

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

DEPARTMENT NO. 130

HON. EDWARD A. HINZ, JR., JUDGE

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9012

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

NO. A253156

LESLIE VAN HOUTEN,

Defendant.

REPORTERS' DAILY TRANSCRIPT

Thursday, April 14, 1977

Volume 12

Pages 1855 to 2017, incl.

APPEARANCES: (See Volume 1.)

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1 LOS ANGELES, CALIFORNIA, THURSDAY, APRIL 14, 1977, 10:05 A.M.
2 DEPARTMENT NO. 130 HON. EDWARD A. HINZ, JR., JUDGE

3 - * -

4 (Appearances as heretofore noted.)

5
6 THE COURT: Good morning, ladies and gentlemen.

7 People versus Van Houten.

8 Let the record show the defendant is present,
9 represented by counsel, the People are represented by counsel,
10 the jurors are in their assigned places.

11 All right, Mr. Keith, you may resume with the
12 examination of Mr. Gray, juror No. 1.

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1 MR. KEITH: I'm not precisely sure, Mr. Gray, where we
2 left off last night.

3 THE COURT: I just had finished questioning.

4 MR. KEITH: You just -- Oh, I'm starting afresh.

5 THE COURT: Yes.

6 MR. KEITH: Well, good, good.

7 THE COURT: Or should I say you have already completed
8 it.

9 (Laughter.)

10 MR. KEITH: That's unkind.

11 All right, I'll be swift under the circumstances.

12 Mr. Gray, have you had any exposure to psychiatrists
13 or psychiatry at all?

14 MR. GRAY: Very slight.

15 MR. KEITH: Pardon me?

16 MR. GRAY: Very slightly in my work.

17 MR. KEITH: And your work is what again?

18 MR. GRAY: I work for Southern California Edison Company.

19 MR. KEITH: What is it that has led to some slight
20 exposure to psychiatry?

21 MR. GRAY: At the time I had a line crew under my
22 supervision, and the company had a psychiatrist -- I believe
23 he was from USC, but I'm not sure; I can't even remember his
24 name -- but he came down, and all of supervision spent a
25 half-day. And he was supposed to help us operate and to be
26 better supervisors.

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1 MR. KEITH: He talked to you.

2 MR. GRAY: Well, he talked to the group.

3 MR. KEITH: To you and — not individually.

4 MR. GRAY: Not individually, no.

5 As a group of probably 12 to 15 people.

6 MR. KEITH: How long ago would that have been?

7 MR. GRAY: Probably close to six years ago, seven years
8 ago.

9 MR. KEITH: And that's been your only contact with a
10 psychiatrist?

11 MR. GRAY: Outside of in junior college I took a
12 course in introduction to psychology.

13 MR. KEITH: Do you have any feeling or belief that
14 psychiatrists do not perform a valuable function in society?

15 MR. GRAY: No, I don't have that belief.

16 MR. KEITH: Would you tend to disregard the opinions
17 and reasons therefor of psychiatrists if they appeared in
18 court and testified in behalf of Miss Van Houten?

19 MR. GRAY: No, I wouldn't disregard the testimony.

20 MR. KEITH: The thrust of my question is, would you
21 do so arbitrarily?

22 MR. GRAY: Oh, no, sir.

23 MR. KEITH: So I take it from that statement you don't
24 hold the profession of psychiatry in low esteem.

25 MR. GRAY: No, sir.

26 MR. KEITH: Do you have any exposure or knowledge of
27 the use of dangerous drugs or narcotics?

28 MR. GRAY: Just in a very general sense.

1 I have known a few people that have taken drugs,
2 but you couldn't really class them as personal friends.
3 I just know of them.

4 MR. KEITH: Have you done any reading on the subject
5 of narcotics or dangerous drugs through the newspapers or
6 magazines?

7 MR. GRAY: Oh, I have undoubtedly read articles as
8 they come through the paper or periodicals, but not in
9 the sense of studying the article.

10 MR. KEITH: Have you ever heard of LSD before you
11 came to court?

12 MR. GRAY: I have heard of it, yes.

13 MR. KEITH: You haven't made any special study, though,
14 of the effects of that drug, have you?

15 MR. GRAY: No, sir.

16 MR. KEITH: You just have heard of it and know
17 generally what it's supposed to do or not do to you.

18 MR. GRAY: That's about the size of it.

19 MR. KEITH: All right.

20 In the event the evidence indicated
21 Miss Van Houten used LSD extensively or excessively some
22 years ago, during the '60s, would that tend to upset you to
23 the point where you couldn't give her a fair trial?

24 MR. GRAY: No, sir.

25 MR. KEITH: Again, I'm not suggesting that the use of
26 drugs by Miss Van Houten doesn't have relevance, but I want
27 to find out your state of mind or what your state of mind
28 would be towards her if the evidence so indicated, that she

1 used LSD chronically in the '60s.

2 MR. CROW: I really can't see as it would have any
3 difference as far as I'm concerned, to prejudice me one way
4 or the other.
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1 MR. KEITH: All right.

2 Let's suppose the evidence showed that Miss Van
3 Houten had been involved with Mr. Manson -- and you have
4 heard of him, of course --

5 MR. GRAY: Heard the name.

6 MR. KEITH: -- would you disregard the significance, if
7 any, of that relationship and simply because you felt Manson
8 was a bad man, come immediately to the conclusion that
9 Miss Van Houten was equally bad and give her no further
10 consideration?

11 MR. GRAY: No.

12 MR. KEITH: Have you been able to hear our discussions
13 about a doctrine known as diminished capacity?

14 MR. GRAY: Yes, sir.

15 MR. KEITH: Do you agree with that principle of law?

16 MR. GRAY: Yes, sir.

17 MR. KEITH: You don't feel that everybody should be
18 treated exactly the same way under the law regardless of their
19 mental state at the time of the commission of a crime?

20 MR. GRAY: No.

21 MR. KEITH: Again, I'm oversimplifying the doctrine, and
22 I'm doing so purposely because that's His Honor's function to
23 instruct you under the possible complexities of that law, but,
24 generally speaking, having heard something about it, you agree
25 that's a fair doctrine?

26 MR. GRAY: I think so.

27 MR. KEITH: And you have no quarrel with it?

28 MR. GRAY: No, sir.

1 MR. KEITH: And you would apply that doctrine if you
2 felt it was applicable to the facts of this case?

3 MR. GRAY: As far as the law was instructed to it, yes.

4 MR. KEITH: Yes.

5 Have you been in the service?

6 MR. GRAY: Yes, sir.

7 MR. KEITH: What branch?

8 MR. GRAY: Navy.

9 MR. KEITH: When did you do your navy service?

10 MR. GRAY: World War II.

11 MR. KEITH: Are you a member of any veterans organi-
12 cations?

13 MR. GRAY: No, sir.

14 MR. KEITH: Have you ever been?

15 MR. GRAY: No.

16 MR. KEITH: Did you start with Edison after World War II
17 was over?

18 MR. GRAY: Yes, sir.

19 MR. KEITH: And when were you discharged?

20 MR. GRAY: '46.

21 MR. KEITH: I came up here without my notes concerning
22 your background, Mr. Gray.

23 Do you have any children?

24 MR. GRAY: We have three.

25 MR. KEITH: How old are they?

26 MR. GRAY: I have to stop and think.

27 MR. KEITH: Estimate it.

28 MR. GRAY: The oldest boy is approximately 35; the girl

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1 is around 33; and I think the youngest boy is 30 his next
2 birthday, but --

3 MR. KEITH: Do they live in Los Angeles County?

4 MR. GRAY: Two of them; the youngest boy and the girl.

5 MR. KEITH: And what are their occupations?

6 MR. GRAY: The youngest boy drives a bus for RTD, and
7 the girl is a file clerk for a drapery concern in Bellflower.
8 I don't know the name of it.

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1 MR. KEITH: And your oldest boy, 35 or --

2 MR. GRAY: He is in El Paso, Texas, and he should be a
3 lab technician in a hospital. But I couldn't tell you which
4 hospital now.

5 I understand he went back working for the hospital.

6 MR. KEITH: I gather you don't keep too close tabs on
7 your oldest son.

8 MR. GRAY: Not too close, no. We see him maybe once
9 every two or three years.

10 MR. KEITH: And is Mrs. Gray employed outside the home?

11 MR. GRAY: No, sir.

12 MR. KEITH: Has she ever been?

13 MR. GRAY: Yes.

14 MR. KEITH: What did she do when she was employed outside
15 the home?

16 MR. GRAY: She was a sewing machine operator.

17 MR. KEITH: How long ago was that?

18 MR. GRAY: I don't think she's worked in about the last
19 six years.

20 MR. KEITH: Can you think of any reason now why you would
21 be unable to give Miss Van Houten a fair trial?

22 MR. GRAY: No.

23 MR. KEITH: Would you have the courage to return a
24 verdict in her favor, Mr. Gray, even if you thought that verdict
25 might be received unpopularity in the community?

26 MR. GRAY: No, I'd have no problem with that.

27 MR. KEITH: Even though you thought you might be
28 criticized --

1 MR. GRAY: I've been criticized before.

2 MR. KEITH: -- or embarrassed?

3 Pass for cause.

4 THE COURT: Thank you.

5 Mr. Kay, you may inquire.

6 MR. KAY: Thank you, Your Honor.

7 Mr. Gray, your son that had the conviction, which
8 boy was that; was that the older one or the younger one?

9 MR. GRAY: He didn't have a conviction, sir. That was
10 the younger boy.

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1 MR. KAY: It wasn't the younger boy. All right.

2 You said the record was expunged eventually.

3 MR. GRAY: (Nods head affirmatively.)

4 MR. KAY: What was the nature of the charges against
5 him before the records were expunged?

6 MR. GRAY: He was charged with tampering.

7 MR. KAY: With a vehicle?

8 MR. GRAY: Yes.

9 MR. KAY: Did that --

10 How old was he when that happened?

11 MR. GRAY: I believe he was 19.

12 MR. KAY: Did that matter go to a trial?

13 MR. GRAY: No, sir.

14 MR. KAY: Do you feel that he was treated fairly by the
15 police?

16 MR. GRAY: Yes, sir.

17 MR. KAY: Did you feel that he was treated fairly by
18 the prosecution?

19 MR. GRAY: Actually, it didn't really get that far.

20 MR. KAY: What --

21 MR. GRAY: He was charged -- he was released on bail
22 the next morning, and it was taken care of out of court.

23 He never appeared before the judge or --

24 MR. KAY: You mean the charges were dismissed?

25 MR. GRAY: Right, everything.

26 MR. KAY: Now, is there anything that happened in that
27 incident that you'd hold against the police or prosecution or
28 the judge --

1 MR. GRAY: No, sir.

2 MR. KAY: -- in this case?

X 3 Now, which son was it who was the auxiliary
4 officer for the El Paso Police Department?

5 MR. GRAY: That's the oldest boy.

6 MR. KAY: And how long was he an auxiliary officer?

7 MR. GRAY: I really couldn't tell you, but I would
8 say probably a couple of years.

9 MR. KAY: And how long ago was that?

10 MR. GRAY: Probably about four years ago.

11 MR. KAY: Did you ever see him during the period of
12 time when he was an auxiliary officer?

13 MR. GRAY: Oh, we were down there shortly before he
14 quit and gave up the idea.

15 He wanted to join the force; and I don't even
16 remember now why, but there was some reason why he wasn't
17 accepted on that particular opening.

18 And he decided it wasn't worth the effort; and
19 so he just give up even wanting to be on the force.

20 MR. KAY: Now, this person that came out and talked
21 to you and the other people at Southern California Edison,
22 are you sure that that was a psychiatrist that came out and
23 talked to you?

24 MR. GRAY: Not technically, no.

25 I don't know if it was a psychologist or
26 psychiatrist. He could have been a psychologist.

27 I really couldn't say.

28 He was politely referred to as the shrink.

1 That's all I know.

2 MR. KAY: Well, that must mean he was a psychiatrist,

3 Do you think psychiatrists are incapable of
4 making any mistakes?

5 MR. GRAY: No.

6 MR. KAY: Do you know anybody that's ever been treated
7 by a psychiatrist?

8 MR. GRAY: I can't give you a definite yes or no on
9 that because I know a party that was treated by a marriage
10 counselor, but I do not know that the party was a psychiatrist
11 or just merely a marriage counselor.

12 To answer the question the way you put it, no.

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1 MR. KAY: I will pass for cause.

2 Thank you.

3 THE COURT: Thank you.

4 The peremptory is with the People, No. 15.

5 MR. KAY: The People will thank and excuse Mr. Gray.

6 Thank you, sir.

7 THE COURT: Thank you, sir. You are excused.

8 THE CLERK: Carlos Briseno, B-r-i-s-e-n-o.

9 THE COURT: Mr. Briseno, did you hear the questions
10 that I asked the panel the other day?

11 MR. BRISENO: Yes, sir.

12 THE COURT: And if I were to ask you those same
13 questions would your answers differ in any way?

14 MR. BRISENO: No, sir.

15 THE COURT: As you sit there now can you think of
16 any reason why you couldn't be fair and impartial as to both
17 sides in this case?

18 MR. BRISENO: No, sir.

19 THE COURT: All right.

20 Would you please give us your personal data?

21 MR. BRISENO: Okay.

22 My name is Carlos Briseno.

23 5-28-28.

24 South Bay.

25 I'm married.

26 I have two sons, one daughter and one stepdaughter.
27 A boy 28, a boy 25, a stepdaughter 24 and a daughter 19.

28 I'm a building inspector for the County, and my

1 wife works in an electronics firm.

2 THE COURT: Have you previously served as a juror?

3 MR. BRISENO: Yes, sir.

4 THE COURT: How many criminal cases, if any?

5 MR. BRISENO: None.

6 THE COURT: How many civil cases?

7 MR. BRISENO: One.

8 THE COURT: Do you understand the difference in the
9 burden of proof as between a civil and a criminal case?

10 MR. BRISENO: Yes, sir.

11 THE COURT: And you further understand that in a
12 criminal case all 12 jurors must agree before they may return
13 a verdict?

14 MR. BRISENO: Yes, sir.

15 THE COURT: All right.

16 Could you put to one side whatever testimony
17 and instructions you received in the civil case --

18 MR. BRISENO: Yes, sir.

19 THE COURT: -- and decide this case solely on the
20 evidence to be presented in this courtroom and the instructions
21 the Court would give you?

22 MR. BRISENO: Yes, sir.

23 THE COURT: All right.

24 Do you have any close relationship with law
25 enforcement or anyone in law enforcement?

26 MR. BRISENO: No, sir.

27 THE COURT: And have you or anyone close to you ever
28 been arrested or charged with a serious offense?

1 MR. BRISENO: No, sir.

2 THE COURT: Have you or anyone close to you ever been
3 the victim or a witness to a serious offense?

4 MR. BRISENO: No, sir.

5 THE COURT: Thank you.

6 Mr. Keith, you may inquire.

7 MR. KEITH: Thank you, Your Honor.

8 Mr. Briseno, how long have you been a building
9 inspector for the County?

10 MR. BRISENO: About 13 years, sir.

11 MR. KEITH: I take it your job is to inspect
12 construction sites to see that the building is up to code?

13 MR. BRISENO: Right.

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MR. KEITH: Are you a senior inspector now?

MR. BRISENO: No, sir.

MR. KEITH: Pardon me?

MR. BRISENO: No, sir.

MR. KEITH: What did you do before becoming a building inspector?

MR. BRISENO: I was in business for myself.

MR. KEITH: As a contractor?

MR. BRISENO: Yes, concrete construction.

MR. KEITH: Now, what do your sons do?

MR. BRISENO: My oldest boy is a lithographer, printer, and my youngest son, he's a nurse. My stepdaughter, she works for the building department for the City of Los Angeles, and my 19-year-old daughter is a college student.

MR. KEITH: Where is she attending college?

MR. BRISENO: Cal State.

MR. KEITH: Have you been in the service?

MR. BRISENO: I was a merchant marine.

MR. KEITH: Has anybody in your family or amongst your close friends ever consulted a psychiatrist, to your knowledge?

MR. BRISENO: Yes, sir.

MR. KEITH: And who might that be?

MR. BRISENO: My ex-wife.

MR. KEITH: How long ago was that?

MR. BRISENO: About 15 years ago.

MR. KEITH: Do you think the psychiatrist that she consulted helped her at all?

MR. BRISENO: I really don't know. We got divorced. But

6-2
1 I hear it did.

2 I really don't know.

3 MR. KEITH: Has anybody else in your family or amongst
4 your relatives or close friends consulted a psychiatrist?

5 MR. BRISENO: No, sir.

6 MR. KEITH: Do you feel that psychiatrists perform a
7 valuable function in society?

8 MR. BRISENO: I think they have their place, yes.

9 MR. KEITH: Would you be inclined to disbelieve the
10 opinion or testimony of a psychiatrist simply because of his
11 profession?

12 MR. BRISENO: Not necessarily.

13 MR. KEITH: When you say "Not necessarily," what you are
14 telling me is, I presume, you might disbelieve the testimony
15 of a psychiatrist if you thought his reasons weren't valid?

16 MR. BRISENO: That's right.

17 MR. KEITH: But you wouldn't disbelieve one arbitrarily,
18 would you?

19 MR. BRISENO: That's right.

20 MR. KEITH: Have you ever had any exposure -- and I do
21 not mean you personally -- but exposure in the sense of
22 reading about or knowing people that have used drugs?

23 MR. BRISENO: No, sir; just what I read in the newspapers
24 every day.

25 MR. KEITH: You have had no special or taken no special
26 interest in learning about dangerous drugs or narcotics?

27 MR. BRISENO: No. I don't know if you would refer drugs
28 to what my ex-wife received when she was getting psychiatric

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1 treatment. They were tranquilizers. But even then I wasn't
2 involved with that.

3 MR. KEITH: I understand. But, no, not really. I am
4 not really concerned with tranquilizers.

5 I was just wondering if you had a special knowledge
6 or training in the field of drug abuse.

7 MR. BRISENO: No, I do not, sir.

8 MR. KEITH: Or whether you knew anybody that was addicted
9 to narcotics.

10 MR. BRISENO: No, sir.

11 MR. KEITH: Have you ever heard of LSD before coming
12 to court on this case?

13 MR. BRISENO: I've heard it mentioned, yes.

14 MR. KEITH: I take it you know very little, if anything,
15 about it?

16 MR. BRISENO: That's right.

17 MR. KEITH: Had you ever heard of Manson's name before
18 coming to court?

19 MR. BRISENO: I had heard of it, yes.

20 MR. KEITH: In the event the evidence showed that
21 Miss Van Houten was an abuser of drugs back in the '60s, would
22 that so turn you off against her that you would tend to
23 disregard her defense in this case?

24 MR. BRISENO: No, sir.

25 MR. KEITH: Or in the event the evidence showed she was
26 involved with Mr. Manson back in the late '60s, would you say
27 to yourself, "That's enough for me," and reject her defense,
28 her position on this case --

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MR. BRISENO: No, sir.

MR. KEITH: -- out of hand --

MR. BRISENO: No, sir.

MR. KEITH: -- arbitrarily?

MR. BRISENO: No, sir.

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1 MR. KEITH: Would you consider the facts, those factors,
2 in the event such testimony does come from the witness stand
3 to that effect, and give them the relevance you think they
4 should be entitled?

5 MR. BRISENO: Yes, sir.

6 MR. KEITH: I'm talking about an association with Manson
7 and use of drugs.

8 MR. BRISENO: I understand.

9 MR. KEITH: I'll pass for cause, Your Honor.

10 THE COURT: Thank you.

11 Mr. Kay, you may inquire.

12 MR. KAY: Thank you, Your Honor.

13 Mr. Briseno, do you feel any sympathy for
14 Miss Van Houten as she sits over there?

15 MR. BRISENO: I wouldn't say sympathy. I don't dislike
16 her, but I cannot say I feel sympathy.

17 MR. KAY: Well, now, do you think that --

18 Well, of course, you haven't heard any of the
19 evidence in the case yet --

20 MR. BRISENO: That's right, exactly.

21 MR. KAY: -- so you do not know what evidence --

22 And, of course, at the outset of the trial, she's
23 presumed innocent.

24 MR. BRISENO: Right.

25 MR. KAY: Do you understand that?

26 MR. BRISENO: Yes.

27 MR. KAY: But you understand when you get back in the
28 jury room you can't consider sympathy for a defendant or

1 passion or prejudice against a defendant.

2 Do you understand that?

3 MR. BRISENO: Yes, sir.

4 MR. KAY: And will you follow that instruction?

5 MR. BRISENO: Right.

6 MR. KAY: The fact that Miss Van Houten has been in
7 custody for seven years, does that make any difference at all
8 to you?

9 MR. BRISENO: No, sir.

10 MR. KAY: Would you consider giving, as Mr. Keith says,
11 Miss Van Houten a favorable verdict because of the fact that
12 she's been in custody for seven years?

13 MR. BRISENO: No, sir.

14 MR. KAY: Do you think that seven years is long enough
15 for anybody to be in prison for any murder?

16 MR. BRISENO: No, I do not think so.

17 MR. KAY: Understanding that in every criminal case the
18 prosecution has to prove a defendant guilty beyond a reasonable
19 doubt, would you hold us to any higher burden of proof?

20 MR. BRISENO: No, sir.

21 MR. KAY: Do you think you have clear in your mind the
22 distinction between a reasonable doubt and a doubt based on
23 speculation or conjecture?

24 MR. BRISENO: Very clear.

25 MR. KAY: Have you ever testified in court before?

26 MR. BRISENO: No, sir.

27 MR. KAY: I'm sorry I missed it, have you ever been on
28 jury duty before?

6-7
1 MR. BRISENO: Yes, sir.

2 MR. KAY: And that was a civil case, right?

3 MR. BRISENO: Right.

4 MR. KAY: Now, other than the time when you were on jury
5 duty, have you ever watched a case in trial?

6 MR. BRISENO: No, sir.

7 MR. KAY: What were the ages of your children?

8 MR. BRISENO: 28, 25, 24, 19.

9 MR. KAY: Now, because some of your children, the 28-year-
10 old and the 25-year-old, are in the age group that Miss Van
11 Houten is in, are you going to feel any sympathy for her for
12 that reason?

13 MR. BRISENO: No.

14 MR. KAY: Do you see any resemblance between any of
15 your children and Miss Van Houten?

16 MR. BRISENO: No; everybody is different.

17 MR. KAY: Did you understand the example I gave of
18 direct and circumstantial evidence?

19 MR. BRISENO: Yes, I did.

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1 MR. KAY: I know why you are smiling. You never heard
2 any of the questions that Mr. Keith and I have been asking.

3 You could probably get up here and ask the
4 same questions.

5 MR. BRISENO: I probably could by now.

6 (Laughter.)

7 MR. KAY: Well, it's a necessary evil, so to speak,
8 for both of us.

9 MR. BRISENO: I understand.

10 MR. KAY: As you can see, with each juror we get up
11 here we don't get the same answers from everybody.

12 MR. BRISENO: That's right.

13 MR. KAY: That's why we ask.

14 But we have certain questions in mind that we
15 want to know how each juror answers those questions.

16 Now, understanding that example, would you refuse
17 to convict a defendant based on circumstantial evidence alone?

18 MR. BRISENO: No, sir.

19 MR. KAY: And would you refuse to convict a defendant
20 of any murder unless the prosecution put forth an eyewitness
21 to the actual murder?

22 MR. BRISENO: No, sir.

23 MR. KAY: Would you give any less weight to the testimony
24 of a witness because that witness is a police officer?

25 MR. BRISENO: No, sir.

26 MR. KAY: Have you ever had any bad experiences with
27 police officers, like a ticket you didn't think you deserved,
28 or something like that?

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1 MR. BRISENO: I didn't think I deserved any of them.

2 (Laughter.)

3 MR. KAY: Now, anything that happened there, would you
4 hold that against us in this case?

5 MR. BRISENO: No, sir.

6 MR. KAY: If you were in the jury room and the 11 other
7 jurors were wanting to convict Miss Van Houten of first degree
8 murder and you wanted to convict her of second degree, and
9 somebody pointed out to you that maybe you misinterpreted
10 the precise language in an instruction or you missed a crucial
11 piece of evidence and you were convinced back in the jury
12 room that Miss Van Houten was guilty of first degree murder.

13 Would you have any problem at all voting to
14 convict her of first degree murder?

15 MR. BRISENO: No, I wouldn't.

16 MR. KAY: And would you have any problem coming out
17 here and telling us that's your verdict, even though you
18 would know in your own mind that you made the verdict
19 unanimous?

20 MR. BRISENO: No, I wouldn't have any problem.

21 MR. KAY: Do you understand that under the law of
22 conspiracy and aiding and abetting a person can be guilty of
23 first degree murder even though they don't strike the fatal
24 blow?

25 MR. BRISENO: Yes.

26 MR. KAY: Do you have any problems with that, any
27 quarrel with it?

28 MR. BRISENO: No.

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1 MR. KAY: Do you think that's a fair law?

2 MR. BRISENO: Yes.

3 MR. KAY: How long have you lived in the South Bay
4 area?

5 MR. BRISENO: About 15 years.

6 MR. KAY: Do you think that anyone who commits a
7 vicious murder must not have known what they were doing at
8 the time they committed the murder or they never would have
9 done anything like that?

10 MR. BRISENO: No.

11 Is that a premeditated?

12 MR. KAY: Yes.

13 MR. BRISENO: Yes.
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1 MR. KAY: Well, do you think a vicious murder can be
2 premeditated?

3 MR. BRISENO: A vicious murder? Yes.

4 MR. KAY: I mean a really vicious murder when I say
5 that.

6 You heard Mr. Keith talk about gory evidence
7 and gory photographs. When I say vicious murder I mean it
8 in every sense of the word.

9 Do you think that type of murder, that type of
10 vicious murder can be premeditated?

11 MR. BRISENO: Yes.

12 MR. KAY: Can you conceive of a defendant calling
13 psychiatrists to testify in his or her behalf if that
14 defendant wasn't in fact mentally ill?

15 MR. BRISENO: Yes.

16 MR. KAY: Do you think just because a defendant calls
17 psychiatrists, that that means that it must be a fact that
18 that person had a history of mental illness?

19 MR. BRISENO: No, not necessarily.

20 MR. KAY: Do you feel if a psychiatrist gets up on the
21 stand and testifies that Miss Van Houten had some sort of
22 mental illness at the time of the LaBianca murders, that you
23 are going to accept that as a fact without regard to the
24 reasonableness or unreasonableness of that psychiatrist's
25 opinion?

26 MR. BRISENO: No.

27 MR. KAY: Have you ever studied psychiatry or
28 psychology?

1 MR. BRISENO: No, sir.

2 MR. KAY: Do you think that psychiatry is an exact
3 science, like physics or chemistry or mathematics, where you
4 come up with definite, provable answers?

5 MR. BRISENO: No, sir.

6 MR. KAY: Do you think a psychiatrist is incapable of
7 making mistakes?

8 MR. BRISENO: No; he's human.

9 MR. KAY: Now, because --

10 Well, let me ask you this: Have you ever met
11 a psychiatrist?

12 MR. BRISENO: Yes.

13 MR. KAY: Was that the one that treated your wife,
14 your ex-wife?

15 MR. BRISENO: Yes.

16 MR. KAY: Were you still married to your ex-wife when
17 your ex-wife went to the psychiatrist?

18 MR. BRISENO: Yes.

19 MR. KAY: How long after she went to the psychiatrist
20 did you get the divorce?

21 MR. BRISENO: I don't think it was quite a year.

22 MR. KAY: What was the name of the psychiatrist, if
23 you remember?

24 MR. BRISENO: Dr. Hodges.

25 MR. KAY: That's out in the South Bay area?

26 MR. BRISENO: No; that's in Arcadia.

27 MR. KAY: Did you think Dr. Hodges was incapable of
28 making any mistakes?

1 MR. BRISENO: I really didn't have that many dealings
2 with Mr. Hodges. But he was treating her.

3 I didn't get too involved.

4 MR. KAY: Now, just because psychiatrists are going
5 to testify in this case as to Miss Van Houten's mental
6 state at the time of the LaBianca murders, are you going to
7 just sit back and whatever they say you will say, "Okay,
8 that's okay with me, and I will just mark my ballot
9 accordingly"?

10 MR. BRISENO: No.
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1 MR. KAY: Are you willing to accept 100 percent of
2 the responsibility for determining Miss Van Houten's legal
3 state of mind at the time of the LaBianca murders?

4 MR. BRISENO: Yes.

5 MR. KAY: And because psychiatrists are going to
6 testify in this trial and that's going to be a part of the
7 trial, are you going to forget about all the other evidence
8 in the trial?

9 MR. BRISENO: No, sir.

10 MR. KAY: If Mr. Keith gets up in his closing argument
11 and asks you to convict Miss Van Houten of second degree
12 murder and I ask you to convict her of first degree murder,
13 and you feel she is really under the law guilty of first
14 degree murder, for any reason in the world would you consider
15 finding her guilty of second degree murder?

16 MR. BRISENO: No, sir.

17 MR. KAY: Even if you like Mr. Keith and thought that
18 he did a nice job on the case?

19 MR. BRISENO: I don't think this is a popularity
20 contest.

21 MR. KAY: Good.

22 Now, do you think if you are selected as a juror
23 in this case you can keep absolutely clear in your mind
24 throughout the whole course of the trial that what
25 Miss Van Houten is charged with are two counts of murder and
26 one count of conspiracy to commit murder that are alleged
27 to have occurred in August of 1969?

28 MR. BRISENO: Definitely.

1 MR. KAY: And not 1977.

2 MR. BRISENO: That's right.

3 MR. KAY: Do you think that we are going to have to
4 prove to you that Miss Van Houten is a terrible person as
5 she sits over there now before you would convict her of the
6 LaBianca murders in 1969?

7 MR. BRISENO: A terrible person?

8 MR. KAY: Yes.

9 MR. BRISENO: I will look at all the evidence you put
10 before me.

11 MR. KAY: What I am saying, you understand she is
12 charged with crimes in 1969.

13 MR. BRISENO: Yes.

14 MR. KAY: And as I have told you, it's pretty clear
15 to you, isn't it, that she's been in custody for seven years?

16 MR. BRISENO: That's right.

17 MR. KAY: So she hasn't been out on the street.

18 Are you going to require of us that we prove to
19 you that she's a terrible person as she sits over there today
20 before you would consider convicting her of first degree
21 murder back for the LaBianca murders in 1969?

22 MR. BRISENO: No.

23 MR. KAY: In other words, you understand what she is
24 charged with is something that happened in 1969.

25 MR. BRISENO: That's right, yes.

26 MR. KAY: We are not charging her with any crimes
27 in 1977.

28 MR. BRISENO: I understand.

1 MR. KAY: Is there anything I failed to ask you that
2 you think I should know about you in making a determination
3 of whether or not to accept you as a juror?

4 Anything I haven't asked, or Mr. Keith hasn't
5 asked?

6 MR. BRISNO: No.

7 The only thing I want to make clear is that
8 any association I had with a psychiatrist 15 years ago would
9 have no bearing whatsoever on my mind.

10 MR. KAY: I think that's clear.

11 Okay; thank you.

12 I will pass for cause.

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1 THE COURT: Thank you.

2 The peremptory is with the defense, No. 13.

3 MR. KEITH: The defense will thank and excuse
4 Mr. Briseno.

5 THE COURT: Mr. Briseno, thank you for your attendance
6 upon the Court.

7 You are excused.

8 THE CLERK: Mrs. Mary D. Delgado, D-e-l-g-a-d-o.

9 THE COURT: Mrs. Delgado, did you hear the questions
10 that I asked the panel previously?

11 MRS. DELGADO: Yes, sir.

12 THE COURT: And if I were to ask you those same
13 questions would your answers be substantially the same?

14 MRS. DELGADO: Yes.

15 THE COURT: As you sit there now can you think of
16 any reason why you couldn't be fair and impartial as to both
17 sides in this case?

18 MRS. DELGADO: No, sir.

19 THE COURT: Would you please answer the questions on
20 the board for us.

21 MRS. DELGADO: Okay.

22 My name is Mary Delgado.

23 Born March 22nd, 1916.

24 I live in Bellflower.

25 I am married.

26 I have one son. He is 32, I believe. He's an
27 engineer.

28 And my husband is in business for himself in

1 gardening supplies.

2 THE COURT: Have you previously served as a juror?

3 MRS. DELGADO: Yes, I have.

4 THE COURT: On how many criminal cases, if any?

5 MRS. DELGADO: Two.

6 THE COURT: And what were the nature of the charges?

7 MRS. DELGADO: I believe it was possession of drugs --
8 or selling drugs.

9 THE COURT: Both cases?

10 MRS. DELGADO: Yes.

11 THE COURT: Without telling me the result, was the
12 jury able to reach a verdict as to each of the cases?

13 MRS. DELGADO: On one and not the other.

14 THE COURT: All right.

15 When did you serve on these two cases?

16 MRS. DELGADO: Two years ago.

17 THE COURT: Have you ever served as a juror in a civil
18 case?

19 MRS. DELGADO: No, sir.

20 THE COURT: Would you be able to put completely to
21 one side the testimony and instructions you received in those
22 prior criminal cases, and decide this case solely on the
23 evidence to be presented in this courtroom and the instructions
24 the Court would give you?

25 MRS. DELGADO: Yes, I would.

26 THE COURT: All right.

27 Have you any close relationship with law
28 enforcement or anyone in law enforcement?

1 MRS. DELGADO: No, sir.

2 THE COURT: Have you or anyone close to you ever been
3 arrested or charged with a serious offense?

4 MRS. DELGADO: No.

5 THE COURT: Have you or anyone close to you ever been
6 the victim or a witness to a serious offense?

7 MRS. DELGADO: No.

8 THE COURT: Thank you.

9 Mr. Keith, you may inquire.

10 MR. KEITH: Mrs. Delgado, was there any testimony or
11 evidence in those two prior jury trials you had which involved
12 the selling of narcotics that would prejudice you against
13 Miss Van Houten, when you bear in mind the evidence may show
14 in this case that Miss Van Houten abused LSD and other drugs?

15 MRS. DELGADO: No.
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1 MR. KEITH: You are sure of that?

2 MRS. DELGADO: I'm sure of it.

3 MR. KEITH: I'm sorry, but I was unable to hear whether
4 or not you were employed outside the home.

5 MRS. DELGADO: Oh, yes, I am.

6 I am employed by the Cerritos Community College
7 District.

8 MR. KEITH: Cerritos.

9 And what is your particular --

10 MRS. DELGADO: I am a secretary.

11 MR. KEITH: Does your son, who is 32 and an engineer,
12 live in this county?

13 MRS. DELGADO: Yes; he lives in Newport.

14 MR. KEITH: And for what firm does he work?

15 MRS. DELGADO: For Hewlett & Packard.

16 THE REPORTER: How do you spell "Hewlett"?

17 MRS. DELGADO: H-a-w-l-l-e-t-t, I believe.

18 MR. KEITH: It's e-t-t.

19 MRS. DELGADO: E-t-t; okay. & Packard.

20 MR. KEITH: And is he married?

21 MRS. DELGADO: No.

22 MR. KEITH: And your husband, does he run a nursery,
23 or is he a wholesaler?

24 MRS. DELGADO: No.

25 MR. KEITH: Or neither?

26 MRS. DELGADO: He doesn't -- no; he sells fertilizers,
27 soil; that type of thing. Compost.

28 MR. KEITH: On a retail basis, or to nurseries?

1 MRS. DELGADO: No; it's to nurseries on a retail
2 basis.

3 MR. KEITH: He is a distributor, then?

4 MRS. DELGADO: Yes.

5 MR. KEITH: How long have you been with Cerritos College,
6 Mrs. Delgado?

7 MRS. DELGADO: Eighteen years.

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1 MR. KEITH: Have you ever taught, been a teacher?

2 MRS. DELGADO: Oh, no, no; no, I have not.

3 MR. KEITH: Have you had any contact with psychiatrists,
4 either yourself or members of your family or close friends?

5 MRS. DELGADO: No.

6 MR. KEITH: Have you ever studied psychiatry or
7 psychology?

8 MRS. DELGADO: I did about 15 years ago. I took an
9 introductory course to psychology.

10 MR. KEITH: Where was that?

11 MRS. DELGADO: At Cerritos.

12 MR. KEITH: Is it your belief, Mrs. Delgado, that
13 psychiatry is not a profession, not a profession, that is
14 held in high esteem by you?

15 MRS. DELGADO: Oh, I think it is. It has its place,
16 very definitely,

17 MR. KEITH: You would be comfortable if psychiatrists
18 testified in this case and in Miss Van Houten's behalf and
19 not simply reject their testimony out of hand?

20 MRS. DELGADO: No, I wouldn't do that.

21 MR. KEITH: You would listen to their opinions and
22 the reasons given therefor and evaluate those opinions and
23 those reasons dispassionately and objectively and make up
24 your mind as to their validity and not just arbitrarily reject
25 the opinion of a psychiatrist.

26 Would that be a fair statement?

27 MRS. DELGADO: Yes.

28 MR. KEITH: You wouldn't tend to disbelieve a psychiatrist

1 because of something you may have read in the past or some
2 experience you or someone close to you may have had with a
3 psychiatrist?

4 MRS. DELGADO: No, sir.

5 MR. KEITH: Would the same apply to drug abuse in the
6 event the evidence showed in this case that Miss Van Houten
7 had abused LSD?

8 MRS. DELGADO: It would apply.

9 MR. KEITH: Have you made any particular study of drugs?

10 MRS. DELGADO: No.

11 I read articles from time to time that come out
12 in the periodicals and newspapers, but that's about it.

13 MR. KEITH: Have you ever heard of a drug called LSD
14 before you came into court?

15 MRS. DELGADO: Yes, I have.

16 MR. KEITH: Have you read any articles about that
17 particular drug in the past that you recall?

18 MRS. DELGADO: No, no.

19 MR. KEITH: You just recall the name?

20 MRS. DELGADO: Yes.

21 MR. KEITH: You do not know anything about the drug?

22 MRS. DELGADO: Very little.

23 MR. KEITH: If in the event the evidence indicated
24 Miss Van Houten abused LSD, was a chronic user of it, would
25 you listen to that evidence carefully and attach any signifi-
26 cance to it you may think appropriate and not simply reject
27 Miss Van Houten out of hand because she had abused that drug
28 and others?

1 MRS. DELGADO: No, I would listen carefully.

2 MR. KEITH: What I'm trying to find out, Mrs. Delgado,
3 is if you would become prejudiced and hostile towards
4 Miss Van Houten --

5 MRS. DELGADO: No.

6 MR. KEITH: -- simply and alone because she may have
7 abused drugs back in the 1960s?

8 MRS. DELGADO: No, I don't think I would do that.

9 MR. KEITH: All right.

10 Would you say the same if the evidence indicated
11 she had a close involvement with Mr. Manson?

12 MRS. DELGADO: I would say the same.

13 MR. KEITH: What you are telling me is that you would
14 consider that testimony, in the event there is such testimony,
15 for whatever relevance and significance you wished to attach
16 to it?

17 MRS. DELGADO: Yes, sir.

18 MR. KEITH: But you would not reject --

19 MRS. DELGADO: No.

20 MR. KEITH: -- Miss Van Houten out of hand because of
21 such involvement and say, "I've heard enough"?

22 MRS. DELGADO: No, I wouldn't do that.

23 MR. KEITH: Something I have not asked but I may bring
24 up:

25 Mrs. Delgado, Mr. Kay has commented if not once
26 200 times in this courtroom about a vicious murder. Vicious,
27 vicious, vicious, vicious, vicious, vicious.

28 In the event the evidence indicates the homicide

1 in this case was vicious, would you automatically convict
2 Miss Van Houten of the worst offense you could think of, that's
3 first degree murder, and not consider any of the other evidence?

4 MRS. DELGADO: No, no, I would not do that. I would
5 consider everything first of all.
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1 MR. KEITH: I don't know whether there are kind murders
2 or homicides or not, other than maybe euthanasia, if I'm
3 pronouncing it correctly, you know, where somebody is dying
4 of cancer and the doctor pulls the plug.

5 MRS. DELGADO: Yes.

6 MR. KEITH: Maybe that's a kindly act, I do not know.

7 But would you simply convict Miss Van Houten of
8 the worst because in your mind the evidence might indicate --
9 the evidence might show it was vicious?

10 MRS. DELGADO: No.

11 MR. KEITH: Assuming -- again, I'm rather nonplussed by
12 the term -- but --

13 MRS. DELGADO: No. I would have to listen to everything
14 presented.

15 MR. KEITH: Is there anything you can think of, after
16 having pondered, I'm sure, your qualifications to be fair for
17 a number of days, that you may -- that might bear on your
18 qualifications to serve impartially?

19 MRS. DELGADO: No, sir. I think you have covered
20 everything, and I can't think of anything.

21 MR. KEITH: Would you hesitate to return a verdict in
22 favor of Miss Van Houten if you felt the evidence justified
23 it, even though you might also feel that it would be an
24 unpopular verdict in the community or where you worked?

25 MRS. DELGADO: No, I would not hesitate.

26 MR. KEITH: You would have the courage of your convictions,
27 I dare say?

28 MRS. DELGADO: If I considered everything and couldn't

1 see how it could be any other way, yes.

2 MR. KEITH: You understand when you say you couldn't
3 see how it could be any other way --

4 MRS. DELGADO: Well, in my mind after --

5 MR. KEITH: No, I understand that. I believe I under-
6 stand it.

7 What I'm interested in, you are aware of the
8 doctrine of reasonable doubt, are you not?

9 MRS. DELGADO: Yes.

10 MR. KEITH: And you don't quarrel with that doctrine,
11 do you?

12 MRS. DELGADO: No, no.

13 MR. KEITH: If you had a reasonable doubt that Miss Van
14 Houten committed a crime, you wouldn't hesitate to return a
15 verdict of not guilty, would you?

16 MRS. DELGADO: No.

17 MR. KEITH: What I'm getting at is we don't have to
18 prove anything about -- our job, I suppose you might say, is
19 to persuade you that there is a reasonable doubt.

20 MRS. DELGADO: Yes.

21 MR. KEITH: So when you say if you looked at the evidence
22 and it could be no other way, it made me wonder.

23 In other words, if it was no other way in your
24 mind, you'd come back and you'd announce your verdict according
25 to the facts as you found them?

26 MRS. DELGADO: Yes, and I heard from all the evidence.

27 MR. KEITH: All right.

28 But do you understand, if you had a reasonable

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1 doubt that a certain set of facts or circumstances --

2 MRS. DELGADO: Yes.

3 MR. KEITH: -- existed, then you would apply the
4 doctrine of reasonable doubt --

5 MRS. DELGADO: Yes.

6 MR. KEITH: -- and reject those facts and circumstances?

7 MRS. DELGADO: Yes.

8 MR. KEITH: Could you do that?

9 MRS. DELGADO: Yes.

10 MR. KEITH: Pass for cause, Your Honor.

11 THE COURT: Thank you.

12 Mr. Kay, you may inquire.

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1 MR. KAY: Mrs. Delgado, when you said to Mr. Keith that
2 you have looked at the evidence and it could be no other way,
3 you understand that the prosecution doesn't have the burden
4 of proving the defendant's guilt to an absolute certainty or
5 beyond a shadow of a doubt.

6 Do you understand you can look at the evidence
7 and there might be some doubt in your mind but as long as
8 there is not a reasonable doubt then you have to convict.

9 Do you understand that?

10 MRS. DELGADO: Yes, I understand that.

11 MR. KAY: So just because the evidence might not all be
12 one way doesn't mean that the person isn't guilty of the
13 crime.

14 Do you understand that?

15 MRS. DELGADO: Yes, I understand.

16 MR. KAY: Do you think you have clear in your mind the
17 difference between a reasonable doubt and a doubt based on
18 speculation and conjecture?

19 MRS. DELGADO: Yes.

20 MR. KAY: Now, when you were being voir dire'd during
21 the publicity phase, you made a statement which I'm going to
22 ask you a little bit about now.

23 You said that you formed the opinion, from what
24 you knew about this case, that the people who were involved
25 must have been mentally unbalanced or sick.

26 MRS. DELGADO: Yes. I have thought about that since I
27 said that.

28 I think, though, that that isn't necessarily true

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1 after pondering about it. I have thought about it, and I
2 realize that that isn't necessarily so.

3 It can happen, but not necessarily so.

4 MR. KEITH: Well, do you think because you had this
5 opinion and you have been thinking about it a lot that maybe
6 I don't start with an even chance, or do you think I do start
7 with an even chance?

8 MRS. DELGADO: No. I realize that -- I hadn't given it
9 a lot of thought at the time I said that.

10 But, like I say, upon reflecting on the subject,
11 I realize that isn't true.

12 MR. KAY: Have you thought quite a bit about that?

13 MRS. DELGADO: Yes, I have.

14 MR. KAY: Now, do you think that just because somebody
15 commits a vicious murder -- and you heard me talk to Mr. Briseno
16 about that; I mean that in every possible sense of the word --

17 MRS. DELGADO: Yes.

18 MR. KAY: -- do you think that because somebody commits
19 a murder like that, that that means that they must not have
20 known what they were doing when they committed the murder?

21 MRS. DELGADO: No, no.

22 MR. KAY: Can you conceive of somebody committing a
23 vicious murder and not being mentally ill at the time they
24 committed that murder?

25 MRS. DELGADO: I can, yes.

26 MR. KAY: Have you ever seen a psychiatrist?

27 MRS. DELGADO: No, I've seen them, but I've never -- you
28 know, I don't know anyone.

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1 MR. KAY: Do you think that because psychiatrists are
2 going to testify in this trial that you are just automatically
3 going to accept what they have to say without regard to the
4 reasonableness or unreasonableness of their opinion?

5 MRS. DELGADO: No.

6 MR. KAY: And because you obviously know, as everybody
7 else has to know, as we've been at this for three weeks, that
8 psychiatrists are going to testify, are you just going to sit
9 back and say, "Well, they are the experts, and they say thus
10 and so, and, therefore, it must be so"?

11 MRS. DELGADO: No.

12 MR. KAY: Are you willing to accept 100 percent of the
13 responsibility to determine, make a determination of
14 Miss Van Houten's legal state of mind at the time of the
15 LaBianca murders?

16 MRS. DELGADO: Yes.

17 MR. KAY: You understand that the jury has responsibility.
18 The psychiatrists don't have any responsibility. They can
19 come in here and testify and walk out of the courtroom, and
20 that's that.

21 MRS. DELGADO: Yes.

22 MR. KAY: But it's the jury that has to make the
23 decision and live with the decision.

24 Do you understand that?

25 MRS. DELGADO: I understand that very clearly.
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1 MR. KAY: Do you think psychiatrists are incapable of
2 making errors?

3 MRS. DELGADO: No.

4 MR. KAY: Is it conceivable to you that if a group of
5 people are involved in the commission of a murder, that just
6 because one of the people might have some mental problems,
7 that it doesn't necessarily mean that everybody involved in
8 the murder has mental problems?

9 MRS. DELGADO: No.

10 MR. KAY: Is that conceivable to you?

11 MRS. DELGADO: Yes, that is conceivable.

12 MR. KAY: Now, the fact that Miss Van Houten has been
13 in custody for seven years, does that make any difference
14 to you?

15 MRS. DELGADO: No.

16 MR. KAY: Would you consider convicting her of second
17 degree murder or giving her a favorable verdict, as Mr. Keith
18 says, due to your feeling that seven years is long enough
19 for anybody to spend in custody for any murder?

20 MRS. DELGADO: Would I --

21 MR. KAY: Would you consider giving her a favorable
22 verdict, as Mr. Keith says, because of the fact that she's
23 been in custody for seven years?

24 MRS. DELGADO: No.

25 MR. KAY: Do you feel that seven years is long enough
26 for anybody to spend in custody for any murder?

27 MRS. DELGADO: No.

28 MR. KAY: Do you feel any sympathy for Miss Van Houten

1 as she sits over there?

2 MRS. DELGADO: Well, not sympathy as such, but, you
3 know, wondering, sort of wishing she hadn't been -- she
4 wouldn't be in that situation.

5 But --

6 MR. KAY: I'm sure we all wish that.

7 MRS. DELGADO: Yes.

8 MR. KAY: Now, is this going to influence you at all
9 to her benefit --

10 MRS. DELGADO: No.

11 MR. KAY: -- that you wished she wasn't in the
12 situation?

13 MRS. DELGADO: No, because the fact remains she is,
14 you know.

15 MR. KAY: You understand that if you get -- if you are
16 selected as a juror in the case and you get in the jury room,
17 that you can't consider --

18 MRS. DELGADO: Yes.

19 MR. KAY: -- any sympathy?

20 MRS. DELGADO: Yes, I understand that.

21 MR. KAY: I mean, it would be improper for somebody
22 in the jury room to say, "Well, look, you know, she did it,
23 but she's been in custody for seven years, so let's" --

24 MRS. DELGADO: No, I understand.

25 MR. KAY: -- "let's let bygones be bygones, and let's
26 forget about it."

27 MRS. DELGADO: No. That's not the purpose of my being
28 a juror.

1 MR. KAY: The fact that Miss Van Houten's mother might
2 come in here and testify during the defense portion of the
3 case and you might feel sorry for what the mother has been
4 through over the years, for that reason alone would you
5 consider convicting Miss Van Houten of a lesser charge?

6 MRS. DELGADO: No.

7 MR. KAY: When I say "lesser charge" I mean less than
8 first degree murder.

9 MRS. DELGADO: No.

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1 MR. KAY: Because you might feel sorry for what her
2 mother has had to suffer with, so to speak, do you feel
3 for that reason alone you'd believe everything the mother
4 had to say about Miss Van Houten and her background?

5 MRS. DELGADO: No.

6 MR. KAY: Do you know any attorneys?

7 MRS. DELGADO: No.

8 MR. KAY: Any private investigators?

9 MRS. DELGADO: No.

10 MR. KAY: Have you ever testified in court before?

11 MRS. DELGADO: No.

12 MR. KAY: How long ago was your jury duty?

13 MRS. DELGADO: Two years ago.

14 MR. KAY: And where was it, here or --

15 MRS. DELGADO: Here.

16 MR. KAY: Superior Court duty?

17 MRS. DELGADO: Yes.

18 MR. KAY: The case you were on that -- You said one
19 case reached a verdict and the other one didn't.

20 Which one came first?

21 MRS. DELGADO: The one that reached the verdict came
22 first, and the other one came later.

23 Someone could not agree, and that's why it was a
24 hung jury.

25 MR. KAY: Now --

26 MRS. DELGADO: Well, there were two or three counts.
27 They agreed on some and not on the other.

28 MR. KAY: So the second case --

1 Actually, you did reach a verdict as to some
2 counts but not as to all the counts.

3 MRS. DELGADO: Yes, that's right.

4 MR. KAY: Did anything happen in that second case that
5 had a hung jury as to the one count that would turn you off
6 about jury service, or anything like that?

7 MRS. DELGADO: No.

8 MR. KAY: Any bitter fights?

9 MRS. DELGADO: No. Just someone insisted that it
10 couldn't be.

11 MR. KAY: The fact that there might be, as Mr. Keith
12 has said, gory evidence and gory photographs, if you are
13 selected as a juror in this case will you look at all the
14 evidence and listen to all the evidence even though you might
15 feel that some of it is unpleasant?

16 MRS. DELGADO: Oh, yes, I could look at that.

17 MR. KAY: I noticed that in the publicity voir dire
18 you also made a comment that you thought all of this was a
19 rather ugly thing.

20 But you will still look at all the evidence?

21 MRS. DELGADO: Yes. I mean, all these things that
22 happen all over are ugly things, period; but they still
23 happen.

24 So you have to be realistic.

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1 MR. KAY: So you wouldn't just say, "Oh, I'm not going
2 to look at those pictures" --

3 MRS. DELGADO: No.

4 MR. KAY: -- "and give them the value that they are
5 entitled to."

6 MRS. DELGADO: Certainly.

7 MR. KAY: And you will listen to the testimony about --

8 MRS. DELGADO: Yes.

9 MR. KAY: -- what you might see in the pictures.

10 MRS. DELGADO: Yes.

11 I know there will be things to see that you
12 wouldn't particularly look at all the time.

13 MR. KAY: Yes; I don't think you would.

14 Did you understand the example I gave of direct
15 and circumstantial evidence?

16 MRS. DELGADO: Yes.

17 MR. KAY: Do you have any quarrel with that at all?

18 MRS. DELGADO: No.

19 MR. KAY: Would you refuse to convict a defendant
20 based on circumstantial evidence alone?

21 MRS. DELGADO: No.

22 MR. KAY: And would you refuse to convict a defendant
23 of murder if the prosecution didn't put forth an eyewitness
24 to the actual murder?

25 MRS. DELGADO: No.

26 MR. KAY: If you were in the jury room in this case
27 and it was eleven to one and you were the one that was holding
28 out for second degree murder, the other jurors were going

1 for first degree, and somebody pointed out to you that you
2 were in error for some reason or another, would you have the
3 courage to vote along with the majority and come out in this
4 courtroom and tell all of us that that's your verdict even
5 though you know that your verdict made the verdict unanimous?

6 MRS. DELGADO: Yes.

7 MR. KAY: Did you understand --

8 Well, do you understand that under the law of
9 conspiracy and aiding and abetting a person can be guilty
10 of first degree murder even though they don't strike the
11 fatal blow themselves?

12 MRS. DELGADO: Yes.

13 MR. KAY: And they don't strike the fatal blow as to
14 both victims.

15 MRS. DELGADO: Yes.

16 MR. KAY: Do you think that you can keep absolutely
17 clear in your mind that Miss Van Houten is charged with
18 three crimes in 1969, and is not charged with any crimes
19 in 1977?

20 MRS. DELGADO: Yes, sir, I can.

21 MR. KAY: So you understand that while her state of
22 mind at the time of the Labianca murders in 1969 might be
23 a critical issue for you to decide in this case, her state
24 of mind at the present time is not an issue that you will have
25 to decide.

26 Do you understand that?

27 MRS. DELGADO: Yes.

28 MR. KAY: Do you think we will have to prove to you

1 that Miss Van Houten is a terrible person as she sits over
2 there now before you'd consider convicting her of first
3 degree murder for the LaBianca murders in 1969?

4 MRS. DELGADO: No.

5 MR. KAY: And if Mr. Keith got up in his closing
6 argument and argued for a second degree murder conviction
7 and I argued for a first degree murder conviction, for any
8 reason under the sun if you believed that she was guilty
9 of first degree murder would you consider finding her guilty
10 of second degree murder?

11 MRS. DELGADO: No.

12 MR. KAY: Is there anything I haven't asked you that
13 you think I should know about you in making a determination
14 of whether or not to accept you as a juror?

15 MRS. DELGADO: No,
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1 MR. KAY: Thank you.

2 I will pass for cause.

3 THE COURT: Thank you.

4 The peremptory is with the People, No. 16.

5 MR. KAY: May I have just a moment, Your Honor?

6 THE COURT: Yes.

7 (Brief pause.)

8 MR. KAY: The People will accept the jury as constituted.

9 THE COURT: Thank you.

10 MR. KEITH: So do we.

11 THE COURT: All right.

12 Would the clerk --

13 Well, before you swear the panel, let me ask
14 this.

15 Ladies and gentlemen, I want to ask each of you
16 one question in this matter before the panel is sworn.

17 I would like to start with Mrs. Delgado.

18 Can you assure the Court that you will be a fair
19 and impartial juror, and that you will decide this case solely
20 on the evidence to be received in this matter and the
21 instructions the Court would give you?

22 MRS. DELGADO: Yes, sir, I can.

23 THE COURT: All right.

24 Mr. Miller, would you answer the question the
25 same way?

26 MR. MILLER: Certainly.

27 THE COURT: Thank you.

28 Mrs. Bloom?

1. MRS. BLOOM: Yes, sir.

2. THE COURT: And Mrs. Holloway?

3. MRS. HOLLOWAY: Yes, sir.

4. THE COURT: Mrs. Smith?

5. MRS. SMITH: Yes, sir.

6. THE COURT: Mr. Heishman?

7. MR. HEISHMAN: Yes, sir.

8. THE COURT: Thank you.

9. Mr. MacDonald?

10. MR. MAC DONALD: Yes, sir.

11. THE COURT: Mr. Waters?

12. MR. WATERS: Yes, sir.

13. THE COURT: Mr. McDermott?

14. MR. MC DERMOTT: Yes, sir.

15. THE COURT: Mr. Albee?

16. MR. ALBEE: Yes, sir.

17. THE COURT: Mrs. Rohan?

18. MRS. ROHAN: Yes, sir.

19. THE COURT: And Mrs. Stern?

20. MRS. STERN: Yes, sir.

21. THE COURT: All right.

22. Will the clerk please swear the panel.

23. THE CLERK: Will the jury please rise.

24. Raise your right hand, please.

25. You and each of you do solemnly swear that you
26. will well and truly try the cause now pending before this
27. court and a true verdict render therein according to the
28. evidence and the instructions of the court, so help you God?

1 (The jurors answered in the affirmative.)

2 THE CLERK: Just be seated, please.

3 Thank you.

4 THE COURT: All right.

5 At this time we are going to take the morning
6 recess. We will be in recess for 10 minutes, until 20 minutes
7 past the hour.

8 Bear in mind during this recess you are not to
9 discuss this case amongst yourselves or with anyone else,
10 you are not to form any opinion concerning this matter or
11 express any opinion concerning this matter until the case is
12 finally given to you.

13 Furthermore, you must not allow yourselves to
14 read, see or hear any publicity or news media accounts of
15 this matter.

16 When we resume after the recess the Court has
17 ordered and does order that four alternate jurors be selected,
18 and we will commence with the selection of the alternate
19 jurors when we resume at 11:20.

20 All jurors, the defendant and counsel are ordered
21 to return at that time.

22 The Court is in recess.

23 Thank you.

24 (Recess.)

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1 THE COURT: All right.

2 Would the clerk please call four jurors into the
3 seats provided for alternates.

4 THE CLERK: John B. Galatioto, G-a-l-a-t-i-o-t-o.

5 THE BAILIFF: Seat right next to Mr. Heishman.

6 THE CLERK: Mrs. Arlene J. Overton, O-v-e-r-t-o-n.

7 THE BAILIFF: Right directly behind Mr. Galatioto.

8 THE CLERK: Mrs. Betty L. Ellars, E-l-l-a-r-s,

9 THE BAILIFF: Next to Mr. Galatioto.

10 THE CLERK: Miss Beverly A. Harrison, H-a-r-r-i-s-o-n.

11 THE BAILIFF: The remaining seat.

12 THE COURT: All right, ladies and gentlemen, those
13 called into the alternate seats, I want to explain a little
14 bit about the function of an alternate juror.

15 Each of the alternates must sit through the case,
16 hear all the evidence, hear all the arguments, and be prepared
17 at any time to be called into the jury room to replace one of
18 the 12 jurors who may be discharged due to an unfortunate
19 accident or circumstance.

20 If that should happen, where one of the regular
21 jurors has to be discharged, then the clerk would call from
22 the box, having put the four tickets in for the four jurors
23 sitting as alternates, he would then pull one alternate's
24 name out, and that alternate would then take the place of the
25 juror who has been discharged.

26 Now, the chances are that none of the 12 jurors
27 will have any untoward incidents and that the case will
28 continue. But each alternate juror must be prepared at any

1 time, even after the jury has retired to deliberate.

2 It is not common, of course, but it has happened
3 that a juror is discharged even after the jury has begun
4 their deliberations, and at that time one of the alternates
5 takes the place of the juror who has been discharged.

6 It requires that each alternate juror listen as
7 carefully to the evidence and as carefully to the proceedings
8 as one of the regular 12 jurors, because, in essence, you are
9 a pinch hitter, and you've got to be ready to go to bat when
10 the time comes, if it comes.

11 Now, I'd like to start with Mr. Galatioto.

12 Sir, would you be able to serve in the function
13 of an alternate juror and give this case close attention even
14 though you might not actually become a member of the 12 on
15 the jury?

16 MR. GALATIOTO: Yes, sir.

17 THE COURT: All right.

18 And then I'd like to ask the same question of
19 Mrs. Overton.

20 Would your answer be the same?

21 MRS. OVERTON: Yes, sir.

22 THE COURT: And Mrs. Ellars?

23 MRS. ELLARS: Yes, sir.

24 THE COURT: And Miss -- is it Harrison?

25 MISS HARRISON: Yes.

26 THE COURT: All right. Would your answer be the same?

27 MISS HARRISON: Yes.

28 THE COURT: All right. Then I'd like to start with

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1 Mr. Galatioto.

2 Sir, did you hear the questions that I asked the
3 panel previously?

4 MR. GALATIOTO: Yes, sir.

5 THE COURT: And if I were to ask you those same questions,
6 would your answers be substantially the same?

7 MR. GALATIOTO: Yes, sir.

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1 THE COURT: And as you sit there now, can you think of
2 any reason why you couldn't be a fair and impartial juror in
3 this case?

4 MR. GALATIOTO: No, sir.

5 THE COURT: All right.

6 Would you please give us your personal data.

7 MR. GALATIOTO: My name is John Galatioto.

8 I was born September 9, 1919.

9 I live in the South Bay area.

10 I'm married.

11 I have three children, a son 29, a son 24, a
12 daughter 23.

13 I'm a commercial field representative employed by
14 the City of Los Angeles, Department of Water and Power.

15 My wife is a retail clerk.

16 THE COURT: All right. Have you previously served as a
17 juror?

18 MR. GALATIOTO: No, sir.

19 THE COURT: And do you have any close relationship with
20 law enforcement or anyone in law enforcement?

21 MR. GALATIOTO: I have a nephew that is on the Los
22 Angeles City Police Department.

23 THE COURT: And how often do you see him?

24 MR. GALATIOTO: It's been 15 months since I've seen him.

25 THE COURT: Would that fact or circumstance in any way
26 affect your ability to be fair and impartial as to both sides
27 in this case?

28 MR. GALATIOTO: No, sir.

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1 THE COURT: All right.

2 Would you judge the credibility of a police officer
3 by the same standard that you would use as to any other
4 witness?

5 MR. GALATIOTO: Yes, sir.

6 THE COURT: All right.

7 Have you or anyone close to you ever been arrested
8 or charged with a serious offense?

9 MR. GALATIOTO: My father, sir.

10 THE COURT: And when was that?

11 MR. GALATIOTO: 1930.

12 THE COURT: And what was the nature of the charge?

13 MR. GALATIOTO: Bootlegging.

14 (Laughter.)

15 THE COURT: I noticed when you said that you had your
16 head up high.

17 MR. GALATIOTO: It was common practice.

18 THE COURT: That fact or circumstance would not in any
19 way affect your ability to be fair and impartial in this case,
20 would it?

21 MR. GALATIOTO: No, sir.

22 THE COURT: Have you or anyone close to you ever been a
23 witness to or a victim of a serious offense?

24 MR. GALATIOTO: My wife. Her -- she was held up about
25 15 years ago. Market was held up, I should say.

26 THE COURT: And was she in the market at the time?

27 MR. GALATIOTO: She was in the market. She was checking.

28 THE COURT: And was she the one that was held up?

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1 MR. GALATIOTO: No, sir. It was just a -- three fellows
2 came in, had shotguns, and they just stationed everybody
3 around the market, told everybody to lie down and then
4 proceeded to rob the market.

5 THE COURT: All right.

6 Would that fact or circumstance in any way affect
7 your ability to be fair and impartial as to both sides in
8 this case?

9 MR. GALATIOTO: No, sir.
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1 THE COURT: All right, thank you.

2 Mrs. Overton, did you hear the questions that I
3 asked the panel previously?

4 MRS. OVERTON: I did.

5 THE COURT: And if I were to ask you the same questions,
6 would your answers be substantially the same?

7 MRS. OVERTON: They would.

8 THE COURT: As you sit there now, can you think of any
9 reason why you could not be fair and impartial to both sides
10 in this case?

11 MRS. OVERTON: No.

12 THE COURT: Would you please give us your personal data.

13 MRS. OVERTON: My name is Arlene J. Overton.

14 I was born January 21, 1948.

15 I live in West Hollywood.

16 I'm divorced.

17 No children.

18 I'm a legal stenographer for the county.

19 My ex-husband is a deputy sheriff for Los Angeles
20 County.

21 THE COURT: All right.

22 And by what office are you hired as a secretary?

23 (Laughter.)

24 MRS. OVERTON: District attorney's office.

25 THE COURT: Do you know Mr. Kay?

26 MRS. OVERTON: No, I don't.

27 THE COURT: Would that fact or circumstance in any way
28 affect your ability to be fair and impartial in this case?

1 MRS. OVERTON: No, sir.

2 THE COURT: How long have you worked for the district
3 attorney's office?

4 MRS. OVERTON: A year and a half.

5 THE COURT: And do you work for a particular attorney?

6 MRS. OVERTON: No. I'm in a stone pool.

7 THE COURT: All right.

8 And where is your principal office located?

9 MRS. OVERTON: Santa Monica branch office.

10 MR. KAY: I'm in the Torrance office, so I don't have
11 anything to do with Santa Monica.

12 THE COURT: And I take it, as you said, you don't know
13 Mr. Kay; is that correct?

14 MRS. OVERTON: That's correct.

15 THE COURT: All right.

16 I take it, of course, you knew your ex-husband,
17 who is the deputy sheriff.

18 Do you know any other police officers?

19 MRS. OVERTON: Yes, I do.

20 THE COURT: And how many and --

21 MRS. OVERTON: There are numerous filing officers that
22 come in to file their complaints.

23 THE COURT: And you see them on a regular basis for
24 that purpose?

25 MRS. OVERTON: A lot of them; yes, sir.

26 THE COURT: All right.

27 Now, would that fact or circumstance in any way
28 affect your ability to be fair and impartial in this case?

1 MRS. OVERTON: No, sir.

2 THE COURT: And if a police officer or a peace officer
3 were called as a witness in this case, would you judge his
4 credibility by the same standard that you would use as to any
5 other witness?

6 MRS. OVERTON: I would.

7 THE COURT: All right.

8 And would you suffer any embarrassment or find it
9 difficult to return a verdict against the side that called the
10 police officers or peace officers as a witness?

11 MRS. OVERTON: No, sir, I wouldn't.

12 THE COURT: Would you suffer any embarrassment or find
13 it difficult to return a verdict against the side represented
14 by the district attorney's office?

15 MRS. OVERTON: No, I wouldn't.

16 THE COURT: Would you put completely out of your mind
17 the fact or circumstance concerning your employment and the
18 association with police officers and assure the court that you
19 would decide this case solely on the evidence to be presented
20 in this courtroom and the instructions the court would give
21 you?

22 MRS. OVERTON: I would.

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1 THE COURT: All right.

2 Have you ever been arrested or anyone close to
3 you ever been arrested for or charged with a serious offense?

4 MRS. OVERTON: No, sir.

5 THE COURT: Have you ever been a witness to or a victim
6 of a serious offense?

7 MRS. OVERTON: I had my car burglarized about three
8 years ago.

9 THE COURT: Were you present at the time that happened?

10 MRS. OVERTON: No, sir.

11 THE COURT: Would that fact or circumstance in any
12 way affect your ability to be fair and impartial?

13 MRS. OVERTON: No.

14 THE COURT: As you sit there now can you think of any
15 reason why you couldn't be fair and impartial as to both
16 sides?

17 MRS. OVERTON: No, I can't.

18 THE COURT: All right; thank you.

19 Mrs. Ellars, did you hear the questions that I
20 previously asked the panel?

21 MRS. ELLARS: Yes, I did.

22 THE COURT: If I were to ask you the same questions
23 would your answers be substantially the same?

24 MRS. ELLARS: Right.

25 THE COURT: As you sit there now can you think of any
26 reason why you couldn't be fair and impartial as to both
27 sides in this case?

28 MRS. ELLARS: No.

1 THE COURT: All right.

2 Would you please give us your personal data.

3 MRS. ELLIARS: My name is Betty Ellars.

4 Date of birth: November 19, '30.

5 Downey area.

6 I am very married.

7 I have children: 26, 25, 23 and 22.

8 And I'm a housewife.

9 My husband is self-employed, trucking.

10 THE COURT: All right.

11 Have you previously served as a juror?

12 MRS. ELLIARS: No.

13 THE COURT: Does anyone close to you have any
14 relationship with law enforcement?

15 MRS. ELLIARS: Friends, not relations. Friends.

16 THE COURT: All right. How many friends are you
17 talking about?

18 MRS. ELLIARS: I should say relations; they are related
19 by marriage.

20 My daughter's father-in-law is on L.A.P.D.

21 THE COURT: Is there anyone else?

22 MRS. ELLIARS: I can't think of anyone --

23 Oh, I lived next door to one for a couple of years
24 in South Gate, right.

25 THE COURT: When did you move from that location?

26 MRS. ELLIARS: Two years ago.

27 THE COURT: All right.

28 What was his affiliation with law enforcement?

1 MRS. ELLIARS: He was on the South Gate police force;
2 I don't know.

3 THE COURT: All right.

4 As to the South Gate officer, would that fact
5 or circumstance in any way affect your ability to be fair
6 and impartial in this case?

7 MRS. ELLIARS: No.
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1 THE COURT: This other gentleman is -- What
2 relationship is he, again?

3 MRS. ELLARS: He's my -- His son married my daughter.

4 THE COURT: All right.

5 How often do you see him?

6 MRS. ELLARS: On special occasions when the family
7 gets together.

8 THE COURT: Do you discuss the nature of his work with
9 him?

10 MRS. ELLARS: No, sir.

11 THE COURT: What is his name, by the way?

12 MRS. ELLARS: Martin Yturralde.

13 THE COURT: Have you discussed the nature of his work
14 with him?

15 MRS. ELLARS: No.

16 THE COURT: Would that fact or circumstance in any
17 way affect your ability to be fair and impartial?

18 MRS. ELLARS: No.

19 THE COURT: All right.

20 If a police officer were called as a witness in
21 this case, would you judge his credibility by the same
22 standard that you would use as to any other witness?

23 MRS. ELLARS: Yes.

24 THE COURT: Would you suffer any embarrassment or
25 find it difficult to return a verdict for or against the
26 side that called a police officer as a witness?

27 MRS. ELLARS: Say that again.

28 THE COURT: What I want to know is, does this fact that

1 you have been associated with two police officers, would
2 this cause you any embarrassment if you were to return a
3 verdict --

4 MRS. ELLARS: Oh, no.

5 THE COURT: -- against the side that called --

6 MRS. ELLARS: No.

7 THE COURT: -- police officers as a witness?

8 MRS. ELLARS: (Shakes head negatively.)

9 THE COURT: In other words, the point being, that
10 shouldn't in any way affect your judgment or what verdict
11 you should return.

12 Do you understand that?

13 MRS. ELLARS: Right.

14 THE COURT: And I want to be sure that that fact, that
15 these two people are police officers and you know them, that
16 that would in no way cause you any embarrassment or affect
17 your judgment in this case.

18 Can you assure me of that?

19 MRS. ELLARS: Yes, I can.

20 THE COURT: Okay; thank you.

21 Have you ever been arrested or anyone close to
22 you ever been arrested or charged with a serious offense?

23 MRS. ELLARS: My son.

24 THE COURT: When was that?

25 MRS. ELLARS: In 1969.

26 THE COURT: What was the nature of the charge?

27 MRS. ELLARS: Marijuana.

28 THE COURT: Was that matter resolved in the courts?

1 MRS. ELLIARS: Yes; it's been sealed.

2 THE COURT: Would that fact or circumstance in any
3 way affect your ability to be fair and impartial in this
4 case?

5 MRS. ELLIARS: No.

6 THE COURT: All right.

7 Did that involve possession of marijuana?

8 MRS. ELLIARS: It involved sales.

9 THE COURT: And is there anyone else close to you that
10 has been arrested or charged with a serious offense?

11 MRS. ELLIARS: No.

12 THE COURT: All right.

13 Have you ever been a witness to or anyone close
14 to you ever been a witness to or a victim of a serious
15 offense?

16 MRS. ELLIARS: Not that I know of.

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1 THE COURT: All right, thank you.

2 Would you pass the microphone back to Miss Harrison.

3 Miss Harrison, did you hear the questions that
4 I asked the panel previously?

5 MISS HARRISON: Yes.

6 THE COURT: And if I were to ask you those same
7 questions would your answers be substantially the same?

8 MISS HARRISON: Yes.

9 THE COURT: Can you think of any reason as you sit
10 there now why you couldn't be fair and impartial as to both
11 sides in this case?

12 MISS HARRISON: No, I can't.

13 THE COURT: Would you please give us your personal
14 data.

15 MISS HARRISON: My name is Beverly A. Harrison.

16 Date of birth: 9-24-49.

17 West Los Angeles.

18 I'm single; no children.

19 I'm a senior clerk typist for the Personnel
20 Department, City Hall South.

21 THE COURT: Of what department?

22 MISS HARRISON: Personnel; City Hall South.

23 THE COURT: Thank you.

24 Have you previously served as a juror?

25 MISS HARRISON: No, I haven't.

26 THE COURT: Do you have any close relationship with
27 law enforcement or anyone in law enforcement?

28 MISS HARRISON: Yes, I do.

1 THE COURT: What is that?

2 MISS HARRISON: I was employed by the Los Angeles
3 Police Department for six and a half years.

4 THE COURT: What was the period of your employment
5 with the Los Angeles Police Department?

6 MISS HARRISON: The period?

7 THE COURT: When did you start and when did you
8 finish?

9 MISS HARRISON: From March of '70 to November of '76.

10 THE COURT: What was your location where you were
11 employed?

12 MISS HARRISON: Parker Center.

13 THE COURT: All right.

14 Now, I take it during that course of employment
15 you became acquainted with a substantial number of police
16 officers. Is that correct?

17 MISS HARRISON: Yes.

18 THE COURT: Would that fact or circumstance in any
19 way affect your ability to be fair and impartial as to both
20 sides in this case?

21 MISS HARRISON: No, it wouldn't.

22 THE COURT: Could you put that fact or circumstance
23 completely out of your mind, and judge this case solely on
24 the evidence to be presented in this courtroom and the
25 instructions the Court would give you?

26 MISS HARRISON: Yes.

27 THE COURT: If a police officer or peace officer were
28 called as a witness in this case, would you judge his

1 credibility by the same standard that you would use as to
2 any other witness?

3 MISS HARRISON: Yes.

4 THE COURT: And would it cause you any embarrassment
5 or would it be difficult for you to return a verdict for or
6 against the side that called a police officer as a witness?

7 MISS HARRISON: No, it wouldn't.

8 THE COURT: All right.

9 Have you or anyone close to you ever been arrested
10 or charged with a serious offense?

11 MISS HARRISON: No.

12 THE COURT: Have you or anyone close to you ever been
13 a witness to or a victim of a serious offense?

14 MISS HARRISON: I had my car stolen in 1971.
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1 THE COURT: All right.

2 Did you have to go to court on that matter?

3 MISS HARRISON: No, I didn't.

4 THE COURT: Would that fact or circumstance in any
5 way affect your ability to be fair and impartial?

6 MISS HARRISON: No.

7 THE COURT: All right.

8 As you sit there now can you think of any reason
9 why you couldn't be fair and impartial as to both sides?

10 MISS HARRISON: No.

11 THE COURT: All right; thank you.

12 Mr. Keith, you may inquire.

13 MR. KEITH: "Mr. Galatioto," am I pronouncing your
14 name correctly?

15 MR. GALATIOTO: Beautiful.

16 MR. KEITH: Thank you.

17 I was unable to write down fast enough the ages
18 of your children.

19 MR. GALATIOTO: I have a son 29, a son 23 and a
20 daughter 22.

21 MR. KEITH: And what does your 29-year-old son do?

22 MR. GALATIOTO: He's a sheet metal worker.

23 MR. KEITH: And your 23-year-old son?

24 MR. GALATIOTO: He works for United Air Lines.

25 MR. KEITH: In what capacity?

26 MR. GALATIOTO: He's a lead man in the kitchen.

27 MR. KEITH: And your daughter, 22.

28 MR. GALATIOTO: She is a secretary for a stockbroker.

1 MR. KEITH: Do you know what concern?

2 MR. GALATIOTO: It's in Playa del Rey, sir.

3 It's a new concern that came out here from
4 New York about a year and a half ago.

5 My daughter was with the Kelly Girls. They
6 liked her work, so they bought her contract.

7 I don't know the name of the concern; I'm sorry.

8 MR. KEITH: Is she married?

9 MR. GALATIOTO: She is married.

10 MR. KEITH: What does her husband do?

11 MR. GALATIOTO: Construction worker.

12 MR. KEITH: How long have you lived in California?

13 MR. GALATIOTO: Fifty years.

14 MR. KEITH: Does that mean you were born here?
15 Because I didn't write down your age.

16 MR. GALATIOTO: No, sir; I was born in New York City.

17 MR. KEITH: I kind of figured that.

18 MR. GALATIOTO: 1919.

19 We moved out here in 1926.

20 MR. KEITH: And your wife must be a clerk for a market,
21 or at least she was.

22 MR. GALATIOTO: Retail Clerk 770. She worked for
23 Smith Food King Market.

24 MR. KEITH: What did you say, Retail Clerk 7 --

25 MR. GALATIOTO: -- 70.

26 MR. KEITH: What does that mean?

27 MR. GALATIOTO: That's the big Retail Clerks' Union.

28 MR. KEITH: All right.

1 I had an idea that's what you meant but I wasn't
2 quite sure.

3 Have you or anybody in your family or anybody
4 amongst your close friends ever been treated by a psychiatrist?

5 MR. GALATIOTO: My deceased brother-in-law was.

6 MR. KEITH: Was that here in California?

7 MR. GALATIOTO: Yes, sir.

8 MR. KEITH: Do you think the psychiatrist helped him,
9 or don't you know?

10 Or don't you have an opinion?

11 MR. GALATIOTO: I wasn't involved in it.

12 My sister had passed away, and my brother-in-law
13 remarried.

14 And I heard that afterwards he had some type of
15 guilt complex and wound up in a mental institution.
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1 MR. KEITH: But that really doesn't affect you all
2 that much?

3 MR. GALATIOTO: None whatsoever.

4 MR. KEITH: Do you have any learning or training in
5 the field of drugs?

6 MR. GALATIOTO: No, sir.

7 MR. KEITH: Have you ever heard of LSD?

8 MR. GALATIOTO: Yes, sir.

9 MR. KEITH: Have you done any reading on that subject?

10 MR. GALATIOTO: None whatsoever.

11 MR. KEITH: You have simply heard the name.

12 MR. GALATIOTO: (Nods head affirmatively.)

13 MR. KEITH: Had you heard it before you came into
14 court?

15 MR. GALATIOTO: Yes, sir.

16 MR. KEITH: None of your children, to your knowledge,
17 have any problems with drugs?

18 MR. GALATIOTO: None whatsoever.

19 MR. KEITH: Have you been able to hear us talking
20 about a concept known as diminished capacity?

21 MR. GALATIOTO: Yes, sir.

22 MR. KEITH: That one person may not be as responsible
23 as someone else for the commission of a crime by reason of
24 some mental defect, disease or illness --

25 MR. GALATIOTO: Yes, sir.

26 MR. KEITH: -- which precludes them from acquiring
27 the mental state -- acquiring the mental state required to
28 commit certain crimes, murder being one of them.

1 Do you have any quarrel with that concept?

2 MR. GALATIOTO: No, sir.

3 MR. HENRY: Would you follow an instruction on that
4 concept in the event it is given by His Honor from the bench?

5 MR. GALATIOTO: Yes, sir.

6 MR. HENRY: Have you had prior jury -- No, you
7 haven't had any prior --

8 MR. GALATIOTO: No.

9 MR. HENRY: But you sat here and you heard how trials
10 go.

11 And at the end of the case the judge instructs
12 you as to the law of the case, and he's the fountain of all
13 knowledge on that subject.

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1 We may talk about it, but whatever we say about
2 the law is, hopefully, accurate. But the real accuracy
3 comes from the bench.

4 I want to find out if you would follow scrupulously
5 all the instructions as to the law given by His Honor that
6 he believes are applicable to this case.

7 MR. GALATIOTO: Yes.

8 MR. KEITH: Including an instruction on diminished
9 capacity.

10 MR. GALATIOTO: Yes, sir.

11 MR. KEITH: Do you feel or harbor any suspicion, let's
12 say, that in the event the evidence discloses Miss Van Houten
13 abused drugs or had an association with Manson or lived a
14 bizarre life style or believed in a strange philosophy that
15 you would reject her defense out of hand and just say, "I'm
16 not going to give her any consideration" --

17 MR. GALATIOTO: No, sir.

18 MR. KEITH: -- because of the circumstances in the event
19 they do exist?

20 MR. GALATIOTO: No, sir.

21 MR. KEITH: You would consider those circumstances
22 carefully and evaluate those circumstances, and you would
23 attach to them such relevance and such weight as you felt they
24 deserved?

25 MR. GALATIOTO: Yes, sir.

26 MR. KEITH: Would you do the same with psychiatric
27 testimony in the event psychiatrists are called to testify on
28 her behalf?

1 MR. GALATIOTO: I would, sir.

2 MR. KEITH: You would not disregard their testimony
3 arbitrarily, would you?

4 MR. GALATIOTO: No, sir.

5 MR. KEITH: I didn't ask you but I will now:

6 You do not hold psychiatry or psychiatrists in
7 low esteem, do you?

8 MR. GALATIOTO: No, sir.

9 MR. KEITH: Do you feel that they do play an important
10 part in society?

11 MR. GALATIOTO: They play a role, sir, yes.

12 MR. KEITH: And do you believe that their diagnoses
13 are necessarily suspect or dubious or invalid?

14 (No response.)

15 MR. KEITH: I'm not suggesting a psychiatrist's opinion
16 can't be wrong. We have heard over and over and over and over
17 and over again anybody can be wrong.

18 But what I want to find out is if you think now--
19 if your opinion now is that the diagnosis of the psychiatrist
20 of necessity is suspect?

21 MR. GALATIOTO: No, sir.

22 MR. KEITH: Do you start out with that?

23 MR. GALATIOTO: No. My mind is very open, sir.

24 MR. KEITH: Do you feel in the event you have to decide
25 this case, in the event one of the jurors, regular jurors,
26 becomes ill, or for some other reason is unable to continue,
27 and that you deliberate and that you reach a verdict, and in
28 the event that verdict is favorable to Miss Van Houten, that

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1 you would be able to come into court and announce that verdict,
2 even though you might also feel it would be an unpopular
3 decision?

4 MR. GALATIOTO: I would.

5 MR. KEITH: You would have the courage to do so?

6 MR. GALATIOTO: Yes, sir,

7 MR. KEITH: How long have you been with the Department
8 of Water and Power?

9 MR. GALATIOTO: Twelve years, sir.
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1 MR. KEITH: What did you do before that?

2 MR. GALATIOTO: My brother and I had our own business.

3 It was a television delivery and repair service.

4 MR. KEITH: How long were you in the TV repair business?

5 MR. GALATIOTO: Fifteen years, sir.

6 MR. KEITH: What is the extent of your education, if I
7 may ask?

8 MR. GALATIOTO: Six years of college, sir.

9 MR. KEITH: Does that mean you have a Master's Degree?

10 MR. GALATIOTO: No, sir.

11 MR. KEITH: That just means you took a long time to get
12 through college?

13 MR. GALATIOTO: Yes, sir.

14 MR. KEITH: Well, you probably had to work at the same
15 time?

16 MR. GALATIOTO: Exactly right, sir. Many night courses.

17 MR. KEITH: Where did you go to college?

18 MR. GALATIOTO: I went to college at Los Angeles City
19 College, Sawyer's Business College, and East Los Angeles
20 College.

21 MR. KEITH: Were your courses largely business oriented?

22 MR. GALATIOTO: Not to start off with, sir. I was going
23 to be a doctor or dentist to start off with, so it was just
24 a generalized course.

25 MR. KEITH: Is there anything you can think of,
26 Mr. Galatioto, that you would like to share with us that may
27 have some bearing on your qualifications to be a fair and
28 impartial juror?

1 MR. GALATIOTO: No, sir.

2 MR. KEITH: Certainly not the fact that your father was
3 caught bootlegging.

4 MR. GALATIOTO: I was quite young then. I think I've
5 erased that.

6 MR. KEITH: Pardon me?

7 MR. GALATIOTO: I think I've erased that from my mind.

8 My mother was proud of it even.

9 MR. KEITH: Are either your father or mother still alive?

10 MR. GALATIOTO: They are both deceased.

11 MR. KEITH: What business was your father in?

12 MR. KAY: Besides bootlegging.

13 MR. GALATIOTO: Prior to bootlegging he was a construction
14 worker, sir.

15 MR. KEITH: I'll pass -- well, wait a minute. I have to --

16 THE COURT: Well, let's take the recess, if you have
17 completed with Mr. Galatioto.

18 MR. KEITH: Yes.

19 THE COURT: At this time, ladies and gentlemen, we are
20 going to recess until 1:30.

21 Bear in mind during this period of recess, as at
22 all recesses, you are not to discuss this case amongst your-
23 selves or with anyone else, you are not to form any opinion
24 concerning this matter or express any opinion concerning this
25 matter until the case is finally given to you.

26 Court will be in recess until 1:30.

27 All jurors, defendant, and counsel are ordered to
28 return at that time.

Court is in recess. Thank you.

(At 11:58 a.m. a recess was taken until
1:30 p.m. of the same day.)

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1 LOS ANGELES, CALIFORNIA; THURSDAY, APRIL 14, 1977; 1:48 P.M.

2 DEPARTMENT NO. 130

HON. EDWARD A. HINZ, JR., JUDGE

3
4 (Appearances as heretofore noted.)

5
6 THE COURT: People versus Van Houten.

7 Let the record show the defendant is present and
8 represented by counsel; the People are represented by counsel;
9 the jurors are in their respective places.

10 Mr. Keith, you may resume voir dire.

11 It will be Juror No. 2, I believe, alternate No. 2.

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1 MR. KEITH: Mrs. Overton, you have been with the
2 district attorney's office for a year and a half, as I recall.

3 MRS. OVERTON: Yes, sir.

4 MR. KEITH: And before that what did you do?

5 MRS. OVERTON: I worked for five and a half years for
6 the Department of Public Social Services in the Staff
7 Development Division.

8 We did all the training for all of the people that
9 came through our department.

10 MR. KEITH: You weren't a legal secretary, then.

11 MRS. OVERTON: No.

12 MR. KEITH: Or a secretary at all.

13 MRS. OVERTON: No; I was a stenographer.

14 MR. KEITH: For the Department of Public Social Services.

15 MRS. OVERTON: Yes, sir.

16 MR. KEITH: And how long ago were you divorced?

17 MRS. OVERTON: About two years ago.

18 MR. KEITH: Do you feel that because of your being a
19 stenographer with the district attorney's office, that every
20 time a police officer comes in with a complaint for review by
21 a deputy district attorney, that whoever is named as the
22 defendant is automatically guilty?

23 MRS. OVERTON: No, sir. No.

24 MR. KEITH: Officers who bring in cases don't always
25 bring in the best cases. Do you understand that?

26 MRS. OVERTON: I understand.
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1 MR. KEITH: And I imagine you have been exposed to that?

2 MRS. OVERTON: I've been exposed to a lot of things.

3 MR. KEITH: I mean, what I'm getting at is, you don't
4 believe that, just because an indictment has been filed against
5 Miss Van Houten that she's more likely to be guilty than
6 innocent, do you?

7 MRS. OVERTON: No, sir.

8 MR. KEITH: You do believe in the presumption of
9 innocence, do you not?

10 MRS. OVERTON: I do.

11 MR. KEITH: And nothing that has occurred during your
12 tenure with the district attorney's office has, let's say,
13 tarnished that belief, has it?

14 MRS. OVERTON: No, it hasn't.

15 MR. KEITH: I suppose you talk from time to time to
16 deputy D.A.s and police officers about their cases?

17 MRS. OVERTON: Every day.

18 MR. KEITH: I don't like to be any nosier than I have
19 to, but I'm wondering if maybe you are dating a deputy D.A.
20 or police officer or something like that?

21 MRS. OVERTON: I am.

22 MR. KEITH: Which one?

23 (Laughter.)

24 I mean, not -- not the name, but would it be a
25 police officer --

26 MRS. OVERTON: A deputy D.A.

27 MR. KEITH: From the Santa Monica office?

28 MRS. OVERTON: Yes, sir.

1 MR. KEITH: No doubt you talk to him about his cases?

2 MRS. OVERTON: No. He usually talks to me. I do not
3 usually get a word in.

4 MR. KAY: Burt Katz is married, so --

5 MR. KEITH: He'd fit the description. I was going to
6 write that name down. Fower of suggestion.

7 Well, when you talk to your boyfriend, a deputy
8 D.A., does he -- and he does most of the talking, I under-
9 stand -- does he tell you how great all the prosecution cases
10 are, or, in substance, how --

11 MRS. OVERTON: If we discuss a case, it is usually just
12 the case that he is handling.

13 Most of the time we just talk about things that
14 interest us outside of work.

15 MR. KEITH: Do you feel that you would be embarrassed
16 with him if you return a verdict in this case, in the event
17 you were selected to sit as a regular juror --

18 MRS. OVERTON: No.

19 MR. KEITH: -- in favor of Miss Van Houten?

20 MRS. OVERTON: I would make up my own mind. And I really
21 do not feel that it would matter one way or the other what
22 anyone thought of my decision.

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1 MR. KEITH: You wouldn't be inclined, then, to give
2 Miss Van Housen a less favorable decision than she would be
3 entitled to because of your occupation --

4 MRS. OVERTON: No, sir.

5 MR. KEITH: -- and your close association with policemen,
6 and particularly deputy district attorneys assigned to the
7 Santa Monica office, in general?

8 MRS. OVERTON: No, sir.

9 MR. KEITH: You are positive of that.

10 MRS. OVERTON: I'm positive.

11 MR. KEITH: Have you had any training in psychiatry or
12 psychology, in school or otherwise?

13 MRS. OVERTON: I took an introductory course.

14 I also took child development in adolescent
15 psychology. That was about ten years ago.

16 MR. KEITH: Do you know any psychiatrists or psychologists?

17 MRS. OVERTON: The one that my father went to. I have
18 met him.

19 MR. KEITH: What's his name?

20 MRS. OVERTON: His name is Herschel Lyman, but he is
21 deceased.

22 MR. KEITH: Do you feel the psychiatrist, Dr. Lyman,
23 was able to help your father?

24 MRS. OVERTON: For his particular problem in his period
25 of life, yes; he helped him a great deal.

26 MR. KEITH: I take it you feel that psychiatrists in
27 general, or the profession of psychiatry, whatever you want to
28 term it, is a valuable tool in helping us or anyone who has a

1 mental health problem.

2 MRS. OVERTON: It's a value if the person adheres to
3 the advice and works with the doctor, the two of them
4 together.

5 MR. KEITH: You are assuming cooperation.

6 MRS. OVERTON: Yes, sir.

7 MR. KEITH: Therefore, if psychiatrists do testify in
8 this case I gather that you would not tend to simply disregard
9 their testimony as invalid arbitrarily.

10 MRS. OVERTON: No, sir.

11 MR. KEITH: You would listen to their testimony carefully
12 and profoundly, and you would not turn aside their opinions
13 or the reasons therefor simply because they are medical doctors
14 specializing in psychiatry.

15 MRS. OVERTON: No, I wouldn't.

16 MR. KEITH: Would you be inclined to, in the event
17 Miss Van Houten testifies in her own behalf, not to give her
18 the benefit of her testimony because she's a defendant?

19 MRS. OVERTON: No, sir.

20 MR. KEITH: You would not arbitrarily cast aside her
21 testimony, then, you feel because of her position in this
22 case?

23 MRS. OVERTON: No, I wouldn't feel that way.

24 MR. KEITH: You don't think your exposure to all these
25 deputy district attorneys would make you feel in some manner
26 that defendants are of necessity less truthful than other
27 persons?

28 MRS. OVERTON: In my own opinion, no, I wouldn't.

1 MR. KEITH: You probably know something about drug abuse,
2 bearing in mind that many of the cases that go through your
3 hands or across your desk are drug cases.

4 MRS. OVERTON: There are.

5 The only drug case I really knew anything about
6 was my cousin was involved, but she was a minor at that time.

7 And she was sent to Europe because my aunt and
8 uncle could afford to do so.

9 And that is the way the case was handled; she went
10 to Europe.

11 MR. KEITH: Was she prosecuted?

12 MRS. OVERTON: I really don't know. It was about 15
13 years ago.

14 MR. KEITH: Oh.

15 MRS. OVERTON: So that's really the only drug case I
16 ever really listened to.

17 MR. KEITH: But aside from that, have you learned anything
18 about drug abuse, either from your occupation with the
19 district attorney's office, or outside of the district
20 attorney's office, as a result of reading newspapers, magazines,
21 articles, or watching documentaries on television, whatever?

22 MRS. OVERTON: No; I really never paid that much
23 attention to drug abuse, and I don't have time at work to read
24 every case and go over it.

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1 MR. KEITH: So you no doubt heard of LSD before you
2 came to court here?

3 MRS. OVERTON: Yes, I have.

4 MR. KEITH: But you do not know anything in particular
5 about that drug?

6 MRS. OVERTON: No, sir.

7 MR. KEITH: Would the fact, if it is a fact, that
8 Miss Van Houten had a close association with Manson tend to
9 make you hostile and prejudiced against her, that fact, and
10 that fact alone?

11 MRS. OVERTON: No, sir; it wouldn't.

12 MR. KEITH: Would the fact, if it be a fact, and that
13 fact alone, that Miss Van Houten abused LSD and perhaps other
14 hallucinogenic drugs, cause you to reject her position as a
15 defendant and cause you to reject her testimony and reject
16 other evidence in the case bearing on the relevance of drug
17 abuse?

18 MRS. OVERTON: No.

19 MR. KEITH: You wouldn't tend to cast her aside, then,
20 because of that. Let me put it this way, because I should be
21 assuming something.

22 You wouldn't tend to cast her defense position
23 aside arbitrarily if the evidence showed that she had abused
24 LSD in the 1960s?

25 MRS. OVERTON: No.

26 MR. KEITH: It wouldn't make you so hostile or upset
27 against her that you would tend to disregard the significance
28 or relevance of that evidence?

1 MRS. OVERTON: No, sir.

2 MR. KEITH: You have heard of the doctrine of diminished
3 capacity while you have been sitting behind the railing?

4 MRS. OVERTON: I have.

5 MR. KEITH: Do you have any quarrel with that doctrine?

6 MRS. OVERTON: No, sir.

7 MR. KEITH: Have you ever discussed that doctrine with
8 any deputy district attorneys?

9 MRS. OVERTON: No, sir.

10 MR. KEITH: Or your boyfriend in particular?

11 MRS. OVERTON: He's not a boyfriend. I'm just dating
12 him.

13 MR. KEITH: Okay. Pardon me. I was just using that as
14 a shorthand expression to identify.

15 You are telling me you have never discussed that
16 concept with any deputy district attorneys or police officers?

17 MRS. OVERTON: No, sir.

18 MR. KEITH: Have you ever heard them, any deputy
19 district attorneys, discuss that concept, even though you may
20 not have participated in the discussion yourself?

21 MRS. OVERTON: No, sir.

22 MR. KEITH: Had you ever heard of the concept at all
23 before you came to court in this case?

24 MRS. OVERTON: No, I hadn't.

25 MR. KEITH: And you have no quarrel with it?

26 MRS. OVERTON: No, sir.

27 MR. KEITH: Now, again, I don't like to harp on this
28 subject, but bearing in mind your association with the district

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attorneys' office, do you feel that your occupation and your contact with them in any way would influence you against Miss Van Houten?

MRS. OVERTON: No, I don't.

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COMMUNICATIONS SECTION

1 MR. KEITH: You are positive of that?

2 MRS. OVERTON: I'm positive about that.

3 MR. KEITH: Thank you, Mrs. Overton.

4 Mrs. Ellars, I'm going to have to start afresh
5 with you because I can't seem to find my notes concerning
6 your background. But I'll be quick about it.

7 What is your husband's occupation?

8 MRS. ELLARS: We're in the trucking business.

9 MR. KEITH: Does he have his own truck line?

10 MRS. ELLARS: Yes.

11 MR. KEITH: What is the name of the truck line?

12 MRS. ELLARS: Ellars Incorporated.

13 MR. KEITH: How long has Mr. Ellars had Ellars
14 Incorporated?

15 MRS. ELLARS: About three years.

16 MR. KEITH: And before that, was he an independent
17 trucker?

18 MRS. ELLARS: No. We had another company called Midas
19 Lines.

20 MR. KEITH: Was that also engaged in the trucking
21 business?

22 MRS. ELLARS: Yes.

23 MR. KEITH: What is your occupation, if you have one,
24 outside the home?

25 MRS. ELLARS: I'm a housewife.

26 MR. KEITH: Had you ever had an occupation outside the
27 home?

28 MRS. ELLARS: Yes. When I work I'm a representative for

1 Estee Lauder Cosmetics.

2 MR. KEITH: I've heard of the company, but is your
3 representation of them along the lines of Avon, door to door?

4 MRS. ELLARS: Oh, no.

5 MR. KEITH: When is the last time you sold any cosmetics
6 for Estee Lauder?

7 MRS. ELLARS: 1968 or '69.

8 MR. KEITH: Oh, well --

9 MRS. ELLARS: Long time.

10 MR. KEITH: And you have children?

11 MRS. ELLARS: Yes.

12 MR. KEITH: How many?

13 MRS. ELLARS: Four.

14 MR. KEITH: What are their ages?

15 MRS. ELLARS: 26 --

16 MR. KEITH: All right, let's stop there.

17 Is that a boy or a girl?

18 MRS. ELLARS: Boy.

19 MR. KEITH: What does he do?

20 MRS. ELLARS: He's a dispatcher for my company.

21 MR. KEITH: Dispatcher for Ellars Incorporated?

22 MRS. ELLARS: Yes.

23 MR. KEITH: And the next child?

24 MRS. ELLARS: It's a girl. She's 25.

25 MR. KEITH: And her occupation?

26 MRS. ELLARS: She's a bookkeeper for my company.

27 MR. KEITH: And the next child?

28 MRS. ELLARS: She's 23, and she's a housewife.

1 MR. KEITH: What does her husband do?

2 MRS. ELLARS: He drives for my company.

3 MR. KEITH: And the next child?

4 MRS. ELLARS: He's 22.

5 (Mrs. Ellars nods her head in an up-and-
6 down fashion.)

7 (Laughter.)

8 He also drives for my company.

9 MR. KEITH: I could figure that out. Keeping the
10 expenses down.

11 MRS. ELLARS: No, it doesn't.

12 MR. KEITH: That's four children?

13 MRS. ELLARS: They are all married.

14 MR. KEITH: Pardon me?

15 MRS. ELLARS: They are all married.

16 MR. KEITH: Have you had any previous jury duty?

17 MRS. ELLARS: No.

18 MR. KEITH: And have you had any exposure to psychiatry
19 in your family or amongst your close friends or relatives?

20 MRS. ELLARS: I was interviewed by a psychologist one
21 time. It was for my hospital guild. And the money that he
22 got for interviewing typical housewives was donated to the
23 hospital guild.

24 MR. KEITH: Was that sometime ago?

25 MRS. ELLARS: Yes.

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17-1

1 MR. KEITH: You don't know of anybody or know anybody
2 well that's been treated by a psychiatrist?

3 MRS. ELLARS: My nephew may have been; I'm not sure.
4 I'm sure he had some consultation, but I don't
5 know with who, or whatever.

6 MR. KEITH: Have you had any --
7 Have you done any extensive reading in the field
8 of psychiatry or psychology?

9 MRS. ELLARS: No.

10 MR. KEITH: Or taken any courses --

11 MRS. ELLARS: No.

12 MR. KEITH: -- relatively recently in that field?

13 MRS. ELLARS: No.

14 MR. KEITH: Adult education, or whatever.

15 What is your opinion of psychiatry in general,
16 bearing in mind there are good psychiatrists and bad
17 psychiatrists, undoubtedly.

18 But generally speaking. If you have an opinion.

19 MRS. ELLARS: Yeah. I think they perform a duty, and
20 I think it's interesting.

21 MR. KEITH: Did you say you thought it was interesting?

22 MRS. ELLARS: Yes.

23 MR. KEITH: Naturally, therefore, you'd pay close
24 attention to psychiatric evidence if it is offered in this
25 case, and you would evaluate it carefully, and you wouldn't
26 disregard such testimony out of hand because of some low
27 esteem you had about psychiatrists.

28 MRS. ELLARS: No.

17-2
1 MR. KEITH: You wouldn't cast that testimony aside
2 because you might feel psychiatry is more of an art than a
3 science?

4 MRS. ELLARS: No.

5 MR. KEITH: You do feel that psychiatrists are able
6 to diagnose mental illnesses and to give reasons therefor?

7 MRS. ELLARS: Apparently, from what little I know about
8 it.

9 MR. KEITH: Well, is that your general feeling?

10 MRS. ELLARS: That's my general feeling, what little
11 I know.

12 MR. KEITH: You don't feel the human mind is so complex
13 that it is impossible for someone trained for many, many years
14 and someone who is highly qualified in the psychiatric field
15 to make an accurate diagnosis?

16 MRS. ELLARS: I would have to listen to what he said
17 and what he based it on.

18 MR. KEITH: Well, I understand that. That's what you
19 are supposed to do.

20 But you -- but my question is, do you feel it's
21 impossible for a highly-qualified psychiatrist to make an
22 accurate diagnosis?

23 MRS. ELLARS: I don't think it's totally impossible,
24 no.

25 MR. KEITH: You think it's extremely difficult for a
26 psychiatrist to make an accurate diagnosis?

27 Let's assume a well-qualified psychiatrist.

28 MRS. ELLARS: I have heard these questions so often.

1 Are you talking of something that happened a long period
2 of time ago?

3 MR. KEITH: No, just in general.

4 I don't want to --

5 MRS. ELLARS: Okay.

6 MR. KEITH: -- focus on the possibilities of this
7 case.

8 MRS. ELLARS: Oh, I see.

9 Okay; I think they can be accurate.

10 MR. KEITH: That's all I was getting at.

11 MRS. ELLARS: Okay.

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17-4

1 MR. KEITH: Do you have any particular exposure to
2 the use or abuse of dangerous drugs or narcotics or
3 hallucinogenic drugs?

4 MRS. ELLARS: My 16-year-old nephew just committed
5 suicide this past summer.

6 MR. KEITH: And do you attribute that to an overdose
7 of drugs?

8 MRS. ELLARS: Some kind of pills.

9 MR. KEITH: Well, without going into the specifics of
10 that tragic situation, Mrs. Ellars, to your knowledge had
11 he been abusing drugs before he took his life?

12 MRS. ELLARS: No, not that I know of.

13 MR. KEITH: I see.

14 So the overdose of drugs, whatever it was, was
15 for the purpose of taking his own life, and not by accident?

16 MRS. ELLARS: Yes. There was --

17 MR. KEITH: As far as you know.

18 MRS. ELLARS: There seemed to be just a culmination
19 of several things that came together, and he couldn't cope
20 with it.

21 MR. KEITH: But you are not suggesting that one of
22 those factors was drug abuse in and of itself?

23 MRS. ELLARS: Not that I know of, no.

24 MR. KEITH: All right.

25 Other than that tragedy, do you have any other
26 exposure to the use of or abuse of drugs?

27 And not necessarily people that you know or
28 relatives of yours; but through reading or perhaps watching

17-5
1 documentaries on television or talking to other people.

2 MRS. BELLARS: Well, when the children were in school,
3 yeah, the films that were shown for PTA, of Parent-Teachers,
4 I saw those.

5 In our town -- in the town that we lived in at
6 the time, when the children were growing up there were at
7 least one I know of that was not complete after he had taken
8 some supposedly.

9 Now, I don't know, because I didn't see him,
10 but supposedly he was not complete mentally after he had
11 taken drugs.

12 MR. KEITH: Did you see these films yourself, did you
13 say?

14 MRS. BELLARS: Yes, when the children were in junior high.

15 MR. KEITH: How long ago was that?

16 MRS. BELLARS: The early-middle '60s.

17 MR. KEITH: Did any of those films encompass the subject
18 of LSD?

19 MRS. BELLARS: I think they did.

20 MR. KEITH: Is that about your greatest exposure to the
21 so-called drug scene, the films that you saw?

22 MRS. BELLARS: Yes.

23 Both my sons, after they were married, told me
24 they experimented with pot, but --

25 MR. KEITH: Well, that's not something that --

26 I appreciate you telling me that, but --

27 MRS. BELLARS: Yeah, but that's it, as far as I know.

28 I don't know anything, that much about them.

1 I just know my kids, when they were little, said
2 LSD was a bummer. That's all they knew about it.

3 If you will pardon that word, but that's what
4 they used.

5 MR. KEITH: That's descriptive.

6 MRS. ELLARS: "Stay away from it."

7 MR. KEITH: If I were to ask you, as I have asked the
8 other jurors, if the evidence indicated Miss Van Houten had
9 an association with Manson and herself had abused LSD and
10 led a rather bizarre life back in the late '60s --

11 If that evidence comes before you in this case,
12 would that so turn you off against her that you'd simply
13 cast Leslie aside and turn your thumbs down and reject --

14 MRS. ELLARS: No.

15 MR. KEITH: -- her defense position?

16 MRS. ELLARS: (Shakes head negatively.)
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1 MR. KEITH: And again, as I can't help but emphasize,
2 I'm not suggesting none of these facts, if they be facts,
3 are not relevant.

4 I simply want to find out if you would reject
5 her position out of hand because of the way she lived, her
6 associations and the drugs she used.

7 MRS. ELLARS: No.

8 MR. KEITH: Is there anything you can think of now
9 that might prevent you from being fair to Miss Van Houten?

10 MRS. ELLARS: There is one thing that ---

11 Every day when I come here I keep trying to
12 remember to tell somebody, and I had forgotten.

13 MR. KEITH: Well, that's --- Because we can't go on
14 asking questions all day.

15 MRS. ELLARS: My husband has a case now, a damage case;
16 and I don't know what firm you are with, I don't know what
17 firm anybody else is with.

18 But I thought that I should mention the lawyer's
19 name.

20 MR. KEITH: What is the lawyer's name?

21 MRS. ELLARS: Ibold.

22 MR. KEITH: Do you know how to spell it?

23 MRS. ELLARS: No. I haven't met him.

24 MR. KEITH: Well, I appreciate that, but that ---

25 I take it one of your trucks was in an accident.

26 MRS. ELLARS: Yes.

27 MR. KEITH: And you are suing somebody, or you are
28 getting sued, so ---

1 MRS. ELLIARS: It happens every day, I guess.

2 No, not every day.

3 (Laughter.)

4 MR. KEITH: It happens every day throughout California --

5 MRS. ELLIARS: Yes.

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1 MR. KEITH: --- but hopefully not to the Ellars.

2 MRS. ELLARS: Right.

3 MR. KEITH: The fact that your husband is either being
4 sued or is suing by reason of an accident with a truck, that
5 has no bearing ---

6 MRS. ELLARS: No.

7 MR. KEITH: -- on your judgment in this case?

8 MRS. ELLARS: No.

9 The only thing I thought of: Wouldn't it be
10 oddball if somebody was associated with that lawyer that
11 was with this case.

12 MR. KEITH: Well, I appreciate that information.

13 Could you hand the microphone to Miss Harrison,
14 please?

15 Miss Harrison, you did work for six and a half
16 years, I believe, as a secretary with the Los Angeles Police
17 Department.

18 MISS HARRISON: Not as a secretary, as a clerk-typist
19 and senior clerk-typist.

20 MR. KEITH: All right.

21 Consequently, you know lots of officers.

22 MISS HARRISON: Yes.

23 MR. KEITH: Now, I don't really think this case revolves
24 around the credibility of police officers.

25 I'm not even going to ask you if you feel that
26 anything a police officer says, borrowing from Mr. Kay's
27 expression, is the gospel.

28 But do you feel that because of your long

1 association with the Police Department you would perhaps
2 be inclined to side with the prosecution view of the evidence
3 as opposed to the defense view of the evidence?

4 MISS HARRISON: No.

5 MR. KEITH: Or would you be embarrassed in any way to
6 return a verdict unfavorable to Miss Van Houten because of
7 your experience with police officers?

8 MISS HARRISON: No.

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18-1

1 MR. KEITH: Do you think, having worked at Parker Center
2 for six and a half years, that even subconsciously you would
3 be inclined to be more apt to reject Miss Van Houten's defense
4 position --

5 MISS HARRISON: No.

6 MR. KEITH: -- than you might otherwise do?

7 MISS HARRISON: No.

8 MR. KEITH: Who are you working for now?

9 As I said, I lost my notes.

10 MISS HARRISON: Personnel department, City Hall South.

11 MR. KEITH: And are you a clerk-typist there?

12 MISS HARRISON: Senior clerk-typist.

13 MR. KEITH: You do not have any exposure in that job to
14 deputy city attorneys, do you?

15 MISS HARRISON: No.

16 MR. KEITH: Do you know any deputy city attorneys?

17 MISS HARRISON: No.

18 MR. KEITH: Do you have any belief or feeling or
19 inclination, because of your long tenure as a clerk-typist at
20 Parker Center, that, oh, that everybody that Los Angeles Police
21 Department arrests is automatically guilty?

22 MISS HARRISON: No.

23 MR. KEITH: Well, the reason I asked that is you
24 undoubtedly have talked to many policemen or have overheard
25 them talking, and they may entertain such a view, and maybe
26 that kind of view has washed off on you.

27 MISS HARRISON: No. That's their problem, not mine.

28 MR. KEITH: If it sounds as if I'm insulting your

1 intelligence --

2 MISS HARRISON: No.

3 MR. KEITH: -- I don't mean to.

4 But this kind of inquiry seems to be somewhat
5 natural to me because of what you do, just as it was natural
6 for me to talk along the same lines with Mrs. Overton.

7 MISS HARRISON: I understand.

8 MR. KEITH: Have you ever had any exposure to psychiatry,
9 either yourself or members of your family or friends or know
10 psychiatrists socially?

11 MISS HARRISON: I knew of one. Not socially.

12 MR. KEITH: When you say you know of a psychiatrist, is
13 that some member of your family or some relative that's seen
14 him?

15 MISS HARRISON: No. Just the police department
16 psychiatrist. I've seen him from time to time.

17 MR. KEITH: What is his name?

18 MISS HARRISON: Reiser or Riser, I think. Something
19 like that.

20 MR. KEITH: You have never talked to him?

21 MISS HARRISON: Just general conversation.

22 MR. KEITH: But have you ever talked shop with him?

23 MISS HARRISON: No.

24 MR. KEITH: What is your opinion about psychiatrists
25 in general, bearing in mind there's good and bad ones as
26 there are mediocre people in every field and top people in
27 every field. But in general?

28 MISS HARRISON: They serve a purpose.

18-3

1 MR. KEITH: You wouldn't be inclined to disregard their
2 testimony, if there was testimony by psychiatrists on behalf
3 of Miss Van Houten, would you?

4 MISS HARRISON: No.

5 MR. KEITH: You would not just disregard it arbitrarily?

6 MISS HARRISON: Yes.

7 MR. KEITH: You wouldn't do that, would you?

8 MISS HARRISON: No.

9 MR. KEITH: You would evaluate their testimony and weigh
10 it just as you would the testimony of any other witness?

11 MISS HARRISON: Yes.

12 MR. KEITH: Psychiatrists, being expert witnesses, you
13 do have -- you certainly do have the right or privilege to
14 disregard their testimony if you do not believe the reasons
15 for their opinions are valid. As a juror, you are the trier
16 of facts and nobody else.

17 So you would evaluate their testimony carefully
18 and evaluate the reasons for their opinions and their opinions?

19 MISS HARRISON: Yes.

20 MR. KEITH: Let me ask you this, Miss Harrison: Have
21 you ever heard of the concept of diminished capacity before
22 you came into court?

23 MISS HARRISON: No, not until I came here.

24 MR. KEITH: Do you have any quarrel with that concept?

25 I do not want to go through it again, because you
26 have heard about it ad nauseam.

27 MISS HARRISON: No, I do not have any quarrels with it.

28 MR. KEITH: Do you have any feeling or belief you would

1 be inclined to reject Miss Van Houten's position in this case
2 because, say, in the event -- let me put it that way -- in
3 the event the evidence disclosed she used drugs or had an
4 association with Hanson or lived a life style that perhaps
5 you would not approve of back in the '60s?

6 MISS HARRISON: Would I do what now?
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1 MR. KEITH: Would you simply reject her position --

2 MISS HARRISON: Oh, no.

3 MR. KEITH: -- automatically?

4 MISS HARRISON: No.

5 MR. KEITH: Would you be inclined to just cast her aside
6 and say thumbs down in the event those facts were shown?

7 MISS HARRISON: Of course not.

8 MR. KEITH: Would you be inclined to be totally
9 prejudiced against her in the event you heard some rather
10 gruesome testimony and you saw some rather gruesome photographs?

11 MISS HARRISON: No.

12 MR. KEITH: Would you be able to hear that evidence and
13 to view those photographs and give them the weight and relevance
14 you think they are entitled to?

15 MISS HARRISON: Yes.

16 MR. KEITH: Mr. Kay has talked from time to time to the
17 other jurors about using the term vicious, vicious murder.
18 That's for you to decide whether it is a murder at all, you
19 understand.

20 But do you feel, if the evidence did show that there
21 was considerable violence, because of that fact and that fact
22 alone, that you would not listen to Miss Van Houten's evidence,
23 not listen to her defense, but close your mind --

24 MISS HARRISON: No.

25 MR. KEITH: -- simply because of the fact that two people
26 were killed --

27 MISS HARRISON: No.

28 MR. KEITH: -- and simply because photographs, if

1 received in evidence, would show lots of blood?

2 MISS HARRISON: No.

3 MR. KEITH: Now, is there any reason you can think of
4 why you would be inclined to be less than fair to Miss Van
5 Houten?

6 MISS HARRISON: No.

7 MR. KEITH: Pass for cause, Your Honor.

8 THE COURT: Thank you.

9 Mr. Kay, you may inquire.

10 MR. KAY: Thank you, Your Honor.

11 I'm going to skip around with everybody, so you
12 won't need the microphone, because I'm going to be going back
13 and forth.

14 And hopefully that way I can save some time and
15 not repeat my questions to each one of you.

16 I haven't had the opportunity to have a whole
17 group like this that I can do at once before.

18 Mr. Galatioto, if the evidence showed that
19 Miss Van Houten was also a graduate of Sawyer's Business
20 College where you went, for that reason would you feel any
21 sympathy toward her?

22 MR. GALATIOTO: No, sir.

23 MR. KAY: Do you think that has anything to do with
24 her --

25 Well, does that make any difference to you at
26 all, that she might have also been a graduate of Sawyer's
27 Business College?

28 MR. GALATIOTO: None whatsoever.

18-7

1 MR. KAY: Mrs. Overton, the fact that you are divorced
2 from a deputy sheriff, do you hold that against police officers?

3 MRS. OVERTON: No.

4 MR. KAY: Do you feel that the fact your husband was a
5 police officer was the cause of the divorce and therefore you
6 are kind of upset with law enforcement?

7 MRS. OVERTON: No.

8 MR. KAY: Mrs. Ellars, you say in 1969 your son was
9 convicted of a charge involving marijuana, and that involved
10 sales of marijuana; is that right?

11 MRS. ELLARS: One. One sale.

12 MR. KAY: One sale. Okay.

13 Which son was that? How old is the boy now?

14 MRS. ELLARS: Twenty-six.

15 MR. KAY: That's the oldest one.

16 MRS. ELLARS: Right.

17 MR. KAY: You made a statement during our publicity
18 voir dire, you seemed quite worried about young people and
19 what causes them to do --

20 MRS. ELLARS: I know. I love kids all ages.

21 MR. KAY: Now, Miss Van Houten -- I won't say that she's
22 exactly a kid, but she's 27 years old.

23 Now, for that reason are you going to be sympathetic
24 towards Miss Van Houten?

25 MRS. ELLARS: No.

26 MR. KAY: Do you feel any sympathy for her at all as
27 she sits over there?

28 MRS. ELLARS: Not any more than I do the victims or

1 their relatives.

2 I will feel for everybody in the world, I suppose.

3 MR. KAY: Do you think you are just a real sympathetic
4 person?

5 MRS. ELLARS: If you stubbed your toe and you sat down
6 and cried, I'd cry with you.

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18-9

1 MR. KAY: Well, now, the fact that your son has had some
2 drug involvement here, and the evidence might show that
3 Miss Van Houten has some drug involvement, are you going to
4 tend to identify with her and her problems because of that?

5 MRS. ELLARS: No way.

6 MR. KAY: What about the fact that her mother is going
7 to come into court, maybe, and testify during the defense
8 portion of the case. You are a mother that has had a son that's
9 had some drug problems and she's a mother that's had a
10 daughter that's had some drug problems.

11 Are you going to identify with Miss Van Houten's
12 mother?

13 MRS. ELLARS: I can't, because he did not --

14 A boy came and asked him to give him some
15 marijuana. And he was stupid to say, "Okay, I'll get it for
16 you."

17 He handed it to him, and the man there was a
18 policeman, or an undercover man.

19 He didn't have --

20 That is a problem, and it is stupidity, but he
21 did not have a drug problem.

22 I don't see any likeness there between the two.

23 MR. KAY: Do you think for any reason you would tend to
24 identify with Miss Van Houten's mother because you have had
25 a son that's had some problem with the law and Miss Van
26 Houten's mother has a daughter that's had some problems with
27 the law?

28 MRS. ELLARS: No. I blessed the judge when he gave him

1 what he gave him. Because they were so fair with him.

2 MR. KAY: I'm sure the judge was probably very happy
3 that he got blessed; that was probably the first time.

4 MRS. ELLARS: He didn't know it. He didn't know. I
5 was in shock.

6 MR. KAY: All right.

7 Now, you thought that your son was treated fairly,
8 I take it, by the police?

9 MRS. ELLARS: Well, at the time this happened, and he
10 told me what happened, I was very hard on him. And we both,
11 my husband and I, we both said, "Look, you did this. Okay.
12 We will back you all the way. And we'll see you through. But
13 you did it. And you are going to have to face what the
14 judge says."

1 Afterwards, the young man that came to him to
2 ask him to get the marijuana for him told him himself that
3 he was sorry, and that he was advised by his attorney to go
4 ahead and do this; the police had offered him to bring in
5 10 guys, you know, and then he would only get weekends in the
6 City Jail.

7 MR. KAY: Yes.

8 Well, did you feel that was --

9 MRS. ELLIARS: Then I was mad at that particular town's
10 police for a while.

11 MR. KAY: Yes. The South Gate Police Department?

12 MRS. ELLIARS: No.

13 Do you want me to tell you? The Buena Park
14 Police.

15 MR. KAY: The Buena Park Police.

16 MRS. ELLIARS: Well, they are all right now, I'm sure;
17 but at that particular time they were going for a lot of
18 publicity.

19 MR. KAY: Did this happen on a high school campus, or
20 something like that?

21 MRS. ELLIARS: No; just someplace in town.

22 MR. KAY: Just someplace in town.

23 So you were pretty upset with the Police Department
24 at that time, at the time you found out.

25 MRS. ELLIARS: Yes, for the moment.

26 MR. KAY: Are you still mad at them?

27 MRS. ELLIARS: No -- oh, no; they had their day in court.

28 MR. KAY: All right.

1 Did your son's case go to trial, or did he enter
2 a guilty plea, or what?

3 MRS. ELLARS: I don't remember. He went before a judge.

4 MR. KAY: Was there any trial where witnesses were
5 called?

6 Did he have a preliminary hearing?

7 MRS. ELLARS: Maybe that's what it was.

8 I honestly can't -- I mean it; I was in shock,
9 I just sat there.

10 I honestly can't tell you, to be totally honest.

11 MR. KAY: Well, do you think for any reason that
12 what happened in that case -- that that would tend to make
13 you a little sympathetic with Miss Van Houten in this case?

14 MRS. ELLARS: No.

15 I told you before, we have friends that are
16 policemen. I like them.

17 I didn't like the Buena Park Police.

18 MR. KAY: Well, let me ask you this: The fact that
19 Miss Van Houten has been in custody for seven years, does
20 that make any difference to you?

21 MRS. ELLARS: No.

22 MR. KAY: Do you feel that's long enough for anybody
23 to be in custody for any murder?

24 MRS. ELLARS: No.

25 MR. KAY: Now, if you are seated as a juror in this
26 case, are you going to spend your time worrying about
27 Miss Van Houten being a young person, or are you going to
28 concentrate on determining whether she is guilty or innocent

1 of the charges?

2 MRS. ELLARS: Determining whether she is guilty or
3 innocent of the charges.

4 MR. KAY: Let me ask you this: Your 26 year old,
5 what does he do now?

6 Does he work for your company?

7 MRS. ELLARS: Yes.

8 MR. KAY: He is a driver?

9 MRS. ELLARS: He runs my office completely.

10 MR. KAY: And because you told Mr. Keith that you think
11 psychiatry is interesting, therefore do you think it's
12 infallible, that psychiatrists never make any mistakes?

13 MRS. ELLARS: No.
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19-4
1 MR. KAY: I imagine you think a lot of things are
2 interesting; right?

3 MRS. SILLARS:

4 MR. KAY: All right.

5 Well, let me get down to some general questions
6 with all of you.

7 I will try to ask a question, and then I will
8 ask each one of you for your response; and then I won't
9 have to repeat the questions.

10 Because I know you are sick of them, as I am
11 sick of them.

12 But listen carefully, and then I won't have to
13 repeat them.

14 I have asked Mrs. Sillars this question; but do
15 any of the rest of you feel any sympathy for Miss Van Houten
16 as she sits over there now?

17 (Prospective alternate jurors answered
18 in the negative.)

19 MRS. OVERTON: Yes.

20 THE COURT: You do?

21 MRS. OVERTON: Yes. I feel a little sympathy.

22 MR. KAY: And why do you feel sympathy?

23 MRS. OVERTON: Because she is a young woman; I'm a
24 young woman.

25 I'm not discounting the things that she might have
26 done, but I just have a feeling.

27 MR. KAY: You realize if you are selected as a juror
28 in this case, Mrs. Overton, that if you get back in the jury

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room it would be improper for you to feel any sympathy

for a defendant or to take any sympathy into consideration.

Again, you will be instructed that you just

can't do that.

MRS. OVERTON: I realize that.

MR. KAY: Do you think you can put any elements of

sympathy that you might have now because you are a young

woman and Miss Van Houten is a young woman --

Do you think you can just totally put that aside?

MRS. OVERTON: I can put it aside.

MR. KAY: Do you think that has anything to do with

her guilt or innocence, the fact that you are a young woman

and she is a young woman?

MRS. OVERTON: No, sir.

MR. KAY: Miss Harrison, I didn't hear your answer to

that question.

MISS HARRISON: No.

MR. KAY: Mr. Galattolo?

MR. GALATTOLO: No.

MR. KAY: I asked Mrs. Elkins this question; I will

ask the rest of you.

Does it make any difference to any of you that

Miss Van Houten has been in custody for the last seven years?

(Prospective alternate jurors answered in

the negative.)

MR. KAY: Would any of you consider convicting her of

a lesser charge, such as second degree murder, because you

feel that, well, she's done seven years and that's long

1 enough for anybody to spend in jail for any murder?

2 Do any of you feel that way?

3 (Prospective alternate jurors answered
4 in the negative.)

5 MR. KAY: I didn't tell you this before, but I'd
6 appreciate it if you would answer out loud so I can hear
7 you.

8 I know you are going along with me and I see
9 the heads shaking, and everything, but I want to make sure
10 that I can hear the answers.

11 Now, Mrs. Ellars, I will bring you back into
12 the picture now.

13 Realizing in every criminal case the prosecution
14 has the legal burden of proving a defendant's guilt beyond
15 a reasonable doubt, would any of you hold us to a higher
16 burden in this case?

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(Prospective alternate jurors answered
in the negative.)

MR. KAY: Do you understand that we don't have the
burden of proving somebody guilty beyond a shadow of a
doubt or to an absolute certainty?

Do all of you understand that?

(Prospective alternate jurors answered
in the affirmative.)

MR. KAY: Are there any of you who think that you
don't have clear in your mind the distinction between a
reasonable doubt, a doubt based in reason, that you can give
some good solid reasons for, and a doubt based on speculation
and conjecture, maybe this, maybe that, maybe something else?

Do you think you have clear in your mind the
distinction between those two types of doubts?

(Prospective alternate jurors answered
in the affirmative.)

MR. KAY: Do any of you feel that you'd require more
evidence to be presented before you'd -- well, more evidence
to convict a woman of murder than you would a man?

(Prospective alternate jurors answered
in the negative.)

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1 MR. KAY: Okay.

2 Now, Mrs. Overton, you don't have to answer this
3 because you have already answered it with Mr. Keith.

4 But do any of the rest of you know any attorneys?

5 (Prospective alternate jurors answered
6 in the negative.)

7 MRS. ELLARS: Just the one I mentioned.

8 MR. KAY: Just the one you mentioned.

9 MRS. ELLARS: Yes.

10 MR. KAY: And he worked for your company on retainer?

11 MRS. ELLARS: No.

12 MR. KAY: Just the special case.

13 MRS. ELLARS: Yes.

14 MR. KAY: Do any of you know any private investigators?

15 (Prospective alternate jurors answered
16 in the negative.)

17 MR. KAY: Mrs. Ellars has already answered this.

18 But do any of the rest of you -- have you ever
19 had any experiences with Police Departments, such as you
20 got a ticket you didn't think you deserved, or something
21 like that, something that you feel that you were treated
22 unjustly on or had an unfortunate experience with, let's
23 say with the Police Department?

24 (Prospective alternate jurors answered
25 in the negative.)

26 MR. KAY: Have any of you ever had any prior jury duty?

27 (Prospective alternate jurors answered
28 in the negative.)

1 MR. KAY: Are there any of you who didn't understand
2 my example of direct versus circumstantial evidence?

3 (Prospective alternate jurors answered
4 in the negative.)

5 (Laughter.)

6 MR. KAY: I didn't think it was that funny.

7 All right. Understanding that, are there any
8 of you who would refuse to convict a defendant based on
9 circumstantial evidence alone?

10 (Prospective alternate jurors answered
11 in the negative.)

12 MR. KAY: Are there any of you who would require the
13 prosecution to put on an eyewitness to an actual murder
14 before you would convict any defendant of any murder?

15 (Prospective alternate jurors answered
16 in the negative.)

17 MR. KAY: Have any of you ever testified in court?

18 (Prospective alternate jurors answered
19 in the negative.)

20 MRS. DEARS: Once.

21 MR. KAY: When was that?

22 MRS. DEARS: In 1948.

23 MR. KAY: What type of -- was it a criminal or civil
24 case?

25 MRS. DEARS: It wasn't criminal, it must have been
26 civil.

27 MR. KAY: Was that something to do with your business?

28 MRS. DEARS: No.

1 I worked in a photography studio, and we used
2 a girl's picture for advertisement, and she sued.

3 MRS. OVERTON: Were you finished with Mrs. Elliott?

4 MR. KAY: Oh, yes.

5 MRS. OVERTON: When my car was burglarized I was
6 called to identify the speakers that were taken out of my
7 car.

8 MR. KAY: Okay.

9 MRS. OVERTON: And that was all.

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1 MR. KAY: You weren't there when the car was burglarized?

2 MRS. OVLINGTON: No.

3 MR. KAY: Now, as I stated to the other jurors during
4 our short three weeks here, under the law of conspiracy and
5 aiding and abetting a defendant can be convicted of first
6 degree murder even though they don't strike the fatal blow.

7 Do any of you have any quarrel with those two
8 principles of law?

9 (Prospective alternate jurors answered
10 in the negative.)

11 MR. KAY: Do any of you think conspiracy and aiding
12 and abetting, those two theories, are unfair?

13 (Prospective alternate jurors answered
14 in the negative.)

15 MR. KAY: Now, if each one of you were selected as a
16 juror in this case -- well, because you are being selected
17 as alternates now, obviously you wouldn't be here if we
18 didn't think there might not be a problem at some time and
19 you might have to replace -- some people get sick, things
20 happen.

21 It's not unlikely that one or more of you might
22 have to replace a regular juror.

23 As a matter of fact, I never had a case of this
24 duration where an alternate juror hasn't replaced one or more
25 of the regular jurors.

26 If you got in the jury room, if you were selected
27 as a replacement and got in the jury room and it was eleven
28 to one, eleven jurors for first degree murder, one juror, you,

1 for second degree murder, and somebody pointed out to you
2 that you missed an instruction and you misread it, you missed
3 a key word in it, you misinterpreted it -- maybe you
4 misinterpreted a crucial piece of testimony from the stand,
5 and you agreed, "Yes, I did this," and you changed your mind,
6 you said, "Yes, I really conscientiously believe that she
7 is guilty of first degree murder."

8 But you knew that your vote would make that
9 verdict unanimous and would mean that Miss Van Houten would
10 be convicted of first degree murder.

11 Are there any of you who wouldn't have the
12 courage, not only in the jury room but coming back out here,
13 to tell all of us that that's your verdict?

14 Would any of you not have the courage to do that?

15 (Prospective alternate jurors answered
16 in the negative.)

17 MR. KAY: Now, the fact that Miss Van Houten's mother
18 might come into court to testify --

19 Mrs. Ellars, I already asked this question of you;
20 but the rest of you.

21 The fact that she might come into this courtroom
22 and testify and you might feel sorry for her because during
23 the last years some of the -- what her daughter has been
24 through and she's had to live with that.

25 But for that reason alone would any of you
26 consider convicting Miss Van Houten of a lesser charge, such
27 as second degree murder?

28 (Prospective alternate jurors answered

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in the negative.)

MR. KAY: And because you might feel sorry for her mother, would any of you therefore automatically believe whatever her mother said about Miss Van Houten and what she was like when she lived with her mother?

Would any of you do that?

(Prospective alternate jurors answered

in the negative.)

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1 MR. KAY: Do any of you feel that if anyone commits a
2 vicious murder that, therefore, they must not have known what
3 they were doing at the time they committed the murder?

4 (Prospective alternate jurors answered
5 in the negative.)

6 MR. KAY: Do any of you feel that just because a
7 defendant calls psychiatrists to testify on their behalf that,
8 therefore, it means they must have been mentally ill at the
9 time they committed the crime or they would not call
10 psychiatrists to testify?

11 Do any of you feel that way?

12 (Prospective alternate jurors answered
13 in the negative.)

14 MR. KAY: Is there any one of you who can't conceive
15 of a defendant calling psychiatrists to testify, if that
16 defendant wasn't, in fact, mentally ill at the time the crime
17 was committed?

18 (Prospective alternate jurors answered
19 in the negative.)

20 MR. KAY: And if a psychiatrist or psychiatrists come
21 into this court and testify that Miss Van Houten had some sort
22 of mental illness at the time of the LaBianca murders, would
23 you automatically accept that psychiatrist's opinion without
24 regard to the reasonableness or unreasonableness of that
25 psychiatrist's opinion?

26 (Prospective alternate jurors answered
27 in the negative.)

28 MR. KAY: Let's see. Now, I know Mrs. Overton's answer

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1 to this question, but have any of the rest of you ever studied
2 psychology or psychiatry?

3 MRS. ELLARS: No.

4 MR. GALATIOTO: I had one course in psychology 40 years
5 ago.

6 MR. KAY: Forty years ago?

7 I bet you remember it all.

8 MR. GALATIOTO: Doubtfully.

9 MR. KAY: Do any of you believe that psychiatry is a
10 science rather than an art?

11 (Prospective alternate jurors answered
12 in the negative.)

13 MR. KAY: Do any of you believe that psychiatrists are
14 incapable of error?

15 (Prospective alternate jurors answered
16 in the negative.)

17 MR. KAY: Now, let's see.

18 Have any of you ever met a psychiatrist?

19 MR. GALATIOTO: No.

20 MR. KAY: You did over at LAPD.

21 Anybody else?

22 MR. GALATIOTO: No.

23 MRS. ELLARS: Just the one -- psychiatrists? No.

24 MR. KAY: That's a psychologist. Psychiatrist is a
25 medical doctor; psychologist is not.

26 MRS. ELLARS: Right.

27 MR. KAY: Now, the fact that psychiatrists are going to
28 testify in this trial, are any of you going to forget about

1 the other evidence in this case and just concentrate on what
2 the psychiatrists say and say, "I'm just going to make up my
3 mind on what the psychiatrists say about Miss Van Houten's
4 state of mind at the time of the LaBianca murders and forget
5 all of the other evidence in the trial."

6 Any of you going to do that?

7 (Prospective alternate jurors answered
8 in the negative.)
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1 MR. KAY: And do any of you feel that because psychia-
2 trists are going to testify that, therefore, since they are
3 the supposed experts in this field of seeing what is in a
4 person's mind that you are going to just automatically accept
5 their opinion and say, "Okay, I'll just mark my ballot or
6 sign the verdict accordingly, whatever they say must be right"?

7 (Prospective alternate jurors answered
8 in the negative.)

9 MR. KAY: Are all of you willing to take 100 percent of
10 the responsibility to determine Miss Van Houten's legal state
11 of mind at the time of the LaBianca murders?

12 (Prospective alternate jurors answered
13 in the affirmative.)

14 MR. KAY: And the fact that psychiatrists might disagree
15 in this courtroom as to what Miss Van Houten's mental state was
16 at the time of the LaBianca murders, do you think that
17 automatically because they disagree that there must be reason-
18 able doubt as to whether or not she had the capacity to commit
19 a first degree murder at the time of the LaBianca murders?

20 Do any of you feel that way?

21 (Prospective alternate jurors answered in
22 the negative.)

23 MR. KAY: Do all of you feel that you, if you are selected
24 as an alternate juror in this case, can keep absolutely clear
25 in your mind throughout the whole course of this trial that
26 Miss Van Houten is charged with three crimes in 1969 and she's
27 not charged with any crimes in 1977?

28 Do you think you can keep that clear?

1 (Prospective alternate jurors answered
2 in the affirmative.)

3 MR. KAY: And if Mr. Keith got up in his closing argument
4 and argued that you should convict Miss Van Houten of second
5 degree murder and I got up and argued you should convict
6 Miss Van Houten for first degree murder, for any reason at all
7 would any of you consider convicting her of second degree
8 murder if you felt that the prosecution had proven beyond a
9 reasonable doubt that she was guilty of first degree murder?

10 (Prospective alternate jurors answered
11 in the negative.)

12 MR. KAY: Let me just check my background information
13 to see if there is anything else I wanted to ask any of you
14 individually.

15 Mr. Galatioto, you said you have a nephew on the
16 LAPD?

17 MR. GALATIOTO: He was on the LAPD, and I haven't seen
18 him for 16 months, sir.

19 He had bought some property in Fallbrook and was
20 going to raise avocados and told me that he may be probably
21 retiring to go there.

22 Usually we see one another at Christmastime at my
23 sister's house, but he missed this Christmas. So I haven't
24 seen him in 16 months.

25 I do not know if he's still serving on the LAPD
26 or whether he's --

27 MR. KAY: How old a person is he?

28 MR. GALATIOTO: He's in his middle thirties.

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1 He started with the police department very young.
2 I think he was 19, 20, 21.

3 MR. KAY: Do you know his name?

4 MR. GALATIOTO: Richard Graham, G-r-a-h-a-m.

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5 MR. KAY: And, Mrs. Overton, your job at the DPSS, could
6 you describe that a little more exactly what you did over
7 there.

8 MRS. OVERTON: I was a secretary to the head staff
9 development specialist who was in charge of training all
10 eligibility workers for the county.

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1 MR. KAY: So you had an office downtown here?

2 MRS. OVERTON: No, I worked in East Los Angeles.

3 I just wanted to say that I've only been at Santa
4 Monica for six months. Before that I spent a year in child
5 support with the district attorney.

6 MR. KAY: That must have been exciting.

7 I have all my little scribbles I have to look at.

8 The nephew that was -- that committed suicide,
9 Mrs. Ellars, he was the one that was seeing the psychiatrist?

10 MRS. ELLARS: I don't know. I don't think he was seeing
11 a psychiatrist. I think he was being --

12 I know he was being counseled by their pastor, and
13 I know that he may have seen a school psychologist or
14 psychiatrist.

15 I have no idea. I'm not sure.

16 MR. KAY: You told Mr. Keith that you had a nephew that
17 had seen a psychiatrist.

18 Is this the same one you were talking about?

19 MRS. ELLARS: This is the same one, yes.

20 MR. KAY: Okay. Thank you very much.

21 I'll pass for cause.

22 THE COURT: Thank you.

23 All right, ladies and gentlemen, in the selection
24 of alternate jurors each side, again, has peremptory challenges.

25 In this matter each side has four peremptory
26 challenges.

27 The first peremptory is with the People.

28 MR. KAY: The People will thank and excuse alternate

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1 juror No. 1, Mr. Galatioto.

2 Thank you, sir.

3 THE COURT: Sir, you are excused. Thank you for your
4 attendance upon the court.

5 THE CLERK: Miss Cynthia J. Omachi, O-m-a-c-h-i.

6 THE COURT: Ma'am, did you hear the questions that I
7 asked the panel previously?

8 MISS OMACHI: Yes, sir.

9 THE COURT: And if I were to ask you those same
10 questions, would your answers differ in any way?

11 MISS OMACHI: No, sir.

12 THE COURT: As you sit there now, can you think of any
13 reason why you couldn't be fair and impartial as to both
14 sides in this case?

15 MISS OMACHI: No, sir.

16 THE COURT: Would you please give us your personal data.

17 MISS OMACHI: My name is Cynthia J. Omachi.

18 Born August 10, 1953.

19 I live in La Puente.

20 I'm single; I have no children.

21 And I'm a student at Cal State Los Angeles.

22 And I have never been employed.

23 THE COURT: All right. What year are you in at college?

24 MISS OMACHI: I'm a senior.

25 THE COURT: And what is your major?

26 MISS OMACHI: Accounting.

27 THE COURT: And have you previously served as a juror?

28 MISS OMACHI: No, sir.

1 THE COURT: Do you have any close relationship with
2 law enforcement or anyone in law enforcement?

3 MISS OMACHI: No, sir.

4 THE COURT: And have you or anyone close to you ever
5 been arrested or charged with a serious offense?

6 MISS OMACHI: No, sir.

7 THE COURT: And have you or anyone close to you ever
8 been a witness to or a victim of a serious offense?

9 MISS OMACHI: No, sir.

10 THE COURT: All right, thank you.

11 At this time, ladies and gentlemen, we will take
12 the afternoon recess.

13 Bear in mind, ladies and gentlemen of the jury
14 and those on the panel, you are not to discuss this case
15 amongst yourselves or with anyone else, and you are not to
16 form any opinion concerning this matter or express any opinion
17 concerning this matter until the case is finally given to you.

18 Furthermore, you must not allow yourselves to read,
19 see, or hear any news media accounts of this matter.

20 All right. The court will be in recess until
21 ten minutes past 3:00.

22 All jurors, defendant, and counsel are ordered to
23 return at that time.

24 Thank you. The court is in recess.

25 (Recess taken.)
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1 THE COURT: People versus Van Houten.

2 Let the record show the defendant is present,
3 represented by counsel, that the jurors are in their assigned
4 places and the prospective jurors are in their assigned places.

5 Mr. Keith, you may inquire.

6 MR. KEITH: Could you pronounce your name for me so
7 I don't get it wrong?

8 MISS OMACHI: "Omachi."

9 MR. KEITH: Miss Omachi, you are majoring in accounting,
10 I understand?

11 MISS OMACHI: Yes, sir.

12 MR. KEITH: At Cal State?

13 MISS OMACHI: Yes.

14 MR. KEITH: Do you live on the campus, or do you live
15 now in La Puente?

16 MISS OMACHI: Yes, I live in La Puente.

17 MR. KEITH: Do you live with your parents there?

18 MISS OMACHI: Yes, sir.

19 MR. KEITH: And what is their business or occupation?

20 MISS OMACHI: My father works in produce and my mother
21 is a sewing operator.

22 MR. KEITH: Your father is a grower?

23 MISS OMACHI: No, retail clerk, I suppose.

24 MR. KEITH: Do you have any brothers or sisters?

25 MISS OMACHI: Yes, sir. They are away from home,
26 married.

27 MR. KEITH: Pardon me?

28 MISS OMACHI: They are married.

1 MR. KEITH: Are they both -- are they boys or girls?

2 MISS OMACHI: Well, one brother and one sister.

3 MR. KEITH: And what does your brother do?

4 MISS OMACHI: He works for United Air Lines.

5 MR. KEITH: In what capacity?

6 MISS OMACHI: Ramp serviceman.

7 MR. KEITH: He lives in another state?

8 MISS OMACHI: No; he lives in Orange County.

9 MR. KEITH: And your sister, what does she do?

10 MISS OMACHI: She is a secretary.

11 MR. KEITH: Where does she live?

12 MISS OMACHI: In Newhall.

13 MR. KEITH: Have you studied psychiatry or psychology
14 at Cal State?

15 MISS OMACHI: Yes, sir; I had the beginning course,
16 the required course.

17 MR. KEITH: Has anybody in your family or any close
18 friends or relatives ever been treated by a psychiatrist?

19 MISS OMACHI: No, sir, not that I know of.

20 MR. KEITH: What's your opinion of psychiatrists --
21 I will come right down to it -- in general, bearing in mind
22 there are good ones and great ones and magnificent ones
23 and poor ones, no doubt?

24 MISS OMACHI: Yes; I think they could be very helpful.

25 MR. KEITH: There is no doubt in your mind, is there,
26 Miss Omachi, that you would listen carefully to the testimony
27 of psychiatrists in the event they are called in behalf of
28 Miss Van Houten, and evaluate their testimony equally

1 carefully, and not simply disregard their opinions or reasons
2 for their opinions arbitrarily.

3 MISS OMACHI: Yes, I have no doubt in my mind.

4 MR. KEITH: If the evidence indicates that
5 Miss Van Houten had an association with Manson and that she
6 abused drugs or if she led a life style that perhaps you
7 wouldn't approve of back in the '60s, would that tend to
8 go poison your mind against her --

9 MISS OMACHI: No, sir.

10 MR. KEITH: -- that you would be unable to give her a
11 fair trial?

12 MISS OMACHI: No, sir.

13 MR. KEITH: I'm not suggesting that those factors may
14 not have considerable relevance, and I am not suggesting that
15 you should not consider those factors for what relevance you
16 feel they deserve.

17 I merely want to find out if you would reject
18 Miss Van Houten's position in this case --

19 MISS OMACHI: No, sir.

20 MR. KEITH: -- out of hand because of those factors or
21 because you may hear evidence of a homicide that will upset
22 you.

23 Most any homicide isn't very -- I can't think
24 of one that's very pleasant.

25 Mr. Kay has used the term "vicious." As I
26 have indicated before, it's difficult to conceive of a
27 non-vicious homicide.

28 But assuming that to be the case, would that so

1 prejudice you, that fact and that fact alone so prejudice
2 you against Miss Van Houten you'd be unable to be fair to
3 her?

22f 4 MISS OMACHI: No, sir.

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1 MR. KEITH: In the event the very nature of the homicides
2 becomes relative to the case, would you consider the nature
3 of the homicides as it bears on all the other evidence in
4 the case and not reject Miss Van Houten's defense position
5 simply because the evidence concerning the homicides them-
6 selves appears gruesome or bloody to you?

7 MISS OMACHI: Yes, sir; I will consider the evidence.

8 MR. KEITH: You have been hearing us talk about
9 diminished capacity, haven't you?

10 MISS OMACHI: Yes, sir.

11 MR. KEITH: Do you find that an appropriate law?

12 MISS OMACHI: Yes, sir; I do.

13 MR. KEITH: Oversimplified as it may have been in our
14 discussions, do you have any quarrel with the concept?

15 MISS OMACHI: No, sir.

16 MR. KEITH: And consequently there is no question in
17 your mind that you would follow scrupulously instructions as
18 to that particular doctrine in the event His Honor gives such
19 an instruction?

20 MISS OMACHI: Yes, sir.

21 MR. KEITH: Have you had any training in drug abuse?

22 MISS OMACHI: No, sir.

23 MR. KEITH: Pardon me?

24 MISS OMACHI: No.

25 MR. KEITH: Do you have any particular knowledge of the
26 use or abuse of dangerous drugs, narcotics, hallucinogenic
27 drugs?

28 MISS OMACHI: No, sir.

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1 MR. KEITH: Have you ever heard of LSD before you came
2 into court?

3 MISS OMACHI: Yes, sir.

4 MR. KEITH: Have you read anything about it?

5 MISS OMACHI: Not that I recall.

6 MR. KEITH: You just heard the name?

7 MISS OMACHI: Yes, sir.

8 MR. KEITH: Is there anything you can think of now that
9 you may have had a chance to ponder that you would like to
10 share with us that you think may bear in some manner on your
11 qualifications --

12 MISS OMACHI: No, sir.

13 MR. KEITH: -- to sit as a juror?

14 Pass for cause.

15 THE COURT: Thank you.

16 Mr. Kay, you may inquire.

17 MR. KAY: Mrs. Omachi -- or Miss Omachi, excuse me --
18 did you grow up in the La Puente area?

19 MISS OMACHI: Yes, sir.

20 MR. KAY: How long have you and your family lived there?

21 MISS OMACHI: Since I was about five or so.

22 MR. KAY: And what year did you start Cal State L.A.?

23 MISS OMACHI: '71. Summer of '71.

24 MR. KAY: And your only course in psychology was that
25 introduction to psychology course?

26 MISS OMACHI: Yes, sir.

27 MR. KAY: And that, of course, is a required course,
28 right?

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MISS OMACHI: Yes, sir.

MR. KAY: Have you ever met a psychiatrist before?

MISS OMACHI: Not that I recall.

MR. KAY: Do you feel any sympathy for Miss Van Houten as she sits over there now?

MISS OMACHI: No, sir.

MR. KAY: Do you feel that seven years is long enough for anybody to spend in custody for any murder?

MISS OMACHI: No, sir.

MR. KAY: Would you consider giving Miss Van Houten a favorable verdict because she's been in custody for seven years already --

MISS OMACHI: No, sir.

MR. KAY: -- and for that reason alone?

Do you think you have clear in your mind the difference between a reasonable doubt and a doubt based on speculation and conjecture?

MISS OMACHI: Yes, sir.

MR. KAY: Do you know any attorneys?

MISS OMACHI: No.

MR. KAY: Any law students?

MISS OMACHI: No.

MR. KAY: Did you understand the example I gave of direct and circumstantial evidence?

MISS OMACHI: Yes, sir.

MR. KAY: And do you have any quarrel with that at all?

MISS OMACHI: No.

MR. KAY: Do you think that's fair?

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MISS OMACHI: Yes.

MR. RAY: Would you require the prosecution to put on an eyewitness to a murder before you'd convict any defendant of any murder?

MISS OMACHI: No.

1 MR. KAY: If you were in the jury room, and it was 11 to
2 1, would you have the courage to vote along with the majority
3 if you thought that they were right?

4 MISS OMACHI: If I felt they were right, yes.

5 MR. KAY: All right.

6 And if you thought -- if you were holding out for
7 second degree murder, and they were wanting to convict
8 Miss Van Houten of first degree murder, and somebody pointed
9 out to you that maybe you were being too technical in your
10 interpretation of some word in some instruction, and they
11 convinced you that you were wrong and that Miss Van Houten was
12 guilty of first degree murder, and you conscientiously believed
13 that, would you have the courage to vote with the majority
14 and convict Miss Van Houten of first degree murder?

15 MISS OMACHI: Yes.

16 MR. KAY: Would you have the courage to come out here
17 and tell us all that that is your verdict?

18 MISS OMACHI: Yes.

19 MR. KAY: Did you --

20 Well, under the theories of conspiracy and aiding
21 and abetting, a person can be convicted of first degree murder
22 even though they don't strike the fatal blow.

23 Do you think that's fair?

24 MISS OMACHI: Yes.

25 MR. KAY: Do you have any quarrel with that law at all?

26 MISS OMACHI: No.

27 MR. KAY: Do you think that anyone who commits a vicious
28 murder must not have known what they were doing at the time

1 they committed the murder or they certainly wouldn't have
2 done that, what they did?

3 MISS OMACHI: No.

4 MR. KAY: Do you think just because a defendant calls
5 psychiatrists to testify in his or her behalf that means that
6 therefore they must have been mentally ill at the time they
7 committed the crime or they wouldn't have called the psychia-
8 trists to testify?

9 MISS OMACHI: No.

10 MR. KAY: Can you conceive of a defendant calling
11 psychiatrists to testify on their behalf to lower their
12 criminal responsibility, so to speak, if they weren't in fact
13 mentally ill at the time they committed a crime?

14 MISS OMACHI: Yes.

15 MR. KAY: And if a psychiatrist gets on the stand and
16 testifies that in his opinion Miss Van Houten was mentally ill
17 at the time of the LaBianca murders, will you accept that as
18 a fact without regarding to the reasonableness or unreasonableness
19 of that psychiatrist's opinion?

20 MISS OMACHI: No.

21 MR. KAY: Do you think psychiatrists are incapable of
22 error?

23 MISS OMACHI: No.

24 MR. KAY: Do you think that psychiatry is a science
25 rather than an art?

26 MISS OMACHI: No.

27 MR. KAY: And because psychiatrists are going to testify,
28 are you just going to sit back and let them make up your mind

22-7

1 for you, or are you going to make up your own mind?

2 MISS ONACHI: No. I'm going to make up my own mind.

3 MR. KAY: And the fact that psychiatrists might disagree
4 as to what Miss Van Houten's state of mind was eight years
5 ago, at the time of the LaBianca murders, do you think,
6 therefore, that that means that there automatically must be
7 a reasonable doubt as to whether or not she had the capacity
8 to commit a first degree murder?

9 MISS ONACHI: No.

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1 MR. KAY: And do you think that if you are selected as
2 an alternate juror in this case that you can keep absolutely
3 positively clear throughout the whole course of this trial
4 in your mind the fact that Miss Van Houten is charged with
5 three crimes in 1969, she's not charged with any crimes in
6 1977?

7 MISS OMACHI: Yes, I understand.

8 MR. KAY: And you understand, while her state of mind
9 at the time of the LaBianca murders might be a crucial thing
10 for you to decide in this case, her current state of mind is
11 not an issue you will have to decide.

12 Do you understand that?

13 MISS OMACHI: Yes.

14 MR. KAY: Do you think that we'll have to prove to you
15 that Miss Van Houten is a terrible person as she sits over
16 there now before you consider convicting her of first degree
17 murder for the LaBianca murders?

18 MISS OMACHI: No, that has no bearing.

19 MR. KAY: Now, is there anything that I failed to ask
20 you that you think I should know about you in determining
21 whether or not to accept you as an alternate juror?

22 MISS OMACHI: No.

23 MR. KAY: Thank you.

24 I'll pass for cause.

25 THE COURT: Thank you.

26 The peremptory is with the defendant, number 1.

27 MR. KEITH: The defense accepts the alternate jurors.

28 THE COURT: Thank you.

22-9

1 MR. KAY: The People accept the alternate jurors.

2 THE COURT: All right.

3 Will the clerk please swear the alternates.

4 THE CLERK: Would the four alternates please rise.

5 Would you raise your right hand, please.

6 You and each of you do solemnly swear that you
7 will well and truly try the cause now pending before this
8 court and a true verdict render therein according to the
9 evidence and the instructions of the court, so help you God.

10 THE ALTERNATE JURORS: I do.

11 THE CLERK: Just be seated, please.

12 THE COURT: All right.

13 I'd like to thank all the remainder of the panel
14 who have been here for these three weeks on jury selection.

15 I want to thank you and compliment you on the
16 attention you have paid to the proceedings that have taken
17 place in this courtroom, and we are indebted to your presence.

18 Thank you very much. You are now excused as to
19 this case, and it is the fifth floor, is it?

20 THE CLERK: I'm not sure.

21 THE COURT: You'd better make a call to find out.

22 THE BAILIFF: One person hold back, please, a minute,
23 so you can take all the slips with you.

24 THE CLERK: Fifth floor, Your Honor.

25 THE COURT: All right. The fifth floor.

26 You are to report to the fifth floor. Thank you.

27 (The remaining prospective jurors exited
28 the courtroom.)

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THE COURT: All right.

Ladies and gentlemen, the Court wants to advise you of certain orders that have been made.

The first is that the jury will be sequestered during the lunch hours.

What that means is that the County will provide your lunch for you, and you will be escorted to and from lunch in the presence of the bailiffs.

So lunch will be provided for you, and the bailiffs will take you to and from lunch.

The second matter relates to Fridays.

This Court will not be in session on Fridays during the trial of this matter, for the foreseeable future, anyway.

In that regard, however, the Court is concerned of discussions that might take place if you were to go to work on Fridays.

The alternative the Court has before it is to order all the jurors to come into court every Friday and sit around here all day, knowing that we are not going to have any session. The Court would prefer not to do that, and is of a mind and is going to order that the jurors on Fridays need not come into court unless ordered as to a particular Friday, which, as I say, is not foreseeable at this time.

In other words, you will not have to come in on Fridays.

However, you should and must remain in your

1 residence or near to it. If you have to go someplace on a
2 Friday, call the clerk and advise us of your location.

3 The Court further orders that none of you go to
4 work on Fridays. I'm concerned that if you go to work on
5 Fridays you will not be in attendance upon the Court, and
6 furthermore, there will be a great temptation from your
7 colleagues, employers, et cetera, to talk to you about this
8 case.

9 In order to prevent that the Court is going to
10 order that you not go to work on Fridays.

11 You will receive the jury fee on Fridays. There
12 will be no mileage fees, since you are not traveling down
13 here; but you will receive the jury fee.

14 Those of you that are employed of course will
15 receive your salary as though you were in court on that day.

16 Now, the Court has admonished you in the past,
17 and I want to be sure you understand, and I will do it again
18 now:

19 You are not to discuss this case amongst yourselves
20 or with anyone else, and you are not to form any opinion
21 concerning this matter or express any opinion concerning this
22 matter until the case is finally given to you.

23 People may want to talk to you about the matter;
24 and you just must not engage in any conversation about the
25 case or what goes on in the case or about any of the people
26 involved in the case.

27 That means that you are not to discuss this case
28 either directly or indirectly with your spouses, your family,

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1. your friends or anybody.

2. And if you should do that -- and I have had
3. cases where I have admonished the jury not to discuss it,
4. and they no more than get out of the courtroom and they get
5. on the elevator and start talking about the case.

6. When that happens we have to call everybody in
7. and talk to them, and they are in violation of a court order,
8. and it may affect the entire proceedings.

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1 Also, the juror who did the discussion has to
2 be questioned at great length, and everybody that heard him
3 has to be questioned; and it becomes embarrassing for
4 everybody involved, as well as may jeopardize the progress
5 of the trial itself.

6 So you just must not engage in any conversation.

7 Now, this case is going to start shortly with
8 the presentation of evidence; and once that happens I'm sure
9 there is going to be a whole lot more publicity concerning
10 this case than we have seen so far.

11 There will be newspaper accounts, maybe, there
12 may be TV reports. Any type of publicity you must totally
13 avoid.

14 You must not read any newspaper accounts of this
15 matter. You must not listen to it on the radio or watch it
16 on television because you cannot take into consideration
17 anything other than the evidence you receive in this
18 courtroom.

19 And as you have been told several times during
20 the voir dire proceedings, there is no opportunity to
21 cross-examine a newspaper writer concerning what he has
22 written.

23 So you just must avoid any newspaper, television,
24 radio, books, movies, anything about this case or the people
25 involved in the case.

26 Furthermore, you may hear and you will hear
27 testimony that events may or may not have taken place at
28 certain locations.

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Now, you must not in any way be an investigator in this case. If something happens at a certain location, you must not go out to that location and look the area over.

1 You have to rely on the testimony presented
2 in this courtroom concerning the locations or the setting
3 of anything. You just cannot do it yourself.

4 You cannot consult any experts about this case.
5 And of course I don't know how you could consult an expert
6 without discussing the case.

7 But I want to be sure that you not talk to
8 anybody about this case, doctors, psychiatrists, engineers,
9 any individual must not be consulted about this case.

10 Any evidence relating to this matter must be
11 received in open court where both sides have an opportunity
12 to hear it and take appropriate action to ensure its validity.

13 Now, the bailiff has informed me that a juror or two
14 has asked concerning whether they can tell their employer
15 they are going to be on jury duty on this case, and I'm sure
16 you can do that.

17 You can tell them that you are going to be on
18 the case for a period of two or three months, whatever it is,
19 just by way of information so that they will know that you
20 are going to be occupied for a period of time.

21 But that doesn't mean you are to engage in any
22 conversation on anything other than the mere fact that you
23 are on the case and you will be occupied for several months.

24 All right. Now, the jury has been instructed as
25 to where they are to report on Monday?

26 THE BAILIFF: Some of them have. I will tell the rest
27 of the jurors as soon as they get in the jury room.

28 THE COURT: All right.

1 Is there anything further from counsel?

2 THE CLERK: Excuse me.

3 (A discussion was held at the bench,
4 not reported.)

5 THE COURT: All right. The Court, in order to make it
6 clear, wants to reiterate several matters:

7 One, the Court orders that the jury will be
8 sequestered every lunch period on the days the Court is in
9 session in regard to this case;

10 Secondly, the jurors are ordered not to go to
11 their place of employment on Fridays, and each juror is
12 to be on call at their place of residence on those Fridays;

13 That each juror will receive a jury fee for that
14 Friday, excepting the mileage fees, since there will be no
15 mileage involved in the matter.

16 All right. Have a good weekend, ladies and
17 gentlemen. We will see you Monday morning at --

18 All right. All jurors are ordered to report on
19 Monday to this courtroom at the regular place at 9:30 a.m.

20 Counsel and the defendant to be here at 10:00.

21 JUROR NO. 7: Your Honor, I wasn't quite clear when
22 you said we could contact our employers and tell them that
23 we were going to be on this case.

24 THE COURT: If your employer requires notification,
25 you are free to tell him that you are going to be on the
26 case and it will be for approximately two months from today.

27 JUROR NO. 7: Is that with or without giving him the
28 particular case? Just to tell him that I am on a case for

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1 that length of time; or am I to tell him --

2 THE COURT: I don't think there is any objection to
3 saying the name of the case, just so they will know by way
4 of information; but do not engage in any conversation about
5 the matter.

6 All right. We will see you all Monday morning.
7 Have a good weekend, ladies and gentlemen.

8 (At 3:40 P.M. an adjournment was taken
9 until Monday, April 18, 1977, at
10 10:00 A.M.)

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