

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.

170
NO. A-267861

REPORTERS' DAILY TRANSCRIPT

THURSDAY, NOVEMBER 11, 1971

PENALTY PHASE

VOLUME 70

APPEARANCES:

For the People:

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BY: ANTHONY MANZELLA,
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For Defendant Manson:

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MARY LOU BRIANDI, CSR
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Official Court Reporters

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I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>VOIR DIRE</u>
BARRETT, Samuel	9874	9858	9961	9911, 9918, 9924
	9924			

E X H I B I T S

<u>DEFENDANT'S</u>	<u>For Identification</u>	<u>In Evidence</u>
N - letter from Kathleen Manson (withdrawn)	9874	
P - letter		9946
Q through T - reports		9944
Q-1 - request for forms		9945
U - letter	9887	9946
V - letter	9888	9915
W - U. S. Probation Office "Telegraphic Message"	9890	9903
X - page of Mr. Barrett's notes	9891	9952
X-1 - yellow sheet	9891	9952
Y - a memorandum, 9/2/61	9892	
Z - letter, 7/24/69	9892	
AA - a letter, 7/17/69	9893	
BB - copy of a letter, 6/6/69	9894	9951
CC - letter, 5/27/69	9894	9939
DD - letter, 12/17/68	9894	
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LOS ANGELES, CALIFORNIA, THURSDAY, OCTOBER 11, 1971

10:15 A.M.

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THE COURT: Good morning, ladies and gentlemen.

(Whereupon, there were murmurs heard by the jury of "Good morning, your Honor.")

THE COURT: In the case of People vs. Manson, the record will show all the jurors are present. Mr. Kanarek for the defendant, Mr. Manzella for the People.

Mr. Kanarek.

MR. KANAREK: Yes, your Honor.

Your Honor wishes the reporter?

THE COURT: Yes.

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

(Whereupon, Mr. Kanarek conferred with the defendant Manson through the screen of the holding tank door.)

MR. KANAREK: Yes, Mr. Manson would like to come into the courtroom.

THE COURT: All right, he may.

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

THE DEFENDANT: Good morning.

THE COURT: The record will show Mr. Manson to be present in the courtroom.

Mr. Kanarek, you may proceed.

MR. KANAREK: Yes, thank you, your Honor.

Mr. Barrett, I believe, is on the witness stand.

1 MR. MANZELLA: Your Honor, at this time, may I take
2 Mr. Barrett on voir dire for a few questions or would the
3 Court prefer that I wait until cross-examination?

4 THE COURT: You may take him on cross.

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6 EXAMINATION

7 BY MR. MANZELLA:

8 Q Mr. Barrett, in evaluating a probationer, or
9 parolee, do you consider factors other than a man's parental
10 background?

11 A Oh, yes, sure.

12 MR. KANAREK: Well, your Honor, that's outside the scope
13 of what I interrogated Mr. Barrett about, your Honor.

14 THE COURT: Well, the answer may remain in.

15 Q BY MR. MANZELLA: And in considering those other
16 factors, did you consider letters and reports contained in the
17 two parole files to which you referred yesterday, other than
18 the one letter which you identified as being from Mr. Manson's
19 mother?

20 MR. KANAREK: Your Honor, I will object on two grounds.

21 First, on the violation of equal protection in that
22 on many occasions during this trial I have asked to voir dire
23 witnesses and your Honor has summarily denied the request.
24 It is on the basis of the Fourteenth Amendment, the United
25 States Constitution.

26 And the other, this is not voir dire, this is
27 cross-examination. He's not voir diring.

28 THE COURT: The objections overruled. You may answer.

1 Q BY MR. MANZELLA: Do you recall the question?

2 A Yes, that information would be considered signifi-
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1 Q And directing your attention in particular to
2 Mr. Manson and to the two parole files that -- to which you
3 referred yesterday, did you in fact consider other letters and
4 reports contained in those files in evaluating Mr. Manson's --
5 strike that.

6 (Continuing) -- in evaluating Mr. Manson as a
7 parolee or probationer?

8 A Yes.

9 MR. KANAREK: That's -- that's not voir dire, your Honor.
10 That's cross examination.

11 THE COURT: Well, the objection is overruled.

12 The answer may remain in the record.

13 Will Counsel approach the bench.

14 MR. MANZELLA: Thank you. At this point, your Honor,
15 I would ask permission to approach the bench.

16 THE COURT: All right. You may.

17 (Whereupon, the following proceedings were had at
18 the bench among Court and counsel, outside the hearing of the
19 jury:)

20 MR. KANAREK: First, your Honor, before we start on
21 whatever we are approaching the bench for, I ask that the
22 bailiff, who is immediately behind Mr. Manson, be removed.

23 He has a walkie-talkie. It's very prejudicial.
24 And it's -- in the presence of the jury, he has some kind of
25 radio contact with -- with Big Brother or whatever; and he's
26 using this instrument.

27 And I object. It's in the presence of the jury.
28 It's right behind Mr. Manson, and it --

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1 THE COURT: I hadn't noticed it. But if it bothers
2 you, I'm sure that he can put it away.

3 Now, what do you propose to do?

4 MR. MANZELLA: I asked to voir dire, and I asked to
5 approach the bench on the question of whether or not the
6 letter from Mr. Manson's mother, which was --

7 THE COURT: Defendant's Exhibit N.

8 MR. MANZELLA: Yes. (Continuing) -- which was
9 offered yesterday, was in fact admissible.

10 I wanted to argue that point. I realize that the
11 Court has already ruled, but I would ask the Court to vacate
12 its ruling for the purpose of hearing argument on the question.

13 THE COURT: All right. Both counsel and the Court have
14 discussed this, the record should show, in chambers last
15 night, after the jury left the courtroom.

16 And the Court did find the case, People versus
17 Chapman, while Mr. Kanarek and the Court and you, Mr. Manzella,
18 were looking for authorities on it.

19 And I think it's 261 Cal. Ap. 2d 149.

20 And I have also looked at the Evidence Code,
21 Section 801, particularly.

22 And you have other citations?

23 MR. MANZELLA: Yes, your Honor, I do. A case which
24 cites Chapman with approval, and relies on Chapman, is found
25 at 263 Cal. Ap. 2d 784; and the discussion on this point is
26 at Pages 792 to 794.

27 THE COURT: That's the Board of Trustees versus Porini?

28 MR. MANZELLA: Yes, your Honor.

1 THE COURT: I've read that, yes.

2 MR. MANZELLA: Yes. And in that case, the Porini case,
3 the opinion of the psychiatrist was stricken because he based
4 his opinion in part upon the statements of lay third persons,
5 the hearsay statements of lay third persons; and as I say,
6 the Chapman case was cited with approval.

7 MR. KANAREK: It has no application, your Honor. That is
8 a mis- -- if I may --

9 MR. MANZELLA: If I may finish?

10 I am also relying on Section 801 of the Evidence
11 Code, which says that an expert's opinion may be based upon
12 hearsay, whether or not that hearsay is admissible at the
13 trial -- which is, I believe, 801 Subsection B of the Evidence
14 Code.

15 My position is, your Honor, that while Mr. Barrett
16 may form an opinion of Mr. Manson, based upon all of the files
17 he has read --

18 THE COURT: Well, first, there has been no expression of
19 opinion by Mr. Barrett about Mr. Manson. It's just been
20 assumed, I think, or inferred that Mr. Barrett has a -- has some
21 kind of opinion about Mr. Barrett -- or, about Mr. Manson; but
22 there has been no expression of opinion.

23 The thing that Mr. Barrett has said is, in effect,
24 that Mr. Manson's early care or lack of it probably didn't
25 do him any good.

26 As to whether or not Barrett can express an opinion,
27 he has been in contact with hundreds of probation reports.
28 He's -- he has a master's degree. He has taken courses in

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1 psychology, as well as sociology. The Court believes that,
2 in view of his wide experience, that he probably is an expert
3 in certain areas, on causes of criminality.
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1 I would be inclined to rely upon him. But that's
2 not so much the question. The question is whether or not, in
3 stating the opinion that he did state, that Manson's early
4 care probably didn't -- or lack of it -- probably didn't do
5 him any good, --

6 MR. MANZELLA: Your Honor?

7 THE COURT: -- whether Exhibit N is therefore admissible.

8 And I think, under the cases you have shown me,
9 that the Court's ruling was probably therefore erroneous, and
10 that it should not be admitted.

11 The Court's feeling is that it is a matter of
12 discretion as to whether or not that document is admissible; and
13 in weighing its probative value, I cannot see that the
14 jury could be assisted by it. It would be difficult for them
15 to distinguish the facts that are related in there, from
16 the reasons why the document would be admitted.

17 By that, I mean it would be difficult for them to
18 follow any instruction whereby they were informed to utilize
19 it for the purpose or basis of judging the opinion of Mr.
20 Barrett.

21 And logically, since Mr. Barrett has responded
22 that it's not the sole basis for the -- that the letter,
23 Exhibit N, is not the sole basis for his opinion, other parts
24 of the file therefore could probably be introduced.

25 And logically, the Court would be required to
26 admit them, if they form any part of his -- the basis for his
27 opinion.

28 Accordingly, having read that file, I think it

1 would be prejudicial to Mr. Manson to allow in such documents
2 and expressions of opinion, most of which are derogatory to
3 Mr. Manson.

4 I've noted in the file letters from his mother
5 which are contradictory to what she says in the 1957 letter,
6 and which are very derogatory of the defendant.

7 I think the People's point is well taken, and the
8 Court will reverse its ruling --

9 MR. KANAREK: Well, before your Honor rules, the Porini --

10 THE COURT: -- will reverse its ruling --

11 MR. KANAREK: The Porini case is just the opposite --

12 THE COURT: And --

13 MR. KANAREK: Has your Honor finished?

14 THE COURT: Yes.

15 MR. KANAREK: In the Porini case, as a matter of fact,
16 they make the point that the reason that -- and I'm referring
17 on Page 792 -- they make the point that the under -- that the
18 material upon which the psychiatrist based his -- his opinion
19 was not introduced in evidence. The tape was not played;
20 characterization of the nature of the material was not made by
21 the psychiatrist. A motion to strike the doctor's testimony
22 was denied.

23 In other words, what the Court is saying is that
24 the underlying material must be allowed into evidence. And
25 the fact is, the -- the Court's solicitude for Mr. Manson on
26 the -- and the rest of the file notwithstanding, the fact of
27 the matter is, it's up to the absolute discretion of the jury
28 as to -- as to what is done in connection with Mr. Manson at

1 the penalty phase.

2 And there is no question but what other -- other
3 parts of that file are not before the Court at this time. The
4 only thing that's before the Court is the letter from the
5 mother -- I mean, that's what we are talking about.

6 And that letter from the mother clearly -- clearly
7 shows a lack of parental care and guidance on behalf of --

8 THE COURT: It will remain as N for identification, --

9 MR. KANAREK: Well, the --

10 THE COURT: -- and the Court has viewed this file, which
11 consists of about -- oh, a pile of six inches of documents;
12 and many of them are expressions of opinion, and many of them
13 are derogatory of Mr. Manson -- extremely derogatory.

14 MR. KANAREK: Well, that may or may not be, in the context
15 of these proceedings. They may be the opposite of derogatory.
16 They may be helpful, because those --

17 THE COURT: And the Court believes that in this circum-
18 stance, that this letter would not be admissible.

19 And the Court believes that the cases and the law
20 support the Court in its decision.

21 MR. KANAREK: The fact of the matter is, your Honor,
22 that this letter is not -- is very helpful to Mr. Manson,
23 It shows -- it shows upon what this man has based his opinion.

24 THE COURT: What is his opinion?

25 MR. KANAREK: His opinion is that Mr. Manson did not
26 receive proper parental care and guidance.

27 I can -- may I show your Honor the transcript?

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1 THE COURT: All right. Read from the transcript what the
2 utterance was.

3 MR. KANAREK: May I get my copy of it?

4 MR. MANZELLA: Here, use mine. It starts there and goes
5 on.

6 MR. KANAREK: "In evaluating --" this is at Page 9831.

7 "In evaluating Mr. Manson, you determined his
8 parental background; is that correct?

9 "And you used that letter and other matters to
10 determine his parental background; is that correct?

11 "A Yes.

12 "Q Then, would you tell us: What was his parental
13 background, upon which you predicated your opinion?"

14 Then, I withdrew that question, because the Court
15 sustained it.

16 All right. Now, this says -- and then, the next
17 question is:

18 "When I am asking you for an opinion, what I'm
19 asking is your thinking, based upon what you've seen and
20 observed; do you understand?

21 "A Yes."

22 And so on. Then --

23 THE COURT: Well, at that point, there was no expression
24 of opinion. You just simply asked him whether or not he
25 evaluated --

26 MR. KANAREK: Here it is. And he states, "No, I under-
27 stand. He was evaluated, and his parental background was taken
28 into consideration; but, within that particular context, I

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1 wasn't in the picture."

2 And it goes on -- and if your Honor wishes me to
3 read further --

4 THE COURT: No, you needn't, since it's part of the
5 record.

6 MR. KANAREK: Well, yes. But your Honor is mistaken.
7 He did render an opinion.

8 Now --

9 THE COURT: What was the opinion? That's what I'm
10 asking you.

11 MR. KANAREK: All right. Here. All right.

12 "So, do you have an opinion as to whether or not
13 his mother and what she did had any influence upon Mr. Manson?

14 "A I said: No.

15 "Q You don't have any opinion as to whether or not
16 his mother's conduct had any influence on him? No opinion on
17 that whatsoever?

18 "A Well, I'll qualify it. I'll say that it
19 probably did not help him.

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

21 That's clearly -- he's giving his opinion;
22 there's no question about that.

23 And then it says:

24 "Well, it didn't provide him, perhaps, with
25 some of the needs that he may have, say, found to his
26 advantage during certain periods in his growth.

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

28 "A . Could be."

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1 Clearly, the man is giving an opinion.

2 THE COURT: He is giving an opinion that --

3 MR. KANAREK: And he based it upon the letter.

4 THE COURT: -- that what his mother did and the way she
5 treated him probably didn't help him; correct?

6 MR. KANAREK: And he based it on the letter, in part, at
7 least.

8 And furthermore, your Honor can give a limiting
9 instruction. Throughout this trial --

10 THE COURT: Yes, the Court has discussed that with both
11 counsel. But the Court believes that it's within my discretion
12 to refuse to permit that letter in evidence, and to refuse to
13 permit any other document which is otherwise inadmissible in
14 evidence, which might be the basis or part of the basis for
15 this opinion expressed by Mr. Barrett.

16 And the Court so rules.
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1 (Whereupon, the following proceedings were
2 had in open court within the presence and hearing of the jury:)

3 THE COURT: The Court heretofore has ordered Defendant's
4 N can be admitted into evidence. The Court reverses that
5 ruling. It remains as N for identification.

6 You may proceed, Mr. Kanarek.

7
8 DIRECT EXAMINATION (Continued)

9 BY MR. KANAREK:

10 Q Mr. Barrett, when Mr. Manson last was released from
11 the penitentiary, did you have a conversation with him wherein
12 he told you -- wherein he discussed with you whether or not
13 he wished to be released from the penitentiary?

14 A Are you talking about in 1967?

15 Q Any time, Mr. Barrett. Any time when you spoke
16 with Mr. Manson.

17 A Well, I didn't talk to him about anything specific
18 of that nature.

19 Q Did you have a conversation with him wherein --
20 wherein he told you that people on the outside from time to
21 time have gotten Mr. Manson into certain difficulties?

22 MR. MANZELLA: Objection, your Honor, that calls for
23 hearsay.

24 THE COURT: Sustained.

25 Q BY MR. KANAREK: Did you have any conversation with
26 Mr. Manson wherein he indicated that he did not wish to be
27 outside of the penitentiary?

28 MR. MANZELLA: Objection on the same grounds, it calls

1 for hearsay.

2 MR. KANAREK: Your Honor, uh --

3 THE COURT: If you wish to argue, you may approach the
4 bench.

5 MR. KANAREK: No, I am not arguing.

6 Q BY MR. KANAREK: Well, I'll ask you this,
7 Mr. Barrett, referring to this letter by Mr. Kildall,
8 Mr. Barrett, Mr. Kildall's --

9 THE COURT: Has that heretofore been marked for
10 identification?

11 MR. KANAREK: Defendant's O, your Honor.

12 Q Mr. Kildall was an employee of the Department of
13 Justice in his lifetime?

14 A Right.

15 Q Is that correct?

16 A Yes.

17 Q In this letter of June 12th, 1957, to Mr. Meador,
18 from Mr. Kildall, that letter was written within the scope
19 of the employment of Mr. Kildall, correct?

20 A Correct.

21 Q And Mr. Kildall's function was to make these
22 analyses, is that correct?

23 A Correct.

24 Q Now, when Mr. Kildall did the kind of work he did,
25 would you tell us what it was, give us a brief description of
26 it.

27 A Well, Mr. Kildall was the chief of classification
28 and parole at Terminal Island and the Federal Correctional

1 Institution there, which means that he was in charge of this
2 department and prepared the processing for release of the
3 inmates of that institution on parole and --

4 Q And -- yes, go ahead.

5 A -- and he worked in liaison between the institution
6 there and the probation and parole office in Los Angeles or
7 wherever the release destination would be of the inmate. We
8 work with that particular office in that given location.

9 MR. KANAREK: Your Honor, then, on that basis, under
10 Section 1280 of the Evidence Code, I offer Defendant's O into
11 evidence.

12 MR. MANZELLA: People object to the introduction of
13 Defendant's O, your Honor.

14 THE COURT: Yes, the Court does not believe that it is
15 admissible under 1280, under the standards set by 1280, which
16 are such that you have not established --

17 MR. KANAREK: Well, your Honor --

18 THE COURT: Therefore, the motion is denied.

19 MR. KANAREK: I would like to approach the bench. It is
20 a clear --

21 THE COURT: You need not. I think you've made your
22 motion and argument.

23 Q BY MR. KANAREK: Well, Mr. Barrett, at what age did
24 Mr. Manson first go into custody in accordance with the
25 official records of the United States government?

26 A Well, Mr. Kildall made --

27 Q Would you just answer that question, Mr. Barrett,
28 please?

1 A I thought that he went into some type of protective
2 custody around the age of 11 or 12.

3 Q This letter says 8. Does that refresh your
4 recollection?

5 A Well, Mr. Kildall said 8, but I don't know where he
6 obtained that age factor.

7 Q Mr. Kildall said 8 and he was the chief of
8 classification and parole at that time?

9 A That's right.

10 Q And within his authority he had -- I'll withdraw
11 that.

12 I'm sorry -- within his possession for use in his
13 official capacity, he had the records pertaining to Mr. Manson,
14 is that correct?

15 A Presumably, yes.

16 Q Well, that was his work, wasn't it?

17 A Yes.

18 Q As a matter of fact, Mr. Kildall's function was to
19 do the very analysis which would be presented to the Court?

20 A To the parole board. It would be the determining
21 body for evaluating their release, that would be the parole
22 board.

23 Q And that analysis and study, all of that would be
24 done and was done by Mr. Kildall, is that correct?

25 A Yes.

26 Q All right.

27 Now, does that study show that Mr. Manson's mother
28 was an alcoholic?

1 THE COURT: Excuse me just a minute.

2 Mr. Kanarek, approach the bench.

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

6 THE COURT: Now, neither of you may read into the record
7 before the jury any part of that file that's otherwise
8 inadmissible, and I have ruled that that was inadmissible;
9 isn't that correct?

10 MR. KANAREK: That the --

11 THE COURT: And I have told you.

12 MR. KANAREK: -- the opinions --

13 THE COURT: Now, you do that again, and you are to be
14 found in contempt.

15 MR. KANAREK: Then, how are we to get this into
16 evidence? The man is dead. It is an official record.

17 THE COURT: You are not going to get it in because it is
18 an opinion of Mr. Kildall, and it is not admissible under
19 Section 1280.

20 MR. KANAREK: It is hearsay.

21 THE COURT: That's correct. It is hearsay and there is
22 document, after document, in that file that is hearsay and
23 an expression of opinion, and it is not -- it does not meet
24 the standards that are set under 1280, nor does it come in
25 under the Business Records Act. And if you wish those
26 expressions of opinion in, of course, then, would there be any
27 way to prevent the People, if I should rule in your behalf, to
28 be logical, would there be any way to prevent the People from

1 putting in any expressions of a derogatory nature, such as a
2 pimp, or small-time thief, and these other things that are said
3 about him; that he is lazy, and that he induced children to take
4 drugs? These are all expressions of opinion in that file.
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1 MR. KANAREK: I understand that, but on violence --

2 THE COURT: Then, you and I and Mr. Manzella have discus-
3 sed it. I don't know whether it has been on the record. It
4 should have been before. But this would be unethical for you,
5 and improper for you to read in the guise of a question
6 those opinions into the record before the jury.

7 MR. KANAREK: That is not so, your Honor.

8 THE COURT: Excuse me, would you tell me --

9 MR. KANAREK: There is nothing unethical, whatsoever,
10 to try in a penalty phase to get into evidence --

11 THE COURT: Did I not tell you that?

12 And that Mr. Kildall's letter would be inadmissible?
13 And did I not warn you that you were not to read his opinions
14 or any other opinion into the record in the guise of a question?

15 MR. KANAREK: I'm not reading his opinion.

16 THE COURT: Didn't they tell you -- did I not tell you
17 that?

18 MR. KANAREK: I don't -- your Honor is posing a question,
19 a broad question.

20 THE COURT: Well, I'm telling you now, I don't want you
21 to do that. And you know very well it is improper.

22 MR. KANAREK: No, it is not improper to ask him a
23 question.

24 THE COURT: To read from an opinion that's in that file
25 that's six inches thick and ask him about it in the words of
26 the letter or the document --

27 MR. KANAREK: All I used was the word "alcoholic."

28 THE COURT: Whatever it may be, is improper.

1 MR. MANZELLA: Your Honor, I would like to point out
2 two things, if I may.

3 Mr. Kanarek has referred to the age of when Mr.
4 Manson first entered an institution. I offered to Mr. Kanarek,
5 if he wishes, we could work out a stipulation as to the exact
6 dates and institutions in which Mr. Manson has been in custody
7 since -- since he was born.

8 Secondly, Mr. Kanarek could call Mr. Manson's
9 mother, and we all know where Mr. Manson's mother lives, in
10 Spokane, Washington, to testify to these things with regard to
11 her background without relying on hearsay. So there's no
12 necessity to offer these opinions contained in the reports
13 and contained in the parole file.

14 MR. KANAREK: I would like to respond to that. First of
15 all, -- first of all, for her to get on the stand and say,
16 "I am an alcoholic," when he is her son -- there are various
17 reasons to respond --

18 THE COURT: The Court is not interested in hearing your
19 response. I've told you before now, I don't want you quoting
20 those inadmissible fragments of the record and putting them in
21 the form of a question for the purpose of getting them before
22 the jury. I think you understand me.

23 MR. KANAREK: Well, if --

24 THE COURT: If they're inadmissible as expressions of
25 opinion, and if they're inadmissible under 1280, then, of
26 course, they shouldn't be before the jury.

27 MR. KANAREK: Well, I would like to inquire of the Court --

28 THE COURT: All right, you may.

1 MR. KANAREK: If I may?

2 THE COURT: As you go along, if you wish. If you are
3 puzzled about whether or not you should ask a certain question,
4 I'll let you do it.

5 MR. KANAREK: The fact of the matter is, I would like to
6 inquire of the Court why this is not admissible under 1280.

7 THE COURT: Well, the Court has already told you that.
8 Let's proceed.

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

11 Q BY MR. KANAREK: Mr. Barrett, was this letter
12 directed to Mr. Meader, part of the file?

13 A Yes.

14 Q Of the --

15 A Our file, our department file, yes.

16 Q And you used and have used this file in evaluating
17 Mr. Manson?

18 A Yes.

19 Q Is that correct?

20 A Yes.

21 Q And did you use this letter as part of the
22 information upon which you have evaluated Mr. Manson?

23 A When I personally have evaluated him?

24 Q Is the question unclear?

25 A Well, that letter was sent at a certain time to
26 serve for a particular purpose, and it was significant at that
27 time. The fact that I knew about that letter may not have
28 made any difference to me in terms of what my particular

1 interest was in Mr. Manson during our supervision of him.

2 Q Uh, my question, Mr. Barrett, is -- you see, we
3 are interested in obtaining information from you, and whether
4 this information came in to your possession personally, when
5 it first hit the file or not, is not what we're particularly
6 interested in.

7 What we're interested in is whether or not, whenever
8 it hit the file, you had occasion to consider this information
9 in your relationship with Mr. Manson.

10 Do you understand? That's my question.

11 A All right, I understand.

12 Q In your relationship with Mr. Manson, whenever
13 this information hit Mr. Manson's file, did you at any time
14 read over this letter and consider the information contained
15 therein in connection with Mr. Manson?

16 A Yes.

17 Q And in connection with Mr. Manson, did you use
18 this information in forming an opinion as to Mr. Manson's
19 thinking processes, and his tendency to obey the law or dis-
20 obey the law, things of that nature?

21 Is the question clear?

22 A I didn't use that letter to primarily form an
23 opinion ever of Mr. Manson.

24 I may have used it to gain some understanding, but
25 that letter itself didn't provide any primary reason for me to
26 develop an opinion on Mr. Manson.

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1 Q Now, Mr. Barrett, you used the word primary. I
2 am not asking whether it is primary or secondary. I'm just
3 asking whether, in fact, you did use it, for whatever weight
4 you may have given it.

5 A All right.

6 Q In fact, you did use it to some extent, true, is
7 that correct?

8 A To some extent, yes.

9 Q You did use that in forming an opinion concerning
10 Mr. Manson's tendency to obey the law, his tendency to disobey
11 the law, whatever that might be, and his thinking processes;
12 is that correct?

13 A Yes.

14 Q Is that right?

15 A Yes.

16 Q All right. And what opinion did you form
17 concerning Mr. Manson's tendency to obey or disobey the law?

18 A From that letter?

19 Q In toto, Mr. Barrett.

20 MR. MANZELLA: Your Honor, I object to the question only
21 on this ground, it is vague and ambiguous as to the time of the
22 opinion. Apparently the question asks for an opinion formed
23 sometime in the past. It is vague as to the time, what time
24 in the past.

25 Q BY MR. KANAREK: All right, I'll ask what time ---
26 not what time it is right now, but what time?

27 A When Mr. Manson came back into our district? At
28 that time, then?

1 Q Yes, whatever time it might be, Mr. --

2 A From the time in -- of the spring or early spring
3 of '68?

4 Q Yes.

5 A My opinion would be that we would be skeptical
6 about Mr. Manson having been able to conform completely with
7 all respect toward the laws.

8 Q That was predicated in part by this letter that's
9 in the file, right, among other things in the file; is that
10 correct?

11 A All right.

12 Q Yes? You mean yes?

13 A Yes.

14 MR. KANAREK: Then, your Honor, I offer this letter,
15 Defendant's O, into evidence because it is part of the basis
16 upon which Mr. Barrett has rendered an opinion.

17 THE COURT: Motion denied.

18 MR. MANZELLA: People object to Defendant's O.

19 THE COURT: Motion denied.

20 Q BY MR. KANAREK: Well, would you tell us, Mr.
21 Barrett, when you say you became skeptical of Mr. Manson's
22 ability to conform and obey the laws -- is that right?

23 A Yes.

24 Q -- that was in 1968 sometime?

25 A Yes.

26 Q And when in 1968 was that?

27 A I think around -- well, from about March on in '68.
28 I think when he came into Ventura County from Northern

1 California.

2 Q And your skepticism began at that point and
3 continued on, what, until the present day?

4 A Until we finally violated his parole in September
5 or started to in September of '69.

6 Q Well, you didn't violate this parole until October
7 9?

8 A I said we started to. His parole was violated on
9 October 9, that's correct.

10 Q October 9, 1969, is when you violated his parole?

11 A That's right.

12 Q Would you tell us, Mr. Barrett, at that time you
13 had in your mind the entire file, including this letter from
14 Meador?

15 A From Mr. Kildall.

16 Q Pardon me, from Mr. Kildall, is that right?

17 A Yes.

18 MR. KANAREK: May I see the file, your Honor?

19 Your Honor, I would ask that this -- if I may,
20 that this October 9 --

21 THE COURT: Referring to the October 9th communication?

22 MR. KANAREK: Yes. May this be -- may I approach the
23 witness, your Honor?

24 Q BY MR. KANAREK: This is the -- is this the letter
25 that you are speaking of?

26 A Yes, yes.

27 MR. KANAREK: May this be marked next in line, your
28 Honor, for identification?

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THE COURT: U.

MR. KANAREK: I think it is U.

THE COURT: It may be marked U for identification.

(Whereupon, Mr. Kanarek and Mr. Manzella conferred with the clerk out of the hearing of the jury, which was not reported:)

Q BY MR. KANAREK: Now, in connection with that violation, there is a letter in the file dated September 23, 1969.

Are you familiar with that letter, I assume?

A Yes, I am.

Q And does this letter reflect or purport to reflect the purported or stated basis for the violation dated October 9, 1969?

A Yes, that is correct.

MR. KANAREK: May I approach the witness again, your Honor?

THE COURT: You may.

Q BY MR. KANAREK: Would you look at that, and would you read that over as hurriedly as possible, Mr. Barrett, and tell me whether or not that is -- no question that that letter is the initiating letter of October 9, 1969's action?

A No question about it.

MR. KANAREK: Your Honor, may this be marked next in --

THE COURT: If it has not been marked, it would be --

MR. KANAREK: V, I take it.

THE COURT: R for identification.

MR. KANAREK: No, V, I think.

1 THE COURT: Would it be V?

2 MR. KANAREK: Yes.

3 THE COURT: Yes, it would be V. V for identification,
4 then.

5 Q BY MR. KANAREK: Now, I note in the letter --

6 MR. MANZELLA: Your Honor, may I see the letter before
7 Mr. Kanarek --

8 MR. KANAREK: Well, Mr. Manzella has had this file, your
9 Honor. I'm very sorry; I had thought that he had read the
10 letter. I apologize, if he has not.

11 (Whereupon, there was a pause in the proceedings
12 while Mr. Manzella perused the document.)

13 THE COURT: Ladies and gentlemen, the Court must call
14 some other matters for another department. I am obliged to
15 take a recess at this time. During the recess you are admon-
16 ished that you are not to converse amongst yourselves, nor
17 with anyone else, nor permit anyone to converse with you on
18 any subject connected with this matter, nor form or express
19 any opinion on it until it is finally submitted to you.

20 About 15 minutes, ladies and gentlemen.

21 (Short recess.)

22 THE COURT: All jurors are present. The defendant is
23 present with Mr. Kanarek, Mr. Manzella for the People.

24 You may proceed.

25 MR. KANAREK: Yes.

26 Now, I have a series of documents, your Honor, I
27 would like the witness to identify in the file.

28 May I approach the witness?

1 THE COURT: You may approach the witness.

2 MR. KANAREK: Is the next -- is U the last one, Joyce?

3 THE CLERK: Yes. No, V.

4 MR. KANAREK: V?

5 THE CLERK: V.

6 Q BY MR. KANAREK: I have here, Mr. --

7 THE CLERK: Mrs. Holt.

8 (Whereupon, there was a pause in the proceedings
9 while the Court conferred with the clerk.)
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1 Q BY MR. KANAREK: I have here a document that's
2 entitled "Telegraphic Message," and at the top, it says
3 "U.S. Probation Office."

4 May that be marked next in line, your Honor, for
5 identification?

6 THE COURT: So ordered.

7 What is the letter?

8 Q BY MR. KANAREK: Yes, what is that?

9 THE COURT: What is the letter?

10 THE CLERK: W.

11 MR. KANAREK: W.

12 THE COURT: W.

13 Q BY MR. KANAREK: Would you tell us, Mr. Barrett,
14 what is that, if you know?

15 A That's a copy of a --

16 MR. MANZELLA: Your Honor, excuse me. Without seeing it,
17 I have to object on the grounds that the Court's already
18 ruled on the contents of that file coming into evidence.

19 MR. KANAREK: Well, Mr. Manzella is welcome to join me
20 here at the witness stand. I am sure that --

21 THE COURT: That's not the basis of his objection.

22 Sustained.

23 MR. KANAREK: Well, for identification, your Honor?
24 I am asking that it merely be marked for identification.

25 THE COURT: It is marked for identification.

26 You may answer generally what it is, Mr. Barrett.

27 THE WITNESS: That's a copy of a telegraphic message
28 that was sent from our office to the Sheriff's Office in

1 Independence, California.

2 THE COURT: On what date?

3 THE WITNESS: On October 9th, I believe -- I'm sorry,
4 your Honor. On October the 15th, 1969.

5 Q BY MR. KANAREK: I see a document here which appears
6 to be an 8-1/2 by 11 notebook paper, with some writing on it.

7 Do you recognize that writing, Mr. Barrett?

8 A May I look at it?

9 Q Yes, certainly.

10 A It's some notes of mine.

11 Q Those are your notes, right?

12 A Right.

13 MR. KANAREK: All right. May that be marked X, your
14 Honor?

15 THE COURT: The page bearing Mr. Barrett's notes?

16 MR. KANAREK: Yes.

17 THE COURT: That may be marked X for identification.

18 Q BY MR. KANAREK: And you'll note, where it says
19 there's a -- appears to be a memorandum of a call, that a
20 special investigator Michael -- do you notice that?

21 A Yes.

22 MR. KANAREK: May that be marked X-1, your Honor, that
23 yellow sheet, that small yellow sheet?

24 THE COURT: That may be marked X-1.

25 Will you mark in the lower right-hand corner of
26 it "X-1," so that Mrs. Holt may have it copied?

27 MR. KANAREK: And may I -- and then I'll put an "x" on
28 the --

THE COURT: Yes, you may so mark it there.

1 MR. KANAREK: Thank you.

2 I have next a memorandum addressed to Mr. Barrett,
3 from Mr. Michael, U.S. Treasury, dated 9-2-61.

4 May that be marked W, your Honor?

5 THE COURT: There has heretofore been a W marked.
6 It would be Y.

7 MR. KANAREK: Very well, your Honor.

8 THE COURT: For identification.

9 MR. KANAREK: Thank you.

10 (Counsel marking the exhibit.)

11 Q BY MR. KANAREK: I have a -- a letter dated
12 July 24, 1969, to Mr. Angus D. -- am I pronouncing --

13 A McEachen.

14 Q From one Arnold J. Vodvarka. May that be marked
15 Z, your Honor?

16 THE COURT: So ordered.

17 MR. KANAREK: Thank you.

18 THE COURT: Z for identification.

19 THE REPORTER: Mr. Kanarek, may I have the spellings
20 of those two names?

21 MR. KANAREK: McEachen, M-c-E-a-c-h-e-n. Vodvarka,
22 V-o-d-v-a-r-k-a.

23 THE REPORTER: Thank you.

24 Q BY MR. KANAREK: I have a letter here dated -- or,
25 a copy of a letter dated July 17, 1969.

26 What would your Honor suggest? That's the end of
27 the alphabet, Z.

28 THE COURT: That would be A-1.

1 MR. KANAREK: A-17

2 THE COURT: Excuse me. That would be AA.

3 MR. KANAREK: AA? Very well. May that be marked AA,
4 your Honor?

5 THE COURT: It may be so marked, for identification.
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1 MR. KANAREK: I have a letter marked -- a copy of a
2 letter dated June 6, 1969, and I ask that that be marked, I
3 gather, from BB, your Honor?

4 THE COURT: So ordered. It may be -- you may mark it
5 in the lower right-hand corner.

6 MR. KANAREK: Thank you.

7 (Counsel marking the exhibit.)

8 I have a letter marked May -- or, it says "Received
9 May 28, 1969," dated 5-27-69.

10 May that be marked CC, your Honor?

11 THE COURT: It may be so marked.

12 MR. KANAREK: I have a letter marked -- or dated December
13 17, 1968, and I ask that that be marked DD, your Honor.

14 THE COURT: You may so mark it.

15 MR. KANAREK: Thank you.

16 (Counsel marking the exhibit.)

17 THE COURT: The markings are all for identification only.

18 Q BY MR. KANAREK: I apologize, Mr. Barrett, but
19 we have agreed that we may copy these letters -- these docu-
20 ments, in order that your file be intact; right? Is that
21 correct?

22 A Yes.

23 Q So you won't be inconvenienced by not having it.
24 Bear with us.

25 A Yes, sir.

26 Q All right. Now, directing your attention to the
27 -- this warrant --

28 A Telegraphic message.

AA
BB

CC-id

1 Q The telegraphic message, actually, in effect, that
2 is a warrant; that -- the effect of that is to hold a person;
3 is that correct?

4 A A detainer, yes.

5 Q Now, does this telegraphic message reflect the
6 official action of your office?

7 A Yes, it does.

8 Q And do you have personal knowledge of what is set
9 forth in that telegraphic message?

10 A I sent the message.

11 Q You sent the message. And you -- at the time that
12 the message went, you are the one that composed it?

13 A That's correct.

14 Q Is that correct?

15 A Yes.

16 Q And it was done at or about the time that is
17 indicated on this document?

18 A That is true.

19 Q And you are an official employee of the United
20 States Government; right?

21 A Right.

22 MR. KANAREK: I ask that this be marked -- be offered
23 into evidence under 1280 of the Evidence Code, your Honor.

24 THE COURT: Denied at this time.

25 MR. KANAREK: Well, then, I would like to approach the
26 bench, so that we can -- Mr. Barrett will not have the incon-
27 venience of having to be in this courtroom unduly -- any longer
28 than necessary, your Honor.

1 Because I believe it's admissible, under 1280 of
2 the Evidence Code. It's clearly --

3 THE COURT: It may be. But the Court is denying your
4 motion at this time.

5 MR. KANAREK: Would your Honor look at it at this time?

6 THE COURT: The Court has seen it.

7 Go on with your next question.

8 Q BY MR. KANAREK: Did you, on October 15th, 1969,
9 place a hold upon Mr. Manson?

10 A I did.

11 Q And did you telegraph -- or, did you communicate
12 that action to anyone else?

13 A Yes, I did.

14 Q And to whom did you communicate that action?

15 A To the Sheriff in Independence, California.

16 THE COURT: May I see that?

17 MR. KANAREK: Certainly, your Honor.

18 THE COURT: Go ahead, Mr. Kanarek.

19 MR. KANAREK: Well, I needed -- or, I was going to --
20 maybe if your Honor could look at the exhibits, we could --

21 THE COURT: Well, proceed, Mr. Kanarek.

22 MR. KANAREK: Well, I need --

23 THE COURT: Unless you wish to have these?

24 MR. KANAREK: Very well. I'll work around it.

25 Now, that -- that exhibit, that telegraphic
26 message, that was a result of action taken after you had
27 consulted with your superiors, --

28 A Yeah.

1 Q -- is that correct?
2 A Yes.
3 Q And this is the superiors in the Los Angeles Office?
4 A Yes.
5 Q And did it involve superiors in any other office?
6 A No.
7 Q And did that occur after you had had conversation
8 with law enforcement officers at the state level?
9 A Yes.
10 Q And you had spoken with people in the Sheriff's
11 Department; is that correct?
12 A Yes.
13 Q People -- that is, the Los Angeles County Sheriff's
14 Department?
15 A No, it was -- well, I may have, but -- I may have.
16 Q And also you spoke to Los Angeles Police officers?
17 Los Angeles Police Department officers?
18 A At that -- on that day?
19 Q Not on that day, but prior to that day, concerning
20 Mr. Manson.
21 A No, I don't think I did.

4b

4b-1

1 (Pause in the proceedings while a discussion off
2 the record ensued at the bench between the Court and the
3 clerk.)

4 MR. KANAREK: Is your Honor finished with that?

5 THE COURT: Yes.

6 Q BY MR. KANAREK: Now, do you have authority,
7 Mr. Barrett, to act for the United States Board of Parole?

8 A Yes.

9 Q I see. Thank you.

10 Now, these notes that are dated October 14th,
11 '69, --

12 A Yes, sir.

13 Q -- in your handwriting -- this is your handwriting?

14 A Yes.

15 Q Would you read for me what that number one says?

16 MR. MANZELLA: Your Honor, excuse me. I'll object on
17 the grounds previously stated: That it appears to call for
18 hearsay.

19 MR. KANAREK: Your Honor, it's not offered for the
20 truth of the matter --

21 THE COURT: Just a minute.

22 MR. KANAREK: -- asserted, but --

23 THE COURT: Just a minute.

24 MR. KANAREK: Yes, sir.

25 THE COURT: The Court has informed you before that you
26 are not to argue before the jury.

27 MR. KANAREK: Very well, your Honor.

28 THE COURT: I'll look at it.

1 I hope you don't mind if I look over your shoulder,
2 Mr. Barrett.

3 THE WITNESS: No, certainly not.

4 MR. KANAREK: May I approach the bench to make argument,
5 if your Honor --

6 THE COURT: What is the note, Mr. Barrett?

7 THE WITNESS: That note was a conversation that I held
8 over the telephone with one of the agents from the Treasury
9 Department.

10 THE COURT: And while you were in the course of the
11 conversation with him, you made these -- you made these
12 notes?

13 THE WITNESS: Yes, your Honor.

14 THE COURT: You may proceed, Mr. Kanarek.

15 The objection is overruled.

16 MR. KANAREK: Yes.

17 Q Would you read what these notes say?

18 A "Witness who identified -- who identified Manson
19 was one that they confused with another individual."

20 Q In other words, the identity was a misidentifica-
21 tion of Mr. Manson, in connection with the purchase of guns
22 from Mr. Stanoff, --

23 A Yes.

24 Q -- is that a shorthand way of saying it?

25 A Yes.

26 Q All right. What is the next --

27 A And then it says, "Handwriting on Manson was no
28 good." Meaning that the exemplar did not correspond with -- I

4b-3

1 mean, with his own writing.

2 Q And so the -- whatever this person did, who
3 purchased these guns, by way of a writing, was not Mr. Manson's
4 writing; correct?

5 A Right.

6 THE COURT: This is the information that you received and
7 jotted down?

8 THE WITNESS: Right.

9 THE COURT: And you, Mr. Kanarek, are not offering it for
10 the proof of the truth of the matter concerned, but to
11 establish that that information was in fact given to
12 Mr. Barrett?

13 MR. KANAREK: And to show the state of mind of
14 Mr. Barrett; that's what it's offered for.

15 THE COURT: The Court will instruct the jury that
16 those notes referred to, that Mr. Barrett took down in his own
17 handwriting, and which are a part of the file, are not
18 received to prove the truth of the matters uttered in the notes,
19 or written in the notes, but simply to establish that they were
20 transmitted to Mr. Barrett; that that information was trans-
21 mitted to Mr. Barrett to establish, if it does in fact
22 establish, Mr. Barrett's state of mind with respect to that
23 information.

24 Q BY MR. KANAREK: And you have a third notation,
25 Mr. Barrett. What is that?

26 A Oh, that's that they thought he was arrested in
27 Inyo that past week.

28 Q All right. Now, this -- by "they thought," you mean

4b-4

1 that -- who was the "they" you are referring to, Mr. Barrett?

2 A The agent from the -- who was a Mr. Michaels --

3 Q I see.

4 THE COURT: An agent of what?

5 THE WITNESS: Alcohol, Tobacco and Tax unit, within the
6 U. S. Treasury Department.

7 Q BY MR. KANAREK: And would you tell us what
8 connection, if any, that those people have in the purchase of
9 a gun?

10 A Well, the enforcement of the gun laws is the
11 responsibility, or delegated to the -- primarily to the
12 Alcohol, Tobacco and Tax unit.

13 They serve as the enforcing agency for the control
14 of all those gun laws.
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1 Q And has it been your experience that these people
2 obtained information by relationship with local law enforcement
3 officers, such as Sheriffs and police officers?

4 A I am sure they do.

5 Q Now, then, on October the 14th, 1969, is the date
6 that you wrote these notes, Mr. Barrett?

7 A Yes.

8 Q Then can you tell me, in view of the exoneration --
9 in your mind, at least -- by virtue of what we have spoken of,
10 how is it that you issued a warrant on October the 15th, 1969?

11 A The warrant was issued on October the 9th, 1969.

12 Q Well, the telegraphic -- excuse me, then. The
13 telegraphic message, then, that you sent was -- I'm sorry if
14 I misstated that.

15 That telegraphic message, asking the people to hold
16 Mr. Manson, was issued on October the 15th; right?

17 A Right.

18 THE COURT: This is the -- you are now quoting from a
19 document, Mr. Kanarek, which document you've asked be admitted
20 into evidence. It's not yet admitted into evidence.

21 You have simply quoted from it, and the Court --
22 the Court grants your request.

23 MR. KANAREK: Thank you, your Honor.

24 THE COURT: And what document is it?

25 MR. KANAREK: It is the --

26 THE COURT: Can you identify it by letter?

27 MR. KANAREK: I think it's X.

28 THE COURT: Didn't you mark it in the lower right-hand

4c-2

1 corner?

2 MR. KANAREK: Maybe it's V. Isn't it?

3 THE COURT: I think it's W.

4 THE CLERK: If it's the yellow telegraphic message,
5 that's W.

6 THE COURT: That was my recollection.

7 Will you mark a "W" in the lower right-hand
8 corner?

9 MR. KANAREK: Yes. Thank you.

10 (Counsel marking the exhibit.)

11 THE COURT: W is admitted into evidence.

12 Q BY MR. KANAREK: Then, would you tell me, in view
13 of your state of mind, by virtue of what you have spoken of
14 concerning these notes, would you tell me upon what basis,
15 then, did you issue the telegraphic message, Mr. Barrett?

16 A Well, the warrant was still in effect. It was
17 still operative. Nobody had recalled the warrant. And the
18 only authority to recall the warrant would be the U. S. Board
19 of Parole itself.

20 Q And --

21 A But with the -- with the warrant being authorized
22 and active, we were merely going ahead, then, and using that
23 as the basis to make the arrest.

24 Q And so, all of this that you are telling us about
25 occurred after your conversations with local law enforcement
26 officers; right?

27 A Right.

28 Q All right. Now -- Now, directing your attention

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1 to the item that we have marked as Y --

2 Now, your Honor, I would like to approach the
3 bench, because I want to interrogate concerning this, and I
4 think it should be admitted; but I don't -- unless your Honor
5 recalls it from viewing it --

6 THE COURT: Again, I'll have to look over your shoulder.

7 (Pause in the proceedings while the Court perused
8 the exhibit.)

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S-1

1 THE COURT: You may not approach the bench. You may
2 proceed.

3 MR. KANAREK: May it be admitted, your Honor, in
4 evidence?

5 THE COURT: No, it may not be admitted, and you are
6 referring to --

7 MR. KANAREK: I am referring to Item Y, and it is
8 offered on state of mind, your Honor, only, of Mr. Barrett.

9 THE COURT: It is denied.

10 Q BY MR. KANAREK: Well, Mr. Barrett, did you write
11 this document while you were an official United States
12 government --

13 A No, I didn't write that. That was written to me.

14 Q Did the person who wrote this document -- well,
15 would you tell us the name of the person who wrote this
16 document?

17 A No, it is from Mr. Smith, one of the probation
18 officers in our office.

19 Q Now, is he an official -- do you recognize
20 Mr. Smith's signature when you see it?

21 A Well, I wouldn't want to go on record as saying
22 that I would be an expert in certifying that was his signature,
23 but it looks like it.

24 Q It appears to be his signature?

25 A It appears to be, yes.

26 Q And did you -- can you tell us -- you say you
27 received this.

28 Can you tell us when did you receive this document,

5-2

1 Mr. Barrett?

2 A Well, sometime after 9-2-69.

3 Q Did you -- can you give us an estimate?

4 A After I came back from vacation, after Labor Day,
5 a week after Labor Day, whenever that date was.

6 Q And does this involve official matters pertaining
7 to your job and the job of Mr. Smith?

8 A Oh, yes.

9 MR. KANAREK: And then, your Honor, I would ask that it be
10 admitted into evidence to show the state of mind.

11 THE COURT: The motion is denied.

12 Q BY MR. KANAREK: Directing your attention,
13 Mr. Barrett, to your state of mind.

14 When you -- during the period of time after, oh,
15 let's say sometime after September, the early part of
16 September, 1969, did you have a state of mind concerning
17 Mr. Manson's purchase, alleged purchase of a gun?

18 I'm asking now your state of mind, what you were
19 thinking. I'm not asking for whether or not it was true.

20 MR. MANZELLA: I'm sorry, your Honor, I didn't hear the
21 date.

22 (Whereupon, the record was read by the reporter as
23 follows:

24 "The early part of September, 1969.")

25 THE COURT: Would you read the entire question, please?

26 (Whereupon, the record was read by the reporter
27 as follows:

28 "Directing your attention, Mr. Barrett,

5-3

1 "to your state of mind.

2 "When you -- during the period of
3 time after, oh, let's say sometime
4 after September, the early part of
5 September, 1969, did you have a state
6 of mind concerning Mr. Manson's purchase,
7 alleged purchase of a gun?")

8 MR. MANZELLA: Thank you.

9 THE WITNESS: I understood that Mr. Manson might be in
10 possession of some firearm.

11 Q Did you have a state of mind as to how much money
12 Mr. Manson supposedly had upon him when this gun was purchased?

13 I'm asking of your state of mind based upon any-
14 thing that you may have -- anything -- by whatever --

15 A No, it wasn't focused on any amount of money that
16 Mr. Manson had in his possession.

17 Q Well, I asked you if you would look at People's
18 -- or the one that's marked identification number -- or marked
19 Y for identification.

20 Would you read that over and see if that refreshes
21 your recollection as to your state of mind concerning what
22 money Mr. Manson supposedly had upon him during the time that
23 the gun was allegedly purchased?

24 A Well, they used --

25 Q Would you answer that question?

26 If it -- my question is merely whether that
27 refreshes your recollection as to your state of mind at that
28 time, Mr. Barrett.

1 Do you understand the question?

2 A Yes.

3 Well, there was some reference that Mr. Manson
4 had a lot of money on him, but I didn't necessarily evaluate
5 that. I mean, I didn't try to determine whether he did or
6 didn't. As far as I am concerned, it was just a superficial
7 remark until it can be established or whether -- until it can
8 be shown that there was some significance between -- some
9 relationship between having a lot of money and whatever else
10 the particular interest in him was at that time.

11 Q And in viewing Defendant's Y for identification,
12 does that refresh your recollection as to your state of mind
13 that you've just enunciated?

14 A Yes.

15 THE COURT: Ladies and gentlemen, the Court again must
16 call some other matters. We'll recess until 2:00 o'clock.

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

21 We will be in recess until 2:00 o'clock.

22 (Whereupon, at 11:49 A. M. the noon recess
23 was taken, to resume at 2:00 o'clock of
24 the same day, Thursday, November 11, 1971.)
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1 LOS ANGELES, CALIFORNIA, THURSDAY, NOVEMBER 11, 1971, 2:13 P. M.

2
3 THE COURT: The record will show all the jurors are in
4 the box; Mr. Manson is present; Mr. Kanarek is present, and
5 Mr. Manzella.

6 And the witness, Mr. Barrett, is on the stand.

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

8
9 SAMUEL BARRETT,

10 having been previously sworn, resumed the stand and testified
11 further as follows:

12 MR. KANAREK: May I approach the witness, your Honor?

13 THE COURT: Yes, you may.

14
15 DIRECT EXAMINATION (Continued)

16 BY MR. KANAREK:

17 Q Mr. Barrett, I show you what has been marked
18 Defendant's V for identification, and ask you if that is a
19 copy of an official document from your office -- or from the
20 office of the United States Department of Parole.

21 A Yes, it is.

22 Q And directing your attention to Mr. McEachen,
23 is he or was he your supervisor?

24 A He was in charge of our department.

25 Q And is it true that the original of this letter,
26 which is marked Defendant's V, was executed --

27 THE COURT: Defendant's what?

28 MR. KANAREK: V, your Honor, as in victory.

1 THE COURT: All right.

2 Q BY MR. KANAREK: (Continuing) -- that the original
3 of this letter was signed by Mr. McEachen; is that correct?

4 A Yes, or -- well, let's see. He delegated some of
5 the signing to the supervisors. It was signed, presumably,
6 by -- well, approved by Mr. McEachen, yes.

7 Q And is it true that the information in this letter
8 was supplied by you through Mr. McEachen?

9 A Yes.

10 Q And you have personal knowledge concerning the
11 matters that are set forth in this letter, --

12 A Yes.

13 Q -- is that correct?

14 A That's correct.

15 MR. KANAREK: Your Honor, then I offer this -- this
16 letter into evidence at this time.

17 MR. MANZELLA: Is that Defendant's V, your Honor?

18 MR. KANAREK: V, yes.

19 THE COURT: V. May I see it, please?

20 MR. KANAREK: Certainly, your Honor.

21 (Pause in the proceedings while the Court perused
22 the exhibit.)

23 MR. MANZELLA: Your Honor, may I inquire -- ask
24 Mr. Barrett one question on voir dire, with regard to the
25 letter?

26 THE WITNESS: I didn't hear the question.

27 MR. MANZELLA: I didn't ask you yet, Mr. Barrett. I was
28 asking permission.

1 (Further pause in the proceedings while the
2 Court perused the exhibit.)

3 THE COURT: Yes, you may.
4

5 VOIR DIRE EXAMINATION

6 BY MR. MANZELLA:

7 Q Mr. Barrett, does this letter contain the reasons --
8 your reasons and the reasons known to you -- for the issuance
9 of the parole warrant?

10 MR. KANAREK: Your Honor, that's cross examination, That
11 is not voir dire. It calls for a conclusion, furthermore.

12 THE COURT: You may both approach the bench, gentlemen.

13 MR. KANAREK: Thank you.
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1 (Whereupon, the following proceedings were had at
2 the bench among Court and counsel, outside the hearing of the
3 jury:)

4 THE COURT: All right, this V contains a great deal of
5 conjecture and surmise and opinion, and it would not, in the
6 Court's opinion, be indicative of trustworthiness as required
7 under Section 1280.

8 MR. KANAREK: Well, then, I ask for a hearing outside
9 the hearing of the jury to prove how trustworthy --

10 THE COURT: For what?

11 MR. KANAREK: How can your Honor tell whether it is
12 trustworthy by reading --

13 THE COURT: If you have established it, it should be
14 admissible.

15 Did you wish --

16 MR. MANZELLA: The reason I asked the question, was
17 if the letter contains his reasons for the issuance of the
18 parole warrant, it would be a shorthand way of getting the
19 reasons of the issuance of the warrant before the jury,
20 because he wasn't questioned about it. But if Mr. Kanarek
21 objects to it, then, I'll object to the letter coming in.

22 MR. KANAREK: It is to show state of mind, his state of
23 mind. We are in a penalty phase.

24 THE COURT: It doesn't show his state of mind.

25 MR. KANAREK: If he --

26 THE COURT: The letter is directed to Mr. Joseph Shore,
27 by somebody from McEachen's office.

28 MR. KANAREK: But Mr. McEachen is --

1 THE COURT: Excuse me just a minute.

2 MR. KANAREK: -- is the head --

3 THE COURT: Do you have an objection to the letter
4 coming in?

5 MR. MANZELLA: Yes, I do, your Honor. I object to it on
6 the grounds it constitutes hearsay. Since it is not a letter
7 written by this witness, then it can't possibly show his state
8 of mind.

9 MR. KANAREK: Not so, your Honor. If we can establish
10 this signature is a mere formality, if this Mr. McEachen
11 merely takes and --

12 THE COURT: Why are you offering it, to show the reason
13 why Mr. Barrett recommended violation of a parole?

14 MR. KANAREK: Yes, of Mr. Manson, correct.

15 MR. MANZELLA: Your Honor, my position was if those are
16 the reasons of Mr. Barrett, then, I would have no objection to
17 the letter. That's why I asked the question to which
18 Mr. Kanarek objected.

19 MR. KANAREK: I say it is proper cross examination.

20 MR. MANZELLA: If they're his reasons, then -- then, I
21 have no objection to the letter. But if they are not, then, I
22 object.

23 THE COURT: That hasn't been established, has it?

24 MR. KANAREK: Your Honor, I have no pride of authorship.
25 If your Honor wishes to ask the question, I have no objection
26 if your Honor wishes to ask him those questions.

27 THE COURT: Well, the Court doesn't wish to do that.

28 MR. KANAREK: I'll --

1 THE COURT: Gentlemen, I think we're dealing essentially
2 here with trivia. I would like to have you move it along.

3 MR. KANAREK: It is not -- I deem it most important,
4 because to my notion it shows a lack of guilt on the part of
5 Mr. Manson for -- it is our position that Mr. Manson has been
6 put upon.

7 THE COURT: So far the Court hasn't heard anything in
8 respect to guilt. What the Court has heard is argument between
9 you and Mr. Barrett as to whether or not the Sheriff's Office
10 caused Mr. Barrett to revoke the probation or whether
11 Mr. Barrett of his own reasons revoked it.

12 MR. KANAREK: Right, these are circumstances that show
13 Mr. --

14 THE COURT: Very well, if you believe those are important,
15 well, you may continue to examine Mr. Barrett on that subject.
16 However, I would like to have you move along. You've had him
17 on the witness stand a long period of time.

18 MR. KANAREK: Well --

19 THE COURT: Now, just a minute.

20 I have no objection to your asking the question, if
21 you want to establish the foundation, and if it is established,
22 then, of course, Mr. Manzella has no objection to the letter.

23 MR. KANAREK: Thank you, your Honor.

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

26 THE COURT: Mr. Barrett, you are familiar --

27 THE WITNESS: Yes, your Honor.

28 THE COURT: -- with the contents of that letter, with

1 what's mentioned, particularly on the second page with
2 Mr. McEachen or whoever wrote --

3 THE WITNESS: I wrote the letter, your Honor.

4 THE COURT: And those reasons that are spelled out in the
5 letter for recommended revocation of the parole, the termina-
6 tion of the probation, were your reasons at the time?

7 THE WITNESS: Yes, your Honor.

8 THE COURT: The Court will admit the -- admit V in
9 evidence.

10 MR. KANAREK: Thank you, your Honor.

11
12 DIRECT EXAMINATION (Continued)

13 BY MR. KANAREK:

14 Q Now, would you tell us, Mr. Barrett, what is
15 Item No. 5 of the term or of the terms of probation or parole?

16 A Mr. Kanarek, I would have -- because they change
17 all the time -- I don't try to memorize the numbers because
18 they change. But Items 5 and 12 are enumerated on the condi-
19 tions of parole.

20 Q Would your file -- if you had your file, would
21 they assist you?

22 A Yes, they should be in there somewhere.

23 Q Certainly, certainly.

24 (Whereupon, there was a pause in the proceedings
25 while the witness perused files.)
26
27
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1 THE WITNESS: I've located it, Mr. Kanarek.

2 Q BY MR. KANAREK: In your -- well, just to back-
3 track just a moment, Mr. McEachen signing this letter is a
4 mere formality?

5 A That's right.

6 Q Because he's the -- the head of the office?

7 A Right.

8 Q So it's your letter?

9 A Well, my name appears there on the lower left-hand
10 side (indicating), as you can see, --

11 Q Right.

12 A -- right there. That identifies the letter as
13 having been written by me.

14 Q I see. Thank you. Now, directing your attention
15 to your mention in this letter, where you state, "In addition
16 to our allegations that subject has violated items 5 and 12 of
17 the supervision requirements, we believe he has also violated
18 item 11, by virtue of his association with other parolees which
19 was reported to you by Mr. Callahan of our San Bernardino
20 Office and by Mr. Pierce at the Las Vegas Office."

21 A Yes.

22 Q All right. Would you tell us, what is item 5,
23 then?

24 A All right. I'll read item 5.

25 Q Yes, certainly.

26 A "That I will work regularly at a lawful occupation
27 and support my dependents, if any, to the best of my ability.
28 When out of work, I will notify my probation officer at once."

1 "Item No. 12, --"

2 Q Yes. What is item number 12?

3 A -- "that I will not have in my possession any fire-
4 arm or other dangerous weapon, without the written permission
5 of my probation officer, following prior approval of the Board
6 of Parole."

7 Item Number 11? "That I will not associate with
8 persons having a criminal record, bad reputation, nor with
9 those engaged in questionable occupations."

10 Q And that was number --

11 A That last one was number 11.

12 Q I see. And did you tell us what number 12 was?

13 Oh, yes, --

14 A Yes.

15 Q -- you have. That was the firearm one.

16 A That's right.

17 Q Now, directing your attention to Defendant's Z,
18 was this document a document that was made in the ordinary
19 course of business by the United States Department of Justice,
20 United States Board of Parole?

21 A Yes, it was.

22 Q And was that document a part of -- is that document
23 a part of the official file concerning Mr. Manson?

24 A Yes, it is.

25 Q And did you, at or about July 24th, 1969 come in
26 contact with that document?

27 A Yes, I did.

28 Q And would you tell us, then, whether or not this

1 document reflects matters that are involved in your official
2 job as probation officer for Mr. Manson?

3 A Yes.

4 MR. KANAREK: Your Honor, I ask that this be admitted in-
5 to evidence.

6 THE COURT: May I see it, Mr. Barrett?

7 MR. KANAREK: Certainly.

8 (Pause in the proceedings while the Court perused
9 the proffered exhibit.)

10 THE COURT: Do you object?

11 MR. MANZELLA: Well --

12 THE COURT: Do you wish to see it?

13 MR. MANZELLA: I have a copy of it, your Honor.

14 If I may inquire of Mr. Barrett, your Honor?

15 THE COURT: You may.

16
17 VOIR DIRE EXAMINATION

18 BY MR. MANZELLA:

19 Q Mr. Barrett, did you author this letter?

20 A That letter that's being introduced into evidence
21 now?

22 Q Yes, Defendant's Z for identification.

23 A No. That was written to our department.

24 MR. MANZELLA: I see. Your Honor, the People would
25 object upon the ground that the letter --

26 MR. KANAREK: Well, may we approach the bench, your
27 Honor, if there's going to be --

28 THE COURT: What is the objection?

1 MR. MANZELLA: Hearsay.

2 MR. KANAREK: It's offered on state of mind, your Honor.
3 It's not offered for the truth of the matters asserted in the
4 document.

5 THE COURT: The Court will allow you to approach the bench.
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1 (Whereupon, the following proceedings were had at
2 the bench among Court and counsel, outside the hearing of the
3 jury:)

4 THE COURT: I can't -- I can't see the materiality of
5 it.

6 MR. KANAREK: It's the proof of a negative, your Honor.
7 It's most material.

8 THE COURT: What does it prove?

9 MR. KANAREK: It proves that Mr. Manson is a person who
10 was not causing any problems. This is -- this is a -- this is
11 a document dated July 24th, 1969, and it -- it -- the negative
12 is -- is many times more powerful than positive evidence.

13 It shows that -- that -- if I might get poetic
14 about it -- that in a very positive way, he wasn't causing any
15 problems; that they are not taking any action, after a thorough
16 study of Mr. --

17 THE COURT: We haven't any idea what that means, --

18 MR. KANAREK: Well, it clearly --

19 THE COURT: -- "as recommended, no action is being taken
20 in this case at this time."

21 MR. KANAREK: That's right.

22 THE COURT: Do you know what that means?

23 MR. KANAREK: Yes, it --

24 THE COURT: What does it mean, then?

25 MR. KANAREK: It means that Mr. Barrett made a report
26 as of July 17th, 1969, that Mr. Manson was not causing any
27 problems.

28 THE COURT: Oh, no, it doesn't. It's directed to

8a-2

1 Mr. Barrett by Mr. Vodvarka.

2 MR. KANAREK: But Mr. McEachen (indicating) is
3 Mr. Barrett's supervisor.

4 THE COURT: That's correct.

5 MR. KANAREK: And this means, when it's his report, it
6 means that -- that -- that this particular person, who was
7 involved in it with -- they work very closely together.

8 THE COURT: Vodvarka?

9 MR. KANAREK: Yes.

10 THE COURT: I don't think it's admissible, --

11 MR. KANAREK: Well, it's --

12 THE COURT: -- in the Court's opinion.

13 MR. KANAREK: Well, it certainly proves the negative:
14 That Mr. Manson was not creating any problems, as far as the
15 parole people are concerned.

16 MR. MANZELLA: If that's the purpose for the
17 introduction of the exhibit, it's hearsay, --

18 MR. KANAREK: It's not hearsay.

19 MR. MANZELLA: -- since Mr. Vodvarka isn't here to
20 testify to it.

21 MR. KANAREK: But it affects his state of mind. This is
22 a parole officer -- there's a rapport between people in the
23 department; and there's obviously conversations inter se and
24 action inter se of people within the --

25 THE COURT: It reflects an action and opinion by
26 Mr. Vodvarka, apparently, and not by Mr. Barrett.

27 MR. KANAREK: But it --

28 THE COURT: I will sustain the objection.

1 MR. KANAREK: Here, may I have the document back?

2 Thank you.

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

5 THE COURT: The objection is sustained.

6
7 DIRECT EXAMINATION (Continued)

8 BY MR. KANAREK:

9 Q Mr. Barrett, do you know Mr. Vodvarka?

10 A Personally?

11 Q Well, do you know who the gentleman is?

12 A Yes.

13 Q What is his occupation?

14 A Well, he --

15 MR. MANZELLA: Objection. It's not relevant.

16 MR. KANAREK: I am laying the foundation, your Honor.

17 THE COURT: Sustained.

18 Q BY MR. KANAREK: In the Department of Justice,
19 United States Board of Parole, what is an acting parole
20 executive?

21 MR. MANZELLA: Objection. It's not relevant.

22 THE COURT: Sustained.

23 MR. KANAREK: I am laying the foundation, your Honor.

24 THE COURT: Sustained.

25 MR. KANAREK: It's a preliminary question.

26 THE COURT: Sustained.

27 Q BY MR. KANAREK: Did you, on or about July 17th,
28 1969, Mr. Barrett, make a report concerning Mr. Manson?

1 A To whom?

2 Q To anyone.

3 A I could have.

4 Q Well, I will show you Defendant's Z -- may I
5 approach the witness, your Honor?

6 THE COURT: Yes, you may.

7 Q BY MR. KANAREK: I show you Defendant's Z and ask
8 you if this refreshes your recollection as to whether or not you
9 made a report?

10 A I believe I did.

11 Q All right. Do you have that report in your file,
12 in the files that you have here?

13 A I think so.

14 Q Would you locate that for us, please?

15 (Pause in the proceedings while the witness
16 leafed through the file.)

17 THE WITNESS: I have located it.

18 Q BY MR. KANAREK: All right. May I see that?

19 And that report is what we have termed AA, in --
20 that you've previously testified to, as AA; is that correct?

21 A Yes,

22 MR. KANAREK: I offer Defendant's AA into evidence, your
23 Honor.

24 THE COURT: Will you pass that to me, Mr. Barrett?

25 MR. KANAREK: Certainly.

26 THE COURT: Thank you.

27 (Pause in the proceedings while the Court perused
28 the exhibit.)

9-1
1 MR. MANZELLA: May I ask one question on voir dire, your
2 Honor?

3 THE COURT: Very well, you may.
4

5 VOIR DIRE EXAMINATION

6 BY MR. MANZELLA:

7 Q Mr. Barrett, did you author Defendant's AA?

8 A Yes, I did.

9 MR. MANZELLA: Thank you. No further questions, your
10 Honor.

11 THE COURT: It is received.

12 MR. KANAREK: Thank you, your Honor.
13

14 DIRECT EXAMINATION (CONTINUED)

15 BY MR. KANAREK:

16 Q I show you Defendant's BB, Mr. Barrett, and ask you
17 to look at that and tell us whether the subject matter in that
18 letter was subject matter that you furnished the United States
19 Department of Parole?

20 A I didn't furnish the Department of Parole or the
21 Board of Parole with that information. That was written from
22 our San Bernardino Office.

23 Q Was -- is that information information that was
24 set out in an official United States Government file pertaining
25 to Mr. Manson?

26 A Yes.

27 Q Was it set out at a time that was near or at the
28 time that that subject matter came into the knowledge of some-

1 one at the United States Department of Parole?

2 A It was sent to them, yes.

3 Q By whom?

4 A By Mr. Cavanaugh from our San Bernardino Office,
5 Probation Officer Cavanaugh.

6 Q Mr. Cavanaugh is an employee of the United States
7 Department of Parole?

8 A Yes, he's a probation and parole officer.

9 Q And that record has been used by you in the course
10 of your business as a parole officer in connection with
11 Mr. Manson?

12 A Yes.

13 Q Is that correct?

14 A Yes.

15 MR. KANAREK: Then, your Honor, I offer this into
16 evidence.

17 MR. MANZELLA: There is an objection on the part of the
18 People, your Honor, on the grounds it is hearsay.

19 MR. KANAREK: It is offered on state of mind, your Honor.

20 THE COURT: Whose state of mind, Mr. Kanarek?

21 MR. KANAREK: The state of mind of Mr. Barrett. And if
22 your Honor wishes further argument, I would like to approach
23 the bench.

24 Mr. Barrett is used this in -- it matters not
25 whether he offered it, the exact words or not.

26 THE COURT: The Court believes it is inadmissible and so
27 rules. The motion is denied.
28

1 BY MR. KANAREK:

2 Q I show you a letter and ask you if that -- if you
3 have used that letter which purports to be signed by Charles
4 Manson, if you used that letter in connection with your
5 official work as a -- as an employee of the United States
6 Government and the United States Department of Parole?

7 A I had that letter -- that letter is not directed to
8 me.

9 Q I know the letter was not directed to you, Mr. --

10 A And I wasn't -- I wasn't knowledgeable of what
11 was taking place at the time this letter was written or
12 received, anyway.

13 Q I understand. But what I am saying is, this
14 letter is part of the official file pertaining to Mr. Manson?

15 A Yes, it is.

16 Q And in dealing with Mr. Manson, you have come to
17 know his signature, right?

18 A Yes.

19 Q Does that appear to be Mr. Manson's signature?

20 A Yes, it does.

21 MR. KANAREK: And I offer this, your Honor, into evidence
22 in connection with Defendant's CC. I offer it in connection
23 with the state of mind of Mr. Manson.

24 MR. MANZELLA: Objection on the grounds it constitutes
25 hearsay.

26 MR. KANAREK: It is state of mind, your Honor. It is
27 not offered for the truth of the matter --

28 THE COURT: Don't argue the question, please.

1 The objection is sustained. The Court finds it
2 is incompetent, irrelevant and immaterial.

3 MR. KANAREK: Then, on that basis, I would like to
4 approach the bench, your Honor.

5 THE COURT: You may.

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

9 MR. KANAREK: Your Honor, this writing is admissible.
10 It has been authenticated as showing -- as showing Mr. Manson
11 of -- being the author of it, Mr. Manson.

12 THE COURT: I heard that.

13 MR. KANAREK: All right. Mr. Manson has a duty to
14 report -- to stay in touch with the Parole people.

15 One of the aspects on mitigation or aggravation is
16 how Mr. Manson acts in connection with penal authorities and in
17 connection with authority. This letter further shows that
18 Mr. Manson has the intent of obeying the orders of the U.S.
19 Parole Department. It is clearly admissible. There's no
20 question about it. It is authenticated. It is shown as his
21 letter. It shows his state of mind and is going -- and it
22 shows that he is actually complying with their requests
23 that they tell him that he is to report when he wants to go
24 somewhere or go somewhere looking for a job. It is --

25 MR. MANZELLA: It hasn't been authenticated. All it's
26 been is identified as a signature of Mr. Manson. The
27 printing which composes the body of the letter has not been
28 identified, but in any event my main objection is it constitutes

1 hearsay and it is not relevant.

2 THE COURT: Let's see the letter.

3 MR. MANZELLA: I have a copy of it.

4 THE COURT: There are some parts which --

5 MR. KANAREK: A typewritten letter is not the handwriting
6 of the person who signs it, obviously.

7 THE COURT: Just a minute, Mr. Kanarek.

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

3 THE COURT: All right, the Court will reverse its ruling ---

4 MR. MANZELLA: (While still at the bench) Your Honor --
5 I'm sorry, I wanted to be heard further on it.

6 THE COURT: Very well, but it is the Court's intention
7 simply to indicate that it is admitted for the purpose of show-
8 ing Mr. Manson's intention to comply with the orders of the
9 probation officer, simply for that reason.

10 MR. MANZELLA: Your Honor, so far, from the testimony
11 that I remember of Mr. Barrett, he said that Mr. Manson had
12 an obligation to report his source of his earnings, I believe,
13 and his whereabouts. And this letter contains nothing with
14 regard to Mr. Manson's whereabouts or the source of his
15 earnings. It says nothing about that.

16 THE COURT: Well, it does --

17 MR. MANZELLA: And I think this is just an attempt to
18 get words of Mr. Manson before the jury without calling
19 Mr. Manson to the stand and subjecting him to cross-examination.
20 I believe Mr. Barrett did not testify that all Mr. Manson had
21 to do was write to him periodically, I believe.

22 THE COURT: Make the form reports, that's true.

23 MR. MANZELLA: I believe he testified that he had to
24 tell him certain things. This letter says none of those
25 things that I have heard so far.

26 MR. KANAREK: Well, the --

27 THE COURT: It is written in May and received in May.
28 It is simply offered to show that Mr. Manson was keeping in

1 contact with the probation officer.

2 MR. MANZELLA: But Mr. Barrett never testified that he
3 wasn't keeping in contact with him in May of '69. He talked
4 about July, August and September of 1969, and Mr. Kanarek has
5 already offered those -- exhibits which cover those months.

6 THE COURT: Well, your argument is correct in respect to
7 that.

8 MR. KANAREK: We're not limited to -- we're not limited
9 to August, September or -- this shows Mr. Manson's conduct
10 on -- while he's -- while he's on parole. It shows his state
11 of mind and his conduct.

12 MR. MANZELLA: Your Honor, if it shows his conduct, it
13 is being offered for the truth of the matter contained in the
14 report.

15 MR. KANAREK: Not at all. It shows his intent to stay
16 in touch with the parole people.

17 MR. MANZELLA: As a matter of fact, Mr. Manson was never
18 going to go with the Beach Boys any place and the manager of
19 the Beach Boys didn't even want Mr. Manson around. This is a
20 way of getting that testimony -- associating Mr. Manson with
21 some sort of money-making enterprise without subjecting
22 Mr. Manson to cross-examination to show it is not true at all.

23 THE COURT: I think its probative value is outweighed,
24 and again I think the jury would have a difficult time making
25 any distinction as to what was to be received and for what
26 purpose.

27 MR. KANAREK: Your Honor can give a limiting instruction
28 as your Honor has done many times.

1 THE COURT: The Court knows that. But the Court believes
2 that the People's objection is well taken. I will not reverse
3 the ruling. I will leave it as it stands. In reading it
4 more closely, you are correct, there isn't any real issue as
5 to whether he was in contact with Mr. Barrett in May.

6 MR. KANAREK: Well, I'll make --

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

9 THE COURT: The Court's ruling remains the same. The
10 document CC is excluded.

11 Proceed, Mr. Kanarek, would you please?

12 BY MR. KANAREK:

13 Q Mr. Barrett, in May of 1969 did Mr. Manson indicate
14 to you that he had the chance for employment --

15 MR. MANZELLA: Objection, your Honor, it constitutes
16 hearsay.

17 MR. KANAREK: Your Honor, this -- this --

18 THE COURT: Sustained.

19 MR. KANAREK: Well, then, may I be heard on that, your
20 Honor?

21 THE COURT: No, you may not.

22 Q BY MR. KANAREK: One of your requirements, one of
23 the requirements that Mr. Manson had while on probation or
24 parole was to let you know what his intentions were concerning
25 employment, is that right?

26 A Yes.

27 Q And in May of 1969 did you receive a communication
28 from Mr. Manson pertaining to intended employment by him?

1 A I don't remember just offhand.

2 MR. KANAREK: Well, then, may I approach the witness,
3 your Honor?

4 THE COURT: Yes, you may.

5 Q BY MR. KANAREK: Does this refresh your recollec-
6 tion, Mr. Barrett, as to whether or not --

7 A That was written to Mr. Cavanaugh, not to me. It
8 was received by him, not me.

9 Q I understand. I understand. But is it a fair
10 statement that as of that date you were his probation or
11 parole officer?

12 A Well, as of that date it is very likely that the
13 supervision of Mr. Manson could have been transferred to our
14 San Bernardino Office and that I would not have been responsi-
15 ble for supervising him at that time.

16 Q And is your -- I'll withdraw that.

17 Can you tell from your file to whom, if anyone,
18 Mr. Manson had an obligation to communicate with when he
19 intended to seek a particular type of employment?

20 A Whoever --

21 Q Well, can you tell from the file who that person
22 was or do you have an independent recollection of it without
23 the use of the file?

24 A We -- I might be able to tell from the file.

25 Q Would you look at that, please, and let us know --
26 at your files, to whom, if anyone, in May of 1969, Mr. Manson
27 had the obligation to report to?

28 A Well, he was reporting to Mr. Cavanaugh in

1 San Bernardino.

2 Q All right. Do you recognize this stamp where it
3 says "U.S. Probation Office, San Bernardino, California, May
4 28, 1969," do you recognize that?

5 A Yes.

6 Q Do you recognize that as an official stamp of the
7 United States Government, the probation office there in
8 San Bernardino?

9 A I do.

10 Q Do your official files reflect that Mr. Manson
11 wrote a letter to such probation officer on or about that
12 time?

13 A Yes.

14 Q And he had the obligation to report employment,
15 residence status, matters of that type, is that right?

16 A That's right.

17 MR. KANAREK: Your Honor, I offer CC into evidence.

18 MR. MANZELLA: There is an objection on the same grounds
19 previously stated.

20 THE COURT: Sustained.

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1 Q BY MR. KANAREK: Well, would you, Mr. Barrett, would
2 you check your official files and tell us whether Mr. Manson
3 communicated to you, or the United States Probation Office,
4 in May of '69, pursuant to the matter of employment?

5 Would you check your files, whatever files you have
6 there?

7 A Well, according to --

8 Q First, would you check your files and tell us?

9 A There is in our files a letter that makes an
10 indirect reference to employment.

11 Q And what do you mean by an "indirect reference to
12 employment"?

13 MR. MANZELLA: Objection, your Honor. That's not
14 relevant.

15 MR. KANAREK: It's -- well, your Honor, then may we
16 approach the bench?

17 THE COURT: No, you may not. The objection is sustained.

18 Q BY MR. KANAREK: In the month of May, 1969, did
19 Mr. Manson contact your -- or any -- any office of the United
20 States Probation Department, by way of the form that you have
21 spoken of?

22 A The monthly reporting form?

23 Q Yes.

24 A I would have to look in the file and check.

25 Q Very well.

26 A There's a form in there, a monthly report form
27 received in San Bernardino on May the 29th, 1969.

28 MR. KANAREK: May I approach the witness, your Honor?

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1 THE COURT: You may.

2 Q BY MR. KANAREK: And this is dated May the 28th,
3 1969, "Received May 29th, 1969," is that correct?

4 A Yes.

5 MR. KANAREK: Then, your Honor, I ask that this be marked
6 next in line, which I think would be DD; am I correct, Joyce?

7 THE CLERK: EE.

8 THE COURT: All right. It may be marked EE.

9 Would you mark that, please?

10 MR. KANAREK: Yes.

11 (Counsel marked the exhibit.)

12 Q Now, can you tell us, Mr. Barrett, whether or not,
13 by looking at your official files, whether or not Mr. Manson
14 asked permission to leave the State of California, in
15 connection with employment, during the month of May, 1969?

16 MR. MANZELLA: Objection. It's not relevant, your Honor,
17 and it calls for hearsay.

18 THE COURT: Sustained.

19 MR. KANAREK: Well, then, may I be heard on that, your
20 Honor?

21 THE COURT: Yes, you may.

22 (Whereupon, the following proceedings were had at
23 the bench among Court and counsel, outside the hearing of the
24 jury:)

25 MR. KANAREK: If there's proper authentication, your
26 Honor, it's like the objective theory of contracts or what-
27 ever. This is not -- it is not offered for the truth. It's
28 offered to show state of mind, his intent to -- to -- to

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1 comport with the regulations and the -- the -- there's no
2 question about it.

3 It shows -- it's to show his intent, his state of
4 mind.

5 THE COURT: What are you offering?

6 MR. KANAREK: To show that --

7 THE COURT: What specifically are you offering to show his
8 intent?

9 MR. KANAREK: To show that the man --

10 THE COURT: What are you offering here?

11 MR. KANAREK: Well, your Honor sustained an objection to
12 this last question. I am asking that your Honor reverse himself
13 in connection with that. That's why we approached the bench.

14 How -- it's an act on his part. It's an objective
15 type of conduct. It's like -- it's -- the fact that it appears
16 in a writing, or the fact that it's oral --

17 THE COURT: Are you offering any particular writing?
18 Are you offering CC again?

19 MR. KANAREK: No, not at this instant. I'm offering
20 testimony. Your Honor sustained an objection to a question.

21 THE COURT: I think it calls for a conclusion, for one
22 thing; and it is hearsay, --

23 MR. KANAREK: But --

24 THE COURT: -- and the Court sustains it.

25 MR. KANAREK: Well, it's offered to show his state of mind.

26 THE COURT: Whose state of mind?

27 MR. KANAREK: Mr. Manson's.

28 THE COURT: Oh.

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1 MR. KANAREK: You can show his state of mind --

2 THE COURT: These articles that -- these reports, these
3 statements that are coming in from this file, you are offering
4 them all for the purpose of showing Mr. Manson's amenability
5 and tractability in the course of supervision and --

6 MR. KANAREK: That's right, to show his intent and state
7 of mind.

8 It has much greater weight than protestations
9 and verbal statements from the witness stand.

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1 It shows conduct. It shows keeping in touch with
2 the probation and parole people. How your Honor can keep that
3 CC out of there, I can't understand.

4 It shows that he is -- and your Honor can give a
5 limiting instruction. Your Honor has --

6 MR. MANZELLA: Oh, it doesn't --

7 MR. KANAREK: Your Honor has done that extensively in
8 this trial, in connection with Mr. Shea.

9 THE COURT: You may rephrase your question.

10 MR. KANAREK: Pardon?

11 THE COURT: The objection is sustained to that particular
12 question.

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

15 Q BY MR. KANAREK: Mr. Barrett, during the month of
16 May, 1969, did Mr. Manson write -- does your file reflect
17 that he wrote the United States Probation and Parole Service
18 for permission in connection with certain matters that he
19 wished to do by way of employment?

20 A I don't know whether he wrote or whether he
21 communicated it in some other way, but he did write a letter --
22 that had to do with travel that he had intended to take; but
23 it -- he changed his mind.

24 Q Did he change his mind, or did events take place
25 wherein he could not -- he could not leave, because you didn't
26 grant the permission in time? That is, other people went off
27 and did something in connection with this work, so that his
28 request and your reply to his request made it so that he could

10a-2

1 not comply because of the time factor? Isn't that in fact what
2 happened?

3 MR. MANZELLA: Objection. It calls for hearsay,
4 conclusion, and speculation on the part of the witness.

5 THE COURT: Sustained.

6 Q BY MR. KANAREK: But Mr. Manson did request, in
7 writing, that he be allowed to do certain things in -- in
8 connection with employment?

9 A I don't know whether he -- how he communicated that
10 so-called request that you are talking about.

11 Q Well, Mr. Barrett, I'm not asking you to rely on
12 your memory alone. If you would, would you look at Defendant's
13 CC for identification? Which I think is in front of you?
14 I think it's to your right, I believe.

15 (Pause in the proceedings while the witness
16 perused the exhibit.)

17 THE WITNESS: Well, this -- this Exhibit CC, by
18 Mr. Manson, is not a request to travel. He's merely inform-
19 ing the probation officer --

20 MR. MANZELLA: Excuse me, Mr. Barrett.

21 The People would object to any -- to the witness
22 testifying to the contents, on the grounds previously stated.

23 THE COURT: I am going to permit CC to come in, now.
24 I'll change my ruling and allow it to come in.

25 Ladies and gentlemen, the reports received in
26 evidence from this file, the documents that are received --
27 that have thus far been received -- are admitted to show --
28 if they do show -- to show the defendant's amenability to

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1 probation, and his cooperation in connection with past
2 probation supervision.

3 Is that correct?

4 MR. KANAREK: Yes, and his state of mind. Yes, your
5 Honor, in connection with --

6 THE COURT: Probation supervision?

7 MR. KANAREK: That's correct, your Honor.

8 THE COURT: They're not received, ladies and gentlemen,
9 to prove the truth of what's said in the reports or in the
10 documents; is that correct?

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

12 May I approach the witness, your Honor?

13 MR. MANZELLA: Your Honor, the People would object to
14 the entire exhibit being received, and would request that
15 portions of it be edited, in that they contain hearsay.

16 THE COURT: All right. I'll hear from you, but not at
17 this time, in connection with that.

18 Let's move it along, please, Mr. Kanarek.

19 MR. KANAREK: Yes, your Honor.

20 May I approach the witness?

21 THE COURT: You may.

22 Q BY MR. KANAREK: Directing your attention,
23 Mr. Barrett, to the file, can you tell me from your file,
24 whether, as a result of correspondence delayed from you -- from
25 your office, or the United States Probation Office -- to
26 Mr. Manson, that Mr. Manson was denied the permission to travel?

27 A No, there was no --

28 Q Well, would you look at -- can you tell me from the --

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MR. MANZELLA: He's answering.

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THE COURT: Let him answer.

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1 THE WITNESS: I say: From the file, there was nothing
2 to show that there was any unnecessary delay that in itself
3 would have prohibited Mr. Manson from traveling.

4 Q BY MR. KANAREK: Does your file reflect that, in
5 fact, you gave the permission to Mr. Manson to travel, but that
6 that came at a time which was untimely and therefore he could
7 not make use of this opportunity? Does your file reflect
8 that?

9 A May I explain something?

10 Q Certainly, certainly, if it --

11 A Permission to travel has to be authorized by the
12 U. S. Board of Parole. When a parolee wishes to leave our
13 district, it is incumbent on our office that we direct any
14 such request to the direct attention of the U. S. Board of
15 Parole.

16 If Mr. Manson wanted to travel out of our district,
17 and reported this desire to us, we in turn would transmit this
18 information to the Board of Parole.

19 This would require a certain period of time for
20 this communication to travel back and forth.

21 Obviously, if he wanted to travel tomorrow, we
22 would hardly have the time, would we, --

23 Q Right.

24 A -- to notify the Board and then come back again.

25 So, we always request that they provide us with
26 reasonable time, so that we can forward that information on
27 for it to be acted upon.

28 Q All right. Now, does your file reflect that, in

1 this instance, because of this time factor, you gave a permis-
2 sion to travel after it had any utility for Mr. Manson?

3 Would you look at your file and tell me if that is
4 so?

5 A I don't think that we gave Mr. Manson any such
6 permission.

7 Q Well, do you recall that independently of looking
8 at the file, Mr. Barrett?

9 A I will look at the file.

10 (Pause in the proceedings while the witness
11 perused the file.)

12 THE COURT: We'll take a recess now, ladies and
13 gentlemen. We are in recess.

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

19 About ten to fifteen minutes.

20 You may take the break, too, Mr. Barrett.

21 THE WITNESS: Thank you, your Honor.

22 (Mid-afternoon recess.)

23 THE COURT: The record will show the defendant to be
24 present. All the jurors are present, and the alternates.
25 Both counsel are present.

26 MR. KANAREK: Yes, your Honor. While Mr. Barrett is
27 here, so that there are -- I would offer to -- I would offer
28 into evidence Q through T, I believe; Q through -- I'm sorry.

1 Q through U at this time, your Honor.

2 So, may we -- so there's no question about
3 foundation -- I don't know if the prosecution will --

4 THE COURT: Do you have copies there?

5 MR. MANZELLA: Yes, your Honor.

6 THE COURT: May I see them?

7 MR. KANAREK: Pardon?

8 THE COURT: I would like to see those.

9 MR. KANAREK: Oh, certainly, your Honor.

10 THE COURT: Is there any objection on the part of the
11 People?

12 MR. MANZELLA: I'm just looking at them now, your Honor.

13 THE COURT: Take your time.

14 (Whereupon, there was a pause in the proceedings
15 while Mr. Manzella perused the proffered exhibits.)

16 MR. MANZELLA: No objection, your Honor.

17 MR. KANAREK: And P. I'm sorry. Including P also, the
18 one before Q.

19 THE COURT: I don't have U.

20 MR. MANZELLA: I have P here, if that's --

21 THE COURT: Q through T would appear to be admissible.

22 The People, in any event, are not offering any
23 objections.

24 MR. KANAREK: Certainly, your Honor.

25 THE COURT: Let me see --

26 MR. KANAREK: Here's P.

27 THE COURT: -- U. U and P.

28 (Whereupon, there was a pause in the proceedings

1 while the Court perused the proffered exhibits.)

2 MR. KANAREK: Yes. The court reporter informs me --
3 and I certainly intended to offer Q-1, your Honor, but I did not
4 enunciate it.

5 THE COURT: The Q-1 also is admitted.

6 (Whereupon, there was a pause in the proceedings
7 while the Court perused the proffered exhibits.)

8 MR. MANZELLA: The People would like to be heard on P,
9 Defendant's P for identification, your Honor.

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1 THE COURT: P would not appear to be admissible. The
2 Court so rules.

3 As to U? I haven't yet ruled on it.

4 MR. MANZELLA: There's no objection, your Honor.

5 THE COURT: I haven't seen it. I would like to see it
6 before --

7 MR. KANAREK: Your Honor has not seen U?

8 THE COURT: Before I admit it, I would like to see it.

9 MR. KANAREK: Certainly.

10 (Pause in the proceedings while the Court perused
11 the proffered exhibit.)

12 THE COURT: It's admitted. You may proceed.

13 Q BY MR. KANAREK: Now, during the recess, were you
14 able to study the file, Mr. Barrett?

15 A Yes, I was, Mr. Kanarek.

16 Q And what is your statement or reply in connection
17 with that matter?

18 A Would you repeat your question again, please?

19 MR. KANAREK: Yes.

20 THE COURT: Mr. Williams?

21 THE REPORTER: It's in my office, your Honor.

22 THE COURT: I could tell by the expression on your face
23 that it was in your office.

24 (Laughter.)

25 THE COURT: Can you repeat your question?

26 MR. KANAREK: Certainly, your Honor. I'll try.

27 Q Having in mind the communication of Mr. Manson to
28 the United States Probation and Parole Department, in

1 connection with a request pertaining to travel, did that
2 request to travel in fact become moot, because of the fact that
3 your office did not reply until June the 5th or thereabouts,
4 1969?

5 MR. MANZELLA: Objection, your Honor. The question whether
6 it became moot calls for speculation on the part of the
7 witness.

8 THE COURT: Sustained.

9 Q BY MR. KANAREK: Does your file reflect a reply
10 concerning Mr. Manson's request to travel, dated June 6, 1969?

11 A Our file requests -- I'm sorry, our file reflects
12 a reply to a request to travel, around May of '69, I think it
13 was.

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1 Q Are you -- do you have BB in front of you, what
2 we have denominated?

3 A No, not BB.

4 Q Would you look at Exhibit BB -- may I approach the
5 witness, your Honor?

6 A I don't have it here, Mr. Kanarek.

7 Q Well, I think that -- I'm sorry, I have it.

8 Would you look at Exhibit BB and tell me if you
9 recognize BB as part of your file?

10 A Yes.

11 Q And does that purport to be a letter concerning
12 the subject matter of Mr. Manson's request to travel?

13 A Yes.

14 Q And is that an official file, a letter written in
15 the ordinary course of business by Mr. McEachen who has
16 previously been identified?

17 A Yes, yes.

18 MR. KANAREK: I offer BB into evidence, your Honor.

19 MR. MANZELLA: There is an objection on the grounds
20 previously stated, your Honor.

21 MR. KANAREK: It is to show the state of mind and, if
22 your Honor is so inclined, and your Honor wishes, I would like
23 to approach the bench.

24 THE COURT: The objection is sustained.

25 Would you pass that back to Mr. Kanarek?

26 Q BY MR. KANAREK: During May and June of 1969,
27 Mr. Barrett, do you have an opinion, based upon your records
28 and files, as to whether Mr. Manson left the jurisdiction of

1 your office?

2 MR. MANZELLA: Objection, your Honor, there's no
3 foundation for that opinion,

4 THE COURT: Sustained.

5 MR. MANZELLA: That's what he is calling for.

6 THE COURT: The objection is sustained.

7 Q BY MR. KANAREK: Does your file reflect, in fact, a
8 request by Mr. Manson for permission to travel out of the
9 state in connection with employment in May of 1969?

10 A Indirectly, yes.

11 Q When you say "Indirectly, yes," what do you mean?

12 A Subsequently there was a written communication
13 regarding a request, but I saw no evidence in itself -- of the
14 request itself, for the time that it was supposed to have been
15 made. So it may have been made personally by Mr. Manson to
16 Mr. Cavanaugh or by telephone or in person.

17 Q What is an FTS?

18 MR. MANZELLA: Objection, it is not relevant.

19 THE COURT: Sustained.

20 MR. KANAREK: I'm laying a foundation, your Honor.

21 THE COURT: Sustained.

22 Q BY MR. KANAREK: Well, your work in the United
23 States Department of Justice, Department of Parole and
24 Probation, do you have a procedure that's called FTS?

25 MR. MANZELLA: Objection, it is not relevant.

26 MR. KANAREK: Your Honor, I'm laying -- it is a pre-
27 liminary question, just to get the foundation as to what this --
28 if --

1 THE COURT: Just a minute, Mr. Kanarek, please.

2 The objection is overruled, you may answer.

3 THE WITNESS: Yes, we have such a procedure.

4 Q BY MR. KANAREK: And what is an FTS? F like in
5 Frank, T like in Thomas, S like in Sam.

6 A It stands for Federal Telephonic Communication
7 System. It is our own private telephone exchange nationwide.

8 Q And is there a Mr. Jones in the United States
9 Probation and Parole Department?

10 MR. MANZELLA: Objection, it is not relevant.

11 MR. KANAREK: It is a preliminary question. I'm laying
12 the foundation, your Honor.

13 THE COURT: Sustained.

14 MR. KANAREK: Then, may I approach the bench?

15 THE COURT: Yes, you may.

16 MR. MANZELLA: I'll withdraw the objection.

17 THE COURT: All right, the Court will permit the answer.

18 THE WITNESS: The question again, please?

19 MR. KANAREK: May it be read?

20 THE WITNESS: Oh, I remember.

21 Yes, there is a Mr. Jones, and he is with the
22 Board of Parole in Washington.

23 Q BY MR. KANAREK: And will you tell me, looking at
24 that file, does it reflect your request by Mr. Manson in May of
25 1969 for permission to travel in connection with employment by
26 -- wherein -- that will be my question.

27 A Having looked at the file, presumably there was
28 such a request.

1 Q And upon what do you base that statement when you
2 say, "Upon looking at the file"?

3 A Obviously there was a request, because the
4 request was acted upon and, uh, the results of that action is
5 indicated in the record.

6 Q What is the result of that action of the United
7 States Probation and Parole Officer?

8 MR. MANZELLA: Objection, it is not relevant, your Honor.

9 THE COURT: You may answer it.

10 THE WITNESS: Permission to Mr. Manson's request to
11 travel for a period just short of a month to Texas was granted.
12 And he -- in other words, Mr. Manson obtained permission for
13 the request that he made to travel.

14 Q BY MR. KANAREK: And do you remember -- does your
15 file, in fact, reflect that the permission came at such a time
16 that it was no longer applicable because of the fact that
17 certain people had left California, making this action on the
18 part of Mr. Manson inappropriate?

19 A I have no way --

20 MR. MANZELLA: Objection, it calls for speculation and
21 calls for hearsay.

22 THE COURT: Yes, you've asked that before, Mr. Kanarek.
23 The objection is sustained. Counsel's question is stricken.

24 MR. KANAREK: Then, your Honor, I ask, if I may, I ask
25 that Exhibits X, X-1, Y, Z, BB, DD, and EE, be admitted into
26 evidence, your Honor. I have them here, some of them, if it
27 will assist the Court.

28 THE COURT: The first part of the letter BB is admitted

1 into evidence.

2 The motion is denied as to DD.

3 As to W, which I have in my hand, I think it has
4 already been admitted. If it has not --

5 MR. KANAREK: Yes, that is admitted.

6 THE CLERK: Yes.

7 THE COURT: That is admitted.

8 X is admitted. Y is denied.

9 And, again, ladies and gentlemen, the exhibits the
10 Court has received from this probation file are received to
11 show, if they do show, the defendant's amenability to probation
12 and his cooperation in connection with his past probation
13 supervision. And they're offered for that reason and
14 received for that reason alone. They're not offered or
15 received to prove the truth of the matters in the documents.

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MR. KANAREK: Your Honor still has Z there.

THE COURT: All right, we'll admit Z.

I will -- excuse me.

MR. MANZELLA: You ruled on Z previously.

THE COURT: Yes, strike that. Z is excluded, being immaterial and otherwise inadmissible.

MR. KANAREK: Your Honor, on X and X-1.

THE COURT: Where are those?

They may be here.

Yes, both of those were admitted, X and X-1.

MR. KANAREK: Your Honor, I would like to approach the bench on your Honor's denial of those exhibits.

THE COURT: All right, you may, although I believe you've argued them before at the bench. The Court will hear from you again. You may approach.

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

MR. MANZELLA: I've already objected to it and we've already argued to it and you've already ruled it is not relevant.

THE COURT: What's the relevance?

MR. KANAREK: The relevance is that at this very time, as your Honor well knows, at the penalty phase, we can -- in People vs. Terry, says we can put on the defense. It is our position that this is circumstantial evidence which shows that Mr. Manson was not engaged in any activities at this time that were improper because as of the July 17, 1969 date, we have a

1 right to assume that the probation and parole people are on
2 top of their work as far as their probationers are concerned.
3 And from that, you can maintain an inference that they have
4 -- with the surveillance that Mr. Manson was subject to, and if
5 he was doing anything wrong, my God, if anybody would know it,
6 it would be the probation people by virtue of their contacts
7 with law enforcement. And this is right in the heart of this
8 period of time.

9 MR. MANZELLA: I notice Mr. Kanarek didn't ask that
10 question, Mr. Barrett. Instead, he tries to show that the
11 parole authority, I guess the entire parole authority felt
12 that Mr. Manson was a good parolee. And he wants to show it
13 by this letter. That's what makes it hearsay. He hasn't even
14 asked Mr. Barrett what he thought of Mr. Manson as a parolee
15 and the letter is hearsay because of the reasons that it is
16 offered for.

17 MR. KANAREK: Your Honor, it shows the state of mind of
18 this office to --

19 MR. MANZELLA: An office can't have a state of mind.

20 MR. KANAREK: Yes, your Honor, but what I am saying is
21 your Honor allowed Mr. --

22 THE COURT: First, it is in response to a report which
23 you've talked about with Mr. Barrett concerning an arrest of
24 Mr. Manson. He made a report. Barrett made a report --

25 MR. KANAREK: Yes, July 17.

26 THE COURT: -- to his superior.

27 MR. KANAREK: Right.

28 THE COURT: This is a rather cryptic response to

1 Mr. Barrett's report of July 17 by somebody named Vodvarka.
2 And he says, "As recommended, no action is being taken in this
3 case at this time."

4 As I've said before, it would just be engaging in
5 speculation as to what is meant by that phrase and by that
6 reference to a formal recommendation. The Court sustains the
7 objection.

8 MR. KANAREK: Well, then, your Honor, we have a problem.
9 Your Honor admitted one paragraph of, I think it is, BB.

10 THE COURT: Yes, the other paragraph is simply a report
11 of what Mr. Manson --

12 MR. KANAREK: May I refresh my recollection on --

13 THE COURT: Yes.

14 We should put for the record, if you object to
15 that being stricken, we should have another copy of that so it
16 could be clear what the Court has eliminated, because what I
17 intend to do is have the clerk -- well, we can simply have it
18 covered and taped.

19 Do you understand?

20 MR. KANAREK: Yes, I understand.

21 Of course, it is our request the entire letter go
22 in and your Honor has --

23 THE COURT: Of course, the entire letter can't come in
24 under any provision of the Evidence Code that I know of. It is
25 information from Mr. Manson concerning the Beach Boys which is
26 a group that Mr. Manson was to play with.

27 MR. MANZELLA: That he says he was employed with.

28 Mr. Manson says he was employed with.

1 THE COURT: And here is an assumption which the officer,
2 the probation officer assumes that Mr. Manson didn't leave the
3 district and their feeling or this individual's feeling that
4 the Parole Board should be informed of the development.

5 I think that would be inadmissible. But I would
6 admit the other portion of the letter.

7 MR. KANAREK: And, your Honor, if I may, may it be
8 stipulated that when Mr. Barrett is not here, will counsel
9 stipulate that there has been -- because I intend to make fur-
10 ther argument as to some of these exhibits, that there is no
11 foundational --

12 THE COURT: Well, you'd better make your argument now.

13 MR. KANAREK: Well, what I meant was, I'm asking here at
14 the bench, outside the presence of the jury, for the stipula-
15 tion --

16 THE COURT: I can't see why any further argument need to
17 be made. You made complete argument on nearly every --

18 MR. KANAREK: Yes, I understand.

19 THE COURT: -- on every piece of evidence that you want.

20 MR. KANAREK: But, I mean, will counsel stipulate that
21 the foundational aspect as far as Mr. Barrett and this file is
22 concerned, that that -- that there is a foundation of
23 identification and all of that, so that I don't have to call --

24 MR. MANZELLA: Well, Mr. Barrett is going to take the file
25 with him when he leaves, isn't he?

26 MR. KANAREK: I'm talking about these that are marked
27 for identification, in case the Court --

28 MR. MANZELLA: Those exhibits have been admitted which

1 are going to be admitted, and those which are not going to be
2 admitted have been excluded. There's nothing left to argue.

3 MR. KANAREK: Well, the Court on occasion, in connection
4 with the letter of Mr. Manson's mother, your Honor reversed
5 that. I don't want to have any problem on foundation, in case
6 I can convince the Court.

7 MR. MANZELLA: What foundation are you talking about?

8 MR. KANAREK: The foundation Mr. Barrett --

9 THE COURT: It is clear, and I don't think there is any
10 argument, that these are part of Mr. Barrett's probation files.

11 MR. KANAREK: Well, with that finding, very well, your
12 Honor. Very well.

13 THE COURT: They are copies of his documents.

14 MR. KANAREK: Counsel has stipulated that these copies
15 can be used as originals, of course?

16 MR. MANZELLA: So stipulated.

17 THE COURT: Let's proceed.

12-1

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

3 THE COURT: Anything further, Mr. Kanarek?

4 MR. KANAREK: No. No. I want to thank you -- thank
5 Mr. Barrett.

6 Thank you, Mr. Barrett.

7 THE WITNESS: Am I excused?

8 THE COURT: You are excused.

9 (Whereupon, a discussion off the record ensued
10 at the bench between the Court and the witness.)

11 MR. MANZELLA: Your Honor, may I ask Mr. Barrett a few
12 questions?

13 THE COURT: Oh, I'm sorry.

14 MR. MANZELLA: Oh, that's all right. It's understandable.

15 THE COURT: Mr. Barrett, we were so eager to get rid of
16 you that we forgot about cross examination.

17 (Laughter.)

18 THE COURT: Go ahead, Mr. Manzella.

19
20 CROSS EXAMINATION

21 BY MR. MANZELLA:

22 Q Mr. Barrett, directing your attention to the time
23 that you were Mr. Manson's parole officer, up to and including
24 October of 1969, as of that date, October, 1969, was Mr. Manson
25 the only parolee under your supervision?

26 A No, he wasn't.

27 Q How many people, as of that date, did you have
28 under your supervision, as parolees?

12-2

- 1 A A year ago? I would say --
- 2 Q No, it would be two years ago. October of 1969.
- 3 A At that time, probably about 175 other people.
- 4 Q And were you responsible for any particular
- 5 geographic areas as a U. S. parole officer at that time?
- 6 A Yes, I was.
- 7 Q What areas were those?
- 8 A Three different counties: Ventura, Santa Barbara,
- 9 San Luis Obispo.
- 10 Q Were you -- did you have sole responsibility for
- 11 those counties, or were there other U. S. parole officers?
- 12 A No, I had sole responsibility.
- 13 Q As a U. S. parole officer, at that time, did your
- 14 duties consist solely of supervision of some 175 parolees?
- 15 A No.
- 16 Q What were your other duties?
- 17 A Investigation. We were responsible for investiga-
- 18 tion, for the preparation of pre-sentence and probation
- 19 reports to our courts; for the investigation of parole release
- 20 plans for those people that were being released from the
- 21 prisons;
- 22 And for the investigation of requests from
- 23 officials all over the United States that may have wanted us
- 24 to check into information that would be available in this
- 25 district.
- 26
- 27
- 28

12 a
fols.

12a-1

1 Q Mr. Barrett, when you issued the parole warrant
2 about which you've already testified, did you issue that
3 warrant for the reasons stated in Defendant's V, V as in
4 Victor, or did you issue that warrant because the -- some
5 law enforcement agency asked you to issue that warrant?

6 A No, no law enforcement agency asked me to issue
7 that warrant.

8 Q Would you have issued that warrant, that parole
9 warrant, if you had known that the identification of Mr. Manson
10 as the person who bought the handgun was incorrect?

11 MR. KANAREK: Your Honor, that calls for conjecture.
12 "Would you have?" "If --?"

13 I object to the form of the question. No
14 foundation for it.

15 THE COURT: You may restate it.

16 Q BY MR. MANZELLA: Mr. Barrett, you've stated your
17 state of mind concerning the issuance of that parole warrant
18 in answer to a question asked of you by Mr. Kanarek.

19 Now, my question is: If you had known, prior to the
20 issuance of -- strike that.

21 If you had known prior to the application, your
22 application for that parole warrant, that Mr. Manson had not
23 purchased that handgun, would you have applied for the
24 parole warrant?

25 MR. KANAREK: Object, your Honor. First of all, it's
26 assuming facts not in evidence. It's calling for a conjecture,
27 for opinion that your Honor has not allowed on direct examina-
28 tion.

12a-2

1 There's no foundation for it, and it's irrelevant
2 and immaterial.

3 THE COURT: Overruled. It's a subject that's been gone
4 into.

5 MR. KANAREK: Well, but --

6 THE COURT: Overruled.

7 THE WITNESS: I would probably have requested the
8 Parole Board to issue a warrant on those other conditions.

9 And there were also two other violations that -- at
10 that time, we did not allege, which we could have included.

11 MR. MANZELLA: Thank you. I have no further questions,
12 your Honor.

13
14 REDIRECT EXAMINATION

15 BY MR. KANAREK:

16 Q Mr. Barrett, you say that you did not issue that
17 warrant because of any law enforcement requests; right?

18 A Right.

19 Q No law enforcement officer asked you to issue that
20 particular warrant; right?

21 A Right. But they called you up and they told you
22 that they wanted Mr. Manson; correct? You had conversations
23 with Sheriffs, Deputy Sheriffs --

24 THE COURT: Wait a minute, now. You've asked him the
25 question. Now --

26 MR. KANAREK: Well, I'll withdraw it and rephrase it,
27 if I may.

28 THE COURT: All right. You may.

12a-3

1 Q BY MR. KANAREK: You had conversations with
2 Deputy Sheriffs of Los Angeles County, Deputy Sheriffs of Inyo
3 County, Los Angeles Police Department officers; you had
4 conversations with various law enforcement officers who told
5 you that they wanted to get Charles Manson?

6 MR. MANZELLA: Objection.

7 Q BY MR. KANAREK: Right?

8 MR. MANZELLA: The question is compound, your Honor.

9 THE COURT: Sustained. The objection is sustained.

10 Q BY MR. KANAREK: Would you tell us, Mr. Barrett,
11 what did the Los Angeles County Sheriff's Department tell you
12 that they wanted done with Mr. Manson?

13 MR. MANZELLA: Objection. It assumes a fact not in
14 evidence, your Honor.

15 THE COURT: Sustained.

16 MR. KANAREK: Well, your Honor, then I would like to
17 approach the bench, in connection with this conjecture --

18 THE COURT: No, you don't need to approach the bench.

19 Ask your questions.

20 Q BY MR. KANAREK: Well, you have stated, Mr. Barrett,
21 what you probably would have done if -- if something else had
22 not been the case; right?

23 A Right.

24 Q Directing your attention to what in fact you did
25 do -- if I may, for a moment -- in fact, the most important
26 part of your decision to violate Mr. Manson was because of that
27 gun, the allegation that Mr. Manson had purchased guns; is
28 that right?

12a-4

1 That was the most important thing; that's the thing
2 that really --

3 THE COURT: Wait a minute; you've already asked one
4 question. Now, don't go on and ask --

5 MR. KANAREK: I agree. I agree. I'm sorry, your Honor.

6 THE COURT: Stop and wait for the answer.

7 MR. KANAREK: All right. I'm sorry. I apologize, your
8 Honor.

9 THE WITNESS: The possibility that Mr. Manson -- or, as a
10 matter of fact, any of our people under our supervision --
11 would have in their possession or access to a firearm would be
12 of paramount importance.

12b fol

12b-1

1 Q Paramount importance; right?

2 A Yes, it would.

3 Q And also of paramount importance was your state of
4 mind that Mr. Manson had some many thousands of dollars on him,
5 when supposedly that gun was purchased?

6 A I never remembered anything about thousands of
7 dollars, and --

8 Q Well, you --

9 A -- I told you that the amount of money, in itself,
10 was of no consequence to me.

11 There's nothing unlawful about a person having in
12 his possession money.

13 Q There's nothing unlawful about a person having money
14 in his possession; I think we are all agreed on that, Mr.
15 Barrett.

16 But for a parolee to have, let's say, \$5,000 on
17 him --

18 THE COURT: You needn't answer that.

19 MR. KANAREK: Well --

20 THE COURT: He has responded to your question twice.

21 MR. KANAREK: Well, then, based upon equal protection of
22 the law, and in view of the prosecution's conjectural question,
23 your Honor, I would like to approach the bench and make argu-
24 ment.

25 THE COURT: No, you may not.

26 But go ahead and ask your question.

27 MR. KANAREK: Very well.

28 THE COURT: The Court didn't mean to preclude you,

1 Mr. Kanarek, from asking the question, a proper question,
2 concerning contacts with law enforcement before the issuance
3 of the warrant.

4 You may proceed with --

5 MR. KANAREK: Yes. I haven't the -- if I may, your
6 Honor?

7 (Pause in the proceedings while Mr. Kanarek
8 leafed through the exhibits.)

9 MR. KANAREK: I don't think I have all the exhibits.
10 If I may have a moment -- oh. Thank you, Joyce.

11 Q At the time that you issued that warrant -- well,
12 let me ask you this. I'll withdraw that.

13 Mr. Barrett, if you thought that a parolee had
14 purchased a gun, and had \$5,000 cash on his person when he
15 purchased the gun, would you want to know something about that,
16 as a parole officer, of a man who's on parole for crimes --

17 A I told you --

18 MR. MANZELLA: Excuse me, Mr. Barrett.

19 Your Honor, I object on the grounds that it is an
20 invalid hypothetical question, in that, in fact, it assumes
21 facts not in evidence.

22 MR. KANAREK: Then may we approach the bench, in view of
23 counsel's conjectural question that your Honor allowed to be
24 answered, the "would you" and all that? I ask, under equal
25 protection and the Fourteenth Amendment, to be able to --

26 THE COURT: That --

27 MR. KANAREK: -- interrogate this man's thinking.

28 THE COURT: Your request is denied.

1 He has already responded to you that the question
2 of money did not enter into his mind in making such a
3 determination.

4 Q BY MR. KANAREK: May I ask you this, Mr. Barrett?
5 Are you telling us -- may I ask you: Would you, as a parole
6 officer, pass off -- cast off as insignificant the fact that
7 a man purchased a gun at a time he had a wad of \$5,000 of
8 American green in his pocket?

9 MR. MANZELLA: Objection. It's not relevant, your
10 Honor.

11 THE COURT: All right. I'll overrule the objection, and
12 you may answer it, Mr. Barrett.

13 THE WITNESS: I would feel that -- that the point about
14 the gun itself was sufficient for me to make any type of an
15 opinion I wanted to, without getting into the ramifications of
16 whether he had 5 cents or \$5,000 or how he got it.

17 I would -- I would be primarily interested in the
18 firearms phase of it; and that -- and it -- and that would be
19 enough to preclude my dwelling on some other abstract type of
20 interest -- which it would be.

21 Q BY MR. KANAREK: Well, Mr. Barrett, my question is:
22 Let's put aside, for the moment, the gun. My question then is:
23 Would you -- would you, as a parole officer -- let's -- let's
24 forget about guns; let's say it came to your attention that a
25 man who was on parole to you had \$5,000 in green stuff, \$5,000
26 in American money, on his person.

27 Are you telling me that that -- you would just --
28 if that came to your attention, you would have no interest in

1 it?

2 Forget about guns.

3 A. Well, I --

12c

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1 MR. MANZELLA: Objection -- excuse me, Mr. Barrett.

2 Excuse me.

3 THE WITNESS: May I answer?

4 MR. MANZELLA: I object to that. It's not relevant.

5 MR. KANAREK: Your Honor, on equal protection of the
6 law, under the Fourteenth Amendment, and in view of Counsel's
7 conjectural question, I believe we have a right to go into
8 that, your Honor, under the Fourteenth Amendment.

9 THE COURT: You may answer.

10 THE WITNESS: If I was going to raise an issue about
11 \$5,000 in the man's possession, then likewise, why wouldn't I
12 raise an issue if he had five cents in his possession? Or
13 \$50, or \$500?

14 Why would I particularly use the rule of thumb of
15 \$5,000? I don't see why I would use that single criteria.

16 Q BY MR. KANAREK: Well, I -- Mr. -- would you just --

17 A Simple possession of money in itself is of no --
18 I mean, it raises no particular anxiety, as to why he has it or
19 where it came from.

20 I mean, I would have to use some criteria on it.

21 Q All right. Then, my question is -- if you will
22 just answer the question -- you are telling us that, as a
23 sophisticated parole officer, it comes to your attention that
24 one of your parolees has \$5,000 in cash on his person, and you
25 wouldn't wish to inquire about that, find out about that, and
26 wonder how it came to pass?

27 MR. MANZELLA: Objection, your Honor. It's not
28 relevant.

12c-2

1 MR. KANAREK: It's relevant on the basis of Counsel's
2 conjectural question, under the Fourteenth Amendment and
3 equal protection, your Honor.

4 THE COURT: I will hear from you at the bench. You may
5 argue at the bench.

6 And then I assume that after that, you'll make no
7 further argument, except at the bench.

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

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

12 MR. KANAREK: Your Honor, Counsel opened up the subject
13 matter of "would you"?

14 When he says, "would you?" that asks for conjecture.
15 I have a right to inquire, in connection with the circumstances
16 of -- of this man's thinking.

17 Over objection, you allowed him to answer; and
18 clearly, what we -- what we deem to be an inadmissible -- he
19 answered a question soliciting inadmissible matter.

20 And therefore, under equal protection, we have a
21 right to --

22 THE COURT: No, I don't believe so. In view of your
23 inquiry, and your constant statement that you were concerned
24 with Mr. Barrett's state of mind in connection with Mr. Manson's
25 supervision, I think that the People have a right to ask about
26 it on cross examination.

27 MR. KANAREK: I agree. However --

28 THE COURT: And the asking of this question -- which,

12c-3

1 basically was this: Assuming that there was no report of his
2 possession of a gun, would you have violated the probationer --
3 or found this probationer to have been in violation of
4 probation?

5 I think that -- I think it does open it to
6 inquiry, as to what he -- by way of redirect, as to what he
7 meant by that, when he responded.

8 MR. MANZELLA: Well, my only point is that he's
9 testifying as an expert -- not in my opinion, but at least in
10 your opinion, and apparently in Mr. Kanarek's opinion.

11 THE COURT: No. The Court's just --

12 MR. MANZELLA: And the question I asked him was concern-
13 ing the facts that had been brought out in the evidence.

14 THE COURT: He is simply testifying as a parole officer
15 for Mr. Manson.

16 MR. MANZELLA: Okay. And in any event, Mr. Kanarek
17 was allowed to go into all those questions about the reasons
18 for the violation, the parole warrant and all that sort of
19 thing.

20 THE COURT: That's true.

21 MR. MANZELLA: Fine. All I asked him was: If it wasn't
22 for that, would you still have violated him?

23 That goes to his state of mind. Now, that's all in
24 evidence.

25 Mr. Kanarek's bringing out something about \$5,000,
26 and I never heard anything about that in the evidence.
27
28

12d fol

12d-1

1 THE COURT: Well, there is in the evidence --

2 MR. MANZELLA: And that's the basis of my objection.

3 THE COURT: -- in the evidence -- there is marked for
4 identification -- and I don't remember which one it was; it
5 may be X -- a report to the probation officer -- and I don't
6 know whether it was to Mr. Barrett or not --

7 MR. KANAREK: I believe it was, your Honor. I'm not --
8 I'm not sure whether it was.

9 THE COURT: (Continuing) -- that Manson was identified as
10 having purchased a gun, and having had \$5,000 in his possession.

11 MR. MANZELLA: That's not in any of the reports that have
12 been admitted into evidence.

13 THE COURT: No. No, that's true.

14 MR. MANZELLA: And so it's not in evidence. He never
15 testified to --

16 THE COURT: Well, that's true. That's true.

17 MR. KANAREK: It's in evidence.

18 MR. MANZELLA: So it can't form the basis for a hypotheti-
19 cal question.

20 THE COURT: It's not in evidence, but it is in the file,
21 and -- and I think Mr. Kanarek has a right to inquire about
22 it, since we have -- we are going into the reasons why
23 Mr. Barrett caused Mr. Manson's probation to be terminated,
24 to be revoked.

25 MR. MANZELLA: All right. Mr. Barrett's already answered
26 the question with regard to the \$5,000.

27 THE COURT: Yes, I think he has.

28 MR. MANZELLA: Several times. He answered it on direct,

12d-2

1 and now he's answered it on redirect.

2 THE COURT: That's true.

3 MR. KANAREK: May I get that exhibit for a moment?

4 THE COURT: There's no need to.

5 MR. KANAREK: Well, I want to offer that into evidence;
6 because he -- now he encompasses that issue; he has now
7 encompassed -- and we intend to impeach what he's saying.

8 MR. MANZELLA: That's a lot of hogwash. He has testified
9 to his reason. That exhibit -- there's nothing that impeaches
10 Mr. Barrett in there. There's no prior statements of
11 Mr. Barrett's that impeach him.

12 MR. KANAREK: Then may I get the exhibit? And I think I
13 can prove to the Court that such is the case.

14 THE COURT: That what is the case?

15 MR. KANAREK: That it is for the jury to determine whether
16 or not there has been any impeachment. It's my belief that
17 this -- that that exhibit impeaches --

18 THE COURT: Impeaches whom?

19 MR. KANAREK: This -- his statement of conjecture.

20 THE COURT: I don't understand you, Mr. Kanarek.

21 MR. KANAREK: He has stated that -- he has stated that
22 it didn't make any difference whether it's five cents or
23 \$5,000; and we know that, patently, to say the least, he is
24 being less than candid; because obviously -- I mean, I can't
25 conceive of any parole officer or probation officer not wanting
26 to inquire, when a man has got a wad of \$5,000 cash in his
27 pocket.

28 And therefore, I want to get that exhibit and show

12d-3

1 the Court why it's now material and relevant.

2 THE COURT: Why is it relevant at all?

3 MR. KANAREK: Because it -- if it's in the file, to
4 the extent that somebody makes a point of it in an official
5 file, it tends to impeach his statement that it's meaningless --
6 "whether it's five cents or \$5,000" -- it clearly impeaches
7 that statement, the very fact that they make note of it in an
8 official file.

9 THE COURT: Who makes note of it?

10 MR. KANAREK: He -- he put it in the file.

11 THE COURT: He didn't put it in the file.

12 MR. KANAREK: May I get the record?

13 THE COURT: Yes, you may.

14 (Whereupon, there was a pause in the proceedings.)

15 MR. KANAREK: Here it is, your Honor (indicating).

16 THE COURT: You are speaking of what, now?

17 MR. KANAREK: I'm speaking of -- uh --

18 THE COURT: You are speaking of Y.

19 MR. KANAREK: Of Defendant's Y, yes. And the subject
20 is Charles Manson, and it goes: "To S. Barrett."

21 THE COURT: Yes, to Mr. Barrett.

22 MR. KANAREK: From one "F. D. Michael, U. S. Treasury,"
23 and it says:

24 "Subject allegedly bought a handgun under an
25 assumed name. He allegedly had a very large wad of money at
26 the time of purchase --" uh -- I guess -- "at the time of
27 purchase, reputedly carries as much as \$5,000 cash on him.

28 "Mr. Michael will contact you or you him."

12e

12e QQ

1 THE COURT: And that memorandum --

2 MR. KANAREK: And this is signed --

3 THE COURT: That memorandum is dated September 2nd.

4 MR. KANAREK: Right. Right. I mean -- so the
5 association is made of Mr. Manson carrying \$5,000 cash on him.

6 MR. MANZELLA: Which, of course, has nothing to do with
7 what we are talking about.

8 MR. KANAREK: Well, of course it does.

9 THE COURT: All right. Let's get on with it.

10 I'll permit you to ask him.

11 MR. MANZELLA: About what, your Honor?

12 THE COURT: About this memorandum.

13 MR. MANZELLA: He didn't write the memorandum.

14 THE COURT: About whether there was a memorandum.

15 MR. MANZELLA: Your Honor, the witness has testified that
16 he was aware of -- he refreshed his memory from the file, and
17 that he was aware that a notation was made, that the fellow
18 who purchased the gun had a large amount of money. Kanarek
19 asked him about it on direct examination, and he said it was of
20 no consequence to him.

21 THE COURT: That's true.

22 MR. MANZELLA: He has already been asked about it.

23 Why is the Court going to allow Mr. Kanarek to go into it again?

24 THE COURT: I'll permit him to go into it.

25 MR. MANZELLA: All right.

26 THE COURT: Go ahead, Mr. Kanarek.

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

28 (Whereupon, the following proceedings were had in

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

2 (Proceedings had on an unrelated matter.)

3 THE COURT: Go ahead.

4 Q BY MR. KANAREK: Mr. Barrett --

5 A May I answer one more -- make one more comment?

6 Q Well, would you care to explain a previous answer?
7 Certainly, as far as I am concerned, you may.

8 A As far as the conditions of parole go, there is
9 nothing in any of those items that precludes anyone under
10 parole from having \$5,000 in his possession; it is not in any
11 way irregular for anybody to have a given amount of money in
12 his possession.

13 And the Board of Parole does not make any kind of
14 restriction or limitation of the amount of money anybody wishes
15 to possess.

13-1

1 Q I understand that Mr. --

2 A So, therefore, that's why I make it a special
3 issue.

4 Q Well, my question to you, the matter of how much
5 money a defendant has in terms of, let's say, a large sum of
6 money, is a matter that you, as a parole officer, are
7 concerned with or is that correct? You don't care if a man --

8 A Yes and no. May I give you an example?

9 If a man has been unemployed for one year and he
10 has \$10,000 in his possession, I think there would be cause
11 for reasonable inquiry as to how he has \$10,000 in his
12 possession when he has never showed any gainful employment
13 or been able to disclose receipt of any legitimate income.
14 We would question a large amount of money.

15 Q And if a man buys a gun at a time he's got a
16 \$5,000 wad of cash in his pocket, that is of --

17 A Whether he had one cent or one million dollars
18 would make no difference, if he had the gun. That's what
19 we would be interested in, primarily.

20 Q And you wouldn't ask him anything about the money,
21 when you met him?

22 A I thought I explained to you under what
23 conditions we would make reasonable inquiry about money.

24 Q But you would be, in fact, concerned about the sum
25 of \$5,000?

26 THE COURT: That's asked and answered, Mr. Kanarek.

27 MR. KANAREK: Your Honor, I at this time offer into
28 evidence again, if I may, -- I think it is -- excuse me just

13-2

1 a minute.

2 THE COURT: Your Y for identification?

3 MR. KANAREK: I believe so, your Honor.

4 THE COURT: Any objection? People have any objection?

5 MR. MANZELLA: Yes, on the grounds previously stated
6 and argued.

7 THE COURT: All right, I'll sustain it.

8 MR. KANAREK: Your Honor sustains that objection?

9 THE COURT: Yes.

10 MR. KANAREK: Mr. Barrett, I want to thank you very much.
11 I'm sorry we had to impose on your time.

12 MR. BARRETT: Thank you.

13 THE COURT: Thank you, Mr. Barrett.

14 Anything further, Mr. Manzella?

15 MR. MANZELLA: No, your Honor.

16 THE COURT: You are excused.

17 All right, ladies and gentlemen, see you tomorrow
18 morning at 9:30. Remember the admonition not to converse
19 amongst yourselves nor with anyone else, nor permit anyone
20 to converse with you on any subject connected with this matter
21 nor form nor express any opinion on the matter until it is
22 finally submitted to you.

23 Good night.

24 THE DEFENDANT: I would like to ask him a question. I
25 didn't break one of your rules. Not one.

26 THE COURT: Be quiet.

27 THE DEFENDANT: You know that, too, don't you?

28 Hey.

13-3

1 (Whereupon, at 4:22 P. M. Court adjourned, to
2 reconvene at 9:30 A. M., Friday, November 12, 1971.)
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