

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.

NO. A-267861

REPORTERS' DAILY TRANSCRIPT

WEDNESDAY, NOVEMBER 10, 1971

PENALTY PHASE

VOLUME 69APPEARANCES:

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

For Defendant Manson:
IRVING A. KANAREK, ESQ.

MARY LOU BRIANDI, CSR
ROGER K. WILLIAMS, CSR
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1 LOS ANGELES, CALIFORNIA, WEDNESDAY, NOVEMBER 10, 1971, 9:51 A.M.

2
3 THE COURT: In the case of People versus Manson.

4 Mr. Kanarek, the Court is informed that Mr. Guth
5 is still attempting to procure permission from the United
6 States Attorney General to release the records for your perusal.

7 He will not be in the courtroom this morning at
8 10:00 o'clock -- he is not here now, and he won't be here until
9 10:30, we have been informed, nor will Mr. Barrett, because
10 Mr. Guth is working on this problem.

11 Accordingly, do you have other witnesses to proceed
12 with this morning?

13 MR. KANAREK: Well -- yes, I do, your Honor. I have
14 other matters, but I would like to point out to the Court, in
15 connection with the -- our position as to the documents, an
16 added factor is that the purported judgments in the Tate-LaBianca
17 case are not final. Those are not final. There's an automatic
18 appeal, and --

19 THE COURT: Well, this has nothing to do with the --

20 MR. KANAREK: With Mr. Barrett, no.

21 THE COURT: -- with Mr. Barrett or Mr. Guth, no.

22 MR. KANAREK: No, no. I was just pointing out to the
23 Court --

24 THE COURT: You are arguing the admissibility of the
25 documents which have been --

26 MR. KANAREK: The People's entire case on -- on the
27 penalty issue are those documents; and that judgment isn't
28 even final. I -- plus the -- the other points, which we have

1 discussed with the Court and Mr. Manzella, not always on the
2 record.

3 But nevertheless, they're -- you see, I would think
4 that we would be entitled to a jury instruction advising the
5 jury that, as a matter of law, those offenses -- the alleged
6 Tate-LaBianca offenses -- have not been proved beyond a
7 reasonable doubt.

8 Clearly, they haven't. It's -- that's -- that's
9 not a matter for the jury. It's a matter of law, and --

10 THE COURT: Well, they have been proved beyond a reason-
11 able doubt before another jury.

12 MR. KANAREK: Well, yes. But that's hearsay.

13 THE COURT: But you draw the instruction that you wish the
14 Court to give in connection with those documents, --

15 MR. KANAREK: Well, that's it. I mean, that would be --

16 THE COURT: -- and the Court will rule -- will either
17 give it or refuse it.

18 MR. KANAREK: Well, yes, I understand. But then, that
19 will dictate a lot of what I intend to do by way of -- by way
20 of bringing forth evidence in this Court.

21 THE COURT: Well, your statement of law is correct, that
22 in the penalty trial, the proof of prior convictions must be
23 established beyond a reasonable doubt. The Court could not
24 quarrel with that, and I will give that instruction.

25 But if you offer any other instruction, the Court
26 will be happy to receive it and to read it, and to make a
27 determination for you.

28 MR. KANAREK: Well, it isn't -- it isn't a matter of the

1 instruction. The instruction is -- it's one line:

2 "You are advised that, as a matter of law,
3 the offenses set out in People's Exhibit --" whatever it is --
4 "are not proved beyond a reasonable doubt."

5 I am sure we would all agree that such is the case.
6 You could not -- you could not sentence a man to -- you could
7 not find someone guilty, based on that evidence. It's a
8 commitment.

9 I offered it to the Court to read it. And it's
10 purely a -- it's purely a -- that's our instruction.

11 Now, there's -- of course, it's prejudicial to
12 even have the jury take that to the jury room, in view of the
13 fact that these are legal questions, and are not for the jury
14 to decide.

15 How's the jury going to decide whether that's
16 proved beyond a reasonable doubt when, as a matter of law,
17 it's inadequate?

18 You have to have specific intent; you have to
19 show all -- before you can convict someone of first degree
20 murder.

21 THE COURT: Well, the Court has ruled on the admissibil-
22 ity of the record of the prior conviction, --

23 MR. KANAREK: But it's --

24 THE COURT: -- and I see no reason at this point to
25 disturb it, to disturb that ruling.

26 MR. KANAREK: Well, admissibility, your Honor -- on what
27 issue? It cannot -- it's not -- if -- we have a right to --
28 Mr. Manson has a right to the protection of the law, and the

1 law says it has to -- your Honor's going to give that
2 jury instruction.

3 By what manner of means can -- can we allow that
4 jury to have this -- to have this evidence to prove these
5 crimes?

6 It's just --

7 THE COURT: Do you have any other witnesses this
8 morning?

9 MR. KANAREK: Pardon?

10 THE COURT: Do you have any other witnesses this
11 morning?

12 MR. KANAREK: Well, I have -- yes, I have another
13 witness I can call.

14 THE COURT: Shall we get the jury in, then, gentlemen?

15 The Court will take a recess of five minutes.
16 It is now five minutes of 10:00. We will begin at 10:00
17 o'clock.

18 THE BAILIFF: Get the jury down?

19 THE COURT: Yes, get the jury down.

20 Is the witness handy, right on tap?

21 MR. KANAREK: Yes, your Honor.

22 THE COURT: All right. We're in recess.

23 (Recess.)
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1 fol.

1 THE COURT: All right, the record will show that we are
2 in chambers and Mr. Barrett and Mr. Guth are here.

3 Mr. Guth, have you been successful in procuring
4 the files that Mr. Kanarek wished?

5 MR. GUTH: Yes, we have, your Honor. We've received
6 approval from the Bureau of Prisons, United States District
7 Court and the parole board, with the one stipulation from the
8 parole board that you see the files first and decide whether
9 or not they should be used and whether or not Mr. Barrett should
10 be kept to be interrogated relating to them. That was their
11 one request.

12 THE COURT: All right, I'll look at the files beforehand,
13 then, and also determine whether or not, after talking with
14 Mr. Kanarek, whether Mr. Barrett will be needed this morning. I
15 suppose that you're busy?

16 MR. BARRETT: Very busy, your Honor.

17 THE COURT: With the load of most probation officers.

18 MR. BARRETT: Yes, sir, your Honor.

19 MR. MANZELLA: Your Honor, I was going to suggest that
20 since the files have been made available that they be --
21 that Mr. Kanarek -- he'll need some time to look at those
22 files. That he be allowed to look at those files in my office,
23 and I could more or less maintain custody of the files for
24 Mr. Barrett and Mr. Guth, and Mr. Kanarek could look at those
25 files and inspect them and examine them in my office.

26 THE COURT: May it be stipulated in the event that any
27 portion of the files are sought to be introduced, that copies
28 can be made of them by the District Attorney's Office for

1 presentation in evidence rather than the originals?

2 MR. KANAREK: Yes, your Honor, but --

3 MR. MANZELLA: So stipulated, your Honor.

4 MR. KANAREK: Yes, but I'd rather have them stay in the
5 custody of the Court.

6 THE COURT: Well, the Court --

7 MR. KANAREK: I don't want them in the custody of the
8 District Attorney's Office.

9 THE COURT: Well, it would simplify things in the event
10 they were put in Mr. Manzella's custody --

11 MR. KANAREK: It is not Mr. -- the District Attorney's
12 Office has notoriously released information concerning
13 Mr. Manson and I ask that the Court --

14 THE COURT: There is a Court order in respect to the
15 release of any information concerning Mr. Manson or this
16 trial.

17 MR. KANAREK: It is meaningless, though, your Honor, in
18 that --

19 THE COURT: And the Court would simply adopt the
20 suggestion of Mr. Manzella, and allow a room to be provided
21 where you and Mr. Kanarek can go over the files, and if there
22 are -- I take it your response is affirmative that copies can
23 be made, is that correct?

24 MR. KANAREK: Well --

25 THE COURT: In the event you should wish to reproduce
26 them?

27 MR. KANAREK: I don't know. In the event -- what I say,
28 I ask that the Court maintain custody of these documents and

1 not --

2 THE COURT: Both of you are officers of the Court.

3 MR. KANAREK: But Mr. Manzella is not the only one in the
4 District Attorney's Office.

5 THE COURT: Both of you are officers of the Court and it
6 is the Court's order that you both maintain these files in
7 your hand until such time as they may be introduced into
8 evidence or referred to as items for identification. So,
9 I'll handle it that way. And I'll take time at this time
10 to look at the files, and in a very few minutes we'll allow
11 both of you to take them to a place in the District Attorney's
12 Office where you can examine them.

13 Now, do you wish to wait, Mr. Guth?

14 MR. GUTH: I don't believe it will be necessary, your
15 Honor.

16 THE COURT: All right. In the event that the Court
17 believes that you are needed, we'll have Mrs. Holt call you.

18 MR. GUTH: Fine, your Honor.

19 THE COURT: And the Court appreciates it and thank you
20 very much for your efforts.

21 MR. GUTH: No problem.

22 THE COURT: Mr. Barrett, I guess you will have to wait
23 for a few minutes. You are excused for approximately a half-
24 hour and you can be free, if you wish, for a half hour.

25 MR. BARRETT: I'll be in the court, then, your Honor.

26 THE COURT: All right, thank you very much.

27 All right, gentlemen, I'll go through the records.
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2
1 LOS ANGELES, CALIFORNIA, WEDNESDAY, NOVEMBER 10, 1971, 2:55 P. M.

2
3 (The following proceedings were had in
4 chambers, outside the presence and
5 hearing of the defendant and the jury.)

6 THE COURT: All right. On the record. The Court and
7 counsel have been in chambers for the last half-hour -- the
8 last hour, really -- and have been discussing the files which
9 have been brought to the court by Mr. Barrett.

10 Mr. Kanarek has marked several of the documents
11 that are within the probation file and wants to have those
12 duplicated, and the Court will order that those be duplicated.

13 The Court has discussed with both counsel the
14 admissibility of certain of the documents, and the Court
15 agrees that some are admissible, to establish that Mr. Manson
16 reported regularly, in order to show that Mr. Manson was a good
17 probationer and was following the rules of the probation
18 officer who had his supervision.

19 Others of the documents, the Court believes, are
20 expressions of opinion by persons other than Mr. Barrett,
21 about Mr. Manson; and the Court believes that those expressions
22 of opinion would be hearsay and would not be admissible at this
23 time, without further foundation.

24 I believe that -- we have been discussing this
25 problem of the admissibility of the various documents from
26 these files, and the file altogether is -- oh, six inches thick;
27 five or six inches thick, full of documents.

28 We have been discussing them with the implicit

1 understanding that the file is the file of the U. S. probation
2 officer, and that it does contain a great deal of miscellaneous
3 information and records of Charles Manson, and letters from
4 various people concerning Mr. Manson; that the letters are
5 many times expressions of opinion, both good and bad, about
6 Mr. Manson.

7 MR. KANAREK: Well, your Honor, is it a fair statement,
8 your Honor, in mentioning -- in talking about the thickness
9 of this file, that your Honor was referring only to one of
10 the two files? Actually, if you take the other file, it's
11 probably about --

12 THE COURT: Oh, it's split into two files, true.

13 MR. KANAREK: It's probably --

14 THE COURT: And the two files together --

15 MR. KANAREK: Closer to eight inches thick, isn't it?

16 MR. MANZELLA: It looks about six inches.

17 THE COURT: I would say about six inches.

18 But that's a minor -- six or eight, it really
19 doesn't make too much difference.

20 But it is a great accumulation of documents and
21 reports.

22 And as I've said, the reports are good and bad.
23 But most of them, in the Court's view -- the Court, it should
24 be said, has gone through the file -- are not complimentary
25 to Mr. Manson.

26 Mr. Kanarek has indicated to the Court that he now
27 wishes to call Mr. Barrett back to the witness stand, and
28 that -- I think that it can be stipulated that this is the file

1 that Mr. Barrett has in his custody, and has produced,
2 pursuant to the permission given to him by the United States
3 Attorney General's Office, the files concerning Mr. Manson.

4 MR. MANZELLA: So stipulated.

5 MR. KANAREK: And that this is the file which we have
6 subpoenaed.

7 MR. MANZELLA: So stipulated.

8 MR. KANAREK: It's our position that the Court has the
9 power to order the production of this file, notwithstanding
10 what the federal government does.

11 THE COURT: Why argue with --

12 MR. KANAREK: Well, the due process -- well, because --

13 THE COURT: Why argue about that, when the file is
14 before you?

15 As far as this Court knew, you made no effort to
16 procure this file until yesterday.

17 MR. KANAREK: Well, that's not -- that's not so. You
18 can interrogate Mr. Barrett. I have been over there and I
19 have -- many times, and --

20 THE COURT: At least, it was not brought to the atten-
21 tion of the Court that you did anything whatever to procure
22 this file until yesterday.

23 The Court has allowed you the entire morning and
24 part of the afternoon to peruse this file, now, and you have
25 done so; and you have marked certain documents that you wish
26 to have reproduced.

27 I'll have those reproduced. But the fact that I
28 am ordering that the clerk copy them, so that they can be made

1 a part of the record by means of -- for means of identifica-
2 tion -- does not mean that the Court is acknowledging that
3 those documents which are copied are admissible in evidence.

4 MR. KANAREK: Well, yeah. We recognize that that's the
5 Court's position at this time.

3 fols.

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

7 (Whereupon, the following proceedings were
8 had in open court:)

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1 THE COURT: Good afternoon, ladies and gentlemen.

2 (Whereupon, there were murmurs that were
3 heard from the jury of "Good afternoon,
4 your Honor.")

5 THE COURT: Sorry to keep you waiting so long. We've
6 been working outside of your presence.

7 The record will show that all jurors and
8 alternates are present. Both counsel are present.

9 (Whereupon, the following proceedings were
10 had at the bench among Court and counsel,
11 outside the hearing of the jury:)

12 THE COURT: You may ask him, if you will, Mr. Kanarek.

13 (Whereupon, Mr. Kanarek conferred with
14 Defendant Manson through the screen of
15 the holding tank door.)

16 MR. KANAREK: Your Honor, Mr. Manson says that he
17 can't -- cannot make that representation.

18 THE COURT: Okay, he doesn't believe that he can
19 restrain himself from interrupting us?

20 MR. KANAREK: Pardon?

21 THE COURT: He doesn't believe --

22 MR. KANAREK: He cannot make that representation.

23 THE COURT: All right, let's proceed without him, then.

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

26 THE COURT: Mr. Kanarek.

27 MR. KANAREK: Yes, may I call Mr. Barrett, your Honor?

28 THE COURT: Yes, you may.

1 MR. KANAREK: Thank you.

2 THE BAILIFF: State your name again, please.

3 THE WITNESS: Samuel Barrett.

4

5 SAMUEL BARRETT,

6 having been previously sworn, resumed the stand and testified
7 further as follows:

8

9 DIRECT EXAMINATION

10 BY MR. KANAREK:

11 Q Mr. Barrett, you have brought to court certain
12 records that are your file pertaining to Charles Manson?

13 A Yes, I have.

14 Q Oh, may I see that file? I think it is sitting
15 to your left.

16 Oh, I'm sorry.

17 Now, Mr. Barrett, this file is a file which is an
18 official United States government file, is that correct?

19 A Yes, it is, it is.

20 Q And do you know a Mr. White who is in federal
21 service?

22 A J. Noble White, you mean?

23 Q If I may have a moment.

24 Maybe it is shorter if I ask you -- may I approach
25 the witness, your Honor?

26 THE COURT: Yes, you may.

27 Q BY MR. KANAREK: I show you a letter addressed
28 "Dear Mr. White, Dear Sis," and underneath that -- and it

1 purports to have a date of June 3, 1957.

2 Do you know who that Mr. White is?

3 THE COURT: June 3, 1967?

4 MR. KANAREK: 1957, your Honor.

5 THE COURT: 1957?

6 MR. KANAREK: Yes.

7 THE WITNESS: Hmmm, I believe that was Mr. John Noble
8 White who used to be with our department before he retired.
9 He was a probation officer.

10 Q And from your work in connection with Mr. Manson
11 and in your federal work, do you know who Kathleen Manson
12 is?

13 A I think that was his mother. I believe it was his
14 mother.

15 Q Would you read over those pages, those some --
16 those some six pages and tell us whether or not you have seen
17 that letter before?

18 MR. MANZELLA: Your Honor, I'm going to object on the
19 grounds it is too time consuming, because the result appears
20 to be that the letter itself is hearsay in any event.

21 MR. KANAREK: Well, your Honor, it is offered to show
22 state of mind. In any event, right now I'm merely laying the
23 foundation.

24 THE COURT: To show whose state of mind?

25 MR. KANAREK: To show the state of mind of Mr. Manson's
26 mother and Mr. Manson.

27 THE COURT: May I see that, please?

28 THE WITNESS: Yes, sir.

1 MR. KANAREK: I believe we do have the stipulation that
2 that -- as far as the foundation goes, that that is deemed to
3 be part of the official government records, your Honor.

4 That's correct?

5 THE COURT: This is a Court -- looking at it, a letter
6 with a receipt stamp of "June 3, 1957," received by the United
7 States Probation Office, Southern District of California, and
8 that it appears to be a Xerox copy.

9 And it is stipulated that it is part of this file,
10 Mr. Manzella?

11 MR. MANZELLA: I'm sorry, your Honor?

12 THE COURT: Is it stipulated that it is part of the file
13 referred to?

14 MR. MANZELLA: So stipulated, your Honor.

15 THE COURT: The objection that it is too time consuming --

16 MR. KANAREK: I'll withdraw that question. The purport
17 of my question, really -- I'm sorry.

18 Q BY MR. KANAREK: Do you recognize that as being
19 part of your file?

20 A Yes.

21 Q Really?

22 A Yes.

23 Q You've read that letter over before?

24 A I believe I have read it over.

25 Q Now, Mr. Barrett, would you tell us what is your
26 educational background?

27 A My educational background?

28 Q Yes.

1 A I graduated from the University of Southern
2 California with a bachelor of arts degree in 1938. '38. I
3 received my master of arts degree from the University of
4 Southern California in 1955. I haven't had any, uh, additional
5 college training since then. That was the extent, my master's
6 degree.

7 Q And in your master's or -- or in your work, did
8 you study psychology?

9 A Yes.

10 Q And sociology?

11 A Definitely.

12 Q All right.

13 Now, since you have graduated and since you've
14 obtained your master of arts degree, would you tell us what
15 your work has been?

16 A Principally -- well, I studied working with the
17 United States Probation Office in Los Angeles a month after I
18 received my master's degree.

19 Q That was 1935?

20 A '55.

21 Q I'm sorry, '55.

22 A Yes.

23 Q And you've -- would you tell us what your work has
24 been with what you call the United States Probation Office?

25 A We handle both the investigation and the super-
26 vision of cases coming into the district courts and those
27 being released or going into, you might say, the federal
28 prisons, and then being released from the federal prisons.

4-1

1 Q And in that capacity, how many people would you
2 say you have studied and analyzed over the years?

3 A People who were convicted, you mean, and referred
4 to us for probation or parole? Or --

5 Q Well, I'm -- that is a pretty rough question.
6 I'll withdraw it and ask you:

7 Would you say that you have analyzed the behavior
8 of some literally thousands of people?

9 A Well, maybe many hundreds. I -- it could be
10 thousands. Many hundreds, I know.

11 Q At least many hundreds?

12 A At least.

13 Q And your -- and in connection with your work, you
14 have had to determine the characteristics of probationers, --

15 A Yes.

16 Q Is that right?

17 A Right.

18 Q And what is your present title? Your actual
19 title?

20 A United States Probation and Parole Officer.

21 Q And in connection with your work, have you had
22 occasion to determine what causes people to end up in a
23 situation where they are charged with crime?

24 A Well, we try to determine how their behavior is
25 responsible for their criminal actions, yes.

26 Q And you have done this untold numbers of -- hun-
27 dreds of times, at least?

28 A Continuously.

1 Q Now, in your work -- in your work, in determining
2 the background of a particular probationer, do you from time
3 to time take into account letters that you receive from the
4 family of the probationer?

5 A Certainly.

6 Q And in connection with Mr. Manson, have you taken
7 into account the matters that are set forth in that letter from
8 his mother, Kathleen Manson?

9 A Well, that letter was not addressed to me, Mr.
10 Kanarek. And I was not assigned to the case at the time that
11 that letter was mailed -- for whatever specific purposes it was
12 intended.

13 Q My question is --

14 THE COURT: The question is rather ambiguous.

15 MR. KANAREK: Very well.

16 Q Mr. Barrett, in -- when you take a file, such as
17 this file, that's some six or eight inches thick, pertaining to
18 a person who is before you, you do not have personal knowledge
19 of each document in that file?

20 A No.

21 Q It may go -- the file may go back many years; right?

22 A Right.

23 Q And so you use it -- you use this information
24 that's in the file in assessing the particular subject; is that
25 correct?

26 A Yes.

27 Q And you use the information that's in the file,
28 whether the information was directed originally at you or not,

1 whether it was directed to -- maybe to your supervisor, through
2 a person who preceded you in your position, or someone who was
3 underneath you in the office -- or maybe even in a different
4 office or maybe even in a different jurisdiction.

5 A Yes.

6 Q And so, this letter from Kathleen Manson is a
7 letter that forms the total -- part of the total picture of
8 Charles Manson, that you have analyzed?

9 MR. MANZELLA: Objection, your Honor.

10 Q BY MR. KANAREK: Is that right?

11 MR. MANZELLA: That calls for a conclusion and opinion
12 on the part of the witness.

13 MR. KANAREK: Well, I think --

14 MR. MANZELLA: And is vague and ambiguous.

15 MR. KANAREK: -- that he has a right --

16 THE COURT: Sustained.

17 MR. KANAREK: -- to make his opinion, your Honor.

18 THE COURT: Sustained. We have not at this point
19 determined that he has any opinion. No opinion has been
20 expressed.

21 MR. KANAREK: Very well, your Honor.

22 THE COURT: It's an ambiguous type of approach.

23 MR. KANAREK: I will be glad to try to reframe it, your
24 Honor.

25 THE COURT: It's -- you have established that the letter
26 is part of the file; and Mr. Barrett has read it.

27 Q BY MR. KANAREK: Now, Mr. Barrett, do you have
28 an opinion as to whether or not Mr. Manson's mother's care --

1 or lack of it -- has had any effect upon Mr. Manson?

2 THE DEFENDANT: (From within the detention room, through
3 the screen in the detention room door:) Ha, ha, ha, ha, ha, ha,
4 ha, ha, ha.

5 THE WITNESS: I cannot objectively say that I would form
6 any opinion, to use that as a principal criteria.

7 Let's say that it -- because it did or it didn't
8 apply, --

9 Q No.

10 A -- that that affected his behavior.

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1 Q No, that isn't my question. My question is --
2 well, I'll go back one step.

3 Do you -- have you, over the years, used the
4 statements that have been made by people who are part of the
5 family of a probationer -- have you, over the years, used
6 these statements to determine the characteristics of a pro-
7 bationer?

8 MR. MANZELLA: Objection, your Honor. The question is
9 vague and ambiguous.

10 THE COURT: Sustained.

11 Q BY MR. KANAREK: Well, do you have an opinion,
12 Mr. Barrett, as to whether or not the care given to a child
13 by his or her mother, when the person is of tender years, has
14 any effect upon the character of that person?

15 A That's easy to answer, Mr. Kanarek. The lack of
16 care may be very instrumental; and again, it may be very
17 insignificant.

18 It depends on who the person was and in what type
19 of environment they were in, and what the particular needs were
20 at that time, among all the people.

21 Q Right. And you have, from time to time, determined
22 from records what the parental care has been of a probationer;
23 is that correct?

24 A Yes.

25 Q All right. Would you read over that letter,
26 then, and tell us -- or, you've read that letter?

27 A Well, I read it some time ago -- or I glanced at
28 it.

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1 Q All right. Just -- could you tell us, by glancing
2 at it now, or -- if that -- looking at that letter will
3 refresh your recollection as to what Kathleen Manson said she
4 did in connection with the alleged care of Charles Manson?

5 A Well, if I remember, I think she --

6 MR. MANZELLA: Your Honor -- excuse me, Mr. Barrett.

7 Your Honor, I make the same objection, on the
8 grounds that it's too time-consuming, in view of the fact that
9 the result would still be hearsay.

10 MR. KANAREK: That's not so, your Honor, because --

11 THE COURT: Excuse me, just a minute.

12 MR. KANAREK: Yes, your Honor.

13 THE COURT: Mr. Barrett, go ahead.

14 THE WITNESS: You mean read this?

15 THE COURT: Yes, you may read it. Take your time and
16 read it.

17 (Pause in the proceedings while the witness perused
18 the document.)

19 THE WITNESS: Okay.

20 THE COURT: You've read it, now?

21 THE WITNESS: Yes.

22 MR. KANAREK: May I have the last question read back, your
23 Honor?

24 THE COURT: The last question?

25 MR. KANAREK: Yes.

26 THE COURT: All right.

27 MR. KANAREK: Thank you.

28 (Whereupon, the record was read by the

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1 reporter as follows:

2 "Q All right. Just -- could
3 you tell us by glancing at it
4 now, or -- if that -- looking at
5 that letter will refresh your
6 recollection as to what Kathleen
7 Manson said she did in connection
8 with the alleged care of Charles
9 Manson?")

10 MR. KANAREK: I'll withdraw that question, your Honor.

11 Q Now, you, having read that letter over, does that
12 refresh your recollection that you have read that letter before?

13 A Yes, yes.

14 Q And you -- you have used that letter before in
15 evaluating the -- Mr. Manson --

16 A Well --

17 Q -- in connection with --

18 A -- the letter was sent for a specific purpose, I
19 think. But I was not making the evaluation in the time --

20 Q At that time, I understand, Mr. Barrett.

21 What I am saying is: In connection with a
22 probationer, --

23 A Yes.

24 Q -- you use the matters that are before you in
25 evaluating the probationer?

26 A All right.

27 Q And from time to time, have you used this letter --
28 or the material -- the matters that it alludes to -- in

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1 connection with Mr. Manson?

2 A Yes.

3 MR. KANAREK: Your Honor, may that be marked for
4 identification at this time?

5 THE COURT: It may be marked for identification only at
6 this time as defendant's next in order.

7 MR. KANAREK: May I approach the witness, to give it to
8 the clerk, your Honor?

9 THE COURT: Yes, you may.

10 Q BY MR. KANAREK: Now, does your file reveal,
11 Mr. Barrett, that Mr. Manson has been in almost continuous
12 custody since the age of 8? By virtue of a letter from a
13 warden --

14 THE COURT: Mr. Kanarek?

15 MR. KANAREK: -- in the Bureau of Prisons?

16 MR. MANZELLA: Objection, your Honor.

17 THE COURT: Mr. Kanarek's question is stricken, ladies
18 and gentlemen.

19 You can't testify, Mr. Kanarek.

20 MR. KANAREK: I'm -- I'm not.

21 THE COURT: But you may ask --

22 MR. KANAREK: I'm not testifying, your Honor.

23 Mr. Barrett is.

24 THE COURT: The Court believes you are.

25 MR. KANAREK: Well --

26 THE COURT: You may restate your question.

27 Q BY MR. KANAREK: Do you know -- well, may I
28 approach the witness, your Honor?

1 THE COURT: Yes, you may.

2 Q BY MR. KANAREK: I have here a United States
3 Department of Justice Bureau of Prisons -- a letter with that
4 letterhead, signed by one T. R. Kildall, K-i-l-d-a-l-l; chief
5 -- it says: "Chief of Classification and Parole for the
6 Warden."

7 A Right.

8 Q Is that -- would you tell us, who is Mr. Kildall?

9 A Well, Mr. Kildall is now deceased, but he used to
10 be chief of classifications and parole at the Federal
11 Correctional Institution at Terminal Island in San Pedro.

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1 Q All right. And does -- I show you this letter and
2 ask you if you know who Mr. Meador is?

3 A Mr. Meador is now deceased. He was formerly
4 the chief U. S. probation officer in Los Angeles.

5 Q Would you look at this letter and tell us whether
6 that letter appears to be one that is in your official file?

7 A Yes.

8 Q And was this letter a part of the official file
9 of the United States government records when you obtained the
10 file?

11 A Yes.

12 Q And it has been in that file ever since?

13 A Yes.

14 MR. KANAREK: Your Honor, may this be marked next in line
15 for identification?

16 THE COURT: Yes, it may be so marked.

17 Q BY MR. KANAREK: Now, you'll note --

18 THE COURT: Now, I'm not going to tell you again,
19 Mr. Kanarek, do not quote the letter.

20 MR. KANAREK: Well, I'm going to ask him a question.

21 THE COURT: The Court knows what you are going to do.

22 Q BY MR. KANAREK: All right, Mr. Barrett, has
23 Mr. Manson been in custody, according to your records, from the
24 time he was of very tender years?

25 MR. MANZELLA: Objection, the question is vague and
26 ambiguous.

27 THE COURT: Overruled, he may answer it.

28 THE WITNESS: Has he been in our custody, did you say?

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1 Q BY MR. KANAREK: Any custodial atmosphere.

2 A Since young and tender years?

3 MR. MANZELLA: Objection, the question is vague and
4 ambiguous.

5 THE COURT: Overruled.

6 THE WITNESS: Well, he's been known to various
7 responsible agencies or government officials for many years,
8 starting at a very early age.

9 Q BY MR. KANAREK: And do your records reveal from
10 what early age Mr. Manson has been in continuous custody?

11 MR. MANZELLA: Objection, your Honor, that assumes a
12 fact not in evidence, that he has been in continuous custody
13 and, secondly, it is vague and ambiguous.

14 MR. KANAREK: I'm asking him, your Honor.

15 THE COURT: Sustained.

16 Q BY MR. KANAREK: Well, do your records reveal that
17 from some particular time, some particular age, Mr. Manson has
18 been in continuous custody?

19 A Well --

20 Q That's --

21 A All right, our records would show that he has been
22 in continuous custody from a specific time.

23 Q Do your records -- if I may ask you, this document
24 that we've just marked as Defendant's O, this document is
25 part of the official records?

26 A Yes.

27 Q Does that indicate from what age Mr. Manson has
28 been in continuous custody?

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1 MR. MANZELLA: Objection, your Honor, it calls for
2 hearsay.

3 THE COURT: Sustained.

4 MR. KANAREK: Well, then, your Honor, I offer that
5 document into evidence at this time, and if your Honor wishes
6 me to make argument at the bench, I'd be delighted to.

7 THE COURT: The Court will hear from you at the bench.

8 (Whereupon, the following proceedings were
9 had at the bench among Court and counsel,
10 outside the hearing of the jury:)

11 MR. KANAREK: Your Honor, this --

12 THE COURT: Now, you're referring to a letter marked
13 "Received June 13, 1957, by the U. S. Probation Office,
14 Southern District of California," and it is written by a
15 "Mr. T. R. Kildall," as you've established. This letter
16 I've read indicates an expression of opinion by Mr. Kildall,
17 who was then chief of classification and parole to
18 Mr. Meador concerning Mr. Manson.

19 There is a sentence in it indicating that
20 Mr. Manson has been in almost continuous custody since the
21 age of 8. It goes on and states he's the part of a most
22 unfortunate family background and it is doubtful if his
23 mother knows the actual identity of his actual father and he
24 goes on and makes some other comments about Mr. Manson which
25 are largely expressions of opinions by Mr. Kildall concerning
26 Mr. Manson and his -- Mr. Manson's mental ability to probation
27 and explaining further why Mr. Manson attempted escape.

28 MR. KANAREK: I understand.

1 THE COURT: And how do you believe this is admissible?

2 MR. KANAREK: It is part of the official file of the
3 United States government, and this is just as much -- your
4 Honor, this is admissible just as much as Sergeant Whiteley's
5 so-called investigation on Shorty Shea.

6 THE COURT: Let's talk about this.

7 MR. KANAREK: I'm doing it by analogy, equal protection
8 under the Fourteenth Amendment.

9 THE COURT: I see. Can you point to anything in the
10 Evidence Code, however, which would allow me to permit this
11 letter to be admitted into evidence?

12 MR. KANAREK: Yes, this has been used in the official
13 United States government file pertaining to Mr. Manson.

14 THE COURT: Yes.

15 MR. KANAREK: It has been used, and it's been used and
16 it is part of that official record.

17 THE COURT: Yes.

18 MR. KANAREK: And it has been part of this official
19 record since 1957.

20 THE COURT: It comes in as an ancient document, then?

21 MR. KANAREK: No, it is not an ancient document,
22 obviously it is not. But the fact of the matter is, it has
23 the same kind of quality as a birth certificate which has --
24 which is used for the recitals that are upon it or a merit
25 certificate which are used for the recitals upon it which
26 we post in the Hall of Records. The same way -- this is an
27 official United States government file.

28 THE COURT: There were other expressions. I have read

1 this file. There are other expressions in it that are
2 extremely -- expressions of opinion that are extremely
3 adverse to Mr. Manson.

4 MR. KANAREK: I understand that, your Honor. I cannot --
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1 THE COURT: Let me say this, that while it is an official
2 record, it would not come in as an exception to the hearsay
3 rule, because it recites matters which obviously are not under
4 Mr. Kildall's -- not within Mr. Kildall's knowledge and
5 the recitations in it do not appear to be sufficiently trust-
6 worthy to allow the Court to permit them in under Section
7 1280. It is a writing that's made by an officer of the
8 United States Department of Justice within the scope of his
9 duty as a public employee, but it is not a writing which was
10 made at or near the time of the acts that are discussed. And
11 we don't know the sources of information of Mr. Kildall. We
12 don't know much about the preparation of the method of his
13 gathering the facts that he put or opinions that he put into
14 this letter of June 12, 1957.

15 He just states that Mr. Manson has been in custody,
16 almost continuous custody since the age of eight. That would
17 be something that would be ascertainable through his records.

18 MR. KANAREK: Well, your Honor, that same argument could
19 be made --

20 THE COURT: And the Court would permit that.

21 MR. KANAREK: That same argument could be made for each
22 and every record.

23 MR. MANZELLA: My --

24 MR. KANAREK: If I may analogize, your Honor, to Mr.
25 Whiteley, this is -- this is in the nature of an investigation.
26 Now, your Honor --

27 THE COURT: Let's not talk about Mr. Whiteley.

28 MR. KANAREK: I'm doing it by equal protection.

1 THE COURT: Mr. Whiteley's investigation and the
2 Court's permitting Mr. Whiteley to state what he did investi-
3 gate in order to try to find Mr. Shea -- I believe that's what
4 you are referring to, but --

5 MR. KANAREK: This is a fortiori.

6 THE COURT: But can you tell me under what provision of
7 the Evidence Code, under what provision of the law this is
8 admissible? You haven't -- can you tell me that?

9 MR. KANAREK: Yes, your Honor.

10 THE COURT: Go ahead.

11 MR. KANAREK: As an official record of the United States
12 Government.

13 THE COURT: All right, under what section of the Code?

14 MR. KANAREK: May I have the --

15 THE COURT: 1280 that you and I -- I have discussed with
16 you?

17 MR. KANAREK: I don't have the number memorized, but if
18 I may have the Evidence Code I think I can --

19 THE COURT: Well, without the number, what is your thought?

20 MR. KANAREK: This is an official record of the United
21 States Government which is made in the ordinary course of
22 business of official duty.

23 THE COURT: If it were a business record, then --

24 MR. KANAREK: Yes, it is a business record.

25 THE COURT: -- then there would have to be testimony,
26 would there not, about the method of preparation.

27 MR. KANAREK: Not any more than there is -- than there is
28 in connection with a birth certificate or a death certificate

1 and, especially, we call into play the fair play concept that
2 the Court speaks of in due process when your Honor allows that
3 kind of evidence that Sergeant Whiteley testified to, was
4 negative evidence, and doesn't even know who the people were
5 involved.

6 Here we have an investigation where it is a con-
7 tinuing investigation concerning the subject Charles Manson,
8 and this has probative value because of that continuing
9 investigation.

10 THE COURT: What were you going to say, Mr. Manzella?

11 MR. MANZELLA: The objection I had was the term "almost
12 continuous custody" is ambiguous. It doesn't state any fact.
13 It again states an opinion.

14 THE COURT: Let's see --

15 MR. MANZELLA: I don't know where it is. I haven't
16 read the document.

17 THE COURT: That "Mr. Manson has been in almost continu-
18 ous custody since the age of eight."

19 MR. MANZELLA: I have no objection to the records showing
20 where Mr. Manson was in custody and what institutions he was
21 in custody from the records, if they are in the records. But
22 this is not a recordation of an act or a fact. It is a
23 statement of an opinion of the -- the term is "almost
24 continuous custody." What does it mean? It doesn't mean any-
25 thing.

26 MR. KANAREK: Well, if I may say in analogy --

27 THE COURT: The Court in reading the file, there was a
28 reference of Mr. Manson first being in custody since the age of

1 12 or 15.

2 MR. KANAREK: That has no difference. Where are you
3 going to get the person that wrote that document? He may be in
4 Chillicothe, Ohio.

5 THE COURT: I'm not saying, Mr. Kanarek, that that --
6 whether or not that document is admissible. I'm simply saying
7 to you that that entire file is filled with many expressions of
8 opinion and this -- when it is used in the way that it is used.

9 Now, as Mr. Manzella has pointed out to me his
10 objection is an expression of opinion "almost continuous
11 custody since the age of eight."

12 MR. KANAREK: Every doctor's report that your Honor
13 gets, every psychiatrist's report, when he goes on and talks to
14 people, and every probation report that your Honor reads is
15 loaded with people's opinion.

16 THE COURT: And many of those opinions are not admissible.
17 If we're talking about an analogy in hospital records, that
18 would particularly be true.

19 All right, I'm going to sustain the objection to it
20 at this time.

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

23 THE COURT: The objection to the admissibility of the
24 letter is sustained.

25 MR. MANZELLA: Your Honor, may I talk to Mr. Kanarek for
26 a minute?

27 THE COURT: Yes, you may.

28 (Whereupon, Mr. Manzella conferred with Mr. Kanarek

1 at counsel table, out of the hearing of the jury.)

2 THE COURT: Would counsel again approach the bench,
3 briefly?

4 MR. MANZELLA: Yes, your Honor.

5 (Whereupon, the following proceedings were had at
6 the bench among Court and counsel, outside the hearing of the
7 jury:)

8 MR. MANZELLA: Your Honor --

9 THE COURT: In as far -- yes.

10 MR. MANZELLA: I suggested maybe Mr. Kanarek would be
11 willing to do it, I'd be willing to sit down and go through
12 the file and work out a list of institutions and dates Mr.
13 Manson was in custody and offer it by stipulation.

14 THE COURT: The Court was about to suggest that.

15 MR. KANAREK: I am not going to do that, because that is
16 each -- you don't -- the vice that your Honor is speaking to
17 is pregnant in connection with each of those documents. That's
18 the whole point. You're not going to eliminate it by getting
19 a superficial kind of accuracy by looking at all the documents.
20 Every document that's ever offered --

21 THE COURT: Certainly a record of a service of time in
22 prison is not an expression of an opinion.

23 MR. KANAREK: Certainly. That is very much an expression
24 of opinion. It is probably less reliable. There may be things
25 left out of it. This man made a study. Now, I gather that
26 was your Honor's opinion in connection with Mr. Whiteley.

27 THE COURT: This man made a study?

28 MR. KANAREK: Mr. Kildall. He made a study of Mr. Manson.

1 THE COURT: I thought you were talking about your
2 witness.

3 MR. KANAREK: Mr. Kildall made a study and Mr. Kildall is
4 deceased. And so we have clearly, clearly a record which
5 shows the results of a man who worked for the Bureau of
6 United States Prisons.

7 THE COURT: I am not going to argue that again with you,
8 but I would suggest to you that if you do wish to show the
9 period of time that Mr. Manson has spent in custody that you
10 approach it by allowing Mr. Barrett to go through the file and

11 MR. KANAREK: Every document has the same -- you can
12 argue that to each and every document.

13 THE COURT: If necessary, Mr. Kanarek, that will be the
14 case.

15 MR. KANAREK: Well, all right.

16 THE COURT: As you offer them from the file. But in the
17 Court's opinion, it must meet the requirements of the Evidence
18 Code.

19 Now, either the Business Record Act or Section 1280
20 or --

21 MR. KANAREK: Well, then, we should --

22 THE COURT: Or some other part of the Evidence Code
23 which you believe that permits me to allow such records in.

24 Let's proceed.

25 MR. KANAREK: Well --

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

28 Q BY MR. KANAREK: Mr. Barrett, then, in handling

1 Mr. Manson's case over the years you had --

2 A I didn't handle it over the years.

3 Q You handled -- I mean, for several years.

4 A Yes.

5 Q I mean, since what, 1967?

6 A 1967? '68.

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1 Q Since 1968, and in the time that you've handled
2 him, you've formed an opinion, have you -- if you have -- as
3 to what effect his mother's conduct has had upon him?

4 A No, I didn't form any opinion.

5 Q You never formed any such opinion?

6 A No.

7 Q You never stated to anyone anything concerning what
8 his mother has done, and what effect that had upon Mr. Manson?
9 You've never stated that?

10 A I may have stated to somebody what she had done,
11 but not what effect that had on Manson, no.

12 Q All right. Well, what -- what did you state that
13 she had done?

14 MR. MANZELLA: Objection, your Honor. This calls for
15 hearsay on the part of the witness.

16 THE COURT: Sustained.

17 Q BY MR. KANAREK: Well, in stating, Mr. Barrett,
18 what she had done, will you tell us, what were the occasions
19 when you had to state that?

20 MR. MANZELLA: Objection, your Honor. It doesn't appear
21 to be relevant.

22 MR. KANAREK: This is relevant -- it's up to the
23 absolute discretion of the jury, your Honor, in --

24 THE COURT: Excuse me. Don't argue at this moment.

25 The objection is sustained.

26 Q BY MR. KANAREK: Well, you certainly know that
27 Mr. Manson has had his problems with the law, --

28 A Yes.

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1 Q -- is that right?

2 A Yes.

3 Q And have you formed any opinions as to why he
4 has had these problems with the law, Mr. Barrett?

5 A Yes.

6 Q All right. Why -- may I ask you: Is one of the
7 reasons he has had these problems with the law because of his
8 parental background? What his mother's life was?

9 MR. MANZELLA: Your Honor, I'm going to object on the
10 grounds that it calls for an opinion on the part of the witness --

11 MR. KANAREK: This man has the --

12 MR. MANZELLA: -- without the foundation.

13 MR. KANAREK: This man has the foundation. That's his
14 very job, your Honor.

15 THE COURT: Well, he has stated, Mr. Kanarek -- I'll
16 sustain the objection at this time. It seems to be premature.

17 He has already stated, however, that he never
18 formed any opinion as to what effect the parental background had
19 on Mr. Manson.

20 Q BY MR. KANAREK: Well, in -- in evaluating a
21 probationer, you determine the man's parental background as
22 one of the factors, is that right, Mr. Barrett?

23 A Yes. Yes.

24 Q All right. In evaluating Mr. Manson, you determined
25 his parental background; is that correct?

26 A Yes.

27 Q And you used that letter and other matters to
28 determine his parental background; is that correct?

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1 A Yes.

2 Q All right. Then would you tell us: What was
3 his parental background, upon which you predicated your
4 opinion?

5 MR. MANZELLA: Objection, your Honor. If --

6 THE COURT: Sustained. It's immaterial. He has not
7 expressed any opinion.

8 Q BY MR. KANAREK: Mr. Barrett, you don't -- I'll
9 withdraw that.

10 When I am asking you for an opinion, what I'm
11 asking is your thinking, based upon what you've seen and
12 observed; do you understand?

13 A Yes.

14 Q Now, you have told us that you did consider
15 Mr. Manson's parental background in evaluating him; right?

16 A (No response.)

17 Q Nothing wrong with that. No one's putting you on
18 any --

19 A No, I understand. He was evaluated, and his
20 parental background was taken into consideration; but, within
21 that particular context, I wasn't in the picture.

22 Q I understand you are telling us that -- that when
23 this letter came into the file, you were not his probation
24 officer; right?

25 A Right.

26 Q But if -- if I tell you that you can -- well,
27 I won't tell you. I'll just ask you, then.

28 You understand -- you use his whole file, whether

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1 these items came into existence -- these pieces of paper came
2 into existence when you were his probation officer or not;
3 you still use his whole file; right?

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4 A All right.
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1 Q Now, so -- and one of the aspects of his back-
2 ground that you evaluated was his parental background; you've
3 told us that, right?

4 A Yes.

5 Q All right. So, do you have an opinion as to
6 whether or not his mother and what she did had any influence
7 upon Mr. Manson?

8 A I said: No.

9 Q You don't have any opinion as to whether or not
10 his mother's conduct had any influence on him? No opinion on
11 that whatsoever?

12 A Well, I'll qualify it. I'll say that it probably
13 did not help him.

14 Q All right. And what do you mean by that?

15 A Well, it didn't provide him, perhaps, with some of
16 the needs that he may have, say, found to his advantage during
17 certain periods in his growth.

18 Q Like when he was about 7 or 8 years old?

19 A Could be.

20 Q And in determining that, one of the aspects of that
21 determination was predicated upon this letter that you saw in
22 the file; right?

23 A Yes.

24 MR. KANAREK: I offer that letter into evidence, your
25 Honor, as --

26 THE COURT: In other words, that forms a basis of your
27 opinion, then, that his -- whatever his mother's conduct was,
28 it probably did not help him?

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1 THE WITNESS: Yes.

2 THE COURT: The Court will admit the letter into
3 evidence.

4 MR. KANAREK: Thank you, your Honor.

5 Q Now, Mr. Barrett, I certainly am not intending to
6 criticize you. I --

7 A I understand.

8 THE COURT: The letter you're talking about is the
9 letter from his mother of 19- -- Mr. Manson's mother, in
10 1957?

11 MR. KANAREK: Yes, your Honor.

12 THE COURT: Sorry to interrupt you. You go ahead and --

13 MR. KANAREK: Yes, sir.

14 THE COURT: -- start your question again.

15 Q BY MR. KANAREK: Now, I ask you -- you told us --
16 may I approach the witness, your Honor?

17 THE COURT: Yes, you may.

18 Q BY MR. KANAREK: You told us yesterday some factors,
19 Mr. Barrett, concerning how Mr. Manson was -- was violated,
20 or how you --

21 A Yes.

22 Q I ask you if you would read your own file and --
23 you see, I've marked certain --

24 A Yes.

25 Q Would you read perhaps -- or, if you would, just
26 glance over those particular --

27 A I -- I'm aware of what they say, Mr. Man- -- I'm
28 sorry, Mr. Kanarek.

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1 Q You are aware?

2 A Yes.

3 Q Then is it a fact that Mr. Manson, in October of
4 1969, was violated because Mr. Stanoff incorrectly identified
5 him as the person who bought the gun on July 14th, 1969? Is
6 that a fair statement?

7 A Well, you are making several -- you are combining
8 several different things, and I will --

9 Q Tell us about it. Tell us about it.

10 A Well, first of all, you said -- you used the word
11 "violated," and whenever charges are levied, they are in the
12 form of allegations; and if there is sufficient substance,
13 then the Board sees fit to issue a warrant.

14 But the warrant in itself isn't per se a violation
15 of his parole, because he is still accorded the right to be
16 represented, or to represent himself, before a review board,
17 to determine finally whether those allegations should stand
18 and whether she -- whether a decision should be made as to his
19 being violated or not.

20 Q And in this --

21 A So these were -- these are merely allegations.

22 And he has not, in the classic sense, been
23 violated. Because he hasn't been afforded that opportunity
24 yet to appear before the Board for his case to be heard, on
25 whether or not a violation was in effect.

26 Q And in fact, the preliminary step concerning the
27 warrant was in fact withdrawn by the Department of Justice,
28 because of the fact that Mr. Manson was erroneously identified

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1 by Mr. Stanoff as the person who purchased a certain gun; am
2 I correct?

3 A He was erroneously identified, that is correct.

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1 Q And so the -- the very basis for which the
2 procedure -- upon which the procedure was instituted was
3 erroneous?

4 A No, that's not true. And that is why I --

5 Q Well, maybe --

6 A I didn't make reference to that yesterday, when you
7 asked me the question, because that -- that was one of the
8 allegations that was made in connection with the presumption
9 that he probably was violating conditions of his parole.

10 But that was not the only basis.

11 Q Well --

12 May I approach the witness, your Honor?

13 THE COURT: Yes, you may.

14 Q BY MR. KANAREK: I show you -- and if I may,
15 direct your attention, Mr. Barrett, to this top letter here.
16 This letter dated October 5, 1970. And it's addressed to
17 you, --

18 A Yes.

19 Q -- and it's signed by one Carl M. McKee.

20 A Yes.

21 THE COURT: All right. Now, for the record, it's
22 been identified.

23 MR. KANAREK: Yes.

24 THE COURT: And you may step back, now.

25 MR. KANAREK: I would like to have it marked, if I may.

26 THE COURT: You may mark a copy of it.

27 MR. KANAREK: A copy, certainly; and that is agreeable
28 with Mr. Manzella?

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1 MR. MANZELLA: Yes, your Honor.

2 THE COURT: A copy will be made of it, and it may be
3 marked next for identification of the defendant, whatever it
4 may be.

5 What would that be?

6 THE CLERK: P.

7 Q BY MR. KANAREK: Now, is it a fair statement that
8 this arrest warrant was withdrawn, Mr. Barrett?

9 A You are not confusing that arrest warrant with
10 our parole warrant; right?

11 Q I'm not. I'm asking you --

12 A According to that letter, that arrest warrant of
13 the Alcohol, Tobacco and Tax Division was withdrawn.

14 Q That was withdrawn?

15 A Right.

16 Q And the parole warrant that you are speaking of
17 is a -- is a warrant that has nothing to do with anything that
18 was instituted in connection with this October 5, 1969 letter?

19 A Well, it had something to do with it, yes.

20 Q All right. Would you tell us, what did it have
21 to do with it?

22 A It -- it was reported that Mr. Manson had --
23 or, it was reported that someone identified as Mr. Manson had
24 falsely made application and had obtained one or two guns;
25 and that was in 1969.

26 Q And would you -- is it a fair statement, Mr.
27 Barrett -- and I'm not -- this isn't said with any reflection,
28 but it's an honest mistake -- but is it a fair statement that,

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1 in fact, Mr. Manson reported to you for July, August and
2 September of 1969?

3 And that yesterday, when you told us that he did
4 not report, that that was incorrect?

5 A I said that he had not reported from about
6 August --

7 Q All right.

8 A -- and possibly July.

9 Q All right. Now --

10 A The July reference is incorrect.

11 Q And the August reference is in --

12 A Well, he had -- his report from July, I think,
13 was the last one.

14 Q Well, may I show you your own file, then,
15 Mr. Barrett?

16 A All right.

17 Q Do you see a letter dated September 27th, 1969,
18 signed by Charles Manson?

19 A Yes.

20 Q Is that correct?

21 A Yes.

22 Q That's a letter to you, on the proper form of
23 reporting?

24 A That was way, way delinquent.

25 Q My question is: Did he send in this letter --

26 A Yeah.

27 Q -- on September 27th, 1969?

28 A Yes.

1 Q Now, directing your attention, then -- if I may,
2 then, may I ask you, for a moment, what is delinquent about
3 that?

4 A I did not know where he was between August and
5 September of -- of that date, in '69.

6 Q Well, Mr. Barrett, we are now -- remember, you
7 told us yesterday that Mr. Manson had the obligation to report
8 to you once a month.

9 A Yeah.

10 Q I am now speaking of this once-a-month reporting.

11 A Right.

12 Q So, he did report on September 27th, 1969?

13 A Right.

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1 Q All right. Now, I show you your own file, and
2 ask you: If there is not a letter dated -- or, a report
3 dated August the 27th, 1969, signed by Charles Manson, on the
4 proper reporting form to your office?

5 A Yes.

6 Q So you were in error yesterday?

7 A That's the last time he reported, was in August.

8 Q Well, what about September 27th, 1969, in which he
9 reported on -- on the one that we have just spoken of?

10 A That's way in -- the -- the report for August
11 27th was due the -- on or about the 1st of September.

12 Q All right. So, he -- so, he -- that was on
13 time?

14 A All right, that was on time. And then the next
15 report would have been due the 1st of October.

16 Q And he was, in effect, actually a few days in
17 advance, September the 27th, 1969? Isn't that correct?

18 A Yeah.

19 Q All right.

20 Now, --

21 A Wait a minute. May I look at that again?

22 Q Certainly. . Certainly.

23 A August the -- there's no September report, I
24 believe. That August report is for the month of August.

25 Q All right. Then would you -- then would you look
26 at it again, so you'll have no doubt in your mind, Mr. Barrett?

27 This is the -- that's the one for August; right?

28 A For August.

1 Q All right. See the one for September?

2 (Pause in the proceedings.)

3 THE WITNESS: (Inaudible.)

4 THE COURT: Use the microphone.

5 THE WITNESS: He sent in the month's reports, then, to
6 cover those months, that I thought he missed.

7 But I had testified that he did not keep his
8 whereabouts known to me, in between that period, between
9 August, when I got back from vacation, until we finally sent
10 our letter in September, which we sent before, I think, his
11 report was received.

12 Q BY MR. KANAREK: Well, Mr. Barrett, you were
13 actually in -- on vacation part of this time; right?

14 A Right.

15 Q And furthermore, you have told us that Mr. Manson's
16 obligation was to send these reports in once a month; right?

17 A Right.

18 Q And that's what we are talking about now, are the
19 reports.

20 A You were talking about reporting; right?

21 Q Well, we are talking about a lot of things; but
22 right now, I am focusing and zeroing in on these reports.

23 You told us that he did not make these reports;
24 and in fact, he did. So, actually, you were in error yester-
25 day.

26 A I said that he didn't report his whereabouts to us
27 at all times.

28 Q I believe you told us that he did not send in these

1 monthly reports --

2 MR. MANZELLA: Your Honor, that's argumentative, as to
3 what the witness testified to.

4 THE COURT: Well, the record speaks for itself.

5 MR. MANZELLA: That's correct.

6 Q BY MR. KANAREK: And in fact, he did send in these
7 monthly reports?

8 A In fact, he did.

9 Q So would you say that your state of mind is that
10 you were in error yesterday, when you said that he did not
11 send in these monthly reports?

12 A I was telling you that he did not make his
13 whereabouts known to us, between sometime in August and --
14 until I sent in the report; and at that time, I still did not
15 know where he was, because I went out there to the Spahn
16 Ranch, and they did not know where he was.

17 Q Well, Mr. --

18 A And nobody knew where he was, except he himself
19 and whoever he personally let know, as to his whereabouts.

20 Q And you are saying that Mr. Manson, in -- you
21 went out there, let's say, around -- around the 1st of
22 September, 1969, and Mr. Manson wasn't at the Spahn Ranch;
23 correct, Mr. Barrett?

24 A Well, it was a little after the 1st of September,
25 the first part of September, '69.

26 Q Yeah. He wasn't at the Spahn Ranch?

27 A Right.

28 Q And on August -- let's say around August the 15th

1 to August the 30th of 1969, was Mr. Manson at the Spahn Ranch?

2 A He could have been. I couldn't verify that.

3 Q You don't know whether -- you went out there, and
4 you say you didn't see him?

5 A I wasn't out there between those dates.

6 Q Well, when did you go on your vacation?

7 A August the 15th.

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1 You said between -- if I recall your question, it
2 was -- I understood you to say the period through the end of
3 August, '69.

4 Q So -- yes. Well --

5 A I wasn't there. I was on vacation.

6 Q And you were on vacation from August the 15th on
7 past September; right?

8 A Into the first part of September.

9 Q Now, would you -- would you, Mr. Barrett, tell us
10 when Mr. Manson wrote to you, made his official report?

11 Do you see a date of July the 28th, 1969?

12 A Yes.

13 Q Signed by Charles Manson?

14 A Yes.

15 Q He reported to you on the regular monthly report,
16 on July 28th, 1969; is that correct?

17 A Yes.

18 Q And directing your attention to June the 27th,
19 1969, --

20 A Yes.

21 Q -- didn't Mr. Manson make his regular monthly
22 report to you?

23 A Yes, he did.

24 Q So that, to recapitulate, for the months of June,
25 July, August, September of 1969 -- and even October, in view
26 of the fact you say it was early -- Mr. Manson reported to you
27 on these written reports for each and every one of those
28 months; is that correct?

1 A. Right.

2 Q. That is correct?

3 A. That is correct.

4 Q. And does your file reveal a letter from Mr. Manson
5 to you, dated June -- well, there's no date on it, but it seems
6 to be in the file near --

7 A. June the 30th.

8 Q. -- June 30th, 1969, where he asked you for more
9 report forms, where it says:

10 "Dear Mr. Barrett: Please send more report
11 forms. Thank you."

12 Did that piece of paper containing that writing
13 come with the regular monthly report form dated June 27th,
14 1969?

15 A. Yes.

16 Q. Is that correct?

17 A. Yes.

18 MR. KANAREK: Your Honor, may each of those -- may
19 Mrs. Holt --

20 THE COURT: Each of those reports, June, July, August
21 and September, will be marked for identification.

22 You do wish them marked for identification?

23 MR. KANAREK: Yes, your Honor.

24 THE COURT: All right. They may be copied and marked
25 for identification in their -- bearing their respective letters
26 in order from July -- excuse me -- from June through September.

27 MR. KANAREK: And including, if your Honor would, this
28 request for more report forms, attached to --

1 THE COURT: Is that necessary? You've already read that
2 into the record.

3 MR. KANAREK: I know. I would like that marked for
4 identification, too, if I may, your Honor.

5 THE COURT: All right, Mr. Kanarek. It may be marked
6 for identification as -- let's see.

7 The June report would be what date?

8 MR. KANAREK: Dated June 27th.

9 THE COURT: The June report would be what letter?

10 Excuse me.

11 THE CLERK: Q.

12 THE COURT: It would be R, wouldn't it?

13 THE CLERK: Q.

14 THE COURT: Yes, it would be Q. So the note attached
15 would be Q-1, asking for more report forms.

16 Move along.

17 MR. KANAREK: Yes, your Honor.

18 Now, you will notice, as of -- is it a fair
19 statement, Mr. Barrett, that as of at least October 9, 1969,
20 Mr. Manson was not wanted for any offense, as far as your
21 records are concerned?

22 THE COURT: Now, that question will be stricken.

23 You may rephrase the question.

24 Q BY MR. KANAREK: Is it a fair statement that, as
25 of at least October -- and by "at least" -- I'll withdraw that
26 and rephrase it.

27 Is it a fair statement that not earlier than
28 October 9, 1969, Mr. Manson was not the subject of any warrant

1 by the Department of Justice? Is that a fair statement?

2 A Well, it was being considered by them.

3 Q Well, my question is: As of October 9, 1969, is it
4 a fair statement that Mr. Manson was not wanted by virtue of --

5 A He was wanted on that date.

6 Q -- by virtue of any warrant of the United States
7 Department of Justice?

8 A Well, he was wanted on October 9th.

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1 Q He was wanted on October 9th, 1969?

2 A Yes.

3 Q All right. Now, would you tell us, what is the
4 process -- will you show me, in your files, the process that
5 reflects that Mr. Manson was wanted on October 9th, 1969?

6 A Well, a copy is directed to our office, which was
7 -- which is a -- actually, a transmittal letter, in which a
8 warrant had been transmitted to the U.S. Marshal's Office, in
9 the district in which the individual or parolee was last known
10 to have been identified or was resident; and a copy of this
11 transmittal letter came to us, and it indicates that the Board
12 of Parole did issue a warrant --

13 Q All right.

14 A -- with certain instructions.

15 Q And is it a fair statement that that warrant was
16 not -- was withdrawn --

17 A No.

18 Q -- by virtue of the fact that Mr. Manson was mis-
19 identified as a person who bought a gun from Mr. Stanoff,
20 Nat Stanoff?

21 A No. This warrant was not withdrawn.

22 Q All right. Now, this warrant that you're speaking
23 of was predicated upon offenses which occurred on what date?

24 A (No response.)

25 Q If you would care to look at your file, please do
26 so, if it's going to assist you.

27 A It was predicated on the items that are listed in
28 the conditions of probation, not being fully carried out or

1 discharged by Mr. Manson.

2 Q And so the items of probation --

3 A Parole.

4 Q -- of parole that were not fully discharged were
5 which items?

6 A Well, they were enumerated in that letter,
7 Mr. Kanarek.

8 Q Are these items that you're speaking of, Mr.
9 Barrett, items due to Mr. Manson violating any law after, let's
10 say, October 5, 1969?

11 A You want after October 5th, 1969? Not after
12 October 5th, 1969, no.

13 Q As a matter of fact, this supposed warrant was
14 issued based upon no actual violation by Mr. Manson of any
15 State or Federal statute, is that correct?

16 A Not necessarily. It doesn't include it, but I
17 think he had been arrested on and convicted on a drunk charge
18 or disturbing the peace.

19 Q He had been arrested on a drunk charge?

20 A I take that back. I don't think he had been -- I
21 think he had been arrested on a drunk charge or disturbing the
22 peace, but he had been released. Our warrant was not issued
23 on any, uh, known offense that had been made a -- in which a
24 finding of guilty had been made out in the record.

25 Q And the only reason you issued that warrant was
26 because you got a call from the Sheriff's Department, a
27 Los Angeles County Sheriff's Department, right, Mr. Barrett?

28 A The reasons are very specific right there in the

1 letter, Mr. Kanarek.

2 Q No, I'm asking you as to why did you -- why did you
3 issue that warrant of October 9, 1969, Mr. Barrett? You issued
4 it because the Sheriff of Los Angeles County put pressure on
5 you concerning Mr. Manson?

6 A That's not true.

7 Q That's not true?

8 A No.

9 Q The very items --

10 THE COURT: You may state your reasons.

11 THE WITNESS: They are recited in the letter, your Honor.

12 THE COURT: All right.

13 THE WITNESS: But I can generalize.

14 MR. KANAREK: Well, your Honor, if I may, Mr. Manzella
15 or your Honor may ask questions, but I would like to proceed
16 along this line and --

17 THE COURT: From the tenor of the questions you first
18 put to him, that's what you wanted. You may proceed.
19 I'll withdraw my question.

20 THE WITNESS: I'll answer your question, then, Mr.
21 Kanarek, as you asked it.

22 Q BY MR. KANAREK: Hopefully.

23 A I understand you want to know what my reasons were
24 for recommending that a violator's warrant be issued, is that
25 correct?

26 Q No, no.

27 What I am asking now is -- maybe I'll phrase it
28 this way:

1 It was not until after the Sheriff's Department
2 spoke to you, the Los Angeles County Sheriff's Department --

3 A It wasn't the Sheriff's Department, it was the
4 Alcohol, Tobacco and Tax Unit that spoke about this gun that
5 you are talking about.

6 Q All right. It was not until somebody spoke to you
7 concerning the events of July 14 or July 10, 1969 concerning
8 the gun that Mr. Manson did not purchase that you issued that
9 arrest warrant, right? That can be answered yes or no.

10 A Yes.

11 Q That is correct, what I stated, right?

12 A Yes, yes.

13 Q And the only reason that you did it -- well, let
14 me withdraw that.

15 The purported reasons for issuing this warrant that
16 you are speaking of, Mr. Barrett, were matters that you had
17 already taken into consideration concerning Mr. Manson and
18 having taken them into consideration had not issued any
19 warrant, right?

20 A No, that's not true.

21 Q That's not true?

22 A No.

23 Q But each of the matters concerning which you --
24 concerning which you supposedly based this warrant on were
25 matters that were within your knowledge for months, months
26 and months and months, right?

27 A But proving them is another thing.

28 Q Would you just answer that question?

1 Is it true that these matters were matters that
2 were within your knowledge from month to month and months?

3 A No, that isn't true, as far as that.

4 Q Well, how many months did you know about these
5 matters?

6 A Well, the association with the other parolees was
7 not over months and months and months. I think the -- the
8 chronology there of their relationship with one another or
9 when their relationship was made known to our office is a
10 matter that has been chronicled there, but that was not over
11 months and months and months.

12 But the fact that he never did establish his
13 ability to show legitimate earnings was from -- over months
14 and months and months from the time that he first came back
15 to Southern California.

16 Q And it --

17 A And then, when he, uh, reported living at the
18 Chatsworth Ranch, at the Spahn Ranch, which he referred there
19 on his report in August, and then I went out there in
20 September and they said they knew nothing of him or where he
21 was or where he had moved, then, his whereabouts came unknown
22 to me sometime in September, so that was not months and
23 months and months.

24 And as far as the gun, that was from a period
25 in July, I believe.

26 Q Mr. Barrett, as a matter of fact, your own
27 records show that the relationship of these parolees was
28 found to be legitimate and within the approval of the United

1 States Department of Justice?

2 A Well, they didn't take any action against the other
3 parolees.

4 Q Only Mr. Manson, right?

5 A Well, part of it, yes.

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1 Q What do you mean, part of it? It is true, only
2 the -- these parolees --

3 A The other parolees had done nothing other than
4 merely the association, and it had only been the matter of
5 check the association that was the criticism against Mr. Manson,
6 we probably would have given him the same consideration.

7 Q But that --

8 A But that acts --

9 Q But you got a call from the Sheriff's Department
10 telling you that Mr. Manson was to be violated?

11 A No.

12 Q You discussed that with the Sheriff's Department,
13 may I put it that way?

14 A No, I dis--

15 Q Or you discussed it with some law enforcement
16 people?

17 A When, on top of his being remiss in complying with
18 other conditions of his parole, and I receive a report from
19 a bona fide enforcement agency that one of our parolees is
20 in possession of guns, I am not about to give him the benefit
21 of the doubt or to assume any further risk by allowing some-
22 body in the community, when we're told -- we're told that
23 law enforcement has gone to the extent of actually obtaining a
24 warrant for his arrest of violation of gun control, and that
25 triggered our recommendation for a warrant. But that alone
26 was not the only reason, as I pointed out why the warrant was
27 issued.

28 Q Well, the violation of gun control was incorrect.

1 Mr. Manson was not the person who purchased that gun from
2 Mr. Stanoff, right?

3 A Right.

4 Q So that basis for the violation was invalid and
5 specious?

6 A But our other --

7 Q Well, would you just answer that?

8 A Yes.

9 Q That's correct, right?

10 A Yes.

11 Q And so the only time you violated him was con-
12 cerning matters that you had known about and had said were okay
13 and you had not found anything remiss about that?

14 A I never said okay.

15 Q May I finish, Mr. Barrett?

16 You had not found anything remiss concerning these
17 matters until some law enforcement official told you that we
18 want to get Mr. Manson?

19 A They didn't say we want to get Mr. Manson.

20 Q They didn't say we want to get him, they just said
21 violate him, right?

22 A They never said -- nobody ever made any recommen-
23 dation to us about violating him. They merely point out where
24 he made the endangering or threatening to somebody or someone.

25 Q I see. And so they told you that, and you then
26 went ahead and started the process going on or about October 9,
27 1969, right?

28 A Yes. Well, not on or about October 9, 1969, if I

1 may look at the record?

2 Q Certainly, go ahead.

3 A The letter was dated September 23.

4 Q September 23, 1969?

5 A '69, right.

6 Q Is the time concerning your -- is the time after
7 you had spoken to some law enforcement officials?

8 A Right.

9 Q And as of October 5th, 1969, your own Federal
10 Government agency told you that that charge was no good, that
11 that was absolutely a lie and untrue, right?

12 A Where do you get October 5th of '69?

13 Q Is there a letter there, a very top letter dated
14 October 5, 1969?

15 A It is October 5, 1970.

16 Q Well, I'm sorry, then.

17 I'm referring to this October 9, 1969.

18 October 9, 1969.

19 A That's the trans-- copy of the transmittal letter.

20 Q Right.

21 A Regarding the issuance of the warrant.

22 Q Right. And that was predicated in connection with
23 the improper identification of Mr. Manson?

24 A Right.

25 Q Right?

26 A To certain -- in part, right.

27 Q Now, does your file reflect -- does your file
28 reflect the warrant -- is there anywhere in that file a copy of

1 the warrant?

2 A The warrant itself?

3 Q Yes.

4 A No, no, Mr. Kanarek.

5 Q Mr. -- just answer the question, Mr. Barrett.

6 A No.

7 Q Is that warrant anywhere in your file?

8 A The warrant itself, no.

9 Q It is nowhere there?

10 A No, right.

11 THE COURT: We'll recess now, ladies and gentlemen, until
12 tomorrow morning at 9:30. Try to start on time tomorrow.

13 9:30 tomorrow morning, and remember the admonition
14 that I have heretofore given you concerning speaking amongst
15 yourselves.

16 Do not speak amongst yourselves about this case,
17 nor with anyone else, nor permit anyone to speak with you
18 concerning it, nor form or express any opinion on the matter
19 until it is finally submitted to you.

20 Remember, too, the admonishment that I have given
21 to you concerning publicity.

22 The prohibition against looking at news reports,
23 the Court would like to continue to impose that, have you
24 impose that upon yourselves and by virtue of this court order,
25 then, although you may have television sets, the Court would
26 ask that you not look at any news reports. And as to news-
27 papers, the bailiff tells me that he, during the last ten days
28 or so, has been maintaining the same sort of surveillance over

1 the newspapers. And yesterday your television sets were
2 returned, is that correct?

3 (Whereupon, there were murmurs heard by the jury
4 of "Yes, that is correct.")

5 THE COURT: All right, maintain the same discipline,
6 then, that the Court has previously ordered, and the Court
7 thanks you for your attention. See you tomorrow morning at
8 9:30.

9 (Whereupon, an adjournment was taken at 4:30 p.m.
10 to reconvene Thursday, November 11, 1971, at 9:30 a.m.)
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