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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THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs. NO. A253156

LESLIE VAN HOUTEN,
Defendant.

REPORTERS' DAILY TRANSCRIPT

Monday, June 6, 1977

Volume 37

Pages 5076 to 5223, incl.

COBURN

APPEARANCES: (See Volume 1.)

EMANUEL J. SANZO, C.S.R. No. 1267
- and -
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Official Reporters

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LOS ANGELES, CALIFORNIA, MONDAY, JUNE 6, 1977, 9:56 A.M.

DEPARTMENT NO. 130 HON. EDWARD A. HINZ, JR., JUDGE

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(Appearances as heretofore noted.)

(The following proceedings were held in open court out of the presence of the jury:)

THE COURT: Good morning.

MR. KAY: Good morning, Your Honor.

MR. CHAFEE: Good morning.

THE COURT: This is People versus Van Houten.

Let the record show the defendant is present, represented by counsel, the People are represented by counsel, and Mr. --

Is it Chafee?

MR. CHAFEE: Yes, Your Honor.

THE COURT: -- Mr. Chafee is here on behalf of the Department of Corrections.

We are meeting outside the presence of the jury.

This relates to the motion on file by the

T2 Department of Corrections to quash a subponea duces tecum.

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The court has read and considered the motion and points and authorities filed on behalf of the Department of Corrections by the Attorney General's Office.

Are counsel ready to proceed on this motion?

MR. KEITH: Yes, Your Honor.

MR. CHAFFEE: We are, Your Honor.

THE COURT: All right. You may be heard.

MR. CHAFFEE: The Department of Corrections has moved to quash the subpoena issued by the defendant in this matter.

We, of course, have asserted, one, that the subpoena failed to comply with the requisites of Penal Code Section 1330.

Mr. Keith has indicated that he would waive any appearance by the custodian of records from Vacaville in this case. Unfortunately, that waiver, I would maintain, is not timely.

Should the court decide otherwise, then we get into the question of privilege, which we've also asserted under Evidence Code Section 1040.

Essentially, the Department of Corrections contends here that the psychiatric material -- psychiatric and medical material -- that defendant has subpoenaed is privileged and that it is of such a nature as to require protection by the court.

It's obviously taken in confidence. Certainly the Department of Corrections desires that inmates at their institutions continue to cooperate in any forms of psychiatric treatment or programs available to them, and the dissemination

of psychiatric records to any form of hearing or court would tend -- and opening up of these records -- would tend to diminish that particular cooperation on the part of the prisoners in the state prisons.

Finally, and I think most importantly, we would challenge the relevance and materiality of the material that is sought.

First, as to the medical evidence: The subpoena in question states that defendant Van Houten alleges diminished capacity in that, among other factors, she was under the domination and control of Manson and that Manson was mentally ill.

Defendant has subpoenaed the medical records as well as the psychiatric records of Mr. Manson.

Medical records, in fact, deal specifically with his physical problems, i.e., such things as gastrointestinal illnesses, dental problems, that sort of thing.

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We contend that there are nothing in those medical records that would be of any help in showing the state of mind of Mr. Manson at any time.

As to the psychiatric records, the defendant here has subpoenaed all medical and psychiatric records of Manson from the time Mr. Manson was received at Vacaville to the present.

That in and of itself is not terribly specific.

Mr. Manson has been at Vacaville twice, in 1974 and currently beginning in 1976.

As to those dates, the relevance is questionable.

You have a tremendously vast period of time since the commission of the particular crime involved here.

Certainly the conditions, mental conditions of the subject in question, Mr. Manson, have had to have had great variations. He's been incarcerated for the past seven or eight years.

He's undergone an entire series of changes from trial. He's been sentenced to death, and since has been -- had that reduced to life imprisonment.

Certainly those things would have some effect on an individual's psychiatric condition.

And finally, while we of course have not been a party to this trial and therefore have no specific knowledge as to the precise defense alleged here, we question the relevance of Mr. Manson's psychiatric condition at the time of the commission of the offense, or even currently, and what that has to do with the psychological state of the defendant

in this case.

THE COURT: All right; thank you.

Mr. Keith.

MR. KEITH: As to the last point first, the Court has heard and I'm sure digested the opinions of a number of psychiatrists to the effect that the entire Family was suffering from a foli a menage or a foli a famile type mental illness, which includes Mr. Manson as the leader of the group.

As a matter of fact, he's the focal point for the entire mental illness from which his disciples were suffering, according to some of the psychiatrists that appeared on behalf of Miss Van Houton at this trial.

Therefore, it does appear that his state of mind, that whether or not he was mentally ill at the time of the commission of these offenses, is most relevant, if not almost crucial, because this is the thrust of the defense.

A person who is mentally ill infects the members of the Family of that same mental illness through a variety of methods and means, including his own mad delusional system regarding the world.

That's number one.

Number two, with respect to the medical records which purportedly, let's say, discuss or diagnose or treat any physical ailments that Mr. Manson may have been suffering from or may have complained about, I really don't need those.

I included them out of an abundance of caution simply because psychiatric reports concerning Mr. Manson may

1 have been interspersed and intertwined in those medical
2 records and have been incapable of segregation.
3 So rather then miss anything, I thought I'd
4 include medical records, although certainly we are not
5 particularly interested, if at all, in Mr. Hanson's physical
6 ailments.
7 We are interested in his head.
8 Thirdly, although of course I have not seen the
9 records, nor have I talked to anyone at Vacaville or any
10 other state institution regarding Mr. Hanson's mental status
11 at the present time, it would appear to me that it may well
12 be, in the light of the psychiatric testimony here in this
13 court, that Mr. Hanson is suffering from a psychosis; that
14 that psychosis may well have been diagnosed as of long
15 duration.
16 Incidentally, I did not know Mr. Hanson was in
17 Vacaville in 1974 or I would have included that here in my
18 subpoena. I didn't know that until I received the motion to
19 quash.
20 In other words, there may well be diagnoses in
21 those records that maintain or conclude that Mr. Hanson has
22 a psychosis of long, long duration, which would relate back
4f 23 of course to the time of these offenses.
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1 Furthermore, we may, even though there is not
2 such a diagnosis, and I don't know, perhaps we can draw
3 reasonable inference that if Mr. Manson is psychotic now, he
4 may well have been in 1969. Again, I don't know, but that
5 inference is available to us.
6 I think on the question of relevance, it's something
7 we'd be interested in, and that is one of the definitions of
8 relevance is would the court or jury be interested in
9 Mr. Manson's present state.
10 And, of course, they would be interested in any
11 diagnosis that related a mental illness back many years. It
12 could well state in the prison records that he appears to have
13 a mental illness of long, long duration. Again, I don't know.
14 On the question of privilege or confidentiality,
15 I can't help but rely very strongly on the Pitchess case,
16 which everybody knows about.
17 I analogize this subpoena to the subpoena of police
18 or sheriff's department records where the issue is whether
19 or not certain police officers are guilty of unreasonable
20 force or aggression in a case involving the battery by a
21 police officer; that the ability of defense counsel to obtain
22 personnel records of police officers to determine previous
23 aggressive behavior is well known and well established in
24 the law, and you would almost think that that kind of a record,
25 which would be sort of an interdepartmental record concerning
26 police officers or deputy sheriffs, would be more in the
27 public interest to preserve as confidential than medical
28 records of Charlie Manson.

I would rely on that case. And the law is becoming more and more liberal, as I see it, in permitting defense counsel to discover, if you can term this subpoena as tantamount to a discovery tool, in permitting defense counsel to discover materials otherwise relevant which may have that stamp of privilege or confidentiality.

Incidentally, I'm sure those psychiatric reports, if any there be, are confidential in the sense of the ordinary doctor-patient privilege.

You did not advance that --

MR. CHAFFEE: We did not.

MR. KEITH: All right. They didn't advance that point, so I can leave it.

The issue they do advance is the governmental interest in retaining the confidentiality of those records apparently outweighs the private right, or the right of Miss Van Houten, to examine them to determine whether they would aid her in her defense, bearing in mind the issue in this case, and it is an important issue, as to whether Manson at the time of the homicides was himself mentally ill.

On the issue of the subpoena being beyond the 150 mile limit, it certainly is, and I certainly would waive any requirement that those records be produced under the aegis of the custodian thereof.

I would waive that in an attempt to obviate that stricture on my -- not my right but Miss Van Houten's subpoena right.

Thank you.

THE COURT: All right.

Mr. Kay, do you wish to be heard?

MR. KAY: Well, I'm not sure that I really have standing, but the only thing that I'd add is that I really fail to see the relevance of what any psychiatric reports of Mr. Manson from 1976 to the present would have on the issues at hand or even on his state of mind back in August of 1969.

I just don't see any relevance.

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MR. KEITH: One last word, if I may.

I feel I'd be derelict and subject to criticism from the bench and Bar if I hadn't thought to examine those records.

That's the way I look at it.

THE COURT: All right.

Anything further?

MR. CHAFFEE: As I understand, the point of trial is somewhere in the middle of the defense right now. This is an awfully late date to essentially be going on a fishing expedition to discover certain psychiatric or potentially certain psychiatric records that may exist in Vacaville.

Again, just to reiterate what Mr. Kay has stated, talking about the subpoenaed documents in question appear to pertain to psychiatric records that may have been taken subsequent to 1974, 1976, whichever.

Again, it's awfully remote in time.

I've nothing further.

MR. KEITH: Well, may I address myself -- I hate to take -- to the question of the belatedness of the subpoena.

I would represent to the court that I always thought Mr. Manson was in Folsom. I learned about the day before I caused the subpoena to be issued that he was at Vacaville.

I learned that from, if you will pardon me, from a Miss Douglas from KN -- now, I can't think of the station.

MR. KAY: KNX-TV.

MR. KEITH: Linda, who happened to tell me.

I says, "Oh, I didn't know that."

And that's the reason --

THE COURT: You have very extensive discovery here, don't you?

MR. KEITH: Sometimes you got to find it any way you can.

THE COURT: All right.

Mr. Chaffee, anything further? I'll give you the last say.

MR. KEITH: I apologize.

THE COURT: That's all right.

MR. CHAFFEE: Nothing further, Your Honor.

THE COURT: The court being advised of the matter, and having read, as I said, the motion to quash the subpoena duces tecum and points and authorities in support thereof, and having researched the matter independent of the points and authorities, the court being advised in the matter, the motion to quash the subpoena duces tecum is granted.

MR. CHAFFEE: Thank you, Your Honor.

THE COURT: Thank you.

All right. We have one other motion that was brought up on Friday that Mr. Keith asked go over until today's date, and that relates to the matter of the motion made by the district attorney under Evidence Code Section 23 relating to cumulative -- his contention of cumulative -- calling of cumulative evidence in the form of additional psychiatric experts.

Are counsel ready to proceed on that motion?

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MR. KEITH: Yes.

MR. KAY: Yes.

THE COURT: All right, Mr. Keith, you may be heard.

MR. KEITH: Yes.

I have two psychiatrists I really would like very much to call on behalf of Miss Van Houten, and I am putting it very mildly when I say "like very much."

One is in the corridor now, Dr. Michael Coburn.

Now, the court was interested in learning something about Dr. Coburn and something about what he has done or has not done to make him different in perhaps qualifications or attack -- attack in the sense of attacking the issues -- from the other psychiatrists.

Number one, he terms himself a clinician primarily; he is not an academician. He is USC trained under -- he enjoyed a fellowship under Dr. Seymour Pollack at USC School of Psychiatry and Law.

And during -- He's a member of the superior court psychiatric panel, I believe, or has been.

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His qualifications are excellent, as I believe all my doctors have been.

But the important thing I believe as to Dr. Coburn, he does not claim any particular expertise in the drug field, although certainly in his clinical practice he has encountered numerous, numerous patients who have abused the various types of controlled substances, including LSD.

Nor does he claim any particular expertise in the field of coercive persuasion.

He did, however, see Leslie Van Houten and interview her for the purpose of making a psychiatric evaluation for the Department of Corrections when Leslie was on Death Row on 1971, May, I believe, not too long after she was received at the California Institution for Women.

That evaluation at that time is part of Leslie's prison records, of course, and is part of a package that Mr. Kay is certainly aware of and that I am aware of and that other doctors have used in considering their diagnoses of her.

It is a part of a series of reports that evaluate Leslie from the time she arrived at the institution to the time she left, when she returned to Sybil Brand after her case was reversed.

The report, incidentally, is not all that complimentary to her.

This is the importance of Dr. Coburn, of really vital importance. He can explain that report, explain his findings, then.

And he doesn't -- he's not going to claim that

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his findings were in error; but it looks terrible to see that report in a vacuum.

I would expect him to testify that even though that was not his assignment, to evaluate Miss Van Houten on any issue of diminished capacity, he is very familiar with -- being a forensic psychiatrist -- he is very familiar with that defense, limited defense, and he was thinking about it way back then, even though that was not the purpose of his interview.

And I believe it's of vital importance that Dr. Coburn be permitted to testify.

Now, Dr. Solomon, Dr. George Solomon, is Stanford trained, and was a clinical professor of psychiatry there, also an associate professor.

He has written voluminously and spoken voluminously on a variety of psychiatric subjects, which I will allude to.

He is a forensic psychiatrist, as well as a clinical psychiatrist. His background is vast in the field of psychiatry and the law.

His particular expertise or area of expertise is in fact criminal behavior.

He has written and reported extensively in the field of -- or on the subject of, say, reaction to stress, to criminal behavior. He has written and reported and studied extensively in the field of why so much violence in our society.

I have articles right here that he has written on

that subject.

He has also made an extensive and learned study in the field of -- or the issue or the question of why the atrocities in Vietnam by our own troops, which is germane in the issue here.

I wonder if it may have occurred to the court that I was -- without derogating from the brilliance of the other doctors -- that I might have been saving the best for last. I should think this is something that the court might consider.

This came as a terrible shock to me Friday when Mr. Kay made the motion and the court said you were going to consider it. Shock to the point where I virtually lost my composure, which I don't ordinarily do.

I'm calm now, hopefully.

And Dr. Solomon has been down here. He presently resides in Fresno. He works there at a hospital in Fresno, where he maintains his academic career, in a sense, if you can call it that.

He has already examined Leslie extensively.

I have talked to him. He is planning to come down next week and even bring some of his students.

That is not -- I say that not because it's material, but because we have made plans; I have counted on him.

He's -- His background in the very area that we are discussing, the kind of violence that is shown in this

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case, is extremely important to the defendant.

He is not as oriented in drug research as some of the other psychiatrists, perhaps.

He has also made a study of thought control, coercive persuasion, although I would not represent to the court that he considers himself a great expert in that subject.

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Nonetheless, he has studied the subject with Dr. Lunde, Donald Lunde, of Stanford, who was his student, incidentally; Dr. Lunde was Dr. Solomon's student at Stanford.

And I must say that I would -- I feel Leslie's defense would be seriously compromised if we were not permitted to call Dr. Solomon and Dr. Coburn.

The court is well aware of the backgroun in this case, well aware of the obstacles besetting Leslie.

She was convicted seven years ago for first degree murder and sentenced to death.

That case was attended by massive publicity; and I know the jury has been screened very carefully and very exhaustibly on that subject, but nonetheless there's got to be unconscious, lingering knowledge of the pressures on the jury because of the publicity.

I'm not saying or suggesting that any of them are not going to be totally fair and impartial; I'm sure they are.

But there's got to be some subconscious or -- I'm talking like one of the psychiatrists now -- some unconscious forces at work, maybe, that work on -- that place pressures on their minds and their connciousness, which I feel we have got to overcome.

That's why I have selected six psychiatrists in all, which is an unusual number, to be sure.

But I'm sure the court is also cognizant, even though the prosecution bears the burden of proof, that we have a burden of persuasion, a burden of persuading the jury

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that there is a reasonable doubt, that Leslie is not guilty of first degree murder.

That burden is not lightened, is not lessened because -- to the contrary; it is aggravated because of her prior conviction.

And I have felt right from the start -- and of course I have been candid with the court right from the start.

As a matter of fact, at one time I had court orders for about ten psychiatrists, it seems to me, to visit Leslie. I'm down to six.

But I have not concealed that fact from the court, that I intended to call a substantial number of psychiatrists, simply because of the orders that the court has signed permitting psychiatrists to visit Miss Van Houten in the county jail.

I do not like to see -- and I hope it will not happen -- her defense, which is a difficult one -- the court is also aware, any lawyer is aware, any judge is aware that the concept of diminished capacity is a difficult one to ask a jury of lay people to accept.

It is going to be particularly difficult in this case because of the prior conviction of first degree murder, because of the number of victims, including the Tate victims that they found out about.

And I would also like to mention -- and certainly not of least importance -- the photographs. Their shock value of course is substantial.

And they are going to see the photographs of the victims at the Tate residence, which are really gruesome.

And I feel I need every bit of ammunition that I can possibly muster, commensurate it with my duty as a lawyer to Leslie, to defend her to the best of my ability.

And I would hope, if not beg the court not to grant Mr. Kay's motion.

Thank you.

THE COURT: All right; thank you.

Mr. Kay.

MR. KAY: Well --

MR. KEITH: May I say one other thing?

THE COURT: Yes.

MR. KEITH: I have researched this point, and I found one civil case discussing 723 of the Evidence Code.

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I believe that's the correct section.

And it involves a case where General Motors --

Maybe the court has read that case.

THE COURT: Yes, I have.

MR. KEITH: All right. I don't -- but --

THE COURT: The fifth expert they wanted to call --

MR. KEITH: Yes.

THE COURT: -- the court did not allow. They allowed four.

MR. KEITH: They allowed four, but that wasn't a criminal case.

General Motors wasn't charged with murder. They were trying to show that a dummy wasn't going to hit the steering wheel under certain crash conditions. And they showed it through four, and they tried to get a fifth one, and the court said no.

That was upheld. That's the only California case I've found.

I did read, and I must say in a relatively cursory manner, in ALR 3d, I believe it's 5 ALR 3d, an article on the subject of cumulative evidence. And I'm never too satisfied with those articles.

The gist of it seemed to be it was fairly rare in a criminal case. Unless the defendant starts pressing into evidence collateral matter, then you get sat upon.

But this is anything but collateral. This is the heart of the whole defense.

THE COURT: All right, thank you.

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1 Mr. Kay?

2 MR. KAY: Well, first off, Your Honor, I don't know why
3 Mr. Keith was so surprised on Friday, since, as Mr. Keith is
4 well aware, I brought up this -- that I might be making this
5 motion in chambers even before the trial ever started. And
6 Your Honor notified Mr. Keith at that time that, of course,
7 you didn't know what the psychiatrists were going to testify
8 to, and that you would listen to them and have to make any
9 decision on that at a later time after hearing some of them.

10 It seems to me that Mr. Keith is somewhat a victim
11 of his own psychiatrists talking about Mr. Manson's enforced
12 learning. It seems to me that Mr. Keith is trying to do
13 exactly what the psychiatrists have said that Mr. Manson did.

14 In other words, if you get people to say something
15 over and over again enough times that therefore everybody is
16 going to start believing it.

17 Your Honor has sat through the testimony of the
18 psychiatrists in this case, and we have heard the same thing
19 over and over again. I mean, it's almost like the same
20 questions asked by Mr. Keith, the same cross-examination by
21 me. We've heard about the shared delusions, paranoid state,
22 the shared psychosis of the Family.

23 Mr. Keith informed me that, of course, the other
24 two psychiatrists he intends to call will also testify that
25 she couldn't deliberate and premeditate, she couldn't --
26 wasn't aware of her duty to conform her conduct to society.

27 Mr. Keith -- All these people are forensic
28 psychiatrists. I mean, their background is not that relevant.

6-3

What we are talking about is the subject matter of what they are saying, and they are all saying the same thing.

Dr. Grinspoon, Ditman, Hockman, and Roberts all testified as to the enforced learning, the attitude change.

Grinspoon, Hockman, and Roberts much more so than Ditman.

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All doctors have talked about LSD and the suggestibility.

In the case of People v. Patty Hearst, the judge limited the defense to three psychiatrists and the prosecution to two.

I think that Mr. Keith has had an ample occasion to put -- and in the Kurbegovic case, which, of course, was even tried in this courthouse, the defense had four psychiatrists. That was a case that Judge Keene had.

Mr. Keith, I think, in a way, Friday, in arguing before Your Honor, admitted the validity of my motion.

Mr. Keith said, "Well, I would agree that if it was any other case but this that the motion is well taken. You know, we are just calling a lot of psychiatrists saying the same thing. But this case is different, and this case I have the burden, I have to confront these photographs and everything."

But that's not the point of 723.

THE COURT: Doesn't the court have to rule on this motion in light of the testimony in this specific case?

MR. KAY: Yes.

THE COURT: All right.

MR. KAY: I think -- and, of course, that's what I'm asking the court to do.

Obviously, 723 of the Evidence Code gives the court the power. The court has sat through the same testimony that I've sat through, that the court reporters have sat through, that Mr. Keith has sat through, and it is just repetitive.

1 That's all I can say.

2 It's Mr. Keith's attempt at enforced learning. I

3 think that's clear.

4 I mean, if it were something new and different,

5 but it hasn't been. It's all been the same, as Your Honor

6 well knows, and as Your Honor even pointed out to Mr. Keith

7 on Friday when we had a brief argument about that.

8 And I would just ask Your Honor -- I mean, there's

9 a point that -- under 723 that Your Honor has the power to

10 not unduly prolong this trial.

11 I mean, we can be here for -- with two more

12 psychiatrists, that's a whole -- at least another week of

13 trial with direct and cross-examination.

14 Of course, you remember we even had Dr. Roberts

15 coming back Wednesday for cross-examination. That's a day

16 right there.

17 I just think that it is so repetitive at this

18 point that I'd ask Your Honor to grant the motion and limit

19 Mr. Keith.

20 THE COURT: Thank you.

21 Mr. Keith?

22 MR. KEITH: Well, it is not my fault that Dr. Roberts

23 is coming back.

24 As far as delay in time, Dr. Grinspoon was on

25 only a half a day. Was very thorough.

26 Dr. Coburn is here today, scheduled for today.

27 I wouldn't expect him to go for more than a day. He does not

28 have 400 pages of manuscript that Mr. Kay has to plow through.

6-6

Dr. Solomon I wouldn't expect for more than a day.

I mean, two days -- two days compared to what Miss Van Houten faces does not seem very much in order to seek to ascertain the truth in this case.

That's a small price to pay, a very small price to pay. No price to pay.

I can't reiterate enough the importance of this to me. I could lose a lot of motions in this court and have, but this one -- this one is almost crucial; particularly when -- particularly when -- well, Dr. Solomon and Dr. Coburn to me are two of the best. They will get right to the point.

I don't expect any -- because there have been four psychiatrists in the past -- I don't need to go into an extensive preamble to their opinions as perhaps I did with particularly Dr. Ditman in discussing LSD and some of the other psychiatrists in discussing definitions. I can get right there.

I am not going to take up the court's time.

I've been accused of brainwashing the jury. Look, that's my job. That's my job, so do just that.

Now, I'll agree with that statement, if I must, that my job is to persuade the jurors as to the rightness of our case, and if that's brainwashing, I'm guilty of it.

Thank you.

THE COURT: All right. The court being advised of the matter, and the court, of course, has sat through the trial and heard the testimony, and particularly as it relates to the matter of calling additional psychiatrists, and the court's role under Evidence Code 723 and Section 352 as that may bear on the issue.

Now, this case, as Mr. Keith has ably pointed out, is, in many respects, unique. And the motion, contrary to the district attorney's apparent assertion, must be judged in relationship to the particular facts that are before the court.

What I'm trying to say is the fact that in some other case there was a restriction to one, two, three, or whatever number, doesn't mean that that number is the same for this case.

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The court has given this motion a considerable amount of thought over the weekend. I was frankly happy that Mr. Keith asked that the matter go over until Monday so that I would have a chance to do this during the weekend.

As the court views the matter, and is prepared to rule on it, I want to point out several factors:

The court, because this is an unusual case, is viewing it in light of the peculiar facts of this case. Normally, three psychiatrists would be enough for a case. The court has permitted four.

And ruling on the motion, the court is going to permit one additional psychiatrist to be called, Dr. Coburn.

The reason the court is going to permit that is that this particular psychiatrist examined the defendant, according to Mr. Keith's representations, in May of 1971. He prepared a written report which both sides apparently have alluded to and that is, to the court's view, he is akin to being a percipient witness, in essence.

Now, he, of course, wasn't there in August of 1969, but he examined the defendant close to the time of the trial in this matter. And I view that as a different category than someone who is being called as an expert based on an examination in 1977 as to a condition in 19 -- as a basis, in part, to form an opinion as to conditions in 1969.

Now, we've had forensic psychiatrists called in this matter. There has been a remarkable similarity, of course, as to the issues and conclusions that they reached, which is, in itself, not unusual.

1 You expect that psychiatrists, after you have
2 called them and consulted with them, would testify in the
3 fashion in which they have expressed to you and which they
4 have written in their reports.
5 So there is nothing unusual about that.
6 But the fact is that the court will permit
7 Dr. Coburn to testify in this case.
8 The court in regard to Dr. Solomon is going to
9 exclude the doctor under 723 of the Evidence Code and under
10 352 on the grounds that it is cumulative and after having
11 weighed the matter under 352.
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THE COURT: All right. I assume you will be ready with Dr. Coburn --

MR. KEITH: May I have --

THE COURT: Yes; we will take a 10-minute recess at this time, and we will resume with the jury at 10 minutes of 11:00.

All right; thank you.

(Recess.)

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(The following proceedings were held in open court in the presence of the jury:)

THE COURT: Good morning, ladies and gentlemen.

THE JURORS: Good morning.

THE COURT: All right. In People versus Van Houten, let the record show the defendant is present and represented by counsel; the People are represented by counsel; the jurors are in their assigned places.

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Mr. Keith, you may call your next witness.

MR. KEITH: Yes.

Dr. Coburn, would you take the witness stand, please.

MICHAEL B. COBURN,

called as a witness by the defendant, was sworn and testified as follows:

THE CLERK: Would you raise your right hand to be sworn.

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

THE WITNESS: I do.

THE CLERK: Please be seated.

Would you please state and spell your name for the record.

THE WITNESS: Michael B. Coburn; M-i-c-h-a-e-l, B middle initial, like boy; Coburn, C-o-b-u-r-n.

DIRECT EXAMINATION

BY MR. KEITH:

Q Dr. Coburn, when were you born?

A September 28th, 1940.

Q What is your profession at the present time?

A I'm a licensed physician in the full-time practice of psychiatry.

Q Psychiatry is your specialty?

9-2

A That's right.

Q Where did you attend undergraduate college?

A The University of Illinois.

Q And medical school?

A Also the University of Illinois.

Q Where did you take your intership, Doctor?

A At the L.A. County USC Medical Center, what was then called Unit One, which was the main hospital.

It was a rotating internship.

Q And your residency?

A I followed at the medical center and did a three-year residency in psychiatry.

Q And during that three years you specialized in studying and training for psychiatry, a career in psychiatry?

A That's correct, full-time.

Q And when did you finish your residency?

A 1968.

Q And thereafter did you become a Fellow at USC?

A Yes. After the residency I went and had two years in the Navy.

And I spent the two years up in Bremerton, Washington, and ran a small neuropsychiatric service.

And then I came back and began a fellowship in psychiatry and law at the USC School of Medicine.

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And that was a two-year program.

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Q And when did you finish that fellowship?

A 1972.

Q Are you presently in private practice?

A Yes.

Q And where is that, sir?

A In Van Nuys.

Q Is that the Valley Psychiatric Center --

A Yes.

Q -- Medical Group?

And have you been associated with that group in that practice since completing your fellowship at USC?

A Yes.

Q Could you tell us, Doctor, please, any organizations that you may belong to; of course, psychiatric or medical organizations or groups.

A American Psychiatric Association, the American Academy of Psychiatry and Law, and the American Academy of Forensic Sciences.

Q Are you Board certified?

A Yes, I am.

Q That means you are a Diplomate with the National Board --

A American Board.

Q -- American Board of Psychiatry and Neurology?

A That's correct.

Q And how long have you been Board certified?

A Since 1972.

Q What do you have to do, Doctor, to become Board

1 certified in psychiatry?

2 A. You have to complete the regular residency training
3 program, and you have to complete two additional years in
4 psychiatric practice, and take a day of written and a day of
5 oral examinations.

6 Q. Doctor, in furtherance of your professional
7 background or our discussion of your background, are you a
8 consultant or a member of the staff at any hospitals?

9 A. At the present time I am on the attending staff
10 at a couple local psychiatric hospitals, the occasions at
11 which my own patients needed treatment and were hospitalized,
12 Northridge Hospital and Van Nuys Psychiatric Hospital.

13 I'm on the voluntary attending staff at County
14 General Hospital, and I'm in a teaching position there as
15 assistant clinical professor in psychiatry and law.

16 It really means I clinically supervise in the
17 fellowship program people that are going through the same
18 program that I went through back in '70 through '72.

19 Q. What do you mean that you clinically supervise?
20 What does that mean in that context?

21 A. It means that we are dealing with cases, with
22 patients, with individuals. We are dealing in a clinical
23 setting going over the actual evaluations, the reports that
24 they write, the conclusions that they reach.

25 Q. And is your present practice substantially clinical
26 as opposed to being an academician?

27 A. That's correct. My life is really a clinically
28 oriented situation. I spend about half my time in my office

1 seeing patients in treatment, psychotherapy patients,
2 occasionally hospitalized; and the other half of the time is
3 psychiatry and law work. Generally it's criminal defendants
4 but also for the State Department of Rehabilitation and for
5 the Worker's Compensation Appeals Board, for insurance
6 companies or attorneys to evaluate various psychiatric legal
7 issues.
8 So I keep it split half and half. I keep it that
9 way on purpose.
10 Q And are you on any what you might term court-
11 expert panels in psychiatry?
12 A Yes.
13 Q And would you describe those, please.
14 A I am on the panel for this court system, the
15 state court; that is, superior and municipal court systems.
16 And I am on the federal court panel in this
17 district.
18 Q And when you say "the federal court panel," you
19 are referring to the United States District Court?
20 A That's correct.
21 Q And when you say you are on the federal court
22 panel, are you among a number of psychiatrists who examine
23 persons in federal court -- or charged with a federal offense,
24 that are accused of a criminal offense?
25 A That's correct.
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Q Do you hold any teaching position other than an assistant clinical professor of psychiatry attached to the USC School of Medicine, the Department of Psychiatry?

A No.

Q Incidentally, was the director of your program when you were a Fellow, when you were a Fellow at the University of Southern California School of Psychiatry and Law, Dr. Seymour Pollack?

A Yes.

Q Have you testified in psychiatric matters in the Superior and Municipal Courts of this county or the State of California and in Federal Courts?

A Yes, I have.

Q On many occasions?

A Yes.

Q Doctor, sometime in April or May of 1971 did you have occasion to interview Leslie Van Houten?

A I believe it was in June of '71; but let me check.

(Pause.)

Yes; June of 1971.

Part of our duties in the fellowship involves both practical learning experience and practical assignments, in addition to being involved in seminars and lectures on criminology and penology, and things.

And I worked through the institution in kind of a consulting capacity. I worked for the federal prisons at Terminal Island, at the Youth Authority facility in Norwalk, and at the Woman's Prison in Frontera.

11-2

And it was in that capacity, working as a consultant in the prison, that I was asked to evaluate, among other people, Miss Van Houten, as part of a regular classification type of examination upon entry into the prison.

Q Who asked you to examine her, the Department --

A It was an assignment from the Department of Corrections.

Q So you did in fact interview her at the woman's prison in Frontera.

A That's correct.

Q And how long did that interview last?

A One and a half hours.

Q And the purpose of that interview I gather was not to determine whether she suffered from diminished capacity in connection with a court proceeding.

A That's correct.

The case at that point was over; and my purpose was to give the prison what you might call a base line, how she was functioning, what she was like, what had she been up through to that point.

So that any changes she might undergo could be monitored, and they would have a starting point.

Q All right.

Now, as a result of that interview did you find anything about her or evaluate her in such a manner that suggested that she was suffering then from some kind of mental illness?

A Yes.

11-3

Q Would you --

A I don't --

Q Pardon me.

A I don't know whether you should use the term "illness" or disorder; and I know you could get very lost in a syntactical kind of nightmare.

But she was definitely impaired psychiatrically. She was disturbed psychiatrically speaking.

Had she walked into my office or any one else's she would have been seen as someone who was ill.

MR. KAY: Well, I will object; it calls for a conclusion, "anybody else's."

THE COURT: Well, that part may be stricken.

The jury is admonished to disregard it.

All right, Mr. Keith.

Q BY MR. KEITH: Did you form an opinion at that time as to the nature of the impairment, the disorder?

A Basically, yes.

Q And what was your opinion then?

A Well, I have to say that it's hard, after this length of time and after reinvolving myself now and reinterviewing her, it's really hard to kind of separate out the pieces, where --

At what stage my thinking was before; what stage is my thinking at after the reinterview this May, et cetera.

But a big part of our program at USC was of course involved in discussion of diminished capacity. We had many lectures and a lot of cases to discuss.

11-4

And I had been out of the city. I was in the military during the time of the trial that this had to do with.

And I was learning about diminished capacity issues and thinking about them through that time.

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And within my own mind I did have an opinion, although I can't say that it would have been an opinion with real formality at that time.

Q I'm not so concerned right now as to your opinion then as to whether or not she was suffering from diminished capacity, as that term is described in our California law.

I'm interested in the nature, regardless of its association, if any, with diminished capacity concepts, the nature of the disorder or impairment that you observed back in June of 1971.

A All right.

The nature basically was of an individual who had lost her identity, who had lost what I believed was the kind of sense of self that she had during your formative years.

And my impression, as stated in the report that I wrote, was that from about age 14 or 15 up until the time I had seen her then she had undergone what I call a deterioration, a dropping out and an assumption of a very deviant value system and gradual loss of awareness of right and wrong, good and bad, evil, self-control.

Things along those lines.

So that she had changed.

And my impression at the time was that she had become kind of a part of a larger whole. She had become another piece of a larger organism.

I remember thinking -- and don't remember at this point if I wrote it down -- that that group that had become

11-6

1 known as the Hanson family was like an amoeba, and that
2 different pieces might go out and do various things or act
3 in certain ways.
4 And it was really like most of the group was
5 involved -- or all of the group was involved because it was a
6 group consciousness.
7 So that basically what the impairment was on a
8 given critical level, seeing her at the time, her affect, her
9 emotions, the way she related was very abnormal, in that she
10 was kind of removed, supercilious and --
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Q What do you mean by "supercilious"?

A Maybe, as I said -- I'm not sure if it is the right word.

But giggley, childlike, uninvolved, unconcerned, inappropriately; almost childlike behavior.

I think that's really the best term of all those other words. Almost like a child.

Very digressed. Very much like you might see an 11 year old or 10 year old girl about certain issues in life.

Just really no feeling of being in touch with the gravity of the situation, with what things really meant.

It was a very difficult interview. I have told many others -- I have told Miss Van Houten this time -- that I will never forget that interview.

In fact, that afternoon -- I think it was an afternoon -- was the most difficult afternoon I had had.

And I think I will never forget it, interviewing her and the other two girls, because I really had to let myself go, as it were.

I had to let my own frame of reference drop for awhile and talk kind of in their terms, and not worry about the meaning of something at the moment. To let them go on and talk.

And I had a terrible blinding headache afterwards. It was, in a real way, a very amazing effect; and I really was physically ill for a couple of hours after the interview was over.

1 And the reason, as I analyzed it both to myself
2 and colleagues, was that I was really dealing with a totally
3 distorted world view, and almost a different way of
4 communicating.
5 So that it took a lot of effort to both kind
6 of observe myself and what was going on, and yet get into it
7 enough so that they would deal with me.
8 And it's a very strong impression, independent
9 of anything that was written.
10 And it's really why I think that I ended up
11 being involved again; that that impression does have a very
12 distinct and complete relationship to the concepts of
13 diminished capacity.
14 Q Doctor, let me ask you this:
15 Did Leslie, or either of the other girls, for
16 that matter, tell you anything about Manson's power and
17 dominance over them and other members of the Family at that
18 time?
19 Or did they tell you --
20 Let's take Leslie. Did she tell you, in
21 substance and effect, that Manson did not have a domination
22 over her that perhaps other evidence has shown to be true?
23 A I remember very distinctly being told that the
24 commonly held theory of his dominance was not true, and that
25 what I had possibly read or heard in the news media was a
26 lie from the press.
27 And that was -- I don't know if it was from all
28 three, but I believe it was; and it was definitely from

1 Leslie, that she had said it was not true.
2 Q Did she discuss the killing of Mr. and Mrs.
3 LaBianca with you during that interview?
4 A Not particularly, no.
5 Q Did she tell you at any time she had
6 participated in the homicides?
7 A No; there was a great deal of hedging regarding
8 the actual involvement in any actual crime.
9 Q Did she --
10 Look at your, the report of that interview, if
11 you will, if you need it to refresh your recollection.
12 Did she tell you at any time that she was
13 capable of killing again, or words to that effect?
14 A Yes, she did.
15 Q And how did that occur?
16 I mean, question and answer response, or a
17 narrative, if you can recall.
18 In other words, a narrative account of hers?
19 A I have to correct a previous statement that I
20 made.
21 Looking at the report again, there was a
22 reference to the time of the murders, a reference to her own
23 feeling at that time.
24 Not a specific admission or denial or statement
25 of action at the time of any killing, but she did in fact,
26 quoting from my report, she said that she was in the house and
27 that after the murders had been committed, quote, an
28 immense drudge -- and that's the word that was used, d-r-u-d-g-e --

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drudge, an immense drudge had been lifted and everything was lighter.

12-1

She also related feeling vagualy that they had done something right, and that the fact that there was a dog in the house, and that the dog looked like he was smiling and licked their hands, supported this.

So she did say something specifically about the crimes to that limited extent.

In answering that, I have forgotten the second question that you asked.

Q The second question was did she relate to you that she felt capable of participating in another offense of the same nature?

A Yes.

And I only have a narrative sentence in the report. I don't know if it was in response to a question. But she did at that time.

Q What did she say?

A Well, the sentence that I have written is, "She views herself as now even more capable of committing similar offenses than in the past."

In my opinion, I follow that up, "And this probably is not just bravado."

That's the only statement about that in the report.

Q In other words, it was your opinion at that time that she was still on that same disordered plane that we have been discussing?

A Oh, yeah.

There was a very definite removal from humanity, the kind of lack of kind of resonance with human kind that makes

12-2

1 murder less likely.

2 Q. Now, Doctor, have you had occasion to interview

3 her this year?

4 A. Yes.

5 Q. And how many occasions did you interview her this

6 year?

7 A. Twice.

8 Q. And was that at the Sybil Brand Institute for

9 Women?

10 A. Yes.

11 Q. And what were the lengths of times of your two

12 interviews?

13 A. Both were approximately an hour and a half, and

14 they occurred on May 13th and May 21st of this year.

15 Q. And during those interviews, did you discuss with

16 her at all her early childhood history?

17 A. To a limited degree, yes.

18 Q. And did you also discuss with her her association

19 with the so-called Manson family and Manson himself?

20 A. Yes.

21 Q. And did you also discuss with her her present

22 feelings about life and the future to determine, in other

23 words, at least in your opinion, what her present mental status

24 was?

25 A. Yes.

26 Q. And in connection with your recent interviews

27 with Leslie, did you also have the benefit of a tape recording

28 purportedly made in December of 1969 between Miss Van Houten

12-3

1 and her then attorney Harvin Part?

2 A. I did.

3 Q. And did you listen to that recording?

4 A. I did.

5 Q. And did you also have with you her medical and

6 psychiatric record at Frontera?

7 A. Yes.

8 Q. And as a part of that record the report you made

9 is contained, is that not correct?

10 A. That's right.

11 Q. And there's also reports from a psychologist and

12 other psychiatrists?

13 A. That's correct.

14 Q. And also did you have occasion, Doctor, to be

15 supplied by myself with certain trial transcripts or copies

16 thereof of this present proceeding?

17 A. Yes.

18 Q. Now, as far as your recent interviews with

19 Miss Van Houten are concerned, did you observe any change or

20 difference between the three hours you talked to her in May

21 of this year and the interview in June of 1971?

22 A. Yes.

23 Q. And what change, psychiatric change, if you will,

24 did you observe?

25 A. I think I can best summarize it in a very simple

26 word.

27 She is now more real.

28 In my clinical opinion, her emotions, the way she

12-4

1 expresses herself, her capacity to think in a broader sense,
2 her awareness of the world as it really is, is within the
3 normal range, and that that is a distinct difference from
4 before.
5 Q. Is what you're saying that you found no marks of
6 any psychiatric diagnosis in this last occasion with respect
7 to her present mental status?
8 A. There is only one area really that could possibly
9 be worked on in therapy, if she were interested; but I don't
10 think that it would qualify as being an illness.
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She still is not really fully able to express feelings in a willful manner, in a conscious manner, and this goes back to her childhood and times before.

And I think that her range of expression as far as tender feelings may be good, but as far as it being assertive and expressing herself in appropriate, assertive ways at this point, she doesn't do too well.

Now, that's probably a function of being in prison for -- what do we have? Six years?

And a large part of that is a very adaptive phenomenon. It is part of becoming able to manage with people in authority and hostile and unpredictable people around you in the form of inmates.

So maybe what I'm talking about is a residual of the prison effect; but it also is consistent with my original picture of her that her capacity to deal with her own assertiveness and her own anger in an appropriate way was not what it might have been.

But I don't think that she would qualify as being diagnosable as having a personality disorder or a neurosis or any other psychiatric condition at this time.

12a Q When you are talking about her own anger, are you talking about now or back in 1971 or both?

A Well, I'm talking about the -- and I don't want to push it into the realm of being some kind of a major problem.

Some people go through life with certain styles where they are very passive, and they do not assert themselves. And that's the way they are. And we don't call that sick, we

12-6

1 just, oh, that's him as opposed to her. That's one person.
2 Taking some kind of, I guess, subjective view of
3 the ideal personality, the ideal personality should have a
4 capacity to be assertive, appropriately angry and appropriately
5 loving and tender, and have a wide range.
6 I think that there is evidence that she suppressed
7 a lot of feelings when she was a kid, and that that led into
8 what happened, and that there still is a kind of increased
9 passivity right now.
10 But, you know, it's quite manageable, and I
11 wouldn't think that it would create any problems.
12 Q Now, Doctor, as a result of your interviews --
13 Before going into that, let me ask you this: During
14 your interview with her in May of this year, did she discuss
15 with you Charlie Manson's role, if any, within the Manson
16 family?
17 A Yes.
18 MR. KAY: Your Honor, excuse me, it appears again that
19 the psychiatrist will be relying on things Miss Van Houten
20 told him.
21 Your Honor should instruct the jury.
22 THE COURT: All right.
23 Ladies and gentlemen, the same admonition that I
24 have previously given you, and that is that the expert witness
25 may, in his diagnosis and reasons, rely on statements made to
26 him by others.
27 Those statements made to him by the defendant
28 Miss Van Houten are not offered for the truth of what they said

but they are being allowed in as a basis for the psychiatrist's opinions.

All right, you may proceed.

MR. KEITH: Thank you.

Q And did what she tell you during your interviews this year differ in what she told you in 1971 with respect to Mr. Manson's role?

A Yes.

12-8

Q And what did she say, in substance, just in substance, Doctor, regarding Mr. Manson during your most recent interviews?

A Do you want me to limit it to what she said, or do you want me to include any of the other things?

Q No, what she said, just in substance.

A Well, in substance what she said, basically, was that he was an individual who had a large amount of capacity to affect those around him, and who was very adept at personal manipulation, both by what he would say and do, and by his providing of security in the form of drugs, money, a place to live, things of that sort.

Q Did she tell you anything about his role in the homicides, active participation -- as an active participant, or didn't you ask her?

A Yes, she did.

I didn't really focus on it. I'm trying to recall the memory as to what she said.

There was some talk about it. I forgot. And if I were pinned down as to when he was with and when he wasn't, and which night he drove or which night he went back early, I really couldn't do it.

Q Did you pay any particular attention to the tape that was provided to you by myself?

A Yes, very much.

Q And let me ask you, Doctor, did that tape bear, with the exception of its content, psychiatrically speaking, did Leslie's affect, you might call it, on the tape bear a

resemblance to the affect that you observed in 1971 when you examined her?

A. Yes.

Q. And in what respect?

I'm using a psychiatric term, I think, when I use the term "affect."

A. Right. You could use the term "emotional tone," or "emotional flavor," or just plain old "emotions," if you wanted.

That's really all it means.

It, to my impression, gave that same eerie feeling of removal, distance, kind of not relating to humans always.

Q. Now, Doctor, as a result of your interviews with Miss Van Houten and the other materials you have examined, have you been able to form an opinion as to Leslie's capacity on August 10th, 1969, and prior thereto to premeditate and deliberate a homicide?

A. Yes.

Q. And what is that opinion?

A. The way that is now defined, where premeditation is not just a simple occurrence but it has to be something done with some kind of meaningfulness and some kind of maturity, and where deliberation is not just thinking something over on some kind of a rote or practical level but has to be something meaningful and mature, my opinion is she was incapable of meaningful and mature premeditation and deliberation in connection with those homicides.

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Q And could you tell us, please, the basis for that opinion, the reasons therefor.

A Based on the recent interviews, which really added a lot to the past impression, it became obvious that she would not have merely lost her identity in the group -- which was my initial opinion when I really didn't know for a fact that Manson had in fact this kind of hold over people.

I had heard about it, but I really didn't have an opinion one way or the other.

But assuming that, there was such a hold that involved a belief system and involved a sense of urgency of the welfare of the entire world, let alone their own little clan, to put her kind of thinking in a category of meaningful and mature I think is -- it's just impossible for me.

You start out with the fact that she went through her entire adolescence under the influence of hallucinatory drugs.

You add to that the fact that she further and further removed herself from regulated society, and adopted not only the kind of strange cultural values of the Manson group but actually deviant thought, though that is so deviant that it might very well qualify as being delusional;

That she had experiences, sensory experiences, beliefs that were false beliefs, that were hallucinatory, or like hallucinations;

That she was in fact ill over a period of time, and that these offenses occurred as a direct result of those specifically disordered beliefs.

11-2

Very simply, the killings, as in her own words from the present interviews, were -- Well, let me find it rather than trust my own memory.

(Brief pause.)

"The whole future dwelled on that man" -- meaning Charlie.

That's a quote from her.

"There was a fear about saying no. No one ever said no. If you said no that meant it would have had to have been the most selfish thing in the world. It was for the whole earth."

If you accept that, that that's what she told me, if you accept that she believed that at the time, it's incredible that she could have had meaningful and mature deliberation or premeditation because the overwhelming reason for having to do those acts or participating in their planning was because there was a much higher, greater, overwhelming sense of reason for doing it.

And no choice. No choice.

She stated to me it was something that had to be done.

And further, that it was a detached trip.

"It didn't become personal until I found out" -- after she was arrested -- "they had children. I wouldn't have done anything if he hadn't handed me the knife and said do it. I tried to leave once," et cetera.

The point of view is that she was lost as a personality,

11-3

as an individual, in my opinion, psychiatrically speaking.

And without that sense of self an individual -- where you begin and end and where somebody else begins and ends, and without a capacity for choice, thinking something over is not meaningful and mature.

Q Now, Doctor, did you form an opinion as to whether or not Leslie at the time of the homicides and prior thereto had an awareness of her obligation to society to act in conformance with its laws?

A Yes, I have an opinion.

Q And what's your opinion on that subject?

A My opinion is very definitely that she had just the opposite awareness.

That she had an awareness that she had to act in accordance with the way she was taught at the time; that she had to disobey what society said.

I have no doubts that she knew what society said she should do; but she knew, quote unquote, that that was wrong, what society said.

That society didn't know what was really going to happen; that society didn't know about the end of the world; that society didn't know about the necessity for the new order.

And that therefore she was unaware in a true sense of her obligation to obey what society said.

Q Is the basis of that opinion of yours what you just told us in substance, or can you expand upon that?

A Well, I think that's probably sufficient.

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It's also the same reasoning that goes into the opinion about her capacity to conform her behavior.

That in my methodical construct as to what it was she was going through, she did not have free choice.

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It's not a matter of not having -- having just a little bit or not having a lot; she did not have choice regarding these types of acts.

Now, she tried to exert a certain amount of choice. She modified her behavior. She avoided as much as she could in kind of direct confrontation with the act.

But nevertheless she was in a true sense of the word forced to go through it.

If you accept the possibility of Helter Skelter and Manson's views and the group pressures and all the other things that I read about in the testimony of these other witnesses and that she has told me, there was no meaningful choice, really.

There really couldn't have been any real choice regarding participation in these events.

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Q Doctor, in talking to Leslie and in reviewing the materials you have been supplied with, did you learn that Leslie had been a chronic user of LSD for a period of some, oh, four years until her arrest?

A Yes, LSD and other chemicals.

Q And do you find any significance in her use of those chemicals during that period of time we are talking about, from approximately 19 -- oh, '65, '66 to the time she went to Frontera?

A Yes.

Q And what is the significance, in your opinion?

A The significance is that I have seen, in my training and practice over the years, especially during the

11-6

1 County Hospital's times, large numbers of individuals,
2 especially adolescents and teenagers and pre-teenagers,
3 that have taken psychedelic drugs.
4 And the real problem with them was that they were
5 taken by people who, first of all, weren't physically
6 developed as far as their nervous system, and secondly hadn't
7 a sense of their own identity and a nice basis upon which to
8 go through life.
9 It was okay, maybe -- and then I say "maybe" --
10 for someone like Leary or Allen Watts, to go ahead and talk
11 about an alternate view of the world, and let their mind go
12 and let their ego drift, and all the rest of that nice stuff,
13 because they had 20 or 30 or 40 years of nice, compulsive
14 disciplined-thinking behind them.
15 So it was a nice basis upon which they could
16 function. And then they could let themselves go on top of that,
17 and maybe grow some.
18 I'm not sure they could; but that's what they
19 said.
20 The problem and significance in this case is that
21 we are talking about adolescence and somebody who starts from
22 the age of 14 or 15, when they haven't got a half a sense
23 of who they are or where they are, what their real self is.
24 I mean that's the definition of adolescence.
25 That's the time of the ingraining of a sense of self.
26 That's the time when you try and you reject
27 various roles in life. That's the time when you understand
28 where it begins and ends.

11-7

And I don't think that a person taking psychedelics at that time in their life has a chance to develope that sense.

And that's the main problem.

And I think the significance is that it made everything that was happening flow, it made everything that was happening to her seem right; and it allowed her to suspend normal logic.

It allowed her to reinterpret things in light of her own beliefs so that she could go along with the group; and in fact found a great deal of comfort in the group.

Q Did you also learn, as a result of your exposure to materials in this case and in talking to Leslie, that some of Charlie's concepts themselves were dedicated to destroying one's ego, one's sense of self?

A Yes, I did.

You know, as a psychiatrist, I was really fascinated, albeit morbidly, I guess, in what that individual was doing.

And some of the things he did, or is alleged to have done, the movement game, the circle game, the busy work, the reward system, the public embarrassment, really are techniques that can be and are used in conditioning programs and therapy programs and rehabilitation programs and in what you might call thought-change programs.

He appeared to have picked up a lot of different superficial techniques and jargon, and was very good at using them and manipulating the group and to get people to do

certain things or to think in a certain way.

And it all became very right for the people involved, or for many of the people involved.

Q Doctor, in listening to the tape recording Leslie made with Mr. Part in 1969, did you discern, discern information in that tape indicating that Leslie and the others on the night of the LaBianca homicide were not all that interested in getting caught by the police, that they in fact did certain things to avoid detection, such as wiping fingerprints, hiding in the bushes, changing clothes?

A Yes, sir.

Q And did you also learn that Dianne Lake testified that once back at the Spahn Ranch Leslie burned some items, the exact nature of which escapes me at this point, but burned a purse and some shoes, or whatever?

A Yes, sir.

Q Bearing in mind or having in mind those facts, assuming they are facts for the sake of this discussion, does that in some way detract from your view, your opinion, that Leslie was not capable of premeditating or deliberating a homicide, and was not capable of an awareness of her obligation to society not to break laws?

A No, it does not detract; it really is a separate issue.

Q And could you explain that please, if you could.

A Well, the awareness of the illegality of the act and of what was likely to happen if caught is a separate set of knowledge from the rightfulness or from the appropriateness or the true meaning of one's conduct.

And there was never any doubt that they were all schooled in staying out of the clutches of the law, and that

1 that was a regular part of the system.

2 But if you believe that you are engaged in a

3 unique and special rightness, then, your escaping from the

14f 4 law assumes a different proportion.

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And I don't think that it is important to the opinions regarding diminished capacity.

It may be very well why that's a separate legal question also.

Q In your opinion, I gather, Doctor, Leslie and the others had some awareness of what the law was; that it was against the law --

A Yes.

Q -- to kill another human being except under certain justifiable circumstances.

A I would assume, and I do assume, they had that awareness.

Q All right.

Do you find a distinction between that awareness and her awareness -- and the awareness or her awareness of her obligation to abide by the law?

A Yes.

Q And what is the nature of that distinction? I don't want to lead you.

A Well, once again, the obligation has to do with what you are impelled to do or feel is right to do or feel must be done. And I think you have to divide it into whether or not that belief is due to some kind of disordered thinking or just a change in philosophy.

Because there are certain groups of people who have a different philosophy than normal society and go ahead and do criminal acts believing they are right and are in no way really mentally impaired. They don't qualify as diminished

14-2

capacity or insanity or things of that sort.

And I think you have to make a clear distinction that in this case, in my opinion, we are dealing with a mental state, the result of a group psychosis, the result of chronic drug usage; not a philosophy or a religion or something normal.

MR. KEITH: Thank you.

You may cross-examine.

THE COURT: This might be an appropriate time to take our recess.

All right, ladies and gentlemen of the jury, at this time we are going to recess in this matter until 1:30.

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

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

Court will be in recess until 1:30. All jurors, defendant, counsel, and the witness are ordered to return at that time.

Court's in recess. Thank you.

(At 11:52 a.m. a recess was taken until 1:30 p.m. of the same day.)

15 f1

LOS ANGELES, CALIFORNIA, MONDAY, JUNE 6, 1977, 1:50 P.M.

DEPARTMENT NO. 130 HON. EDWARD A. HINZ, JR., JUDGE

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(Appearances as heretofore noted.)

THE COURT: People versus Van Houten.

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

Doctor, would you resume the stand.

16-1

THE COURT: Mr. Kay, you may cross-examine.

MR. KAY: Thank you, Your Honor.

MICHAEL B. COBURN,

resumed the stand and testified further as follows:

CROSS-EXAMINATION

BY MR. KAY:

Q Dr. Coburn, in reading your psychiatric report on Miss Van Houten dated June 15th, 1971 --

Oh, by the way, do you have a copy of that?

A I do.

Q Right.

I notice in the first paragraph that you took into consideration a psychiatric evaluation dated May 14th, 1971, signed by Joseph F. Roh, that's spelled R-o-h, M.D.

Is that true? Did you take that report into consideration?

A Yeah. I reviewed the whole file, which is -- was the usual procedure before preparing a classification evaluation.

Q All right.

And I take it before you testified here today that Mr. Keith provided you with a copy of the medical file at Frontera, just the psychiatric part of it?

A That's correct.

Q Do you have that?

A I do.

Q That's what you have right in front of you?

A That's correct.

Q All right.

I wonder if you might turn to Dr. Roh's report, which I believe you will find on pages 18 and 19 of --

A All right. I have it in front of me.

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Q Okay. And that's a report signed by Joseph F. Roh, M.D., chief psychiatrist.

He was the chief psychiatrist out at Frontera at that time; is that right?

A I don't recall.

Q All right.

It is signed by Joseph F. Roh, M.D., and the title "chief psychiatrist"?

A Yes.

Q In that report he has a category called "mental status examination."

Do you see that on the first page?

A Yes.

Q And you note his report is dated May 14th, 1971?

A Yes.

Q All right.

Going down to -- let's see, 1, 2, about down to the third sentence, he's talking about his evaluation of Miss Van Houten, stating:

"Her motor activities showed no restlessness, ticks or tremors or any motor dysfunction. Her speech was spontaneous, rather circumstantial and at times evasive."

Did you take that into consideration, that part of the report?

A Well, I can't say to you that I took into account any single sentence.

And I guess if we are going to go through all the

single sentences I would have to give you the same answer.

I took -- I would be happy to comment on that, though.

I did not relate my opinion, then or now, upon anybody else's opinion.

When I look at a file I try to look at all of the data that's there to form an opinion; and recall, this was a classification examine.

But I think to speed things up, I should say that in a general sense, yes, that, among all the other parts, would have been taken into consideration; and that's how she appeared to me.

Q All right.

In other words, you agree with that evaluation.

A That sentence, yes.

Q All right.

Further down he states -- several sentences down:

"There was no evidence of flight of thoughts, psychomotor retardation, ecstasy or mercurial changes in mood."

Do you agree with that in your analysis of her back in 1971? Does that correspond with your analysis?

A Basically.

Q (Reading).

"Her" --

Let's see.

"Her conceptual" --

Let's see.

"Her affect was moderately shallow, however appropriate. Her conceptual thinking, abstractions, attention span, concentration, situational problems, retentive comprehension and digit span were all intact. Her recent and remote memory was accurate."

Do you agree with those findings of Dr. Roh?

A Not all, no.

Q What?

A Not all, no.

Q Which ones do you disagree with?

A Well, I think that it's incorrect to say that her affect was appropriate.

I think the shallowness is a nice word, but I think it went beyond appropriateness.

I think it was definitely inappropriate considering the nature of the situation.

And also, that statement, if we are going to pick this apart, is inconsistent with his previous statement, which is skipped over, that --

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18-1

Q Well, that's your conclusion, that something in there is --

A Psychiatrically, it's inconsistent.

Q It's inconsistent because --

A It is inconsistent.

Q Now, Doctor, Doctor, her intellect and fund of information appears -- or her intellect and fund of information were average.

Do you agree with that?

A No, she has above average intelligence.

Q All right.

But, I mean, in 1971 did you also feel that she had above average intelligence?

A I'd have to review the report.

Let me take a look.

Q Well, I see at the top of your report you stated you took into consideration Dr. Fischmann's psychological report.

Do you remember that he evaluated that she had an I.Q. of 121?

A Basically. I do recall that, yes.

Q All right.

Now --

A Which is not average.

Q Right.

On the last page of Dr. Roh's report did you take into consideration her description of Charles Manson to Dr. Roh?

18-2

A. Is this the top paragraph?

Q. Yes.

A. It's illegible on my copy, if you would like to take a look.

I tried to read it and couldn't, but I would be happy to.

Q. The last sentence,

"She describes Charles Manson as a man who brought nothing but joy and showed her how to enjoy and appreciate life."

Did you take that into consideration?

A. I didn't, because I couldn't read it; but I would, and it indicates the, I think, bizarre nature of her thinking at the time.

Q. Now, Doctor, in your report, the second paragraph --

Your report is dated June 15, 1971; is that correct?

A. Yes.

Q. All right.

You wrote,

"It is my understanding that this evaluation is being done as part of administrative requirements for inmates incarcerated with the death penalty. No specific questions such as disposition, diagnosis, competence for legal procedures, et cetera, were specifically dealt with in this evaluation."

Is that true?

18-3

A. That's true.

Q. So you don't make any specific diagnosis at that time about whether or not she could deliberate or premeditate or had the intent for malice aforethought at the time of your examination; is that correct?

A. That's correct.

Q. And speaking of the fact that she was under the sentence of death at that time, in your opinion does the fact that a person has been sentenced to die in the gas chamber have any effect on the person's mental state after receiving such a sentence and being situated on death row in a prison?

MR. KEITH: I'll object to the question on the grounds it's not directed to any specific individual.

THE COURT: Well, the objection is sustained.

MR. KAY: All right.

Well, let's direct it to Leslie Van Houten, then.

Q. Do you think that at the time of your interview it was possible that the fact that she had been sentenced to death and was there on death row out at Frontera, that that might have had some adverse effect on her mental state at the time of your interview in 1971?

A. No, in her case I do not believe that it did. It should have, of course, but it did not.

Q. I take it from reading your report that you thought, at the time of your interview of 1971, that it was kind of hard for you to put a handle on Miss Van Houten's mental state?

A. That's correct.

Q. You state in the -- one, two, three, four -- fifth

18-4

paragraph down, still on the first page,

"During her teen years, Miss Van Houten apparently gradually lost interest and ambition in maintaining herself as a working member of society and, despite the fact that she obtained a business college degree, had no intentions of really working."

18-5

Did she tell you that when you interviewed her, that she had no intentions of working?

A. I have no independent recall whether she did or not. I must presume that she did, because it is here.

I can't tell you right now.

Q. Did you have any conversations with her this time about what her state of mind was after leaving business college?

A. Yes.

Q. All right.

Did she tell you that -- now that she had no intention of working and just wanted to have her father support her without her working?

A. I think that's a fair flavor to it, yes.

Q. You state further on that she -- the last sentence on the first page --

"She then became one of the more constantly present members of the group of 'brothers and sisters' which has commonly become known as the 'Manson Family.'"

Now, let me ask you this: In your opinion, was she one of the more constantly present members of the Manson family?

A. Yes.

Q. All right.

And are you aware from reading the testimony in this case that a lot of people came into contact with the Manson family, stayed a little while, and then moved on?

A. Right.

18-6

Q. In your opinion, what was there about Leslie Van Houten when she joined the Manson family that caused her to stay when other people left?

A. I think you might think of it like a pair of magnets, one repelling and one attracting. And the closer she got into the group, the more there was kind of a repelling away from outside society, a combination of LSD, changing values, changing logical thinking system, the increasing attractiveness of the security of the group, the acceptance within the group, I think, just fitted her needs as she went through that part of her life.

Q. Now, you say security in the group.

Would you explain that.

A. Well, my understanding from the sources that I've read and from her is that the group provided a lot of comfort and haven for people.

19 f1

19-1

I remember one very specific personal thing that I learned, I believe from the then convicted person Patricia Krenwinkel.

Patricia had a situation of excess body hair, a very fine, down body hair, which caused some negative feelings of people on the outside.

Q Well, she had hair on her chest like a man.

A Well, I didn't examine her chest, but that would be part of the same picture.

That bodily characteristic was used as an asset. She was petted. She was treated as something special because of it, according to what she told me.

And that's a very good kind of example of why that group, Manson and the group were successful in bringing and keeping people in.

Because they were able to take what would have been potentially negative qualities, liabilities, and turned them into assets and used that to manipulate and hold a person.

That's my understanding, anyway.

Q Well, what was the security that Leslie found?

I mean, you're not suggesting that Leslie looked like Patricia Krenwinkel, are you?

A No; Leslie did have one physical characteristic that at the time she was quite concerned about, and that was apparently her weight and the fact that she was so thin.

And she told me that that was one thing that had caused her some problems outside, and there it had not been a problem.

In fact, some of the other girls would starve themselves, and I may not be correct, but I think even regurgitate their food in order to not gain weight, to be like Leslie.

So it became another kind of thing that was latched onto and used -- "used" is my editorial, obviously -- that happened, anyway, in the group.

I think it afforded security for somebody who had a deviant set of values and a growing sense of apartness from society.

And it provided physical security.

It provided a substitute for having to go out and make relationships, a substitute for having to relate to parents, a --

Q And having to get a job?

A And having to get a job, yes. All kinds of things.

Remembering that she did lose her father, essentially, in the form of the family splitup, one can make kind of a psychiatric speculation that had something to do with it.

I don't have enough of analytic kind of information to know if that's true, though.

Q You also have in your report here on the second page, the top paragraph:

"The group lived off of the good will contributions and excess food of the society, more and more moving from place to place as harrassment by local law

enforcement agencies persisted. Some of this occurred because of their aberrant life style and some because various people who came and went from the group turned out to be either wanted criminals, runaways, or juveniles otherwise legally subject to being placed in custody."

That is in your report; is that correct?

A That's correct.

Q All right.

Leslie certainly had an awareness of who the police were while she was with the Family, didn't she?

A Certainly.

Q And in your opinion so did most of the other people who were there.

A I would assume so.

Q You have this statement at the bottom of the second paragraph in quotations, apparently from Leslie:

"We were just like dogs, in that we just got up in the morning, did our chores, loved one another and went to bed at night."

Did she tell you that then?

A Yes, she did. That's a part of the quote that's there.

Q The next paragraph about the -- Well, I guess it's the third sentence in, when you were asking her about the murder:

"She related being under the influence of LSD during the time of the instant offenses but to no greater a degree than at any other time

during their existence."

Did she tell you that?

A That's correct.

She reiterated that this time, that LSD for her had ceased to be much of a trip-producing quality;

That it seemed kind of just to sustain whatever you would like to call the state she was in;

And that she didn't really have any acute reactions that she could recall after she had been using it for that long.

1 Q She told you that she was a chronic user of LSD?
2 A Yes, she did.
10af 3 Q And you are familiar with the term "building up
4 a tolerance to LSD use"; are you familiar with that?
5 A No, I am not particularly familiar with that.
6 Q And I take it --
7 Have you ever written any articles on LSD?
8 A No.
9 Q Any books?
10 A No.
11 Q I take it that you don't really consider yourself
12 an expert on LSD use?
13 A That's correct.
14 Q You have this, the last sentence here:
15 "Following" --
16 In the same paragraph:
17 "Following the murders she, as well
18 as other members of the group, were able to further
19 justify feeling no discomfort or remorse because
20 of the vast socioeconomic differences and alleged
21 personality defects and problems in the decedents."
22 Did she tell you that, that she had no remorse?
23 A That was -- Yes, that's what she said.
24 Further, as she said --
25 Well, in my opinion she was attempting after
26 the fact, as were the others, to, as I put it, further justify
27 it.
28 And I don't know that that was in fact part of the

reasoning or thinking or feeling that went into it beforehand.

And in light of what I have learned so far, I don't think that that had a darn thing to do with why the crimes occurred.

I think that's an after-the-fact construction.

Q But you agree that after the fact she did have no remorse.

A Oh, definitely; she had no sense of the true meaning of what she did.

Q You put here in the Mental Status Examination --

Do you see where that section is?

A Yes.

Q That she was fully alert, oriented and cooperative.

Is that true?

A Well, in retrospect it's probably not true because I did get conned.

But for the most part it was true. What she wasn't cooperative on is that she was adhering to the party line and was at that point maintaining that Charlie had no -- had nothing to do with what happened, and that Helter Skelter was a lot of publicity hogwash; and that was of course not true.

She was maintaining the same line she maintained in court, essentially.

So she wasn't cooperative, if you really want to get down to the nitty-gritty.

Q So what you are saying is, you feel back in 1971 you were conned by Miss Van Houten?

A To that extent, yes.

Q You say in your next sentence:

"There was no indications of hallucinations, systematized allusions or indications of overt psychosis."

Is that right?

A That's correct. That's a typographical error, it should be "delusions."

But there was no indication at that time. She did not tell me at that time some of the things that she has subsequently told me and that she apparently told Mr. Part and that I heard on the tape.

Q I take it a lot of your opinion of course, as a psychiatrist, rests on what the person that you are examining tells you.

A That's correct.

Q You say down here a couple of sentences further down:

"Recent and day-to-day memory was excellent, and there appeared to be no evidence of organic brain disease."

A That's correct.

Q I take it that's still your opinion?

A Definitely, yes.

Q You said here, the last sentence:

"Her affect was inappropriate, in that she was superficially smiling, laughing, happy and cooperative, et cetera, even when talking

about the instant offenses and her incarceration. She did have periods where this would drop and she would appear outwardly as if uncomfortable or depressed. However, she denied being uncomfortable."

And then you say, the first sentence of the next paragraph:

"She did admit that she would prefer not to be incarcerated . . . ."

A That's all correct, yes.

Q Now, the next sentence:

"She readily admitted that although she has no desire at the present to kill anyone, that she would have no difficulty again doing so if she wanted to."

A Yes.

Q She told you that?

A Yes, she did.

Q You have a section here called "Interpretations and Inferences," and in the second paragraph --

Well, let's see; let's start off with the second sentence:

"She appeared" --

Well, no; let's start from the beginning.

"She had dropped out to a point beyond possible reentry into society, not only because of social habits established but also because of a true sense of identity change from self to group."

A Right.

Q And you were telling us about that today.

A That's correct.

Q That's still your opinion.

1 Now, you say in the second paragraph:
2 "She appeared to have been dealing
3 with her own aggressive impulses and her own
4 narcissistic needs for years and was able to
5 dissolve these needs within the group."
6 First tell us what you meant by saying that
7 she appeared to have been dealing with her own aggressive
8 impulses.
9 A Well, I have been wrestling with that since I
10 read this, and I don't have independent memory of the specific
11 statements, and I don't have any notes from back there.
12 I think what I am talking about there is what
13 I have talked about this morning.
14 In that persons are supposed to normally to be
15 able to express angry thoughts, aggressive thoughts to a
16 certain degree and some actions, and that's part of normalcy;
17 and as she told me during the interviews this time, she doesn't
18 remember ever really overtly being angry at anybody.
19 And that's not normal.
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So I think in going back over this that that's what I'm referring to, is that some of that supposedly suppressed and unconscious part of her personality was what was allowed to develop and be perverted within the structure.

Q But you say here not that she wasn't aware of her impulses, you say that, "She appeared to have been dealing with her own aggressive impulses --"

A That's a psychiatric piece of jargon.

That's like saying when you chain smoke or I eat too much we are dealing with our needs to be taken care of or our needs to have oral gratification or something like that.

In other words, it's an unconscious process that we are talking about there.

You wouldn't admit, and I wouldn't admit, probably, consciously, that we were doing those behaviors for those particular reasons. We wouldn't be aware of that.

I am!

Q All right.

And you state here that you -- and not only was -- did she appear to have been dealing with her own aggressive impulses but her own narcissistic needs.

Explain what you meant by that.

A Well, we all have needs to take care of ourselves. We all have needs to see ourselves in a good light. And adolescents have a problem as they begin to go through changes. And, in addition, she had the problem of her family breaking up, about which she has still not really recovered any emotional reaction, any memory of emotional reaction.

So it was my theoretical idea at the time, and I

20-2

1 think still is my idea, that getting into the group gave her
2 the kind of care and feeding, in a psychological sense, in an
3 emotional sense, that she hadn't been getting.
4 She had started out away from her family in a
5 couple of relationships with men, and those relationships
6 apparently were insufficient, and she became involved in the
7 group and felt, I think, probably pretty satisfied and
8 contented within that, you know, strange environment.
9 Q Right now you talk about adolescence, Doctor. Are
10 you aware that when Miss Van Houten joined the Manson family
11 she was 19 years old?
12 A Yes.
13 Q And she had graduated from high school?
14 A Yes.
15 Q And business school?
16 That she was sexually experienced?
17 A Yes.
18 Q Even had an abortion?
19 A Yes.
20 Q Been taking drugs for a number of years?
21 A That's the main issue, yes.
22 Q Had been doing, would you say, in your opinion,
23 basically whatever she wanted to do?
24 A Partly yes and partly no. She still maintained
25 a facade of conformity on the outside.
26 And I doubt whether -- I really doubt whether she
27 knew what she wanted. That's basically how I feel about it.
28 Q But she appeared, at least outwardly, to be doing

20-3

1 whatever she wanted to do?

2 A. Well, as I said, she did some -- some that she

3 didn't, some she did.

4 When she got into the group, she, of course,

5 subordinated what she may have wanted as an individual so

6 that she became one of the group and began to want what the

7 group wanted. And, therefore, she was satisfied.

8 Q. But how do you know that she didn't want that

9 herself?

10 A. Just that we have no other evidence other than

11 what we have here.

12 Q. You mean what she's told you?

13 A. No. The testimony of the witnesses that were

14 members of the group and her own words to me.

15 Q. What testimony can you point to that anybody

16 testified that they were forced to do something that they

17 didn't want to do?

18 A. Oh, boy.

19 There is a mixture of concepts there that is going

20 to make it difficult for me to answer.

21 They were in a place where they wanted to do what

22 they -- they wanted to do it because they were trained to want

23 to do it.

24 Now, there were cases -- I believe the individual

25 was named Lake, and she was apparently publicly humiliated

26 and beaten or slapped and actually forced.

27 The force was not always a physical force, although

28 there was fear.

20-4

There was also the group pressure, the chance of being killed maybe, or being not accepted, of being thought of as being defective, of being thought of as being responsible for deaths.

All kinds of force that did occur.

Some, but a very minor amount, physical.

20-5

The best example for Leslie is when she told me when she left the group, I think it was for a few days -- I don't really recall if it was one day or a week, but that's the concept in my mind anyway -- and that she took LSD during that period of time.

She went and had some contact with her mother.

And she kept hearing the voice of Charlie saying, "Come back, come back, come back."

That's force. The kind of force that I am really talking about.

Q But whether or not she really heard that you don't know. That's what she told you.

A That's right.

Q Now, you state here, still referring to your report, the second paragraph in the interpretations and inferences, that living with the Family here provided what appears to have been to her ego and entirely acceptable mode of living.

Was that you -- is that still your opinion?

A As she thought then?

Yes, that is my opinion now. Those were her thoughts and beliefs then.

Q All right.

Now, in the next paragraph, the second sentence, talking about the --

A I just have to --

Maybe I shouldn't do this, but you just pointed out half a sentence before.

Q Well --

20-6

A. And if that's okay, that's all right. But that was only half a sentence.

Q. I understand that, Doctor.

Now, Doctor, you are, of course, not a court-appointed psychiatrist in this case; is that correct?

A. That's correct.

Q. You are privately retained by Mr. Keith?

A. That's correct.

Q. All right.

Now, let me ask you this: Pointing to the third paragraph, first sentence -- second sentence --

"Her own individual rage --"

talking about the LaBiance murder --

"Her own individual rage and capability for violence was in tune with the action and provided her with an immense sense of release. She stated that after the murders had been committed and she was in the house that an immense drudge had been lifted and everything was lighter."

Now, what do you mean by "her own individual rage and capability for violence was in tune with the action and provided her with an immense sense of release"?

A. Well, it's really just a restatement of what I had said before.

I'm assuming that she had this conflict regarding her own expression of anger, regarding her own expression of appropriate hostility, and that this had been going on, you

20-7

1 know, for her whole life, and that that was the time when it
2 became appropriate and, under all that pressure, it expressed
3 itself.
4 Q She felt better after she did it?
5 A That's right, which, to me, proves the unconscious
6 pressure that must have been there.
7 Q Now, your last sentence here,
8 "She views herself as now even more
9 capable of committing similar offenses than in
10 the past, and this probably is not just bravado."
11 That was your opinion?
12 A It was. She scared me.
13 Q Now, you talked a little bit on direct examination
14 about enforced learning, attitude change, on Mr. Keith's
15 direct examination.
16 Have you written any articles or papers on the
17 subject matter of attitude change or what we commonly know as
18 brainwashing?
19 A No, sir.
20 Q All right.
21 Have you ever qualified as an expert in court
22 before in the field of attitude change or brainwashing?
23 A Not under those headings, no.
24 Q Do you consider yourself to be an expert in the
25 field of brainwashing?
26 A I do not.
27 Q You talked about -- on direct examination -- about
28 Miss Van Houten having a deviant value system.

20-8

In your opinion, did that start long before she even joined the Manson family?

A. I think it began before, yes, and was nurtured in her drug experiences before she joined the group.

Q Now, isn't it clear, Doctor, that she -- and by "she," I'm talking about Miss Van Houten -- hold on just a minute -- that Miss Van Houten realized and appreciated that killing people, and I'm talking about at the time of the LaBianca murders, was against the law of society?

A Yes.

Q And isn't it true that she realized no matter what conduct was expected of her within the Manson family that killing people was conduct that society did not expect of her?

A That's true.

THE COURT: Would this be an appropriate time to take a short recess so I can take up another matter?

MR. KAY: I guess apparently it is.

THE COURT: All right.

At this time, ladies and gentlemen, the court will take a short recess.

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

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

All right. The court at this time will recess for 15 minutes until twenty minutes of 3:00.

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

21 f1

Court is in recess. Thank you.

(Recess taken.)

21-1

THE COURT: People versus Van Houten.

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

You may resume, Mr. Kay.

MR. KAY: Thank you, Your Honor.

22-1

Q Dr. Coburn, in reaching your decision as to -- or your opinion, I should say, as to Miss Van Houten's mental state at the time of the LaBianca murders, did you read Susan Atkins' testimony in front of the grand jury?

A Yes.

Q Did you read Patricia Krenwinkel's testimony at the first trial?

A I read nothing from the first trial.

Q Did you read Tex Watson's testimony from his trial?

A No, sir.

Q And when you say you read nothing from the first trial, I take it you did not read Miss Van Houten's penalty phase testimony, since that was at the first trial?

A That's correct.

Q Did Mr. Keith provide you --

Well, let me just ask you this: Did you read my cross-examination of Leslie Van Houten when she testified out of the presence of the jury in this trial as to her current version of what happened on the night of the LaBianca murders?

A I did not.

Q Did you listen to a two-and-a-half-hour tape recording of Miss Van Houten recorded in November of '69 with a homicide -- LAPD homicide sergeant by the name of Michael McGann?

A I did not.

Q Doctor, did you write a report in this case about

your findings and conclusions?

A. Other than the report written in '71, no.

Q. All right.

You didn't write any report now?

A. That's correct.

23 d1

23-1

Q And is there any particular reason why you did not write a report?

A None was requested.

Q Mr. Keith didn't ask you to write a report?

A That's correct.

Q How many times --

You interviewed Miss Van Houten twice in May; is that right?

A That's right.

Q May 13th and May 22nd?

A 21st.

Q 21st.

And each one of those interviews lasted how long?

A About an hour and a half.

Q So that's a total of three hours that you interviewed her, if I can add one and a half and one and a half?

A Yes.

Q Did you feel, in your opinion, that three hours was sufficient time to interview her to determine her state of mind back on August 9th and 10th, 1969?

A I think that in this particular case, because of the complexity of the issues, that it probably would not have been enough if that had been the only contact I had had with the case.

Q You are talking about the fact that you had had contact with her back in 1971 at Frontera?

A That's correct, and the other information available.

2-23-2

Q How many times have you talked with Mr. Keith about this case?

A Substantively, none.

We have not, except for him to request of me my background and qualifications and to inform me the court date and that I was getting certain things in the mail.

We really have not had any formal discussions.

Q You mean Mr. Keith never asked you what your opinion was about --

A Yes; but we have had no discussions or appointments.

Often times when testifying there will be kind of a pretrial preparation type of conference.

And we just didn't have one. We talked on the phone.

Q You talked on the phone?

A Right.

Q You told him all of your conclusions, though --

A Well, what happened was --

Q By the way, first let me ask you:

When was this phone conversation?

A "This phone conversation."

Q There was more than one?

A I really haven't the faintest idea.

We are talking about over the last, I guess, month, month and a half kind of thing.

What had happened was, he became aware of my report; and we had discussions on what the meaning was of what I had written.

23-3

And I had not seen my report at all. I don't have a copy of it.

And when I read it again and talked to him it seemed to me as if some of the things I had written in the report were consistent with the potential for diminished capacity.

And therefore I was requested to interview her again and to listen to the tape from '69 to see whether or not further investigation would support that opinion or not.

That's basically how it came about.

Q When did you first get involved in the case? In May?

A No. I don't recall.

I think there was some communication a number of months ago, in which he was aware that I had seen her and was going to get ahold of the records. And then I heard nothing until very recently.

Q When you say "communication," you mean communication with Mr. Keith?

A Right.

Q Now, Doctor Coburn, in your opinion when Miss Van Houten left Spahn Ranch on the night of the LaBianca murders, did she have the intent to kill?

A I can't say for sure what her intent was.

I think that she probably had the capacity to have that intent.

24f

24-1

Q And what do you mean by that?

A I don't see her mental state, her mental condition, as having been such that would deprive her of that capacity.

I think that she had --

It's just redundant to say the third time.

Q Now, did you read Linda Kasabian's testimony in the current trial?

A Yes.

Q And you read her testimony about on the night of the LaBianca murder, the long trip throughout Los Angeles looking for people to kill?

Do you remember reading that?

A Yes, basically.

Q And in your opinion -- Let me ask you this: Did Leslie Van Houten tell you about stopping at the house where Manson -- in Pasadena, the small house in Pasadena -- where Manson got out of the car and went up and allegedly looked through the window and saw pictures of children and came back to the car and said, "We can't do it here," because he saw pictures of children?

A Yes.

You asked me if she told me that?

Q Yes.

A I'm not certain. I don't know.

In fact, I think that it was not she that told me that; I think that was from one of the volumes that I read in the trial.

Q From Linda Kasabian's testimony?

A. I think so. I'm not sure.

Q. And in your opinion, did Miss Van Houten still have the capacity to kill at that time?

A. I think she had the capacity to form the intent, yes.

Q. And did she also -- in your opinion, did she have the capacity, as you say, to form the intent to kill throughout that whole trip?

A. I think she did.

It's -- understand, it's within the structure of what her belief system was at the time regarding its rightfulness or appropriateness or world-saving qualities or whatever.

But, nevertheless, I feel she did, yes.

Q. Well, forming the intent to kill is a very easily formed mental state, isn't that true?

A. It's the simplest in the whole list of intents that are part of our homicide law in California.

Q. Even an animal can form that intent, can't he, Doctor?

A. No, that's a different issue, because you are talking about symbolic thought.

And an animal can have a drive, an urge, an instinct, but whether it can have a synthetic thought is something that I don't really think we have ever proved.

Some indication that higher apes do, dolphins do. I don't know whether other animals do.

But that's really not pertinent.

Q. In your opinion, before she entered the LaBianca

1 house, did she also have the mental capacity to form the
2 intent to kill?
3 A. The answer would be the same, very probably she
4 did.
5 Q. Now, you told Mr. Keith on direct examination that
6 you read the Marvin Part -- well, you heard the Marvin Part
7 tape?
8 A. I heard the tape, right.
9 Q. All right.
10 And in your opinion, from listening to that tape,
11 did Miss Van Houten make her decision that she wanted to be a
12 part of this group if they went out again -- that she wanted
13 to kill as part of this group -- even before Mr. Manson ever
14 asked her to get a change of clothes and go along with the
15 group?
16 A. Yes.
17 Q. Now, Dr. Coburn, approximately how many cases have
18 you testified in, murder cases have you testified in, where
19 the issue has been the defendant's mental capacity to commit
20 a willful, deliberate, premeditated murder of the first
21 degree?
22 A. You want me to limit it to testimony or cases
23 that I have reported on?
24 Q. Testimony.
25 A. As far as testimony, about, oh, maybe one to two
26 dozen.
27 I -- About. Probably around that number, because
28 I've seen about a hundred in the last two and a half years that

I've kept records on myself.

Q How, you have testified in one to two dozen cases. How many of those cases have you been called on as a witness by the prosecution?

A Homicide cases?

Q I'm talking about in homicide cases where the issue is the defendant's mental capacity to commit a willful, deliberate, premeditated murder of the first degree.

A As I said, limiting it to testimony, I have not been called by the prosecution.

Q Doctor, how many times have you testified in a court of law under oath, and I'm talking about testifying, you know, raising your hand -- you know what testify means, I don't have to go through that with you -- but how many times have you testified in court that a defendant in a first degree murder case had the capacity to maturely and meaningfully reflect on the gravity of his contemplated act of murder?

A Once again, limiting it to testimony, I have not so testified.

Q In fact, isn't it true, Dr. Coburn, that you, in fact, consider yourself as a -- shall we say an integral member of the defense team here in Los Angeles; that you work very closely with defense attorneys and consider yourself a very integral member of the defense team?

A No, that's a falsehood.

25 fl

25-1

Q All right.

Dr. Coburn, do you know a deputy district attorney named James Ideman out in Torrance?

A Yes, I do.

Q Isn't it true, Dr. Coburn, that you are very much against people going to jail?

A No, that's an absolute untruth.

Q Do you remember testifying in a case where Mr. Ideman was the deputy district attorney?

Actually, it was a probation and sentence hearing to determine whether or not a defendant who had been accused of child molestation and furnishing marijuana to a minor should be sentenced to jail in the court of Bernard Lawler out in Torrance?

A Yes, I remember the case very clearly.

Q And were you called by the defense to testify in that case? Do you recall that?

A Yes.

Q And you testified at the sentencing hearing that in your opinion that defendant should not be sentenced to jail; is that right?

A That's correct.

Q All right.

Mr. Ideman, who was the deputy district attorney, sat at the counsel table, and he didn't ask you any questions; is that right?

A That's correct.

Q And Mr. Ideman didn't give any argument one way

25-2

or the other whether or not the defendant should be sentenced to jail or not; is that right?

MR. KEITH: I'm going to object to the question on the grounds we seem to be far afield now. I object.

THE COURT: All right; let's have an offer of proof.

Could counsel approach the bench, and we will have the court reporter.

(The following proceedings were held at the bench:)

MR. KAY: The offer of proof is that Mr. Ideman didn't ask any questions of Dr. Coburn, and he sat there and he didn't argue one way or the other whether this defendant should go to jail.

Judge Lawler sentenced the defendant to a year in the County Jail. It was on a Friday afternoon. Mr. Ideman then said, "Have a nice weekend, Your Honor. I'll see you Monday."

And the judge said, "Have a nice weekend."

Mr. Ideman then left the court. And Ideman didn't say anything to Coburn.

Out in the hall Coburn approached Ideman, became irrational, yelled and screamed at him, became red in the face and he said, "How in the world can you tell the judge to have a nice weekend when he's just sentenced somebody to jail?"

THE COURT: That's the offer of proof?

MR. KAY: Yes.

THE COURT: Well, how is that relevant?

25-3

MR. KAY: Because it shows here that Dr. Coburn is very much set against people going to jail.

I think that it clearly shows that. It shows that he gets emotionally involved in his cases, to the point of irrationality.

MR. KEITH: We'd almost have to try that other case to determine whether there is a bias or prejudice generally on the part of Dr. Coburn.

If there was a general bias, that's one thing; but one isolated incident seems to be very much a collateral matter in which you are trying to impeach him on.

MR. KAY: I think that statement by Dr. Coburn, "How can you say to the judge have a nice weekend when he just sent somebody to jail?" shows the position of Dr. Coburn, that he doesn't like people to go to jail.

THE COURT: Well, I am going to sustain the objection to the question.

That seems to be on a collateral issue, if it is even relevant enough to be collateral.

The objection is sustained to that line of inquiry.

(The following proceedings were held in open court in the presence of the jury:)

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

THE COURT: Yes.

(Brief pause.)

Q BY MR. KAY: Dr. Coburn, in listening to the tape, the Marvin Part tape, do you remember the part about

25-4

Miss Van Houten talking about Susan Atkins coming back from the Hinman murder and telling about the Hinman murder?

Do you remember that?

A Not offhand, no.

MR. KAY: May I approach the witness, Your Honor?

THE COURT: Yes, you may.

25-5

Q BY MR. KAY: I take it that you haven't seen the transcript --

A That's correct.

Q -- of the tape. You have just heard the tape?

A That's right.

Q All right. Well, take my word for it that there was; and what I have in my hand is a transcription of the tape of Leslie Van Houten's interview in 1969, which was done by our two very able court reporters in this case.

At page 18, after Miss Atkins came back and was telling about the Hinman murder, Miss Van Houten says:

"And after that -- Well, we were all almost fascinated by the thought of killing people just because we'd been, you know, taught to stay away from it and nobody knows about death, really, you know."

Now, the word "taught" there, would you say that in your opinion and from what you remember of the tape Miss Van Houten did have an awareness that she had been taught not to kill and was aware that it was wrong to kill in the eyes of society?

A Yes. She had been taught that it was wrong, yes.

Q And did you learn in your preparation of the case that the Hinman murder took place close to two weeks before the Tate and LaBianca murders?

A No.

Q Well, does it show at this point, on page 18,

25-6

from what I read to you, that she was thinking about killing even at that point, even at the point that Susan Atkins came back from the Hinman murder?

A Yes, it does.

She and the group had been trained in many areas regarding death, fear of death, killing, things along those lines.

And it was part of the group ethic in the adoption of the group personality. I'm certain that that would have been there.

Q And that Miss Van Houten is saying here that she, in effect, was fascinated by the thought of killing somebody; and this was even before the Tate murders.

A I don't understand.

Q Is that right?

A Yes. I have no doubt about that.

Q And did she have a realization at the time of the LaBianca murders that if she got caught committing the murders by a policeman she would have been punished for them?

A Yes, I believe so.

As a matter of fact, the expectation of death seemed to be an integral part. She described to me that a great change -- a point of change for her after conviction and being imprisoned was when the death penalty was repealed, and it would seem that Charlie's logic no longer hold, and that this was a point of departure for her.

Q Now, Doctor, in your opinion in determining what

25-7

a defendant's state of mind is at the time a crime is committed, isn't it important to look at what the person does and says shortly before the time of the commission of the crime, at the time of the crime and shortly after the time of the crime?

26f A That would be quite helpful, yes.

26-1

Q Now, in this case, assuming that after the LaBianca murders Leslie Van Houten brought up the subject of wiping fingerprints off and did wipe fingerprints off, and in the Part tape it does say that she brought up the subject, she does say that she brought up the subject;

Assume that she brought up the subject of wiping fingerprints off, did wipe fingerprints off, things that she had touched;

That she told Dianne Lake out at Willow Springs in Death Valley near the Barker Ranch in September that she had also wiped fingerprints off the refrigerator in the kitchen and wiped other things;

And assume that the fingerprint expert in this case testified that there were wipe marks on the refrigerator in the LaBianca house around the word "Helter Skelter" that had been written on the refrigerator, going around in a circle around that word and then up and down on the rest of the refrigerator, including the handle;

And that also the fork, the handle of the fork in Mr. LaBianca's abdomen, had wipe marks on it, in his opinion, that it had been wiped;

That in his opinion the device used to wipe the fingerprints on the fork and refrigerator was moist, because there were moist wipe marks on both the refrigerator and on the fork;

Further assume that after the murders she took off her clothes and threw her clothes away in a trash barrel located some distance from the LaBianca residence;

That she and the others hid in the bushes until daylight when they hitchhiked back to Spahn Ranch;

That the man who gave them a ride back to Spahn Ranch asked them were they from Spahn Ranch, and that she said they were not;

That later on the man came looking for her, and she hid from the man underneath a bed sheet;

That once she got back to the Spahn Ranch she burned certain items of evidence, including a small brown purse, a rope, a blouse;

And that she took off her own clothes and burned them.

Now, assuming all those facts to be true, Doctor, doesn't this activity show that she had her wits about her and was doing everything that she could think of to do so that she wouldn't get caught for having committed the murders?

A. It's a two-part question. I'll answer the second part first.

Yes, it showed that she was doing everything she could to avoid her or her companions being caught.

To me I can't divorce that from the rest of the reasons and the feelings and the thoughts that went into the acts.

No, I don't think she had her wits about her. I think she had her wits about her only to the limited extent that she was capable of trying to avoid detection, because she knew that it was an act that was illegal.

Q. She knew that she had done something illegal in

26-3

the eyes of society?

A. Illegal, yes.

Q. And she knew that if she got caught she would be punished; is that right?

A. I presume so, yes.

Q. In your opinion, at the time inside the LaBianca house, if Sgt. Sartuche here from the Los Angeles Police Department had been there observing her activities, and Leslie knew that, would she have participated, in your opinion, in the murders if she thought a policeman was watching?

A. Probably not, no.

Q. In your opinion, Doctor, before her participation, her actual participation in the LaBianca murders, had she weighed the question of her participation in those murders against the consequence of getting caught by the police, realizing that it was against the law?

A. I really don't understand that.

Q. Well, before her actual participation in the LaBianca murders, while she was still at Spahn Ranch, before she had left, in your opinion, had she weighed the thought of killing someone, of participating in another night of murders, if she was asked to, against the consequence that if she thought -- the police might try and discover who she was and catch her and punish her?

A. The reason I'm having trouble with that question is I don't understand what you mean by the word "weigh."

I have said repeatedly that I thought she was aware of the fact that it was an act that was illegal and that if caught she would be punished.

But I think that any weighing that went on was weighing on the side of it didn't matter; that it had to be done, it must be done, it should be done, it shall be done.

That kind of weighing, if that's what you mean, yes.

26-5

But if you mean rationally considering that she could take this risk, even though it meant she might get caught, no.

To me it's different. It wasn't a rational process to me.

Q Well, in your opinion, though, didn't she realize before she even left Spahn Ranch on the night of the LaBianca murders that there was a possibility that she could get caught for participating in the murders, and that she weighed that against the question of whether or not she would participate in the murders?

A I don't believe she weighed that against the question of whether she would participate.

I think that she accepted both.

Q Well, do you think that she thought about the fact that she could get arrested for her participation in the murders before she even left Spahn Ranch?

A I don't know. But it really doesn't matter, as far as my opinions on the premeditation, deliberation, and malice issue. It's a separate issue.

Q Why is it a separate issue?

A Because knowing the illegality, or trying to avoid being caught, is not the same concept as involved in either knowing you have an obligation to obey society's rules, being able to conform your behavior to that obligation, or being able to meaningfully and maturely premeditate and deliberate.

They are different concepts.

Q Well, doesn't --

You just told me a few questions back that what a person does just before, during, and after the commission of a crime is important for you in determining what their state of mind was at the time of the crime.

Now, doesn't what a person does again, what a person thinks before the commission of the crime, isn't that important in determining the mental state of the person at the time of the crime?

A. Yes, but we know --

26-7

1 Q Now, if a person thinks before even participating
2 in the crime, weighs the consideration, "Well, you know,
3 should I participate? I want to participate, but I might
4 get caught; but I'm going to go ahead. Even though I have
5 the consequence that I might get caught, I'm going to
6 participate anyway."
7 Isn't it important, in your opinion, if the
8 person does some thinking like that?
9 A I can assume that she did, and it still doesn't
10 change anything.
11 In fact, it tends to support the opinion, because
12 you are talking about how much intensity of desire and of
13 belief was there that the act was predicated upon.
14 And there is no doubt that the act occurred, and
15 there is no doubt that it was done in a manner involving some
16 degree of following orders and of planning.
26a 17 That is not the same. That there was a meaningful
18 and mature consideration of the consequences. There was never,
19 in her part, a meaningful and mature consideration of the
20 consequences.
21 On the contrary, even through the trial and
22 afterwards, she didn't consider the consequences. She went
23 along and would have accepted a death penalty.
24 That's not rational.
25 Q She told you in 1971 that she didn't even want to
26 be in jail.
27 A That's true. She said she would prefer not to
28 have been.

But she did not present any kind of case, and we talked about this.

Why didn't the issue of what was going on at the ranch and the drugs and all the rest of that come up? And the answer was very simple. There was no choice in that. They were told not to. They could not raise that issue.

And that's how much her being was subordinated, was put under the domination of the group.

Q And that is what she told you?

A Well, unless she was very dumb, and she's not dumb, I don't know of any other reason why these issues were not, you know, entered into.

Q In other words, your opinion in saying that she's not dumb, she, in fact, has an I.Q. in the top five percent of the United States, doesn't she?

A Yes.

Q And she has an intellect such that you felt -- you feel now, in your interview in Frontera in 1971, that she manipulated you?

A Yes, she did. She adhered to the line that Helter Skelter was a figment of Mr. Bugliosi's imagination, or the press, and that, in fact, it did not have that kind of intent.

It wasn't until now that she admitted it to me.

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

THE COURT: Yes.

27 fl

27-1

Q BY MR. KAY: Doctor, on the night of the LaBianca murder --

I withdraw that question; I think you answered that earlier.

Doesn't the fact that after the murders she did all those things that I described to you earlier, doesn't that show independent thought on her part?

Like wiping -- bringing up the subject of wiping up the fingerprints and the hiding from the man who gave her a ride and burning evidence in the case, burning her own clothes.

Doesn't that show independent thought on her part?

A In a mechanical sense, yes; that it was part of the overall order.

Like a patrol in the Army being given orders not to be seen, and somebody deciding to go under a rock and somebody deciding to go into a house.

It's independent thought, but it's under a specific order, under a specific plan.

Q Now, assume that on August 16th, 1969, which was six days after the LaBianca murders, that she was arrested out at Spahn Ranch by a police officer, a deputy sheriff, and her true name being Leslie Van Houten she gave the name of Leslie Sue Owens.

In your opinion does the fact of giving a police officer a false name to conceal identity, does that show independent thought on her part?

27-2

A Not necessarily, and it is not germane to the issues as far as my concept of the specific incident that we have been talking about.

Q Why wouldn't it show independent thought?

A Well, I don't really have any knowledge of whether she was told to do that or not.

She obviously -- they were all told to protect Charlie and to try to protect themselves.

They wanted to escape to the desert, to be around for the cataclysm that was going to come; and being in jail was not going to be the way to handle it.

And they would do what they had to do.

I imagine that false names or disguises or fleeing, or whatever in order to avoid going to jail, that that is not an issue in my mind.

I never doubted that for a minute. It just doesn't change my opinions any.

Q How do you define a delusion?

A A true delusion is a fixed false belief that's part of a mental disorder, a belief that is not subject to logical argument, that is not part of a mere philosophy or a religion, for example, a belief that cannot be dealt with logically.

Q Well, wasn't in your opinion this Helter Skelter kind of a religion to Leslie and the others there in the Family?

A I think you have to be very careful once you stray from the word "religion" to "kind of a religion."

27-3

I think it was being promoted, from what I understand, by Charles Manson as kind of a religion, and he was I think promoting or accepting the promotion from others than himself as being Christ or Christ like, Son of Man, Son of God, things of that sort.

I think it was couched in those terms.

But I think to legitimize it as a religion would be to legitimize any act that someone who identifies himself as being religious might do, as being normal, or any thought that they have as being normal.

And I think we have to be very careful not on the one hand to step on religion, even though the beliefs might be very strange to people not believing that religion; we have to be very careful about that.

But we also have to be careful not to legitimize a belief system to be religious when it is not.

I had a person who burned his hand because he felt guilty about sexual acts.

That wasn't religion. That was his own mental disorder.

And having the treatment was having a priest talk to him and have him separate his religion from his mental disorder.

Q Now, Dr. Coburn, when you talked to Leslie Van Houten this time, I take it, by reading her medical file from out in Frontera, you became aware that she talked to a number of psychiatrists out there in Frontera?

A There are other reports here, yes.

27-4

Q And did you become aware that she's talked to a number of psychiatrists in Sybil Brand in connection with this case?

A Oh, yes.

Q Now, in your opinion could a --

Do you think it's possible for a defendant, especially one that has an I.Q. in the top five percent of the United States, and had the experience of talking to a number of psychiatrists over a period of the last --

Let's see; Dr. Hockman would have been the first.

-- since March of 1971 until the present time, that a person could, say, learn how to talk to a psychiatrist and tell the psychiatrist what she thought the psychiatrist wanted to hear?

A Yes, that is quite possible.

27-5

Only, I arrived at a conclusion that was in direct agreement with the diminished capacity issues when she was already trying to cover up the main aspect of her beliefs system.

And I also have evidence that she had this belief system, as told to Mr. Part.

Now, if you accept that as being the way she really felt and believed at the time, and take into consideration the kind of interview I had with her when I had no connection with the case, it's not even possible that she was faking or misleading, in the sense that we are dealing with here, to me. It's too consistent.

27af

Q Well, you told us that back in 1971, when you talked to her, when apparently she had very little experience even in talking to psychiatrists, that you felt she manipulated you at that time.

A That's right. But despite that --

Q And now will you admit she's had certainly a lot more experience in talking to psychiatrists than she had back in 1971?

A That's true.

but despite that the picture has emerged as a coherent picture, a consistent picture.

MR. KAY: I don't have any further questions.

THE COURT: Redirect, Mr. Keith?

MR. KEITH: Thank you.

27-6

REDIRECT EXAMINATION

BY MR. KEITH:

Q Are you telling us, in substance, that you believed Leslie was telling you substantially the truth during your interviews that took place in May of this year?

A Yes.

Q And do you believe she was telling her attorney, Marvin Part, substantially the truth during her interview with him in December of 1969?

A Yes.

Q Incidentally, did she now, now tell you during your interviews with her that she was not telling the truth to you at the time you interviewed her in Frontera in 1971?

A Yes.

Q And did she also tell you, in substance or effect, that she did not tell the truth at the penalty phase of her trial, when she testified therein?

A Yes.

Q Did she also mention Susan Atkins and Patricia Krenwinkel and their -- and whether or not they told the truth to you?

A Yes.

Q And what did she --

Did she tell you, in substance, that they didn't tell you the truth, either?

MR. RAY: Well, I will object. That calls for hearsay and a conclusion.

THE COURT: Well, the court has instructed the jury that

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statements made that form the basis of the opinion are not offered for the truth of the matter.

The objection is overruled.

THE WITNESS: Basically it was the same: That they had -- were acting under orders, and that they were to cover up anything that might have a connection with Charles Manson.

Q BY MR. KEITH: And you were advised by Miss Van Houten that her testimony at the first trial during the penalty phase and her discussion or interview with you at Frontera were done in a manner to exculpate Manson?

A Yes.

Q And do you find that that attempt on Leslie's part to exculpate Manson was again part of the delusional system, if I can call it that, that she was operating under?

A It certainly is part of the whole illness because it's a sacrifice, it's sacrificing one's self to the point of death.

Q Well, you of course knew that she got the death penalty --

A Yes.

Q -- despite her efforts to exonerate Manson; and he did too.

A Yes.

Q Doctor, going back to your earlier cross-examination with Mr. Kay, you mentioned there was a portion of Dr. Roh's report that you considered was inconsistent psychiatrically.

Do you have that in mind?

26f

A I guess I was reacting emotionally to his picking at pieces of it. But basically --

28-1

MR. KEITH: May I approach the witness, Your Honor?

THE COURT: Yes, you may.

MR. KEITH: I don't have the benefit of the --

THE WITNESS: The statement is, first of all, that her affect, that is, her emotions, the way she comes across emotionally, quote, was moderately shallow however appropriate.

And previously the statement is, quote, her thought content and verbalization gave an impression of a recorded and prepared speech, end quote.

Now, that's the kind of mechanical quality that she had. Kind of removed and less than fully emotional.

It's like taking away all the highs and the lows and leaving just a nice neutral robot kind of situation.

And I think those are inconsistent.

Q Are you inclined to agree, however, with Dr. Roh's impression that back in 1971 she gave him the benefit of what he termed to be a recorded and prepared speech, vis-a-vis your own interview of her?

A Yes.

Q Did Leslie tell you during your most recent interviews in 1977 that she was under the acute influence of LSD, in other words, actually on an LSD experience or trip, as opposed to the not having taken LSD on the night of the homicides, assuming you asked her that?

A I did. I did specifically.

And she specifically stated that she was not on an LSD trip per se, an acute drug experience, and she had also told me essentially the same thing back in '71, as is in the

1 report, that she was under the influence but no more or less
2 than she'd been since she'd been with the group.
3 Q Did you interpret Leslie's remarks to mean that
4 there was a long-term effect of the use of LSD that she
5 recognized?
6 A Very definitely. Kind of a total shift of the
7 personality.
8 Q Incidentally, did you have occasion in connection
9 with your background reading in this case to read any reports
10 of a Dr. Flanagan who examined her and may have even treated
11 her at Frontera?
12 A I would have to go through here and --
13 MR. KAY: Well, Your Honor, that appears to be outside
14 the scope of cross-examination.
15 MR. KEITH: All right, I'll -- I've taken it up on
16 other occasions. I'll forego the question inasmuch as it
17 appears to require some research.
18 Q You also advised us that you have testified on
19 one dozen or two dozen occasions for the defense when the issue
20 of diminished capacity has arisen in a trial.
21 A That's correct.
22 Q And I believe you also told us, however, that you
23 have examined in the last two years or so, since you have
24 been keeping records, some 100 people accused of murder.
25 A Homicides, right.
26 Q Or homicide.
27 Are you suggesting that in many people you could
28 find no diminished capacity but that in some you could?

28-3

A. That's correct.

Q. And you testified in behalf of those people whom you felt truly suffered from diminished capacity, as that phrase is defined in the law?

A. That's correct.

Q. And declined to testify for those persons who, although the issue may have been raised, you did not feel comfortable in testifying about?

A. Well, that's not really correct.

Q. All right.

A. The point of fact is that these are, I think, almost all of them court appointments, and I can't recall any other homicide case at the moment that wasn't a court appointment.

I think there's one from another county.

And most of those are confidential to the defense, because that's where the issue arises.

Now, I am not predictable in the sense that possibly in my opinion as a panel member -- certain other panel members are -- to come up for the prosecution or for the defense.

My own statistics show that about eight out of ten people that I've seen on the issue of sanity I found sane. Those reports have been buried and never seen again.

And about 60 percent of the people that I've seen I have found to have some form of diminished capacity. 60 to 65 percent.

And that's in the sample that I get which already

is a biased sample.

I'm getting mostly people who do have some presumption of some mental problems or they wouldn't be looking for this type of defense.

28-5

Q You wouldn't be appointed.

A So what really is the case is that in about 60 to 65 percent of the cases on which I am appointed confidentially to the defense, this would be something of value to the defense in some way. And in 35 percent or 40 percent there would be nothing of value to the defense in any way. And that means that I would -- that the 60 or 65 percent where there might be something of value, often the case is disposed of through report.

That's why there is no testimony.

The report comes in, and the case -- That is used in some manner to expedite the process.

So that while it is true that in homicides that I have only testified for the defense in that respect, that's the reason.

The most recent example is the case in which I was just not called by either side, because it was determined that the findings of myself were not going to be helpful to the defense, and certainly the prosecution had no need to even bring up a psychiatric issue, since it couldn't be raised by the other side. So it didn't ever come up.

And that's really what happens.

Q Doctor, apparently Leslie told you back in 1971 that an immense drudge had been lifted from her subsequent -- shortly after her involvement with the LaBiancas.

A Yes.

Q Did she tell you somewhat the same thing more recently, or did she put it in different terms, or what?

28-6

A. She had no recollection of having used that word, at least she told me she did not recall having used that word. She did not recall having experienced a sudden change.

Because I asked her about it.

All she recalled was the physical sensations, the feelings, and the conflicting emotional feelings about the acts, and the desire to be a part of it but to not be a part of it.

And that she had to get away, and she had to busy herself doing other things, and that she didn't want to get involved at all once she was in the house.

And then apparently she got involved, I guess, apparently after the actual death of the victims.

But, nevertheless, that this struggle was going on.

But she did not recall the same -- that event. And she was surprised when I brought it up to her, because it seemed like a strange word to her, as it was, of course, to me when I quoted it.

Q. Do you find, however, that that expression, assuming -- and she must have told you that -- that that expression is inconsistent with your psychiatric findings regarding her diminished capacity at that time?

A. No, not at all. That's the kind of information that I have found after the first conviction that has, I guess, led to this involvement.

Q. What I'm asking you is apparently back in 1971, when you interviewed her at Frontera, she told you about this

28-7

release of pressure, if I may paraphrase the comment that she must have made to you then?

A. Right.

Q. Do you find that statement and the feeling that it describes inconsistent with your present findings as to her mental state of diminished capacity at the time of the homicides?

A. No, it is --

Q. That there would be a release of some type of pressure?

A. It is entirely consistent.

Q Why would that be, Doctor?

A My understanding is that there was a great, great, great deal of emotional pressure surrounding her behavior with that group and which led her to, as Mr. Kay put it, think about it beforehand and even want to go along and want to be a chosen one, like a child looking to the parent for them to be chosen for something.

She wanted to.

That's the kind of pressure that there was, while at the same time there was apparently something within her that would not -- would like to have not been involved also.

And after the act was done, I guess once it is done, there is this release from this conflict. The conflict at that point is over. The act has occurred. The psychological pressure does not exist.

Q Do you find in the inner conflict with which she apparently was struggling an inconsistency in your view that she was not aware of her obligation to society to conform her conduct in accordance with her laws?

A No.

Q Its laws, excuse me.

A No, I don't find an inconsistency, because what happened was she came to the unfortunate and sick conclusion that her obligation was to the future, the holocaust, the hole in the desert, the future of mankind, et cetera.

As she told me, even slight deviations from the expected behavior was such that the girls were made to feel like they were responsible for other people's lives and that

after the crime went down one of the girls didn't shave her head. Charles allegedly told the girls she was responsible. She was responsible for two thousand people not making it into the hole.

That kind of obligation is the overriding obligation.

Q. Doctor, can you tell us whether or not in your opinion that even if she had some awareness, assuming for the sake of argument that she had some awareness of her obligation to conform to the laws of society, whether or not she was able -- able to conform her conduct thereto at the time of the homicide?

A. In my opinion, she was clearly unable to.

Q. And are your reasons for that opinion based generally or substantially on the reasoning you've already given us the benefit of?

A. Yes.

29 f1

29-1

Q Doctor, you have told us in your opinion, in response to a question by Mr. Kay, that Leslie probably wouldn't have acted in the manner that she did in fact act if Sgt. Sartuche here had been in the living room of the LaBianca home dressed in a uniform.

Let's ask you this: Supposing he hadn't been dressed in a uniform and hadn't identified himself.

Do you think he would have suffered the same fate as the LaBiancas?

A I think considering the possibilities --

It's kind of speculative, but he may have become a victim in either circumstance.

Q Well, we were discussing really --

Really, what we are interested in is if Mr. Sartuche either was in uniform within the LaBianca house or if not in uniform identified himself as a police officer.

Mr. Kay asked, in effect, would he in your opinion have met the same fate as the LaBiancas.

MR. KAY: No, that's not what I asked.

MR. KEITH: I was paraphrasing you, to be sure.

MR. KAY: I asked would she have done it if she thought a police officer was watching.

MR. KEITH: Didn't you use Sgt. Sartuche as an example?

MR. KAY: Yes.

THE WITNESS: If --

MR. KEITH: All right.

THE WITNESS: If the issue only is -- I'm sorry.

MR. KEITH: I didn't mean to misquote Mr. Kay.

29-2

Q Let's change the question. If he was watching.

A I think that they would have been capable of delaying the foray if they felt there were police around to catch them, and would have tried to go back another time to avoid being caught.

Q Now, is that belief on your part or opinion on your part inconsistent with your findings of diminished capacity?

A No.

MR. KEITH: May I have one moment? I believe I'm through, if the court please.

THE COURT: Yes, you may.

(Brief pause.)

MR. KEITH: I have nothing further.

THE COURT: Anything further, Mr. Kay?

MR. KAY: Yes, just briefly.

RECROSS-EXAMINATION

BY MR. KAY:

Q Dr. Coburn, you talked about Miss Van Houten's testimony in the penalty phase of the first trial.

Mr. Keith asked you some questions on redirect about things Miss Van Houten told you about it.

But you haven't read her testimony; is that right?

A That's correct.

Q And you told Mr. Keith, I believe, on redirect that in your opinion she was sacrificing herself for Mr. Manson. Is that --

29-3

A That's my impression of what the result would have been of the kind of testimony that she told me that she gave, and as I understand she did give.

Q Now, assume, Dr. Coburn, that at the time she testified she had already been convicted of two counts of first degree murder and one count of conspiracy to commit murder. Assume that.

Now, assume that in protecting Mr. Manson she just testified that he wasn't along on the night of the murders.

But assume that her testimony went a lot further than that, than just talking about Mr. Manson.

Assume that Miss Van Houten testified that she was under the influence of LSD at the time of the murders; that she had no -- that there was no plan when they left Spahn Ranch that night; that they were just going through -- on a drive through the "monster," which is what she described the city as; that there was no conspiracy;

That the girls at a prior time had talked about maybe copycat murders, but on the night of the LaBianca murders she was just going for a ride through the city;

And when they went into the LaBianca house she just thought Tex was visiting somebody that he knew, and she had no intent to kill when she was -- when she even entered the house.

Those, will you admit, had nothing to do with Mr. Manson's participation in it.

Don't you think it's possible, Doctor --

29-4

And of course I know you haven't read the penalty phase testimony; but don't you think it's -- it just could be possible that Miss Van Houten was trying to convince the jury that maybe they were wrong in convicting her of first degree murder, and that maybe it was just an unpremeditated murder of the second degree so that she could save her own skin?

A Yes.

MR. KAY: I don't have any further questions.

29-5

THE COURT: Anything further?

MR. KEITH: Yes.

REDIRECT EXAMINATION

BY MR. KEITH:

Q Doctor, did you have any awareness that at the first trial Linda Kasabian was a witness for the prosecution?

A Yes.

Q And that Linda Kasabian testified to --

Were you aware that Linda Kasabian testified to Helter Skelter?

MR. KAY: Well, Your Honor, this appears to be outside the scope of recross.

MR. KEITH: Well, I hardly think so.

THE COURT: The objection, if that is an objection, is overruled.

You may proceed.

THE WITNESS: I'm aware of that. I can't particularly tell you from what source.

Q BY MR. KEITH: All right.

And were you aware at all that Linda Kasabian testified at the first trial that Manson directed the homicides, both the Tate and the LaBianca homicides?

A Yes.

Q And that Manson was along on the second night; that that was her testimony?

A I'm not particularly aware of that.

Q All right.

29-6

X

Did you discuss with Miss Van Houten at all, during your interviews with her, your most recent interviews with her, that she was also saying things during the penalty phase of the first trial that were inconsistent with and contradicted 100 percent the testimony of Linda Kasabian --

A No.

Q -- who was the prosecution's star witness at the first trial?

A No, we did not discuss that.

MR. KEITH: I have no further questions.

MR. KAY: Nothing further.

THE COURT: All right; you may step down.

Thank you.

THE WITNESS: Thank you.

THE COURT: Is there any objection to excusing the witness?

MR. KEITH: No, Your Honor.

MR. KAY: No objection.

THE COURT: All right.

At this time, ladies and gentlemen, we will be in recess to tomorrow morning at 10:00 a.m.

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

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

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The court will be in recess as to this case until tomorrow morning at 10:00 a.m.

All jurors, the defendant and counsel are ordered to be present at that time. Thank you.

Have a good evening.

(At 3:50 p.m. an adjournment was taken until Tuesday, June 7, 1977 at 10:00 a.m.)