
28 Niki, just one added point, and that is: The -- dwelling upon

1 Mr. Shea's movie -- movie aspirations and so forth, that has
2 been portrayed to us here, is completely out of context; that
3 is, the prosecution can focus upon that and try to draw us out,
4 and try to get our thinking on that movie thing, so that --
5 so that we lose sight of the fact of the over-all picture of
6 Mr. Shea;

7 And the movie aspect of it, we are inundated
8 with the evidence -- the state of mind evidence, if you will --
9 concerning Mr. Shea and the movie thing.

10 But because the prosecution chooses to emphasize
11 that one point does not mean, by -- by any stretch of the
12 imagination that Mr. Shea was living, breathing and dying, as
13 far as the movie industry is concerned. It's just not so.

14 Because Mr. Shea was just on the periphery of the
15 movie industry. He was just doing work here and there, based
16 upon the evidence that's brought before us.

17 In fact, he -- his occupations include -- I've
18 got a list of them here; they include many, many occupations.
19 And if -- if he were a person that was interested, really, in
20 the movie type of thing, he would do like a lot of us know --
21 living here in Southern California -- people do, when a person
22 is interested in the movies.

23 He or she enrolls in classes; they take instruction;
24 they don't just sit around and wait for a big break. Because
25 the big break -- I suppose -- in the movies requires that a
26 person develop himself and do the things that are necessary
27 to learn, to learn how to act, or whatever they do in the
28 movies.

1 And there is no showing whatsoever, as far as
2 Mr. Shea is concerned, that he's taking any acting lessons,
3 any drama lessons, or anything of that type.

4 He was using the movie industry the same way as
5 these other transient jobs that he goes in for.

6 So -- for instance, as a matter of fact, when we
7 start considering Niki, Magadelene Shea, she met Mr. Shea in
8 an atmosphere that certainly was not the movie industry.
9 She was working at the Cab-Inn; and he was employed there as a
10 manager, in May of 1969 -- which really, again, the circum-
11 stantial evidence here is interesting, to sit down and think
12 about, maybe sketch out the evidence, so to speak, sort of
13 diagram it.

2c-1

1 That's not a bad type of job, as jobs go. To be --
2 I suppose -- the manager of an establishment like that must
3 mean that a person makes a goodly -- a relatively good amount
4 of money as a manager of such an establishment. We know that,
5 currently in Los Angeles, there are a lot of -- in the
6 Los Angeles area, there are a lot of establishments like that.

7 And this man that he was working for seemed to
8 have quite a few of these establishments. But somehow or
9 other, Mr. Shea doesn't -- doesn't keep a job very long.

10 Whatever the reasons may be, he goes from place
11 to place. And even a relatively good paying job, such as this
12 bar manager job, ended; and it certainly didn't have to end
13 because he fell in love with Niki.

14 Now, there was no reason for that to end, except
15 for the fact that he's a vagabond, and he goes about from place
16 to place; and this -- this is the kind of thing that he --
17 that he likes to do; and he likes that more than the stability
18 of a job, where he gets money every week.

19 Now, when we think of the position of -- of
20 Magdalene in this lawsuit, we must conclude that her relation-
21 ship with Mr. Shea was so transitory, was so transient, it was
22 so temporary that really, what can Niki tell us? Really, what
23 can she tell us concerning -- concerning Mr. Shea?

24 Because if we analyze it carefully, the total
25 number of days that she was with Mr. Shea is so small, when
26 you consider that their marriage -- that their marriage took
27 place at the first of July -- I believe it's July 1, 1969 --
28 and on August the 15th, she says -- this is the date she says

1 that they separated.

2 And when you consider everything that went on with
3 the travel of Niki and the -- her leaving Las Vegas and coming
4 to Los Angeles, literally, her life with Mr. Shea, you might
5 almost say, poetically, it was just a matter of hours that she
6 was with Mr. Shea.

7 She was with him a few days, in fact, because of
8 the -- because of the time that she was away, by -- actually,
9 what she told us right here in this courtroom.

10 Now, she tells us that -- she says that August the
11 16th, 1969 is the last day, she says, that she saw or heard
12 from Mr. Shea.

13 Now, the -- in that regard -- in that regard, it's
14 interesting to look at the evidence.

15 (Pause in the proceedings.)

16 Now, we -- I am sure we all remember this letter
17 (indicating). Now, this letter is the letter which was
18 supposedly found in an automobile that we know of as an
19 automobile that was found -- at the so-called -- right or near
20 the so-called Gresham Street home, where Bill Vance lived --
21 and possibly owned.

22 Now, Niki says -- Niki tells us that there was
23 another letter, which she says that she lost, but she tells us
24 that this letter was in fact -- was in fact a letter which
25 she carried around for a long time, and -- and somehow or
26 other, she lost it.

27 Now, in connection with that, as far as the state
28 of mind of Mr. Shea is concerned, it's interesting -- it's

1 interesting to consider the testimony of Mrs. Binder. Mrs.
2 Binder says that Mr. Shea told her that Niki wrote him a
3 letter -- Niki wrote him a letter; and that Niki in fact left
4 Mr. Shea.

5 And this letter, this yellow sheet, bears that
6 out, because it contains the following language:

7 "I cannot figure out why you left me."

8 Now, the importance -- the importance of
9 this lies in the fact that Niki, for whatever the reason may be,
10 is a -- is a witness who, somehow or other -- uh -- identifies
11 with the prosecution.

12 She's telling us -- she's telling us that there's
13 no question in her mind but what she did not leave a note;
14 that she did not leave a note to Mr. Shea.

3-1

1 If we look at the actual testimony of Niki, if we
2 look at actually what she testified to in the courtroom, we
3 will find out that she, in fact -- I mean, there's just no
4 question about it, her state of mind was that she was unhappy
5 with her life with Mr. Shea. And if we look at her exact
6 language -- now, before we consider exact language, I think --
7 I think if we -- in order to see who left who, if we look at
8 ourselves, and let's say -- let's say that someone that was
9 near and dear to us at one time is a person that we then
10 become unhappy with or estranged and we no longer care to
11 be with that person. And that person then -- and that person
12 then is removed from us.

13 If we left that person, we would -- we wouldn't
14 do anything to try to foster the relationship as long as we
15 didn't want to be with that person.

16 If Niki did not, in fact, leave Mr. Shea, if she
17 wanted to be with Mr. Shea, would she not have actively done
18 things in this interim period?

19 That's why, if we look at the relationships of
20 these people and think of the relationships of these people
21 rather than the mere words that are uttered from the witness
22 stand, I think we can come -- and knowing the propensities
23 of man and woman, so to speak, we can come to no other
24 conclusion but what that Niki, for whatever her reasons were,
25 decided she didn't want to be with Mr. Shea, because what is
26 magic as we look back at August the 16th.

27 What's magic about that day as far as Niki and
28 Mr. Shea are concerned? Nothing. That day was just another

3-2

1 day as far as Niki was concerned.

2 Why did she not pursue looking for Mr. Shea on
3 August the 18th, August the 20th, August the 25th, on through
4 September, on through October?

5 Why did she not, if a woman loves a man, like
6 Barbara Hoyt loved this Mr. Baker, she tried all the way to
7 Missouri. She probably didn't even know his last name. And
8 she goes up and down the streets of St. Louis looking for him
9 because she digs the man. That's the reason she did it.

10 Now, you don't see Niki -- you don't see Niki
11 doing anything like that.

12 She tells us -- she says that Mr. Shea left her,
13 but that isn't the way it happened. That isn't the way it
14 happened, because there's nothing in this interim period to
15 show that Niki was doing anything to regain Mr. Shea. She
16 was glad to be rid of Mr. Shea. Mr. Shea drank, and Mr. Shea
17 did not wish to keep a job.

18 And so -- and so, she decided to depart his
19 company.

20 The circumstances there are so much more powerful,
21 so much more powerful than the mere words uttered from the
22 witness stand that -- that, uh, that it overwhelms you when
23 you stop to think about it.

24 And she says -- she says after being asked what
25 was the last day that she saw or heard from Shorty, Donald
26 Shea, your husband?

27 "A August 16, 1969.

28 "Q And what, if anything, happened on that

3- 3
1 "date?

2 "A He went out to the Spahn's Ranch and he
3 called me from there and told me that he was going to
4 stay out there for a while because they had had a
5 raid, an auto raid that morning and he was waiting
6 for someone to return to the ranch.

7 "They had had a raid at the Spahn Ranch
8 that morning?

9 "A Yes.

10 "Q -- that was the question.

11 "A Yes.

12 "Now, had anything happened between you
13 and Donald during the early morning hours of that day?

14 "A Yes, we had had an argument.

15 "Was that argument during the early morning
16 hours of August 16th?

17 "A Yes.

18 "And can you tell us what the argument was
19 about?

20 "A I wanted to work and he didn't want me
21 to work.

22 "Was it about anything else?

23 "Nothing special. Well, he dranked a
24 little bit, and I didn't like that.

25 "Did any part of the argument have to
26 do with money?

27 "Yes, that was the main part of the
28 argument, because I wanted to go to work and he

3-4
1 "didn't want me to work. And at the time he wasn't
2 working enough, you know, and like I felt like I
3 should help."

4 Now, the question is, "Why is this important?
5 Why is this important?"

6 It is important because -- because it means that
7 a person who was close to Mr. Shea, a person that he had
8 married, gone through a marriage ceremony, that person through
9 her leaving of Mr. Shea, rejected his life style. She rejected--

10 THE COURT: We'll recess now, ladies and gentlemen,
11 until -- 1:45 satisfactory with everybody?

12 1:45.

13 During the recess, you are admonished that you
14 are not to converse amongst yourselves, nor with anyone else,
15 nor permit anyone to converse with you on any subject
16 connected with this matter, nor are you to form or express
17 any opinion on it until it is finally submitted to you.

18 1:45.

19 (Whereupon, at 12:00 o'clock noon an adjournment
20 was taken in the herein proceedings, the proceed-
21 ings to be resumed at 1:45 o'clock p.m. of the
22 same day.)
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1 LOS ANGELES, CALIFORNIA, FRIDAY, OCTOBER 15, 1971 1:56 P.M.
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4

5 THE COURT: The record will show that the jurors and
6 alternates are all present.

7 Mr. Kanarek, you may proceed.

8 MR. KANAREK: Thank you, your Honor.

9 Ladies and gentlemen of the jury: I ran across
10 an interesting item that sort of points up one of the problems
11 in this case. It states "94 AT MINT CLEARED 874 YEARS TOO
12 LATE."

13 And it's from England, Oxford, England. And
14 this states that: "Ninety-four workers at the Royal Mint
15 have been found innocent of their crime -- 847 years too
16 late."

17 "The men were accused by King Henry I in 1124 of
18 pocketing silver and putting cheap tin in the coins they
19 turned out.

20 "As punishment, each man had his right hand
21 cut off and he was castrated.

22 "Tuesday, an expert who has studied the coins
23 said Henry was wrong.

24 "Michael Metcalf, of the Ashmolean Museum, said:
25 'Mr. Francis Schweizer, a Swiss scientist, and I tested 20
26 of these pennies with a milliprobe. And we found that the
27 coins were more than nine-tenths pure silver.'

28 That was in 1124 -- for whatever that might be
worth.

1 Now, in discussing the case here, I'm sure that --
2 that all of us realize that the -- our system of justice is
3 an adversary system. It's one side versus the other side.

4 And I am sure that none of us -- none of us like
5 to hear these proceedings interrupted in the sense of objec-
6 tions and things like that, which have taken place during
7 this trial.

8 But in the adversary system, where there is one
9 side against the other side, the law provides -- the law
10 provides that there are certain rules that we live up to in
11 connection with evidence.

12 And so -- uh -- in making objections and things
13 of that type, sometimes we -- we might -- it's possible for
14 us to lose sight of the fact that the beginning or the genesis
15 of an objection is an improper question.

16 And I once read, in a -- in a discussion that was
17 discussing this, where the question was -- the improper
18 question was analogized and spoken of as similar to this
19 kind of a situation:

20 Where the -- let's say that there is a lawn, or
21 there is a -- or there's a grassy area, and this grassy area
22 has thrown upon it seeds or pollen or something or other that
23 causes the weeds to grow in the grass.

24 Now, then, if someone -- that would be similar
25 to the improper question. It's done smoothly; it's done in a
26 way that doesn't catch our attention.

27 But the objection, by the very nature of it,
28 seems to -- that focuses on our mind. And so these weeds

1 that grow in the grass, when you try to pull them out, you
2 can see where someone might say, "Well, you're tearing up the
3 grass; you're causing the grass to be all -- all kinds of holes
4 and this and that in the grass."

5 Whereas the real cause is the unseen cause,
6 which is the sowing of the -- of the pollen and so forth.

7 So, whatever that might be worth, if it gives you
8 some -- it might give us some kind of insight, because of the
9 fact that from time to time it is necessary -- uh -- in
10 adversary proceedings to indicate objections.

11 Now, there has -- there has come to pass, in this
12 lawsuit, a situation whereby -- and this is a -- I suppose
13 it's a delicate situation -- or is it a delicate situation?
14 I don't know.

15 The point is that you heard -- you heard testimony
16 here concerning -- concerning Mr. Manson, supposedly, when
17 Ruby Pearl -- Ruby Pearl was at the jail, and -- and remember,
18 remember that this indictment came about in December of 1970.
19 That's when this indictment came about.

20 And remember, that was in the middle -- that was
21 while -- unbelievable! -- while the Tate-La Bianca case was
22 going on; Mr. Manson was on trial in that case.

23 For reasons -- we suggest -- of publicity, for
24 reasons of getting as much negative information in the mass
25 media as possible, that -- that indictment was allowed to be
26 brought at that time.

27 And that is something to consider in connection
28 with the bringing of this lawsuit.

4a-1
1 Mr. Manson -- Mr. Manson has -- all of us know --
2 been convicted, and he has been given the death sentence in
3 connection with that case. Why are we here on this case?

4 If we consider, for instance, Ruby Pearl's --
5 Ruby Pearl's supposedly going to the jail; and going to the
6 jail, she has this supposed conversation with Mr. -- Mr. Manson
7 at a time when Miss Quant was there.

8 And supposedly, he makes some statement concerning
9 the Black Panthers. Well, we think that there's a fair
10 inference -- a fair inference that Ruby Pearl was wired for
11 sound when she went in to see Mr. Manson.

12 She went in to see Mr. Manson. And we understand
13 the posture of her position, as far as Mr. Manson is concerned.
14 I think we can fairly assume that she had -- that she had some
15 kind of an electronic device upon her.

16 And if any such words were uttered -- if any such
17 words were uttered, that they would be here electronically.

18 The thing is, this -- this aspect -- this aspect
19 of matters concerning statements like that, like the one
20 concerning the Black Panthers, the -- the -- the possibility
21 in connection with what the District Attorney's Office can do
22 is absolutely unlimited.

23 Anyone who engages in these kinds of activities,
24 such as representing people who are accused, who are accused
25 of breaking the law, have various experiences.

26 And I have experienced, in -- in a situation
27 similar to this, a situation similar to this, in a case in this
28 community when a Black Panther was accused of killing a white

1 police officer, the pressures are enormous. The pressures are
2 enormous in a situation like that.

3 The defendant -- the defendant becomes the focal
4 point of all kinds of vendetta, all kinds of things are done;
5 he's handled "specially." He's treated as an object, not as a
6 defendant.

7 And so, when we come up against evidence of that
8 kind, we come up against situations of that type, we -- we
9 have to stand back and sort of -- sort of wonder about the
10 motivation -- excuse me -- we have to wonder about the
11 political aspects of certain things that go on in our
12 community.

13 And there's no question about it, no question
14 about it but what the District Attorney's Office is a political
15 office. And politicians do things for political reasons.

16 And so this is a factor -- a factor that comes
17 up in connection with this very lawsuit.

18 And that brings up another fascinating point. In
19 the Tate-La Bianca case, as we know, those events allegedly
20 occurred on August 8th, 9th and 10th of 1969.

21 The alleged passing away of Gary Hinman, they
22 allege, occurred like July 25, 26, 27, 28 -- even before the
23 1st of August -- 1969.

24 They have, in this case -- in this case, they
25 have joined the alleged passing away of Shorty Shea, in
26 connection with the matters pertaining to Gary Hinman.

27 Why didn't they join those in the Tate-
28 La Bianca case? Why didn't an event that occurred before

1 August 8th, 9th and 10th, 1969, from their viewpoint, why wasn't
2 that -- why wasn't that made part of the other case?

3 These are some of the -- what you might call the
4 behind-the-scenes -- the behind-the-scenes situation that --
5 that is political, that guides what is brought to us to
6 consider in a courtroom.

7 And -- and the same kind of situation prevails
8 when a black or Negro person is accused of killing a white
9 police officer.

10 There are some people who treat that -- who treat
11 that differently; they put it in a different bushel basket
12 than something that doesn't involve people, for instance, of
13 different racial backgrounds.

14 This is something -- something -- a different kind
15 of case. Well, there should not be a different kind of case.
16 They should all be treated objectively and analytically and
17 correctly.

18 Now, Mr. Manson -- Mr. Manson is a certain type of
19 minority. Mr. Manson is a minority that -- that today, would
20 be called a -- some people would call a hippie, a hippie type
21 minority.

22 And there are some people -- some people who take
23 a situation such as that and spread it in the community, so
24 that matters are put out that are beyond belief; that the
25 publicity is -- well, as we know that it is.

26 For instance, take the difference -- the
27 administration of justice, and how it may differ. If the
28 mayor of San Diego -- the mayor of San Diego, as he recently

1 was accused of some kind of wrongdoing in connection with his
2 official duties, when he was accused of this, there was --
3 there was -- it was put in the paper, it's true.

4 It was treated, however, not the way that Mr.
5 Manson and certain other types of cases are treated, wherein it
6 is just a vendetta type of publicity, to just have -- to just
7 get that defendant.

4b

4b-1
1 The mayor of San Diego was accused of this many
2 counts of wrongdoing. It -- he came up before the Court,
3 came up before a jury. He was found not guilty of that
4 wrongdoing.

5 And we have every reason to believe he was not
6 guilty. There's no question about it.

7 But -- but the atmosphere surrounding that trial
8 was more judicial, shall we say, than the atmosphere surround-
9 ing Mr. Manson and other situations wherein there are people
10 who are -- who are brought to trial and -- and people in
11 power, whether it be in the prosecution or in the mass media,
12 or whatever, decide in advance that they are going to do cer-
13 tain things in connection with a particular defendant.

14 So there are some of the underlying factors in
15 the background of this case, which are there for whatever
16 significance they may be.

17 For whatever -- for whatever consideration it may
18 be worth, this background is there. Because remember, the
19 District Attorney decides who goes to the Grand Jury.

20 The District Attorney decides who to ask to be
21 indicted. The District Attorney has the naked power to decide
22 who will be indicted; because if they don't ask that Bill
23 Vance, Danny De Carlo and Tex Watson and Linda Kasabian and
24 Ella Jo Bailey -- if the District Attorney doesn't ask for
25 those indictments, the Grand Jury doesn't bring them in.

26 The Grand Jury brings in indictments concerning
27 requests made by the District Attorney. If the District
28 Attorney doesn't ask for it, obviously, there are no

1 indictments.

2 So all of these factors -- all of these factors
3 are important.

4 Excuse me. If I may have just a moment?

5 (Pause in the proceedings.)

6 Now, in discussing some of the matters that are --
7 that -- that we have to think about in connection with the
8 state of mind of Mr. -- of Mr. Shea, we remember that Niki
9 told us about some bikers.

5-1
1 She told us as follows:

2 "Miss Shea, did you state to any law
3 enforcement officers that Mr. Shea had been attacked?

4 "A Yes.

5 "Q Would you tell us what you stated concerning
6 Mr. Shea being attacked by bikies or bikers?

7 "A Yes.

8 "Q Would you tell us about that?

9 "He told me that he used to wear some
10 cowboy boots, fancy, and he had bought them and some
11 bikies wanted him to take them off. And they attacked
12 him and they busted his eye open.

13 "Q Were his injuries -- did he have injuries
14 other than the eye, according to what he told you?

15 "A I don't remember, but I know he has a scar.
16 He has a scar over the left eye showing the results
17 from the attack.

18 "Q Did you state to law enforcement personnel
19 that prior to meeting Mr. Shea he had been attacked in
20 the street by a person or persons he described as
21 'bikies,' at which time he had been struck in the face
22 which caused him to enter Sawtelle Hospital for a
23 possible skull fracture?

24 "A No, I didn't state that to the officers.

25 "Q You didn't mention about a skull fracture?

26 "A Not that I recall."

27 Then, she was shown a certain document, and

28 then:

5-2

1 "THE COURT: Have you read that now, Mrs. Shea?

2 "THE WITNESS: Yes.

3 "THE COURT: What is your next question?

4 "Uh, my next question is, does that refresh
5 your recollection, Mrs. Shea? Converse -- you're
6 conversing with law enforcement officers to the effect
7 that Mr. Shea received a possible skull fracture in
8 this altercation before you met him?

9 "A Yes.

10 "Q And what --"

11 And then, the Court asked a question:

12 "Was this the altercation you told us about
13 with the boots?

14 "THE WITNESS: Yes.

15 "Now --

16 "Q Now, when -- the last time you saw Mr.
17 Shea on that August 16th, Mrs. Shea, on that date,
18 Mr. Shea still had those boots?

19 "A Yes.

20 "Q That -- and those boots were the subject
21 matter of the attack he told you about prior to the
22 time he had met you?

23 "A Yes."

5a fls.

5-3

1 Then, the Court asked:

2 "What was the word you used, 'bikies,' -- uh,
3 bikies had attacked him?

4 "THE WITNESS: Yes.

5 "THE COURT: What did you mean by that?

6 "THE WITNESS: Well, he meant by that a group of
7 motorcycles, that's what he called them, bikies."

8 Now, we all know that Mr. DeCarlo, Mr. DeCarlo
9 and Mr. Springer were members of some motorcycle group. It
10 is -- going on with this questioning.

11 "And, Mrs. Shea, directing your attention
12 to Mr. Danny DeCarlo. Do you know him?

13 "A No, I don't.

14 "Have you ever heard Mr. Shea use or speak
15 and discuss the name Danny DeCarlo?

16 "A No, never with me.

17 "Q But you have heard the name elsewhere, is
18 that correct?

19 "A In court.

20 "Q About Danny DeCarlo?

21 "A In court."

22 Now, the question -- this part of Mr. Shea's
23 background, which goes into his state of mind, is something
24 that -- is it a coincidence? Is it just a coincidence that
25 Mr. DeCarlo and Mr. Springer and, uh, all that we've heard
26 concerning the bikers and the intense feeling that Mr. Springer
27 had for Mr. DeCarlo to go back to Venice, is that just a
28 coincidence? It could be just a coincidence. This is one

5-4

1 of the things that we have to consider.

2 Or is it more significant? Because of all the
3 clothes here, we don't see the boots.

4 Now, she -- Niki says that on the day that Mr. --
5 that Mr. Shea and she last saw each other, she says on that
6 day he had the boots.

7 What the significance of that is, is for the
8 jury to consider. It is a -- it is a matter that is of some
9 significance because how many of us -- how many of us, uh,
10 uh, have that kind of relationship with -- with, uh, the people
11 out there at Venice and all of that. I suppose -- the motor-
12 cycle people would have a tendency to congregate in a
13 relatively small part of this city or this general area.

14 And so, in any event, -- in any event it was
15 significant enough so that when Mrs. Shea made her report
16 to the law enforcement people, she mentioned it.

17 Now, we -- we have heard -- we have been -- we've
18 been told about the investigation. We've been told the various--
19 of various fliers and things that have been sent out.

20 What about that aspect of it? We have not been
21 told about this kind of a -- of an altercation or whether
22 there was any investigation in connection with that matter or
23 not.

24 So it has -- it has some significance by virtue
25 of the fact that no one has told us that that particular
26 lead was followed as far as Mr. Shea was concerned.

5b fls.

1 Now, we have a series of witnesses concerning
2 Mr. -- all of these witnesses going to the state of mind of
3 Mr. Shea. And the prosecution will tell us that these matters
4 are important because -- because they reflect a certain life
5 style on the part of Mr. Shea, a certain style which no longer
6 is in existence and, therefore, we are supposed to make
7 certain deductions from this bit of evidence that they have
8 brought concerning Mr. Shea's life style.

9 Now, it is interesting that -- that, for instance,
10 Mr. Babcock, and the -- the testimony of Mr. Babcock that
11 we're going to refer to at this time is -- is pointed up,
12 because it shows how people, uh -- when there is no necessity,
13 when there is no reason to remember things, our memories
14 become even more, uh, undependable than usual.

15 Now, Mr. -- Mr. Babcock testified as follows:

16 "Now, were you at Corriganville before you
17 met Donald Shea or was he there before you were?

18 "A Don was there before I was.

19 "Q When you met Donald at Corriganville,
20 what was he doing?

21 "A He was doing the same thing. He was
22 doing stunt work.

23 "Did you both get paid for the work you
24 did at Corriganville?

25 "A Yes, we did.

26 "Now, did you later do any other work at
27 Corriganville?

28 "Yes, we did some commercials, documentaries.

1 "Did you also get some instructions in
2 stunt work?

3 "Yes, I did.

4 "Now, did you know a man by the name of
5 Lance Victor?

6 "Yes.

7 "And Mr. Bickston?

8 "A Yes." And so forth.

9 "Now, approximately when did you meet him?

10 "Bob Bickston was approximately '59 and
11 Lance Victor was somewhat after that, probably.
12 Don't know exactly. In the vicinity of '61 and
13 '62."

14 Now, he goes on and he says this:

15 "Q Then, from '59 until the time that Donald
16 left Corriganville, did he also do stunt work and
17 perform in these live western shows?

18 "A Yes, he did.

19 "Now, do you know the Spahn Movie Ranch?

20 "A Yes.

21 "Q Have you ever been there?

22 "A Yes, I have.

23 "Then, am I correct, then, that you've
24 never seen Donald Shea at the Spahn Movie Ranch -- uh,
25 let me go back and give the sequence.

26 "And have you ever been there?

27 "A Yes, I have.

28 "Q And did you ever -- were you ever there

1 "when Donald Shea was there?

2 "A I don't think I was, no.

3 "Q --"

4 Then, the question that's allowed to be answered:

5 "Am I correct, then, that you've never
6 seen Donald Shea at the Spahn Movie Ranch, is that
7 correct; is that right?

8 "Ham, not that I remember."

9 Now, -- so here's a person who has done work with
10 Mr. Shea over a long period of time and he does not remember
11 ever seeking Mr. -- Mr. Shea at the Spahn Movie Ranch. And
12 there's a tendency on the part -- that we may have to focus
13 upon the Spahn Movie Ranch and Don Shea. And if we look at
14 some of this evidence, there may be a feeling that his entire
15 life revolved around the Spahn Movie Ranch, which we suggest
16 certainly is not the case. It is not the case that Mr. Shea --
17 uh, that he is -- his entire -- that is the center of his
18 existence -- is the Spahn Movie Ranch. It -- it -- it is --
19 the prosecution has -- has -- has attempted to focus our
20 attention upon that. But there are many, many reasons for
21 believing, for believing that such is not the case.

22 For instance -- for instance, his -- his using
23 certain addresses that we know about. Addresses, for
24 instance, that are on Hollywood Boulevard, and an address on
25 Tamerind, and addresses that were not connected with the
26 Spahn Movie Ranch.

27 He -- so if we -- if we look, for instance, at
28 what he considered to be his home or his -- the place of his

1 domicile, it was not the Spahn Movie Ranch.

2 So these are matters which are perhaps of some
3 significance in pointing up to us that the place of the Spahn
4 Movie Ranch in these proceedings is accentuated by virtue
5 of the types of witnesses that the prosecution has brought
6 to us.

1 Now, again, I'm speaking of trying to, uh, go
2 through some of the -- some of the testimony that reflects
3 Mr. Shea's purported state of mind.

4 You see, Mr. Shea -- we have reason to believe --
5 we have reason to believe, uh, that the type of work that he
6 does is work of a -- is a somewhat -- what you might call
7 handyman or labor-type of work. Although he has the capacity,
8 evidently, to do managerial work, he had the capacity to run
9 a store for Mr. Binder. He had the capacity to run a store --
10 run a bar for Mr. Bromstein or Bromberg. So he does have
11 capacity to do various types of work.

12 Now, I don't know the economic conditions in the
13 San Francisco Bay area as intimately, I suppose, as somebody
14 who is up there all the time. But does it strike us as a
15 little unusual for a man to go all the way to Vallejo to get
16 a common handyman, unskilled type of job? Now, maybe somebody
17 would do that in the time of extreme depression, I suppose in
18 a time of extreme economic emergency, where there just was no
19 employment anywhere else. Somebody might take the long trip
20 to San Francisco or the Bay area to get a common laborer's
21 job. But, again, the circumstantial evidence in connection
22 with that is such it is just not in the cards. You can see
23 a man going to San Francisco for some type of a position that
24 would -- that would -- that would be worth that kind of a
25 trip to change a place of residence, a place where he is --
26 where he has been -- to become a manager, to become an
27 executive, to get more pay, to get something special. But
28 why would a man go to the --

1 (Whereupon, Mr. Kanarek conferred with the Clerk.)

2 Why would a man go all the way to the Bay area to
3 do common labor for Leslie Salt. There may be some other
4 interest in the Bay area.

5 Now, the position that Mr. Shea obtained was
6 that of laborer.

7 The -- the, uh -- there is no question about
8 it. And his rate would be 3.485, I believe the record will
9 reveal. \$3.48-1/2 cents an hour. That's what he went,
10 according to those records, to the Vallejo, Napa, Eastern
11 San Francisco Bay area for.

12 Why did he do that? Because he has some other
13 interest in that area. That's why. Because we can make the
14 inference, one, that Phyllis Shea lives in that area.

15 We can make the inference that his oldest daughter
16 that we know of, Karen Arline Shea lives in that area. And
17 we also note that after he gets there he doesn't keep the job.

18 Now, how -- this is, I believe, the testimony of
19 Mr. Springer.

20 "Now, how long did you stay at the
21 Leslie Salt Mines?

22 "A I stayed the whole season.

23 "Q You worked the full season?

24 "A Yes, sir.

25 "Q How long did Donald work at the salt mines?

26 "Don -- Don stayed there about three to
27 four weeks seemed like, and then he left. He said
28 he had to come down -- he had to come down and pay

1 "some tickets or something.

2 "Q Traffic tickets?

3 "A Traffic tickets.

4 "Q All right. When is the last time -- when
5 is the next time after Donald left the Leslie Salt
6 Mines in Vallejo -- when is the next time that you
7 saw him or heard from him?

8 "Don phoned me from -- after he was down
9 here, he phoned me from the Wilcox Hotel where he was
10 staying.

11 "And when was the next time that you saw
12 Don?

13 "I saw Donald in -- I come down -- I saw
14 Donald down at the ranch.

15 "Q Spahn Ranch?

16 "A Yes, sir.

17 "Do you recall when that was?

18 "Well, it was generally around 197- --
19 around '70, 1970.

20 "And do you recall what part of the
21 year it was?

22 "Oh, do you mean what month?

23 "Q Right.

24 "A It was around -- around the first part
25 of August, it seemed like."

26 Now, this man testified 1970. And we will --
27 we -- he goes on -- in fact, the prosecution then asks this
28 question:

1 "Now, you mentioned the year 1970. Did
2 you mean 1969 or 1970 when you saw Donald and had
3 the conversation with him about having just gotten
4 married?

5 "It seemed like it was 1970.

6 "Q Seemed like it was 1970?

7 "A Yeah. I can't quite pinpoint the exact
8 month. I know it was in the summertime."

9 Now, based upon the other evidence that the
10 prosecution has brought before us, it would appear, and the
11 prosecution will argue, and not without -- not without some --
12 some indication that this may be so, that, uh -- that this
13 man supposedly meant '69 when he said '70. Pardon me, when he
14 said '70.

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1 But the -- the important point is that it shows
2 the frailty of the human memory. We don't know -- we don't
3 know where Donald Shea is.

4 The fact of the matter is that this man keeps
5 talking about 1970; and it's true that the events that he
6 speaks of would seem to indicate -- would seem to indicate
7 that he should mean 1969.

8 Well, maybe -- maybe he has in the back of his
9 mind some reason or other for saying 1970 over and over and
10 over again, as we all will recall that he did in this courtroom.

11 So in any event -- in any event, it may -- it may
12 well be that Donald Shea has interests in the San Francisco
13 Bay area, and those interests may revolve around this lady
14 and her child, from whom he has never been divorced.

15 So this evidence, about the Leslie Salt mines,
16 is -- is so intriguing because -- because of geography,
17 because of the pay -- the pay is not the kind of pay that is
18 the kind that anyone is going to go all that distance for.

19 So the question is -- the question is: Why do
20 people go up there? Well, people like San Francisco. There
21 are some people that -- that just like living in that area.
22 They like to -- they live to live there; they like to work
23 there.

24 Mr. Victor -- Mr. Victor went up there to work,
25 and he probably enjoys the night life and whatever that goes
26 on in Downtown San Francisco -- like a lot of people do.

27 But Donald Shea went up there; and we have the --
28 the other -- the characteristic that sticks out completely

1 about all of Donald Shea's movements, and that is: The
2 vagabond aspect of it; the transitory aspect; the transient
3 aspect; the fact that Donald Shea -- the fact that Donald
4 Shea doesn't stay anywhere very long.

5 If we -- if we -- we have here -- you remember --
6 I am sure we all remember that part of the testimony involving
7 Donald Shea wherein, supposedly, he wanted some money, and
8 he didn't have it, and then this man was going to go up there
9 and give it to him.

10 "Q Now, after that Friday when you went
11 back to give Donald some more money, did you go
12 back again to Spahn Ranch?

13 "A Yes. Yes, later on I went back.

14 "Q How much time had elapsed from that
15 Friday until the time you again went back to
16 Spahn Ranch?

17 "A It was a few weeks, because I figured
18 he had taken off already, or gotten some money from
19 somewhere else."

20 Now, this is what he figured, because this is
21 what's normal for Mr. Shea.

22 Then, he asks -- then the prosecution asks:

23 "Q When you went back to the Spahn Ranch a
24 few weeks later, was Donald there -- strike that.

25 "Did you see Donald there?

26 "A No, I didn't see him around."

27 So the question -- since we are -- right now, we
28 are talking about state of mind, the answer by this person,

1 who is a friend of his, is important; because he states,
2 "I figured he had taken off already."

3 And this is because he knows Donald Shea, and he
4 knows -- and he knows what Donald Shea's lifestyle is.

5 Now, Mr. Victor testified, again, in connection
6 with Mr. Shea's lifestyle, as follows:

7 "Now, Mr. Shea liked to fight; is that
8 right, Mr. Victor?

9 "A Well, yes. When he would get -- if
10 someone would push him into it.

11 "Q Mr. Shea had a temper; is that right?

12 "A Yes, he did.

13 "Q And he flared up quite a bit; is that
14 right?

15 "A Yes.

16 "Q Did you ever see Mr. Shea engage
17 in bar fights?

18 "A Yes, I did, at one time."

19 Now, Mr. -- Mr. Victor testified concerning no
20 lack of -- no lack of unfriendliness between Mr. Manson and
21 Mr. Shea. Mr. Victor --

22 "Q Mr. Victor, you saw Mr. Shea in
23 Mr. Manson's presence; is that right?

24 "A Like what do you mean by that?

25 "Q Well, is the question -- do you
26 understand the question?

27 "A No.

28 "Q You saw Mr. Shea at the Spahn Ranch

1 "area; is that right?

2 "A. Yes.

3 "Q Did Mr. Manson and Mr. Shea --" uh --
4 wait a minute. That question -- that wasn't allowed, that
5 question. But this question was:

6 "Q Did you ever see Mr. Manson and
7 Mr. Shea in each other's presence at the Spahn
8 Ranch, together?

9 "A. Oh, yes.

10 "Q All right. Did you ever see any
11 argument between Mr. Manson and Mr. Shea?

12 "A. No.

13 "Q Did -- would you describe for us
14 -- would you please describe what you saw occur,
15 if anything, between Mr. Manson and Mr. Shea?

16 "A. I never saw nothing occur."
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Now, when you consider the numbers of people that were living at the Spahn Ranch, absent -- absent this focus upon Mr. Manson, we wouldn't be here today in this courtroom, because -- because the fact that a person is singled out and made a defendant has a tendency -- has a tendency about it to -- to -- to bring a -- a pinpoint kind of thinking upon that particular defendant.

And if -- if we can picture the scene there at Spahn Ranch, it's obvious that -- that Mr. Shea drifts in and he drifts out of that type of atmosphere, and --

Now, here:

"Did you tell Donald that you wanted him to play a role in that film?

"A Yes, I did.

"Q And did you tell him what -- what the role would consist of?

"A Yes, Yes, I told him that it would be one of the gang, a heavy in the outlaw gang; and this picture was a pretty good budget picture, and he would get to -- and he would get, through signing a contract, he would get his SAG card, which he wanted.

"Q Now, SAG, does that stand for Screen Actors' Guild?

"A Screen Actors' Guild, yes.

"Q Now, when you told Donald what you told us about the film, did Donald say anything?

"A Well, he said -- he said he didn't --

1 "Q You can answer that yes or no,
2 first.

3 "A Yes.

4 "Q Would you tell us what he said?

5 "A Yes. He said he didn't believe it;
6 he had worked so hard to get a SAG card that he
7 just didn't believe that he -- that this would
8 bring him his card. He was very happy about it.

9 "Q Now, did you begin shooting the film
10 on July 15th of 1969?

11 "A No, we did not."

12 Now, this man was a man who -- who evidently
13 dabbled in pictures; that is, the producer here, the man who --
14 who says that -- that he was going to make this film and --
15 and do all of these things.

16 Well, we know -- I'm sure, living in Southern
17 California -- what the motion picture business is like. The
18 motion picture business is, to a great extent, just -- it's
19 a pie in the sky, the pot of gold at the end of the rainbow
20 kind of thing.

21 And if -- if we look at all of the time that they
22 tell us that Mr. Shea has been in the Southern California area,
23 taking even their viewpoint of it, why hasn't Mr. Shea, up
24 to this time, obtained a Screen Actors' Guild card?

25 Why is this picture different than every other
26 picture -- or any other picture? It's -- there's no reason.
27 There's no showing that this was any different than what
28 Mr. Shea has done in other situations.

1 Now -- and then, going further on, in connection
2 with Mr. Bickston's -- about the amount of money.

3 "So he did not receive any money or sus-
4 tenance or living from a picture until the
5 picture made money, is that correct?

6 "A No, sir, it is not. Deferred base
7 is -- you pay him a month a nominal salary, cash
8 now, which is normally \$25; and then the base,
9 plus a bonus at the time it is sold.

10 "Q All right. What -- would you tell
11 us in connection with all of the pictures that
12 you have spoken of concerning Mr. Shea, what the
13 total amount was that Mr. Shea received?"

14 THE COURT: We'll take a recess now, ladies and
15 gentlemen. We will recess for approximately 10 or 12 minutes.

16 During the recess, you are obliged not to
17 converse amongst yourselves nor with anyone else, nor to
18 permit anyone to converse with you on any subject connected
19 with the matter, nor to form or express any opinion on the
20 matter until it is finally submitted to you.

21 (Mid-afternoon recess.)

22 THE COURT: The jurors and alternates are present.

23 Mr. Kanarek, you may proceed.

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

25 "Q All right. Would you tell us
26 in connection with all of the pictures --" and so forth --
27 "what the amount was that Mr. Shea received?

28 "Give us your best estimate, Mr. Bickston.

1 "A Maybe about four fifty, four seventy-
2 five, sir.

3 "Q You are saying that that would be in
4 connection with how many pictures?

5 "A The two TV pilots and the full-
6 length picture.

7 "Q And that would have been in what
8 years?

9 "A In '65 and '66; and then the latter
10 part of '68, in the beginning of '69.

11 "Q And in the latter part of '68 and
12 the beginning of '69, would you give us your
13 estimate of how many dollars Mr. Shea actually
14 received in his hands for the picture work that
15 you've talked about?

16 "A One hundred seventy-five dollars."

17 Now, that means -- that means clearly that Mr. Shea
18 was not in the motion picture business. Mr. Shea was not
19 sustaining himself by means of the motion picture business.

20 And for what it might be worth, it shows that
21 there is just a -- a strawman kind of -- of presentation,
22 with regard to Mr. Shea and the motion picture industry, and --
23 and again, I suppose in Southern California, there are
24 literally thousands of people who would like to be successful
25 in the motion picture industry, but that does not mean --
26 that does not mean that they -- that they can sustain themselves
27 and -- in this case, Mr. Shea didn't even attempt, as we have
28 said, to gain any kind of education or experience in the motion

1 picture industry.

2 And he recognized that, and so he -- he goes down
3 and works -- works where the -- where he has worked in the bar;
4 he -- and this is a -- I know it's a delicate subject, but we
5 have to talk about it.

6 Mr. Shea sold various sexually-oriented objects.

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1 This was -- this -- when you look at -- at
2 the years that Mr. Binder has testified to, it is clear that
3 he worked in what is commonly called adult bookstores and
4 he sold this sexually oriented material, sexually oriented
5 objects that are used and that are sold by people -- excuse
6 me -- for various -- various sexual types of reasons.

7 And so the picture -- the picture that is painted
8 here about Mr. Shea and the motion picture aspect of it doesn't
9 hold any water. It is -- it is not what Mr. Shea's life is.
10 It is the kind of life maybe that Mr. Shea hopes that he
11 could get into, the motion picture business, but it is a far
12 cry from what actually he has engaged in.

13 Now, in connection further with this state of
14 mind -- in connection further in the state of mind topic
15 that we're speaking of, we've heard testimony from Mr. Retz.
16 And we -- Mr. Retz was a very unusual witness who, uh,
17 evidently is quite a sharp businessman. He managed to get
18 the Spahn Ranch by paying one-third down to an 85-year-old
19 man who he then caused to be shipped up to Oregon and he
20 has all of the Spahn Ranch now with practically no capital
21 outlay on his part. That's part of this record that I am
22 sure we all remember.

23 And Mr. Retz -- "I told him to leave the ranch
24 because George Spahn asked me to clean the ranch up of the
25 Manson Family. And he gave me even power of attorney to do
26 that. His attorney called me up and I tried to do it.

27 "All right, prior to that time had you
28 had a conversation with Mr. Spahn about the presence of,

7-2

1 "uh, the Manson Family on Spahn Ranch?

2 "THE WITNESS: Correct.

3 "And was Squeaky present during that
4 conversation?

5 "Yes, she was.

6 "Now, Mr. Retz, when did you take
7 possession of the property adjoining Spahn Ranch?

8 "Possession?

9 "Yes.

10 "I had an option on the Spahn Ranch.

11 "No, no, let me interrupt you.

12 "When did you take possession of the
13 property which was next to the Spahn Ranch which
14 was the Kelly property?

15 "In May, 1969.

16 "Now, directing your attention to the
17 date of August of 16 -- 1969, do you recall that
18 date?

19 "A I don't remember dates.

20 "All right, do you recall or did you
21 become aware of a raid or a series of arrests which
22 were made at Spahn Ranch on August 16, 1969?

23 "I knew that but I don't remember exactly
24 the date.

25 "All right, but did you become aware of
26 the raid on Spahn Ranch by Sheriff's Deputies, is
27 that correct?

28 "Yes."

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1 Now, Mr. Retz -- and they have -- have brought
2 into us a relationship of Squeaky, Lynn Fromme, and what
3 they're trying to ask us to believe is that Lynn Fromme was
4 privy to some secret conversations between Frank Retz and
5 George Spahn concerning the hiring, supposedly, of Mr. Shea,
6 to be of all things, like we've spoken of, a night watchman
7 to watch over these bare acres, which is something that we've
8 already spoken about.

9 But if we look at it, and look at the people
10 involved, what reason would there be for any kind of a
11 secret?

12 If we look back at the time when these things
13 were going on, and it shows the extent, the extent to which --
14 to which the prosecution has to go to get even the semblance
15 of evidence, there's no reason -- there's no reason why
16 Squeaky has to be brought into it. That supposedly she
17 heard this conversation, and then she supposedly related it
18 to someone else, who then supposedly acted on it. And that --
19 we're then supposed to infer that because of that Mr. Shea
20 was done away with.

21 Well, it just doesn't hold water for a myriad
22 of reasons.

23 One is that there was no need for any kind of
24 secrecy. The relationship between George Spahn and Frank
25 Retz was not a relationship where you needed a spy to find
26 out what was going on. If we look at the -- at the maps,
27 look at the -- look at the photographs, we will find that
28 these buildings are very close together, right next to Santa

1 Susana Pass Road, and there's absolutely no reason why George
2 Spahn and Frank Retz and Mr. Manson and anybody else couldn't
3 be right together talking about it. You don't need -- you
4 don't need Squeaky there as sort of like -- like -- Zero Zero
5 Seven in order to get information to bring back to Mr. Manson.
6 There is no semblance of any kind of -- of that kind of
7 thing going on. Everybody -- everybody is close to everybody
8 else.

1 And the reason -- the reason that they have to do
2 it that way, is because of the fact that nobody was interested
3 in this kind of a thing at the time that they're speaking
4 about. Squeaky or Lynn Fromme was not -- was not there with
5 one ear cocked trying to listen to some kind of a conversation
6 where nobody else was supposed to listen. It is just not in
7 the cards. It is just not the way that these people were
8 conducting themselves.

9 And, furthermore, there's nothing -- there's
10 nothing about any small time period involved.

11 In other words, this goes on for literally weeks,
12 and possibly months.

13 Now, why, in all this period of time, didn't Mr.
14 Retz and Mr. Shea talk about this job? There wasn't a
15 particular day where there was -- where there was a short
16 period of time involved, either -- or -- it is -- it is the
17 kind of situation which, according to Mr. Retz, that went on
18 for days and days, weeks and weeks.

19 Well, why didn't Mr. Retz just come up to Mr.
20 Shea -- if this kind of conversation went on, why didn't
21 Mr. Retz come to Mr. Shea and say, "I've got a job for you."
22 Why all of this -- why all of this George Spahn, Frank Retz,
23 and no Mr. Shea?

24 Supposedly he wanted -- he wanted this kind of work
25 to be done, and there is no reason -- if you -- if you look
26 at the number of days, the number of weeks involved, there's
27 not a reason in the world why Mr. Retz couldn't come up to
28 Mr. Shea and say, "I've got a job for you."

1 The reason is, that Mr. Shea probably was not
2 interested in any such job. He, as we -- as we mentioned
3 before, he's the kind of person, the last kind of personality
4 in the world that wants to be tied down to a ranch at night.

5 Now, if this -- if this kind of a situation had
6 actually developed, why didn't -- why didn't Mr. Spahn --
7 why didn't they bring Mr. Spahn to the courtroom.

8 Now, I know Mr. Spahn is elderly. He's 85 years
9 old and so forth. But if there was any such kind of a
10 situation, why didn't they bring Mr. Spahn to testify about
11 it?

12 The fact of the matter is, that there is no
13 reason to expect that Mr. Shea -- that Mr. Shea and Mr. Manson
14 has had any kind of a dispute because of this so-called job
15 of Frank Retz.

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1 There is, we know -- we know from the fact of
2 Dawn -- of Mrs. Quant -- Mrs. Quant says that she called up
3 the ranch, and she talked to Mr. Shea -- yes, called up the
4 ranch and talked to Mr. Shea on the telephone during working
5 hours.

6 She is not quite sure as to whether Mr. Shea
7 called her, or whether she called Mr. Shea; but she is clear
8 as to the fact that there was a telephone open at the Spahn
9 Ranch during all of these working hours. And she tells us
10 that she spoke to Mr. Shea on that telephone.

11 Well, that very same telephone, if Mr. Retz
12 needed a telephone to get ahold of Mr. Shea, was available to
13 Mr. Retz to call up the Spahn Ranch and talk to Mr. Shea,
14 over any -- any period of time that you want to think about,
15 that's been portrayed in this courtroom -- weeks, literally.

16 And that telephone was open, and Ruby Pearl was
17 there at the ranch, all day, she says, up until late at night.
18 There was a -- that's not an isolated island. That telephone
19 was there.

20 And it's a bunch of hogwash, this idea about --
21 that Mr. Shea -- that Mr. Shea -- something supposedly has
22 happened to Mr. Shea, because of this job. And the thing
23 that proves that there never was any kind of job relationship
24 is the fact that Frank Retz, with his eagerness, -- with his
25 desire to get rid of Mr. Manson, and the friends of Mr. Manson,
26 if he wanted to get hold of Mr. Shea, he would have sought
27 Mr. Shea out.

28 This is not exactly where -- this isn't the kind

1 of thing where one man is -- is in New York City, and another
2 man is in Lima, Peru, and they have to talk on the telephone.

3 They're both there at the Spahn Ranch. All he has
4 to do is walk over and talk to the man -- or, if he wants
5 to, he can use the telephone.

6 So, the circumstances show clearly that this job
7 situation is -- is just not what the prosecution would have us
8 believe that it is.

9 And another aspect of it is this -- and this is
10 intriguing -- if somebody wants to get rid of the trouble
11 that is being given them, who do they get rid of? Do they
12 get rid of Shorty Shea? Or do they get rid of Frank Retz?

13 If I was on that ranch, and I wanted to obliterate
14 trouble, the way they're portraying it to us, Shorty Shea --
15 a nightwatchman can be replaced. What's so magic about Shorty
16 Shea?

17 Frank Retz is the trouble. Frank Retz is the
18 problem. He's the originator of the problem, as far as -- if
19 you take the prosecution viewpoint, that the people at the
20 Spahn Ranch, who were there -- who were living there, who had
21 been there for some time, those people -- those people were to
22 be removed.

23 Well, who is it -- who is it that's the source of
24 the trouble? The source of the trouble is Mr. Retz, not Mr.
25 Shea. It's preposterous.

26 And -- and so -- and so, if we look at the total
27 situation there, having in mind the various factors that we
28 have spoken of, the various factors that we've spoken of, it's

1 clear that this job situation, about the state of mind of
2 Mr. -- of Mr. Shea is just not so. It's just not so.

3 And another interesting point, in connection with
4 the calling of the Spahn Ranch, is that Ruby Pearl was on that
5 telephone all day long. And we've heard testimony in this
6 courtroom concerning somebody calling up the Spahn Ranch and
7 speaking to a female voice.

8 Now, that female voice is Ruby Pearl. The innuendo,
9 of course, is that -- that it's not Ruby Pearl; the innuendo is
10 that it's Squeaky or some other person.

11 But Ruby Pearl is the one that managed the Spahn
12 Ranch -- all day, according to her, every day.

13 And if somebody called up that ranch, concerning
14 Mr. Shorty Shea -- or any other subject -- the person would get
15 Ruby Pearl.

16 We can figure it this way. Let's say that we were
17 a vendor, and we were selling -- whatever you sell -- to
18 people who raise horses -- hay or whatever.

19 This is exactly what Ruby Pearl was doing there.
20 She answered the telephone during the day at the Spahn Ranch.
21 And when you call up and you get a female voice, you get Ruby
22 Pearl.

23 And if somebody called up the Spahn Ranch and asked
24 for Shorty Shea, Ruby Pearl is the person that they spoke to.
25 And when you get right down to it -- when you get right down
26 to it, and you look at some of the things that have happened,
27 having in mind that -- that this supposed missing person's
28 report was written, supposedly, in November or December of 1969

1 by Niki -- how is it that Ruby Pearl didn't make a missing
2 person's report, if -- if there was something amiss concerning
3 Shorty Shea?

4 Especially after -- after Mr. Manson is arrested
5 on October the 12th, 1969?
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1 These are some of the things that -- that are
2 significant. They're significant because the prosecution has
3 brought to us certain witnesses that are obviously prosecution-
4 oriented.

5 And Ruby Pearl is certainly prosecution-oriented.
6 And she's certainly a person who -- who supposedly was on the
7 ranch during all of these times that we are speaking of.

8 So, in connection with that particular aspect of
9 the state of mind evidence concerning Mr. Shea, it is clear
10 that this -- this story concerning the job is something that --
11 that -- it just isn't there. If you -- if you -- the
12 testimony is all here (indicating); if anybody wants it read
13 back, I am sure that Judge Choate will read back -- or have
14 it read back -- anything, anything that the jury wishes.

15 (Pause in the proceedings.)

16 Now, we then -- if we may -- and this is -- we
17 alluded to this previously. There is a -- this exhibit, 57;
18 and we've spoken of this in connection with other matters.

19 But the importance here of 57 is that you will
20 see that Donald Shea wrote his name on the Redeemed Section of
21 this pawnshop ticket.

22 Now, having in mind that when this document is
23 signed -- I mean, I don't know how pawnshops operate, but we
24 certainly can assume -- we certainly can assume that, since
25 this is in ink, where it says "R.A. Smith," this is not a
26 carbon, it would stand to reason -- it would stand to reason
27 that when this document was submitted to somebody, it was
28 submitted for signature, directly on this very piece of paper

1 that is denominated 57-C.

2 Now, if we look at the signature there, which,
3 for some reason or another, somebody has tried to erase, a
4 portion of it has been successfully erased or obliterated.

5 Whether that's an indelible pencil or whether's
6 an ordinary pencil or -- I mean, I can't tell by just looking
7 at it.

8 But it is obvious that that particular line was
9 written upon, because the "Smith" -- the "R.A. Smith" is
10 underneath that.

11 The only logical conclusion from these circum-
12 stances is that some person wrote above the line, and then
13 someone else wrote beneath the line.

14 Now, the logical inference is -- that the person
15 who wrote above the line sat down and wrote it.

16 You can't conceive of a pawnshop being run --
17 especially with -- I mean, with the people that run pawnshops;
18 they're pretty cold-blooded individuals; they are -- they are
19 not very -- very mellow.

20 And I just can't conceive of a pawnshop man
21 allowing somebody to trace a signature.

22 And yet, in connection with that signature, there
23 is no question but what it's the signature of Donald Shea.
24 If you take that and look at what is left of it, the "Shea"
25 there, and compare it with signatures elsewhere on these
26 papers, there can be no other conclusion.

27 And on top of it, the handwriting expert was
28 asked, in connection with this, as to whether these were the

1 signatures of Mr. Shea.

2 Now, if I may have a moment?

3 (Pause in the proceedings.)

4 We have People's 64 here (indicating). People's 64
5 was used by this handwriting expert. The question is asked:

6 "Q Now, Sergeant Campbell, directing
7 your attention to the document which has been
8 marked People's 64 for identification, and in
9 particular that portion of the document which
10 bears the signature 'Don' at the -- near the bottom
11 of that document, have you seen and examined that
12 signature?

13 "A Yes.

14 "Q And did you compare the signature
15 'Don' appearing on People's 64 for identification
16 with the signatures of 'Donald J. Shea' and 'Don
17 Shea' appearing on People's 55, 57, 60 and 71 for
18 identification?

19 "A Yes."

20 (Pause in the proceedings.)

21 "Q And as a result of that comparison,
22 did you form an opinion as to whether or not the
23 signature 'Don' appearing on People's 64 --" this
24 yellow letter -- "was made by the same person who made
25 the signatures on the other exhibits?

26 "A Yes.

27 "Q And what is that opinion?

28 "A It is my -- it is my opinion the

1 "signature 'Don' appearing on the letter --

2 "Q People's 64?

3 "A -- People's 64 is by the same
4 person as the 'Shea' signatures appearing on
5 all the other documents."

6 (Pause in the proceedings.)
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1 So, we have here the signature, "Donald Shea,"
2 which someone has tried to obliterate.

3 Now, what the meaning of that is, I guess is in
4 your capable hands, because the date of this document is
5 September 3, 1969. That's the date that it -- that redeemed
6 stamp is on it.

7 So it means -- it means that Donald Shea was
8 at this place as of that date.

9 Now, the prosecution -- I can only -- of course,
10 when we -- when we finish, the prosecution speaks to you
11 again, and then we have -- that is, we have no further
12 opportunity to discuss these matters. So we can only guess
13 as to what the prosecution may suggest as the meaning of that
14 signature.

15 One thing that the prosecution may say is that
16 somebody tried to -- somebody tried to hoodwink somebody and
17 they tried to make that look like Donald Shea.

18 Well, the expert has testified that the signatures
19 on People's 57, the signatures of Donald Shea.

20 The -- the other possibilities are -- I don't
21 know how -- I don't know how pawnshops operate, but I would --
22 except we've heard from this gentleman here. I would gather --
23 another explanation -- I mean, we've thought about this, as
24 to how this -- this kind of a thing can come about. It -- it
25 is possible that Donald Shea comes up and signs his name, and
26 then redeems the pistols, and then turns them over to Mr.
27 Smith, who then signs his name as some kind of a receipt for
28 somebody, I don't know. I don't know.

9-2

1 But -- but the significant part about it, the
2 significant part about it is that the "R. A. Smith," is
3 underneath, is underneath the signature of Donald Shea. And
4 so -- and the date of this being September 3, 1969, the
5 significance -- the significance is obvious. I mean, it is,
6 uh -- it is the kind of thing that when you think about all
7 these people that are present at the Spahn Ranch, like -- like
8 we discussed previously, the prosecution may suggest it was
9 Bill Vance.

10 The prosecution may suggest whatever, I don't
11 know what they're going to suggest.

12 But the tall and lanky person description would
13 certainly fit Mr. Shea. Mr. Shea -- I suppose he was called
14 Shorty because he is so tall. So the fact of the matter is,
15 that the prosecution may say Bill Vance, may suggest other
16 people, but they couldn't suggest Charles Manson, because if
17 there is anything that Charles Manson is, he isn't tall and
18 lanky, and that we know for sure. We've all seen him.

19 Now, when we get into the testimony of Barbara
20 Hoyt, we get into a -- a -- there are some -- some things
21 about her testimony that are intriguing, to say the least.

22 Barbara Hoyt testified that she -- remember,
23 Barbara Hoyt has lived with -- she tells us she has lived --
24 she has lived with Mr. Manson and the friends of Mr. Manson
25 for an extended period of time.

26 The prosecution would have us believe that Mr.
27 Shea has a relationship with the Spahn Ranch that goes on for
28 a long period of time.

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1 As we know -- and they can't blame that on Mr.
2 Manson -- sometime last year there was a fire at the Spahn
3 Ranch. As a result of that fire that was in that general
4 part of Ventura and Los Angeles County, where there was --
5 where there was a lot -- a lot of brush damage and some
6 homes were burned, so that these buildings -- so that these
7 buildings do not exist at the present time.

8 But if you -- if you assume -- if you assume the
9 prosecution viewpoint, why would Barbara Hoyt -- I mean,
10 uh, it is -- it is something that is so intriguing. Why would
11 Barbara Hoyt just remember Shorty Shea after August 16th?
12 According to -- according to -- according to these people that
13 have come here, Mr. Shea was intimately connected with the
14 Spahn Ranch for a long, long, long period of time.

15 Now, Barbara Hoyt was also at the Spahn Ranch
16 for a long period of time. Now, of course, as Mr. Shea's,
17 but she was at the Spahn Ranch, what, many, many months.

18 What, from the beginning of '69 she was there at
19 the Spahn Ranch.

20 But being the prosecution witness, she says --
21 now, at sometime after that, after their arrest, did you see
22 Mr. Manson again at the Spahn Ranch?

23 Actually, I should go back to the -- August the
24 16th arrest.

25 "Now, sometime after the arrest on
26 August 16, at -- 1969, were you taken into custody?

27 "Could you say that again?

28 "Well, were you taken into custody . . .

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1 "after you were arrested?

2 "A Yes.

3 "And did you spend some time in jail?

4 "A Yes.

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1 "And thereafter were you released?

2 "A Yes.

3 "And did you then return to Spahn Ranch?

4 "Yes.

5 "Approximately how many days later did
6 you return to Spahn Ranch after August 16th?

7 "Just a couple of days."

8 And here is the type of -- those were all leading
9 and suggestive questions, where all the witness did was
10 respond to the answer -- to the question with a "Yes."

11 "Q Now, after you returned to Spahn Ranch,
12 after the August 16th raid, did you meet a person
13 at Spahn Ranch by the name of Shorty Shea?

14 "A Yes.

15 "And did you see Mr. Shea at Spahn Ranch?

16 "A Yes."

17 Now, the prosecution -- I mean, you can't have it
18 both ways. I mean, if Mr. Shea was that intimate with the
19 Spahn Ranch, and if Barbara Hoyt is that intimate with the
20 Spahn Ranch, why is Barbara Hoyt telling us what she is telling
21 us?

22 Well, first of all she's telling us what she is
23 telling us because of the leading questions that are asked.

24 Is she going to say no, knowing that Mr. Shea
25 is the subject matter of this lawsuit? Is she going to say
26 no?

27 No. What she does is, she responds to the
28 question. And she says that that is the first time she saw

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1 him.

2 Well, if that's the first time she saw him,
3 where is his connection with the Spahn Ranch? After the
4 many, many months that she had been there, if he's not there
5 until August 16th, 1969, what kind of a life style is that --
6 what kind of state of mind proof is that that Mr. -- Mr. Shas
7 is identifying himself at the Spahn Ranch.

8 You cannot have it both ways.

9 And then, the questioning goes on:

10 "Do you know where Miss Schram and Mr.
11 Manson were arrested, what part of the house?

12 "A The back house."

13 And we know that Mr. Manson was arrested not
14 only on the 16th, and then you don't -- and a -- a person
15 like Mr. Manson, especially, you just don't go to jail and
16 just get out. It was there to infer that he was in jail
17 some number of days. He gets out. They come back and
18 arrest him with Stephanie Schram on the 24th. And he then
19 goes back to jail. And he's arrested after -- he's released
20 because the charge is evidently without any basis on the
21 24th, plus three or four days is the 27th or thereabouts.
22 And he's released again.

23 "So, now, sometime after that, after that
24 arrest, did you see Mr. Manson again at the Spahn
25 Ranch?

26 "A Yes.

27 "How long after his arrest did you see him
28 at Spahn Ranch?

1 "Oh, I think it was a day or so, I'm not
2 sure.

3 "Are we talking about August of 1969?"

4 A leading question.

5 "A Yes.

6 "What part of August, the early part or
7 the latter part?

8 "A The latter part.

9 "Now, after Mr. Manson returned to the
10 ranch, after his arrest with Stephanie Schram, did
11 you see Shorty Shea at the ranch?

12 "A --"

13 And she's asking the question.

14 "After his arrest?

15 "Q Right, after Mr. Manson's arrest.

16 "A Yes.

17 "When was the last time you saw Shorty
18 Shea at the ranch?

19 "A Before we went to the desert.

20 "What part? Was this in the latter part
21 of August of 1969?

22 "A Yes."

23 Now, the question has been asked:

24 "Miss Hoyt, directing your attention
25 to that period of time after Mr. Manson's arrest
26 with Stephanie Schram, and after he, Mr. Manson,
27 had returned to Spahn Ranch, after that arrest,
28 sometime after Manson returned to Spahn Ranch,

1 "did something unusual occur one night thereafter?

2 "A Yes.

3 "Approximately how many nights, if you
4 recall? How many nights after Mr. Manson returned
5 to the Spahn Ranch after his arrest did this occur?

6 "It wasn't very long, but I don't know
7 how many.

8 "Q All right, now, would you tell us what
9 happened?

10 "I heard screaming.

11 "Miss Hoyt, where were you when you heard
12 this --"

13 And as we all know, she testified "in the parachute
14 room." In the parachute room.

15 Now, Barbara Hoyt, she tells us -- she tells us,
16 had no glasses. She was without any visual aid from, I think
17 it was, May of 1969 until sometime after September of 1969.
18 She had no glasses and she had no-- she had no, uh, contact
19 lenses. And so, for whatever that may be worth, in connection
20 with her -- in connection with her ability to see, that --
21 and we -- we know that she is -- her eye -- eye defect as
22 far as seeing is concerned, is obviously very intense. She
23 can only see five fingers from a very short distance away
24 from her face.

10 fls.

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1 I mean, there's no question about that. That's
2 part of this record.

3 Well, if she couldn't see to know Mr. Shea before,
4 why would she be able to know -- why would she have any reason
5 for knowing him after August the 16th, 1969?

6 But in any event, she testifies, after she -- and
7 she's told us that she has spoken to law enforcement officers
8 many, many, many times --

9 THE COURT: Ladies and gentlemen, we'll recess now until
10 9:30 on Monday morning.

11 The Court orders that you all have a pleasant
12 weekend.

13 And the Court orders likewise that during the
14 weekend, during the recess, that you are obliged to take firm
15 steps not to read, see or hear any publicity concerning this
16 case or any other case in which Mr. Manson is alleged to be
17 involved.

18 You are not, during the course of the recess, to
19 discuss this case amongst yourselves nor with anyone else,
20 nor permit anyone to discuss it with you, nor are you to form
21 or express any opinion on the matter until it is finally
22 submitted to you.

23 I expect to see you all in good health at 9:30
24 on Monday. Good night.

25 (Whereupon, murmurs of "Good night" were heard
26 from members of the jury.)

27 (Whereupon, at 4:01 p.m., an adjournment was taken
28 in this matter until 9:30 a.m. on Monday, October 18, 1971.)