IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff-Respondent,
vs.
CHARLES WATSON,
Defendant-Appellant.

8014

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE ADOLPH ALEXANDER, JUDGE PRESIDING

REPORTERS' TRANSCRIPTS ON APPEAL

APPEARANCES:

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LOS ANGELES, CALIFORNIA, TUESDAY, SEPTEMBER 7, 1971; 9:35 A.M.

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THE COURT: Good morning.

THE JURORS: Good morning.

MR. BUGLIOSI: Good morning, Judge.

THE COURT: Gentlemen.

People against Watson.

Let the record show all jurors are present; all counsel and defendant present.

I believe Dr. Frank was on the stand.

IRA M. FRANK,

resumed the stand and testified further as follows:

THE CLERK: You have been previously sworn, Doctor.

Would you restate your name for the record?

THE WITNESS: Ira M. Frank, M.D.

THE CLERK: Thank you.

REDIRECT EXAMINATION (CONTINUED)

BY MR. KEITH:

Q Doctor, during your cross-examination your attention was directed to an article entitled "The Problems of LSD in Emotional Disorders" by Dr. Thomas Ungerleider and Dr. Duke Fisher of Los Angeles, wherein there is a sentence in that article saying, "Despite all these chronic personality and behavioral changes, organic brain damage has not yet been demonstrated in humans"; do you recall that phrase or that

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1 sentence in the article?

2 A Yes, I do.

3 Q Now, have you also read other articles dealing

4 with LSD and drugs written by Dr. Ungerleider and Dr. Fisher?

5 A Yes.

6 Q And is one of those articles entitled "Leary and

7 LSD"?

8 A Yes, I read that this weekend.

9 Q And this was published by the Department of

10 Psychiatry at UCLA?

11 A That's correct.

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(The following proceedings took place at the bench.)

MR. BUGLIOSI: It is my understanding that the defense now intends to offer excerpts from other articles supporting the doctor's position.

I don't think they can do that on direct examination. They can't bring in all statements and articles supporting their position.

We certainly can do that on cross-examination to destroy credibility but they can't bring in a series of articles by other people supporting their position. That can go on for years or months or days.

THE COURT: So far the question is an article written by the same one that you brought in -- Ungerleider. Is that correct?

MR. KEITH: Yes, your Honor. I haven't finished. I haven't laid a foundation.

MR. BUGLIOSI: Not too loud.

THE COURT: He certainly can show that Ungerleider either changed his mind or modified his opinion later on because I think your article was 1969 or 1965. I forget the date of it now. He can show that.

MR. BUGLIOSI: What about other authorities? I don't think they can do that.

THE COURT: Supposing he bases his opinion upon an article written by other authorities which incorporate what Ungerleider had written in 1960, whenever it was.

MR. BUGLIOSI: Then he would bring in articles -- he could bring in 50 articles and read into the record the

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opinions of 50 other people.

MR. KEITH: I don't intend to do that and I would agree with you that would be erroneous. I could only bring other articles if they formed part of the basis of the doctor's opinion.

THE COURT: You intend to use the Ungerleider article; is that correct?

MR. KEITH: Yes. And there is another one written by Ungerleider.

MR. BUGLIOSI: Are you going to bring in articles by other experts?

MR. KEITH: No, I wasn't planning to.

THE COURT: You can't object to that, articles by the same author that you brought in?

MR. BUGLIOSI: No.

THE COURT: Okay.

(The following proceedings were had in open court.)

Q BY MR. KEITH: This article entitled "Leary and LSD," do you have a copy of it in front of you?

A Yes.

Q And it was printed when, if you know?

A In December 1966.

Q Directing your attention to paragraph 3 on page 2 of the article, the last sentence -- incidentally, before going into that, did you consider this article in forming your opinion that LSD could cause brain damage in an individual?

A Yes, I did.

MR. KAY: I will object to that. He says he just read

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it this weekend.

THE WITNESS: That is right, but I had also read it previously.

MR. KAY: All right.

Q BY MR. KEITH: And does it say in paragraph 3 on page 2:

"In addition LSD seems to cause chronic brain damage in animals. This has not been proved in humans but is strongly suspected."

A Yes; and as I indicated earlier -- in fact, I had a chance to talk with Dr. Ungerleider this weekend --

MR. BUGLIOSI: I am going to object that this is all hearsay.

THE COURT: He hasn't told us what he said.

MR. BUGLIOSI: I will object to this as hearsay. They can bring in Dr. Ungerleider.

THE COURT: He is not going to ask for the conversation with Dr. Ungerleider, I take it. You are not going to ask that, are you, Mr. Keith?

MR. KEITH: If I did ask for the conversation --

THE COURT: I would sustain the objection.

MR. KEITH: It would not be for the truth, but it would be for the fact that he did --

THE COURT: That he did speak to Dr. Ungerleider over the weekend.

THE WITNESS: Let me say yes, that he confirmed what he had written here previously.

MR. BUGLIOSI: Oh, you are not supposed to volunteer

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information. Motion to strike.

THE COURT: Yes. That will go out, ladies and gentlemen.

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Q BY MR. KEITH: So, in your opinion, brain damage from LSD in humans has not been proven by autopsies; is that correct?

A That's correct. In order to prove it, it means that you have to have enough cases of people dying after using it for a long period of time that you can do autopsies and be able to see changes, both grossly -- that is, by looking at the brain -- and also microsophically, seeing damage to the cells.

This has been done, for instance, in alcoholism, where we have enough cases of people who have used alcohol for a long period of time and have passed away, we have been able to do studies like this.

THE COURT: Can the jury hear the doctor all right?

THE JURORS: Yes.

Q BY MR. KEITH: Doctor, in forming your opinion that Mr. Watson was psychotic at the time of the Tate-La Bianca homicides, did you also take into consideration this article, "Leary and LSD," by Ungerleider and Fisher?

A Yes, I did.

Q And does it say in that article that, "We have also seen people in the community become psychotic through LSD but who have never consulted doctors"?

A Yes.

Q And do you agree with that observation?

A Yes, I do.

Q Did you also, in forming your opinion that Mr. Watson was at the time suffering from organic brain damage, take into account an article of a case report prepared by

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by Dr. Fisher and Dr. Ungerleider concerning grand mal seizures following ingestion of LSD?

A. Yes, I did.

Q. And what is a grand mal seizure?

A. That is a type of convulsion or seizure where the entire body is affected to the extent that the person loses consciousness and begins to convulse, using all the muscles of his body.

Q. And do you have a copy of that case report in front of you?

A. Yes, I do.

Q. And did it report the case of a patient who did suffer a grand mal seizure after ingestion of LSD?

A. Yes, on two occasions.

Q. And from that report, would you suspect that LSD could cause brain damage?

A. I think it is further evidence.

Q. Incidentally, in the article entitled "Problems of LSD and Emotional Disorder," written by Drs. Ungerleider and Fisher, you have told us that you used that report as one of the matters you considered in arriving at your evaluation of Mr. Watson in this case.

Did that article say, "While many of us get angry, anxious, depressed or even withdrawn when we encounter periods of stress, the LSD user often has hallucinations, becomes paranoid or perceives people as caricatures"?

A. Yes, as I recall.

Q. And does it also say, "As previously mentioned,

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users frequently experience their psychotic or other symptoms in their original intensity as much as a year after using the drug and without taking the drug again"?

A. Yes.

Q. And does it also say in that report or article --

MR. BUGLIOSI: This is beyond the scope of cross, your Honor. We are talking about brain damage now. Now he is going into something else.

THE COURT: I will permit him to go into it.

Q. BY MR. KEITH: Does it also say, "Thus, many people who have a great deal of difficulty tolerating the anxiety and stress of everyday living, are provided in a sense with a psychotic defense by LSD; experience an estrangement from reality from the drug"?

A. Yes.

Q. And do you agree to those opinions in this very same article that was shown to you by Mr. Bugliosi?

A. Yes, I have observed that, myself, in patients that I have seen who come in with LSD psychoses.

Q. Incidentally, again on the subject of brain damage, did you also consider -- I mean, your basic consideration in arriving at an opinion of brain damage was based on the works of Dr. Walter and Dr. Palmer; is that a fair statement?

A. Partially; and also on my own interviews with Mr. Watson.

Q. And in forming this opinion of brain damage did you also take into consideration Mr. Watson in all probability wasn't using laboratory pure LSD?

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A. Yes, I did.

Q. Did you also take into consideration he was using other drugs such as amphetamines and belladonna and some cocaine?

A. Yes, I did.

Q. And did you also take into consideration street amphetamine or street speed, as it is called, also often is contaminated with other toxic substances?

A. Yes, I did. Perhaps I could point out that my findings from my interviews and from the interviews with Dr. Palmer and Dr. Walter show very strong evidence of brain damage in Mr. Watson.

The use of drugs over a long period of time, used intensively, is the most likely explanation for this. We have inquired into evidence of head trauma or injury, periods of unconsciousness, and we haven't been able to come up with any other reason to explain the brain damage.

The drugs, even though there is no direct cause, affects relationship between the drugs and the brain damage, we have been able to show; and, of course, there is no way of proving a direct cause-effect relationship. This is certainly the most likely explanation for the brain damage that we did see.

Q. Can an individual who ingests LSD heavily over a period of time suffer prolonged psychotic reactions?

A. Yes, they can.

Q. And also is it -- or, have you found in your studies and clinic experiences that persons who have used LSD

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PSYCHOTIC

departure from reality — symptoms include delusions

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excessively are inclined to construct new beliefs, no matter how irrational?

A. Yes, sometimes they have.

Q. And can LSD or the frequent use of it cause sort of a loss of identity or loss of ego function?

A. Yes, I have seen patients where this is true.

Q. Now, when we are talking about a psychotic, as you have diagnosed Mr. Watson at the time of the Tate-La Bianca incidents, we are talking about someone who has suffered a severe departure from reality; is that what you have told us?

A. Yes.

Q. The question arises, whose reality, or what is reality; have you considered that?

A. I think reality, as would be seen by somebody who was not psychotic at the time observing the situation.

Q. And are delusional states or delusional functions a component of the person who is psychotic? I mean, is that sort of an example or --

A. This is a very frequent symptom in patients.

Q. A symptom --

A. Patients who are psychotic, that they begin to have delusions or fixed false beliefs that are not in keeping with reality.

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"Schizophrenia is one of the psychoses."

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#4

Q In other words, if someone really believed that they were the devil there to do the devil's work, would this be an illustration of a person in a delusional state?

A Yes, it would.

Q Would that be a symptom of psychosis?

A Yes, it certainly would.

Q Schizophrenia and psychosis are not one and the same thing; is that right?

A Yes. Schizophrenia is one of the psychoses. There are many types of psychoses.

Q Can someone be delusional and have schizophrenia at the same time, or is being delusional a symptom of schizophrenia or is it something different?

A Well, people who are schizophrenic frequently have delusions.

In fact, I think in most or almost all cases that I have seen there have been some delusions, although it isn't absolutely necessary.

Q Doctor, let's assume an individual such as Mr. Watson was psychotic at that particular time and suffering from delusional symptoms and schizophrenic symptoms and paranoid symptoms and in a disassociative state as you have told us, also under the influence of LSD, would all of these things in your opinion preclude that individual from performing any kind of meaningful motor functions such as driving a car and climbing a telephone pole, stabbing people, going through doors, going through windows?

A That is actually a very complex question because

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1 we have to consider that the person has apparently taken many
2 drugs over, apparently, a long period of time and has built
3 up a certain amount of tolerance to each of these drugs and
4 in the particular case of Mr. Watson we don't know exactly
5 how much of each drug he has taken.
6 I think we could say that we don't know the
7 purity of these drugs. We don't know that they were absolutely
8 pure. There may have been adulterants and it is clear that,
9 at least it is clear to me, at the time that he was also
10 suffering from schizophrenia and also from chronic brain
11 damage, but, I think, nonetheless it is also clear that he
12 wasn't completely incapacitated, that is he was able to carry
13 out some mechanical functions as we have seen in these
14 killings.
15 It is possible he may have been able to drive a
16 car but I can't say for sure.
17 Q Can such an individual as Mr. Watson, bearing in
18 mind your diagnoses, still engage in logical thought processes
19 and be psychotic?
20 A Yes, he certainly could and he could carry out
21 acts which are based on his thought processes --
22 Q What I am getting at --
23 A -- in a mechanical way.
24 THE COURT: Let him finish.
25 Q BY MR. KEITH: I am sorry. I thought you had.
26 Go ahead.
27 A But at the same time without any really emotional
28 appreciation of what he is doing.

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Q In other words, Doctor, psychotic, does that mean that you have to be virtually a vegetable?

A No, not at all. As Mr. Bugliosi has pointed out, there are many people who are schizophrenic who function fairly normally and the fact is if they keep their mouth shut, it is frequently very difficult to tell that they are schizophrenic.

Q Schizophrenic and psychotic are not synonymous, though, are they?

A No.

As I said schizophrenic is also only one type of psychosis. There are other types.

Psychosis really refers to the level of function and the person's ability to function, to think, appreciate in an emotional sense his experience and to express himself appropriately emotionally.

It could be from a wide variety of causes. Schizophrenia is one of those causes, one of those diseases in which a person becomes psychotic.

Q And with respect to Mr. Watson, you found not only schizophrenia but also brain damage and delusional thinking?

A That is right.

Q Speaking of schizophrenics who can be responsible people, in your opinion would the chances of Mr. Watson being a responsible person, bearing in mind his schizophrenia, be lessened or diminished by reason of the setting in which he found himself with a drug oriented commune life style?

A I think most people who are able to function fairly

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well, even though they are schizophrenic, gain a tremendous amount of support from the normal people that they live with and work with, because if they are confused about a situation, they could ask other people, or even without asking, they could tell from the behavior of other people whether their thinking is correct.

An example might be if they walk into a room, let's say, and they have paranoid fears that somebody might be observing them secretly or might be holding a shotgun pointed at them through the window, and they look around and they see everybody else is very comfortable.

They might conclude that this is one of their delusions and that it is really paranoid feelings rather than reality and even though they may have the fears themselves, they may act like the other people around them.

So they gain a tremendous amount of support from the normal people that they are associated with.

On the other hand if a person is schizophrenic and if they are in a situation where the people around them are behaving bizarrely or talking about the situation, which at least to a normal person observing it would really sound bizarre or crazy, they would gain support from these other people in the opposite direction.

That is that it would enhance their own fears, their own delusions, their own sense of confusion and lack of identity.

I think this was the case with Mr. Watson, at least the way he has described to me, and on the basis of

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everything else I have read about the situation.

Whatever fears and delusions, craziness, that he himself felt was enhanced by the craziness around him and if he had any doubts about whether helter skelter, or whether you can kill people without feeling anything -- if he had any doubts about this, he would look around and hear Manson or the other people say, "Oh, no, you know there is no reason to doubt. You can kill people without feeling anything. Of course there is no need to fear anything. All you have to do is follow Mr. Manson, whatever he says. Of course there is going to be a war between the blacks and the whites."

And this is all reinforced by the tremendous amount of acceptance of these ideas, these bizarre ideas, within the group itself.

Q Would you call the acceptance of these bizarre ideas that you have been discussing a symptom of a delusional state or an actual delusion or a symptom of psychosis or how would you term these beliefs?

A I think in a way that it was a delusion, at least from what Mr. Watson has told me about it and from what I have read about it from other sources.

It does seem to have a delusional flavor to it, that is at least the way I understand it, that there would be a war between the blacks and the whites which would threaten everybody's survival and eventually the blacks would win.

The only whites left would be Manson and his followers who had been safely secluded and then, who would then by their own wit and their own superior intelligence take

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over and gain power from the blacks and be the true rulers of the world.

Again as I understand this, the way Mr. Watson has presented it, this certainly takes on the grandiose delusion of people who are very sick and psychotic.

Q In other words, assuming Mr. Watson believed in the bottomless pit, et cetera, would this be a symptom in your opinion of psychosis?

A Yes, it would.

Q Let's assume that he believed there was no wrong, there was no sin and everybody was perfect, including himself, and all the people with whom he was associated in the Manson group, in your opinion would that be a symptom of psychosis?

A Yes, it would. This is an expression he used many times in his interview -- "Manson is perfect. I am perfect. Everybody is perfect."

That has a grandiose delusional quality.

Q Incidentally, Doctor, I think we touched upon this before, but is a person who is psychotic necessarily stupid?

A Not at all.

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Q Can such a person be, let's say, clever and cunning and still be psychotic?

A Yes; we have seen this many times, in fact.

Sometimes people who are psychotic and paranoid are some of the most cunning people in the world and have sometimes a great deal of influence over other people.

Perhaps I could give an illustration: Somebody who has --

Q Please do.

A -- has paranoid fears that the FBI is spying on him, may develop elaborate security precautions and may even invent secret transmitters and receivers to intercept the radio waves that the FBI is sending in; or they may develop elaborate systems of mirrors to try and catch the FBI in the act. There is an expression which I think describes this very aptly, and this is that there is method in madness.

Many people who are paranoid or delusional can be very intelligent, can be very witty and clever; in fact, sometimes they are. Almost their whole life is devoted to outwitting their imagined persecutor.

Q Does this only apply to paranoid people or does this ability to outwit others --

A No.

Q Paranoia is one symptom of psychosis; is that right?

A That's right, it is one of the most common symptoms.

Q Did you find any, in your opinion, any trace of paranoia in Mr. Watson's makeup?

A I think that the fact that he believed this

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1 delusional system that I spoke of before; that is, the helter-
2 skelter, I think that's evidence of paranoid delusions.
3 I think that especially his actions before he came
4 back from Atascadero, were those being very suspicious of
5 people and, at least from the reports that I have seen from
6 other doctors who examined him at the time, that is, both before
7 going to Atascadero and after coming back, I'd certainly con-
8 clude that there is evidence of paranoid feelings within Mr.
9 Watson.
10 Q Doctor, just a question or two about belladonna,
11 a substance that you have done research in: Has your research
12 or anybody else's research with which you are familiar, dis-
13 closed whether belladonna can cause any kind of brain cell
14 deficit?
15 A Well, to my knowledge, there have been only a few
16 people who have taken belladonna, have gotten in trouble with
17 it and come to an emergency room or a clinic, and only few
18 experiments have been done in the laboratory setting.
19 There has been no opportunity, as with the case of
20 LSD, to study people who died under the influence; and I have
21 no knowledge of anybody who has used it over a long period of
22 time, prior to that of Mr. Watson.
23 I've never seen any reports in the psychiatric
24 literature. In fact, the one thing I have been impressed with
25 in people that I have seen who have had bad trips as a result
26 of using belladonna compound, is that they all agree that it is
27 a very bad trip, that there is nothing very pleasant about the
28 experience and they certainly wouldn't want to go using it

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again.

Q. Now, Mr. Watson told you he had taken some belladonna on the early morning before these homicides; is that correct?

A. Yes, it is.

Q. And, let's say, some 18 hours afterwards, would it be possible, in your opinion, for Mr. Watson, assuming he had taken belladonna 18 hours earlier, to function at all, motorwise?

A. Yes, the effects could certainly last longer than that, but it really would depend on how much belladonna he had taken.

Q. Assuming he had chewed a root, you have no way of knowing how much belladonna he actually got out of the root?

A. That's right.

Q. Is belladonna normally ingested in that manner, by chewing on the root of the plant?

A. Well, sometimes it is and usually it is done accidentally: Usually it is in the case of children who will see the plant and pull up the plant and start chewing on it without realizing it is a poisonous plant.

Q. But you mentioned that the person under the influence of belladonna, you would expect to lack coordination, I believe?

A. That's correct, especially during the first few hours.

Q. I take it from that answer that coordination does return after a period of time?

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A. That's right.

Q. And would the use of some speed at the same time facilitate, in your opinion, or slow down the return of a person's coordination after chewing on some belladonna; or can't you give us an opinion on that subject because you have never known anybody to take the two at the same time?

A. That's right; I don't think I could even guess at that.

MR. KEITH: I have nothing further.

THE COURT: Any recross, Mr. Bugliosi?

MR. BUGLIOSI: Yes, your Honor.

RECROSS EXAMINATION

BY MR. BUGLIOSI:

Q. You do agree, do you not, Doctor, that there is no demonstational medical evidence that LSD causes brain damage?

Do you agree with that?

A. That is in the sense that nobody has looked at people who have used this drug for a long period of time, examined their brains and put the tissue under the microscope.

Q. So it is only suspicion on your part; is that correct?

A. That's right; but, on the other hand, there is no proof that it does not cause brain damage, either, just that we haven't been able to study it yet.

Q. Now, you were talking about this psychotic setting in Manson's family and that each member of the family, including Manson, tending to reinforce the psychotic beliefs of the

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others; is that correct?

A. That's correct.

Q. Based on what Mr. Watson told you and also what you have read, I take it that you feel that Manson and the three girls, Susan Atkins, Patricia Krenwinkel, Leslie Van Houton, I take it that you feel that they were also psychotic; is that correct?

A. Yes, on the basis of what he has told me and what I have read.

MR. BUGLIOSI: Thank you. No further questions.

MR. KEITH: I have nothing further.

THE COURT: Thank you, Doctor; you may be excused.

MR. KEITH: Could we take our morning recess now?

THE COURT: Approach the bench, please.

(Unreported discussion at the bench.)

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

THE COURT: All right, ladies and gentlemen, we will have to recess at this time for a short period; and during the recess, again, heed the admonition heretofore given.

(Recess.)

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NEUROLOGIST

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THE COURT: People against Watson.

Let the record show all jurors and defendant and defense counsel are present.

You may proceed.

We have no way of knowing the doctor is here unless somebody tells us.

MR. BUBRICK: Sorry, your Honor.

MR. KEITH: I would like to call Dr. Richard Walter, please.

THE CLERK: Raise your right hand, please.

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.

RICHARD D. WALTER,

called as a witness on behalf of the defendant, testified as follows:

THE CLERK: Take the stand and be seated.

Would you state and spell your name, please.

THE WITNESS: Dr. Richard D. Walter, W-a-l-t-e-r.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. KEITH:

Q Doctor, you are a physician and surgeon licensed to practice in the State of California?

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A Yes, I am.

Q You are a medical doctor, and M.D.?

A An M.D.

Q And do you specialize in any particular field, sir?

A Neurology.

Q Doctor, could you tell us about your medical training?

A I attended the University of California at Berkely, 1939 to 1943 and attended St. Louis University School of Medicine from 1943 to 1946.

I then interned for --

Q Pardon me. You obtained your M.D. degree at the St. Louis University?

A St. Louis University.

Q Go ahead.

A And I interned for 18 months at the Highland Alameda County Hospital in northern California. I served for two years in the Army Medical Corps doing pediatrics at the 28th General Hospital in Japan.

In 1949 I took another internship at the Sacramento County Hospital.

1950 to 1953 I was a resident in psychiatry at the Veterans Hospital in Palo Alto.

1953 to 1955 I received a special Fellowship in clinical neuro-physiology at the Langley Porter Institute which is connected with the University of California, San Francisco.

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In 1955 I came to UCLA and I have been there for the past 16 years. I started as an instructor in neurology and am now Professor of Neurology.

Q And what is neurology, Doctor?

A Neurology is that division of medical sciences, if you will, which pertains to the central nervous system, which includes the brain, the spinal cord and the peripheral nerves. It pertains to diseases of those various areas.

Q Have you written publications in the field of neurology?

A Yes, I have, on the order of 90 publications in the area of neurology and electroencephalography.

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Q Do you also have a private practice in addition to your professorship at UCLA?

A Yes, as a professor at UCLA, I have private practice privileges; the constraint being that I see patients only in the university medical center.

Q Are you a member of any medical organizations at the present time?

A Yes, the American Medical Association; California Medical Association.

I am the past president of the Los Angeles Society of Neurology and Psychiatry.

I am the past president of the American Epilepsy Association.

I have been elected a member of the American Neurological Association.

I am a fellow of the American Academy of Neurology.

I am a member of the American Psychiatric Association.

I am past chairman of the Western Federation of Neurological Societies and the past president of the Western Institute on Epilepsy.

Q You have testified in the courts of this county before in the area of your expertise, have you not?

A On three other occasions.

Q One I can think of very clearly, that was People vs. Washington, was it not?

A Yes.

Q You testified for the prosecution in that case?

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A. That is correct.

Q. And that was a capital case, was it not?

A. It was.

Q. Doctor, what is electroencephalography?

A. That is another subdivision of medicine which pertains to the recording and interpretation of brainwave activity, those electrical events that can be recorded from the surface or from the depth of the brain.

Q. And, Doctor, did you have occasion to examine the defendant, Mr. Watson, neurologically?

A. Yes, I did.

Q. And when did this examination or examinations take place?

A. Dr. Suarez asked me to examine Mr. Watson, I believe the date was April the 9th, if I may check that, in the afternoon --

THE COURT: If you need your notes, Doctor, you may refer to them.

THE WITNESS: May I? Thank you.

April the 9th, 1971.

Q. BY MR. KEITH: This was a neurological examination?

A. Dr. Suarez asked me to perform a neurologically examination.

Q. And you did so?

A. I did so.

Q. Could you tell us what it consisted of, please?

A. The neurological examination that I performed evaluated three major areas: The first pertained to motor

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function; secondly, in terms of sensation, the ability to detect various sensor modalities; and the third aspect what we called a mental status examination, which is commonly used in neurology.

Q. And did you conduct these three phases alone or in conjunction with others?

A. Dr. Ira Frank was present during my examination and two medical students were also present; I'm sorry, I have forgotten their names.

Q. Could you tell us what you did and how Mr. Watson reacted to these three phases of your examination?

A. I initially introduced myself and outlined my role as an examiner and what I was about to do.

I then proceeded to the motor aspect of the examination that I discussed. This consisted of having the patient walk, observing his gait, having him stand with his eyes closed, determining his ability to hold his extremities in various postures.

I then detected the overall strength of his muscles. I determined the rate and accuracy of rapidly performed fine motor tasks as well as gross motor tasks.

I then studied his tendon reflexes and examined for any abnormal reflexes that might be present.

I then checked all of the motor functions of the cranium areas, ability to move the tongue, bite, grimace; then proceeded to the sensory examination --

Q. All right. Let's stay with the motor functioning for a while.

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How did Mr. Watson perform in the motor functioning tests that you gave him?

A. As a generalization, I considered his performance in the motor examination to be abnormal; abnormal in this sense, that every motor act was performed at a slowed and somewhat inaccurate rate.

Furthermore, he had some apparent difficulty in understanding the nature of the task that I requested, unless I demonstrated it to him.

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#8

Q Was this motor functioning test that you gave to Mr. Watson consistent with the standard testing procedures that you normally give a person?

A Oh, yes. It is a standard neurological test regardless of the suspected complaint that the patient might have, be it brain tumor or multiple sclerosis or epilepsy.

Q Then after that you tested Mr. Watson for his sensory reaction?

A Yes.

Q And what form did that test take?

A This involves the sensory aspect of perception, of vision, of hearing to determine whether he can hear various sounds, sense of smell.

I did not check the test for taste. I determined whether he could perceive light touch as administered by a whisp of cotton.

I determined whether he could determine the position of an extremity in space, which is known as approprioception, the ability to perceive where your finger or toe is in space. This was the extent of my sensory examination.

Q How did Mr. Watson perform on the sensory examination?

A I found no abnormalities in the sensory examination.

Q And then you also performed certain tests with Mr. Watson with reference to his mental status?

A Yes.

Q What did that mental status test consist of, Doctor?

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A The mental status test that I used is not as standardized as the motor function.

I believe that you will find every neurologist uses somewhat different methods in determining mental status.

My mental status examination was designed to determine if there was any deficit in orientation, to determine if there was any disturbance or impairment of his memory, to determine at a bedside level, if I may use that expression, something of his intellectual capacity.

The subdivisions of that test not only include recent memory but the ability to perceive rather complex interrelationships and to make appropriate abstractions and generalizations.

Another aspect of the test pertains to intellectual functioning in regard to arithmetical operations -- the ability to add, subtract, divide.

Q And how did Mr. Watson perform in the mental status test?

A There were several areas of this examination that I felt to be abnormal.

Q Could you tell us about them, please.

A I felt that there was a disturbance in recent memory. This impression that I had was gained on his performance in a rather standard situation in which I supplied a detailed rather complex sequential story.

I then told the patient that I would be asking him the details of this story after a short period of time.

After three minutes, more or less, I then asked

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him to repeat this story and although he could recall the general context, the general sequence of this story, he was unable to provide many of the specific details of the story.

This is not a standardized test. It is based on imperical medical judgment as to whether the patient passes or fails or does poorly.

After this performance I also asked him to recite and retain a test phrase which is not standardized -- one that I have used for the past 16 years. The test phrase is: "Silk and sad uncertain rustling of each purple curtain."

Two aspects of this specific test require the ability to phonate, to speak. We can also determine speech disorders from this.

We can also use this test and find how many times this seemingly nonsense sentence must be repeated for the individual to retain it.

In Mr. Watson's case I presented this test phrase four or five times. I detected some slurring of speech especially with the S's and he was unable to retain this test phrase.

On the basis of these two specific observations that I am reciting I felt that he had an impoverishment, a defect in his recent memory.

Q How about intellectual capacity and deficit in orientation?

A So far as orientation is concerned I ask rather standard questions about the date, place, time of day, geographical vicinity.

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I did not spend much time on that because I felt Mr. Watson was supplying the correct answers. I did not see on my examination any defect in orientation.

Q By orientation, you mean that Mr. Watson knew where he was and knew the date and knew who you were?

A Traditional things, oriented to time and in place and in person. I believe you asked me about --

Q Intellectual capacity.

A -- intellectual capacity.

Q Yes.

A The neurologist in the clinic or at bedside does not have the scientific capacity that psychologists have and we use, generally, rather rule of thumb measures.

One measure is to test the patient's ability to perceive abstract relationships. The specific test that I used was to recite as many similarities between oranges and apples that the individual can.

I stressed similarities. In Watson's case he was able to provide one -- you can eat both of them.

I then asked him to provide another similarity and he provided me with a dissimilarity -- one is orange in color and one may be red.

On repeated instructions I could not elicit further similarities between oranges and apples.

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Q. Did he tell you they both grow on trees?

A. He told me that you could eat both of them.

Q. That's all? Now --

A. May I continue one other aspect?

Q. Yes, please do.

A. I mentioned that I tested him in the area of mathematical or arithmetical ability.

The only test that I use in that regard is what we call serial 7 subtractions. The instructions are, "Please subtract 7 from 100 and 7 from that answer and go back as far as you can."

Mr. Watson performed very well in that test.

Q. Did you, with respect to the mental status performance, undertake any other type of testing with Mr. Wataon that you haven't already told us about?

A. Though I did not perform any other specific tests for mental status, a portion of the entire neurological examination, consists -- perhaps not overtly -- but, an assessment of mental status. The commission or the neurologist gains clues which are difficult to specify, clues in terms of how rapidly does the patient comprehend my instructions, what is his demeanor, his affect, his level of emotion.

I did receive during this hour, hour and a half examination, impressions; and I hasten to add that they are impressions, that might pertain to the mental status; but they were not specifically examined for, as such.

Q. What were your impressions?

A. I had the distinct impression, on the basis of

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1 my instructions to Mr. Watson, in the performance of relatively
2 simple tasks, that it took some time for him to grasp the nature
3 of the task.
4 May I give an example?
5 Q Yes, please.
6 A Part of the test is to tap the index finger to
7 the thumb as rapidly as possible. I begin --
8 Q Would this be part of your --
9 A This is the motor examination.
10 Q -- motor part --
11 A This is a normal part of the motor examination;
12 but the patient's performance or understanding of that task
13 may relate to his mental status.
14 It is my custom to describe the task verbally
15 first: "Please tap both thumbs to the index finger as fast
16 as you can."
17 It was necessary for me to repeat this instruction
18 several times; then I demonstrated the task, as I am doing now,
19 and he was able to tap as fast as he could.
20 I have already related that there, in my judgment,
21 was a deficit in his tapping ability, which relates to his
22 motor function. He tapped at a slowed and somewhat nonrhythmical
23 fashion.
24 Q Did you also cause to have an EEG test taken of
25 Mr. Watson?
26 A The electroencephlogram was taken prior to my
27 neurological examination at the request of Dr. Suarez; it was
28 done in my laboratory.

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Q. You personally were not present at the time the EEG was taken?

A. No, I was not present at the time.

Q. This is customary, is it not?

A. It is customary in my laboratory.

Q. And the EEG test was done by a technician?

A. By a technician.

Q. Are these, in your opinion, highly-trained technicians?

A. They are my technicians; they are highly trained.

Q. What is the purpose of an EEG or an electro-encephalogram?

A. The purpose of the electroencephalogram is to, at a clinical, not a research level, to decide whether there is any deviation from a normal electrical pattern that might contribute information to the physician, be it a neurosurgeon, a psychiatrist, a neurologist, or someone in internal medicine; therefore, it is a laboratory technique.

It is a technique somewhat analogous to the electro-cardiogram, where we record the electrical activity of the heart, interpret that signal and then make interpretations and judgments based on that signal. The same thing is true of the electrical activity of the brain.

Q. Is the EEG just one tool you use, Doctor, in your diagnosis of brain disease or brain damage?

A. No -- I am sorry, yes, it is just one tool.

There are five or six other tools that are commonly used in neurology, depending somewhat, however, on the nature and gravity of the clinical problem: X rays of the skull;

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pneumoencephalography; arteriography, brain scan; spinal fluid examinations, et cetera, a number of others.

Q. And this EEG is sometimes called a brainwave test?

A. Commonly called the brainwave test.

9af.

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9A

Q And did you bring with you a chart of the so-called brain waves --

A I brought --

Q -- in other words, the tracings?

A This is an example -- in fact, it is Mr. Watson's EEG of the brain wave as recorded in my laboratory.

It consists of approximately 150 to 200 pages; frequently takes from three-quarters of an hour to an hour to record. In many circumstances we record both the patient awake and asleep.

In this case part of the length of the recording is because we recorded both during the waking state and during sleep.

Q Did you find any abnormality in the electro-encephalogram taken at UCLA?

A Dr. Gregory Walsh, who is in my laboratory and who is a member of the department of Neurology as an assistant professor, first interpreted the electroencephalogram.

His formal report --

MR. KAY: Well --

MR. KEITH: Well, wait a minute.

Q Did his report, did you consider his report in arriving at your opinion?

A Yes, I did.

Q What did he have to say about it?

A Dr. Walsh called the record abnormal on the basis of two factors. No. 1, there was mild diffuse slow wave activity, on the order of 6 to 7 cycles per second.

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1 May I qualify that?

2 Q Yes.

3 A Generally in adults the waking record should have
4 frequencies on the order of 8 to 13 cycles per second. Dr.
5 Walsh felt that the tracing was abnormal in this regard, that
6 there was too much slow 5 to 7 cycle per second activity.

7 Secondly, he felt that there was some indication
8 of an unusual amount of slowing over the left frontal temporal
9 area.

10 Following Dr. Walsh's interpretation of that report,
11 which is the official interpretation in the UCLA Medical Center,
12 I then studied the tracing, myself; and I agree with Dr.
13 Walsh's interpretation.

14 Q Doctor, as a result of the totality of your
15 examinations of Mr. Watson, including the electroencephalogram,
16 did you form an opinion as to whether or not he at the time
17 of your examination was suffering from any brain damage or
18 brain cell deficit?

19 A Yes, I did.

20 I prepared a report to Dr. Suarez, who asked me
21 to do this examination. My conclusion of the neurological
22 examination and the electroencephalographic interpretation,
23 which we have talked about, was that there was rather classical
24 evidence of brain damage.

25 May I qualify that, however?

26 Q Please do, sir.

27 A My report was directed to Dr. Suarez, who is a
28 physician and a colleague in psychiatry. Dr. Suarez knows what

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I mean by "brain damage."

I might also supply some other equivalents that are commonly used for that term. One of the psychiatric common equivalents is chronic brain syndrome. I could have used that in my report to Dr. Suarez.

I could have also said organic brain damage, which is a third commonly used designation for the type of problem that I saw as a result of my neurological examination.

Q Now, perhaps you could tell us what you mean by chronic brain syndrome or organic brain damage, which I take it means the same thing.

A There may be minor semantic difficulties that we are confronted with here. I can only speak for myself.

My concept of organic brain syndrome is a deficit that appears, first of all clinically, as an impairment in five areas: An impairment of orientation; an impairment of judgment; an impairment of personality; an impairment of affect; and an impairment of intellectual capacity.

In addition to those five common clinical syndromes there are signs. There are signs -- not always, but usually -- of a neurological abnormality; and the seventh criteria that I use in establishing such a diagnosis is information from other sources.

This can be two in number, from laboratory tests, such as a spinal fluid examination; electroencephalogram, X-rays of the skull, et cetera; and, secondly, from psychological testing.

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At the time that I reported to Dr. Suarez on the basis of my neurological examination, I did not have information about the psychological testing. I did have information about my EEG, so to speak, the one that was done in the medical center.

On the basis of my neurological examination I felt that many of these five classical symptoms of organic brain disease were present in his case and I arrived at that diagnosis.

Q Did the psychological testing results performed by Dr. Palmer support your diagnosis?

A I have talked to Dr. Palmer. I have not read his formal report and my conversation with Dr. Palmer about his results --

MR. KAY: I will object to that as calling for hearsay. He said he didn't base his opinion on his report. He talked to him afterwards.

MR. KEITH: I haven't finished yet.

THE COURT: I don't know what the question is yet. Let's hear the question.

Q BY MR. KEITH: Did you discuss Dr. Palmer's findings with Dr. Palmer?

A I have discussed the findings with Dr. Palmer.

Q Is your present opinion of organic brain damage based in any respect upon considering Dr. Palmer's findings that apparently he related to you?

A I did the neurological examination on April the 9th and prepared my report. At that time I did not know

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1 whether he had or had not been tested by Dr. Palmer.

2 Q I realize that.

3 A I therefore arrived at my impression without

4 psychological information from Dr. Palmer. I have since

5 talked with Dr. Palmer about the results of his test.

6 Q Did the results or Dr. Palmer's findings buttress

7 your opinion or negate it?

8 MR. KAY: I will object to that as being irrelevant,

9 your Honor.

10 THE COURT: Sustained.

11 Q BY MR. KEITH: In expressing your present opinion,

12 have you considered at all in forming that opinion Dr.

13 Palmer's report or his findings that he related to you

14 subsequent to your initial neurological examination?

15 Do you understand what I am getting at?

16 MR. KAY: Your Honor, I am going to object to that also.

17 Mr. Keith is trying to get in through the back door what he

18 can't get through the front door.

19 THE COURT: That objection will be overruled.

20 THE WITNESS: Let me think for a moment. I was lost

21 here. I have talked with Dr. Palmer about the results of

22 his test.

23 Q BY MR. KEITH: Yes.

24 A Dr. Palmer has outlined his findings to me. They

25 reinforce, they supplement my findings based on the neurological

26 examination.

27 Q Do you have any opinion as to the etiology of

28 the organic brain disease that you have found in Mr. Watson?

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1 MR. BUGLIOSI: You mean the origin?

2 MR. KEITH: The cause.

3 THE WITNESS: One of my obligations as a neurologist

4 is to try and supply information relating to cause.

5 May I sort of outline the neurological problem

6 involved here and which is in my own situation that I went

7 through.

8 The chronic brain syndrome is not a diagnosis. It

9 is a designation. It is a syndrome. It can be caused by many

10 things.

11 My job as a neurologist in the clinic or in the

12 hospital is to try and say why does this patient have the

13 following symptoms, i.e. chronic brain syndrome. There are

14 a number of possibilities.

15 Q Could you relate those to us?

16 A Brain tumor, degenerative diseases of the brain,

17 metabolic disturbance such as diabetes or profound uremia,

18 results of physical trauma to the brain, blows to the head,

19 unconsciousness, and a result of exogenous outside the body

20 poisonings. By this I mean a category that might include lead,

21 mercury, alcohol and drugs.

22 Now, there is nothing specific that I saw in my

23 neurological examination.

24 Q Pointing to any particular cause?

25 A That would indicate to me that it is multiple

26 sclerosis or Huntington chorea or mercury poisoning. Those are

27 nonspecific signs that I saw.

28 The next step after preparing this list of

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1 possibilities, if you will, about what it might be is to
2 review information about the history of the patient to arrive
3 at an approximation as to why this individual shows a chronic
4 brain syndrome.
5 Q And did you review as best you could the medical
6 history of Mr. Watson?
7 A I did not review the medical history directly
8 with Mr. Watson.
9 Q No.
10 A It was not a part of my neurological examination.
11 I have talked to, in order to secure this information, both
12 with Dr. Suarez and with Dr. Frank.
13 I specifically asked them is there any history
14 of headache, nausea, vomiting, febrile illness.
15 Q What is that?
16 A Blows to the head. Sorry.
17 Q Febrile illness, what is that?
18 A It is illness associated with very high fevers
19 which may be a counterpart of delirium and confusion, ominous
20 infectious diseases in the past.
21 I also talked with them about head injuries. As
22 I mentioned, whether there was any family evidence of
23 neurological difficulties.
24 They reported to me that they were unaware of any
25 such positive historical pieces of information. They did
26 tell me about Mr. Watson's use of drugs.
27 Q So nothing they told you indicated that Mr. Watson
28 ever had a brain tumor or suffered from epilepsy or

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encephalitis or any diseases that presumably can cause an organic chronc brain syndrome?

A They had no information about this.

Q Did you also have information, Doctor, that when Mr. Watson was in high school he was a star athlete to the point where he held records in track and field?

A Yes, I had information about that.

Q And did you also have information that in high school he was an A and B student and in college generally a C student?

A I had information about that.

Q And did this report contribute to your ultimate finding or organic brain syndrome in any respect?

A Not for the designation of organic brain syndrome.

Q But for the time in which it may have occurred --

A For designating it chronic rather than acute, or getting a feel -- and I emphasize a feel for the approximate duration in which this process has been going on, this information was helpful.

Q Did you form an opinion as to whether assuming Mr. Watson went to high school or graduated in 1964 and left college in 1967, did you form an opinion as to whether the chronic brain syndrome occurred subsequent to, say, his leaving college?

A My interpretation of that information was it would be inconceivable for the patient to have had the signs and symptoms that I saw on my neurological examination during a period in which he was in college.

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His performance on my neurological test would be inconsistent with any sort of achievement in college.

Q As a result of all the information that you did receive, were you able to form an opinion with reasonable medical probability as to whether or not Mr. Watson's alleged heavy ingestion of drugs could have caused his chronic brain syndrome?

MR. BUGLIOSI: I think the question is improper.

THE COURT: He is just asking for your opinion, Doctor.

THE WITNESS: I have an opinion about the possibility of the cause of Mr. Watson's chronic brain syndrome.

I believe that the evidence that I currently have would indicate that it probably -- and I underline probably -- is a result of drugs rather than any of the other factors that I mentioned that cause a chronic brain syndrome, but I would like to elaborate a bit. I said probably.

Q BY MR. KEITH: Yes. Do elaborate by all means.

A It is extremely difficult for me as a neurologist to make a definitive precise unequivocal diagnosis that Mr. Watson's condition is due to drugs.

Let me give you some of my problems. No. 1 and not uncommon we don't know for sure the amount of drugs, nor do we know the type -- at least I don't know -- nor do we know the mixtures.

Furthermore the information that I have as a neurologist, but not as a drug specialist, so to speak, is rather conflicting.

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10A

Let me outline three drugs from a neurological point of view -- LSD. There is conflicting information and opinion in the literature among the neurologists about LSD producing a chronic brain syndrome.

There is less conflicting information about amphetamines. There is very solid neurological and psychiatric information that amphetamines can produce chronic brain syndrome.

Q By amphetamines, do you mean the drug commonly known as speed?

A About a group of drugs which includes dexadrine, benzadrine and what is called speed.

The third drug -- and I have no information about whether Mr. Watson took this, involves narcotics.

Our information about the neurological aspects of narcotics is growing.

Just in the past year we have recognized that the spinal cord can be severely damaged if heroin is used.

Now, the reason that I outline these three drugs is we know of various possibilities. Our information in 1971, speaking as a neurologist, is not so solid that I could make an unequivocal absolute statement that Mr. Watson has a chronic brain syndrome as a result of drugs.

In my judgment, it is my best judgment it is a possibility.

Q Would pathologists have to do an autopsy for you to be and even then it wouldn't necessarily tell you the cause of any brain damage?

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1 A In the old days -- by that I mean 10 years ago --
2 the ultimate answer would be from the pathologist.
3 We now recognize that even this pathological
4 determination need not give us the answer about brain damage
5 as a result of exogenous factors.
6 Q However in talking about Mr. Watson's medical
7 history with Dr. Frank and Dr. Suarez, they did not relate
8 to you, I understand, any other diseases or illnesses or
9 malfunctions of the body that could cause chronic brain
10 syndrome beyond drugs; is that a fair statement?
11 A It is a fair statement and I specifically asked
12 them whether there was any other factor besides drugs that I
13 have already mentioned.
14 Q Incidentally, relating to the blows on the head
15 causing brain damage, are you talking about very severe blows
16 on the head resulting in prolonged coma or unconsciousness?
17 A Clinically, the method of handling that is that
18 only blows to the head produce unconsciousness. Those alone
19 are probably the only ones that are important in producing
20 chronic brain damage.
21 So I specifically asked: Is there a period of
22 unconsciousness resulting from a head injury?
23 Q Doctor, is a person suffering from a chronic
24 brain syndrome likely to have impaired intellectual function?
25 A It is built into the diagnosis. I mentioned that
26 the classical recognized symptom associated with chronic
27 brain syndrome is an impairment of intellectual capacity -- yes.
28 Q Which could cause -- which could take many forms?

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A It may take many forms. It may be in different degrees.

Q In your opinion with Mr. Watson's present motor reflexes, could he have performed as well as he did in football, basketball and track in high school had he been suffering from a chronic brain syndrome at that time?

A The motor difficulty that I saw on my examination in April again was inconsistent in my judgment with good athletic performance.

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Q Doctor, did you try and determine or make any attempt to determine whether Mr. Watson was trying to fool you in performing these motor -- this motor function test?

MR. BUGLIOSI: Calls for a conclusion.

Q BY MR. KEITH: Or any of the other tests that you gave him?

MR. BUGLIOSI: Calls for a conclusion.

THE COURT: Overruled.

THE WITNESS: Every time a patient is examined by a physician, he is, perhaps, consciously and unconsciously trying to determine the realibility of the information that is being presented or demonstrated by the patient.

In this particular circumstance, I was aware of this as a possibility, that I was in some way being, consciously or unconsciously, deceived by the patient. There is no absolute method, unfortunately, that I know of that negates this possibility.

There is, however, some information about possibilities, again. In my personal experience, people who are attempting to deceive or malinger or have conversion phenomenon, and other psychological problem, have a bizarre quality to the deficit in their neurological examination.

May I give you an example: The bizarre quality may be that an inability to move one extremity; it is held in a fixed and rigid position, which is not anatomical. The disorder is generally asymetrical, involving only one leg or one arm.

In Mr. Watson's examination I saw no evidence for this, and the disorder that I saw was bilateral and symetrical.

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11-2

The motor difficulty of which I spoke, not only occurred in the feet, on the basis of his ability to tap his both feet, to tap both fingers, but it also involved the movements of his tongue. Therefore, the difficulty that I saw was diffuse and all pervasive.

In my personal experience, that is an incredibly uncommon sign that could be presented in a conscious effort to deceive.

MR. KEITH: Thank you, Doctor. You may examine.

CROSS-EXAMINATION

BY MR. KAY:

Q Doctor, you don't think the EEG exam is very practical in this case, in Mr. Watson's case, do you?

A Not in Mr. Watson's case.

Q And would you explain why you don't feel that it is very practical in this case?

A As I have already mentioned, the EEG is part of my area of interest; and the majority of time the EEG is used in the area of convulsive disorders, patients who have lapses of consciousness, and we are attempting to establish a diagnosis of the cause of a lapse of consciousness.

Q And these lapses of consciousness are usually caused by an illness known as epilepsy?

A Epilepsy.

Q Petit mal seizures and grand mal seizures; is that part of epilepsy?

A Those are two types of epilepsy.

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Q. Now, Doctor, in the report that you prepared and submitted to Dr. Suarez, in the first paragraph you state that you did not review the patient's personnel medical history, referring to Mr. Watson; is that true?

A. That is true.

Q. So, in other words, at the time of your exam on April 9, 1971, you were only concerned with Mr. Watson's physical, neurological and mental condition on that particular day?

A. That is correct.

Q. And you can't tell us with any certainty what Mr. Watson's mental or neurological condition was on the days of August 8th, 9th and 10th, 1969, can you?

A. I have no information about that.

Q. Now, Doctor, you state in your report that your examination was limited to an assessment of Mr. Watson's cranial nerve, sensory and motor activity, plus the mental status exam; is that correct?

A. That is correct.

Q. And your formal neurological examination only demonstrated two minor abnormalities in the cranial nerve, is that correct, and let me enumerate these and ask you: His eyes reacted sluggishly to light and he stuck his tongue out slowly; is that correct?

A. That is correct.

Q. All right --

A. I am sorry; "minor," may be a problem that I have in answering your question.

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11-4

There were abnormalities in two cranial nerves; the pupils were dilated and his tongue moved slowly. That is correct.

Q. All right. Now, first getting to the area of the tongue moving slowly, are you familiar with an illness known as cotton mouth?

A. I am not, sir.

Q. You are not? You are not familiar with an illness that causes a lack of saliva in the patient's mouth?

A. I'm not familiar with that as a specific entity. I am, however, aware of one neurological syndrome in which there is a decrease in output from the salivary glands, pigmentation of the skin and a neuropathy, an absence of the function of the peripheral nerves.

Unfortunately, I am embarrassed to say I cannot recall the actual designation of that neurological syndrome; but cotton mouth, I do not know.

llaf.

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Q. Let me ask you this: If a person had an absence of saliva in his mouth, in other words, his mouth was very dry, do you feel that this could be a cause for the fact that he sticks his tongue out slowly?

A. Unlikely, in my opinion. What I am measuring when I ask the patient to protrude his tongue rapidly in and out and from left to right or from right to left, is not a function of salivary secretion, it is a measurement of motor function; whether the mouth is dry or moist, in my judgment, would not be influenced by the motor ability to rapidly move your tongue.

Q. Well, doesn't the saliva in the mouth, the wetness, kind of oil the tongue's way on its way out?

A. Only if the tongue is protruded through the rather dry lips.

Incidentally, I may be out of line, my mouth is very dry at the moment. I can't understand why. I do not feel that my performance in moving my tongue would be impaired (demonstrating).

Q. You stick your tongue out very well, Doctor.

A. I have practiced a lot.

Q. The bailiff is going to get you a drink of water.

A. Thank you.

Probably the powers of suggestion.

Q. Now, Doctor, did you inquire of -- well, did you inquire of the jail authorities on the day you examined Mr. Watson, whether or not he was under any medication at the time of your examination?

A. I did not ask the deputies, to the best of my

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recollection, whether he was on any mediciation.

Q. Don't you think that this would have been an important consideration, to find out whether or not he was on any medication at the time of your examination?

A. Certainly, that would influence some aspects of my neurological examination.

Q. Now, Doctor, you also gave Mr. Watson a sensory examination and you said that that was normal; is that correct?

A. That's correct.

Q. You found no abnormalities in the sensory examination?

A. I found no abnormality.

Q. What, again, is entailed in the sensory examination?

A. Briefly, it is the ability -- the patient's ability to see, to hear, to smell, perceive odors; his ability to perceive taste and his ability to perceive touch, pain, vibration; and to determine the position of his extremeties in space.

Q. Now, Doctor, what is motor strength?

A. Motor strength can be analogized as muscle power, the ability of a muscle to contract, to produce power.

Q. Now, did you find in your report and in your examination of Mr. Watson, that his motor strength was in keeping with the size of his muscles?

A. I found his motor strength was in keeping with the size of his muscles.

Q. And you also didn't find any abnormalities in his tendon reflexes, did you?

A. I found no abnormalities in his tendon reflexes.

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11A-3

Q. Now, you say that in your examination you found a slowing in the tapping of Mr. Watson's index finger to his thumb; is that right?

A. That is correct.

Q. And you say that you -- that he had a hard time understanding what you were asking, because you said, "Please tap" -- and I quote: "Please tap both thumbs to the index finger"; is that right?

A. That's right.

Q. Well, did you tell him which index finger you were talking about?

A. You mean right versus left?

Q. Well, you said, "Please tap both thumbs to the index finger."

Is he supposed to tap both thumbs to one index finger? I mean, did you tell him what you meant?

A. Your point is well taken, sir. I would have difficulty in following those instructions. I hope that in my examination I did not ask him to perform as such. I generally say, "Please tap both thumbs to both index fingers."

MR. KAY: I'm having the bailiff check the gun. I know it is unloaded.

Q. Now, Doctor, I want you to perform a little experiment here. I'm going to show you People's 40, which has been identified as one of the murder weapons in this case.

I want you to, if you will, pull the trigger on this, on People's 40, four times in rapid succession and then I am going to ask you a question.

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1A-4

All right, pull it four times in rapid succession.

A. (Demonstrates.)

Q. Now, Doctor, do you feel that Mr. Watson could have done that on April 9, 1971?

A. April 9, 1971?

Q. The date of your examination.

A. Impression, hunch: I think that it would be unlikely when I examined him that he could press the trigger as rapidly as I did, based on the fact that he could not tap his fingers as rapidly as I can.

Q. So, in other words, if he could do this, say, in August of 1969, and he couldn't do it on the date of your examination, you would conclude that there must have been some deterioration between, say, August of 1969 and the time of your examination; is that correct?

MR. KEITH: I'm going to object to the question because I don't know that there is any evidence that on the night of the Tate homicides the trigger was pulled that fast by Mr. Watson.

THE COURT: You are assuming facts not in evidence, are you not, Mr. Kay?

MR. KAY: No, your Honor; the evidence that is in evidence, Linda Kasabian's testimony was that Mr. Watson pointed this gun at Steven Parent and pulled it four times in rapid succession.

THE COURT: That still does not mean that he pulled it as fast as the doctor did, does it, her description?

MR. KAY: Well, we don't know that --

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11A-5

THE COURT: Exactly.

MR. KAY: -- because we weren't there; however, rapid succession --

Q Well, just how fast on April 9, 1971, was it that Mr. Watson could have pulled that trigger?

A I'm in an area where I know little in terms of that sort of mechanism. I do know, however, that the maximum tap rate that most normal individuals have ranges from 8 -- rarely to 15 per second.

Now, I can tap about 12 per second. Though I did not time Mr. Watson's performance, my eyeball hunch was that it was on the order of 3 per second, the only qualifiable information that I can provide.

Q And you noticed when you pulled that trigger that there was, you know, that it wasn't that easy to do; is that right?

A That's right.

Q It had some pull on it. Now, I show you Exhibit WD, which is a pair of wirecutters. Hold these -- pretty heavy, aren't they, Doctor?

A 15 pounds.

Q Now, Doctor, on April 9, 1971, was it your impression, or what was your impression -- do you feel that Mr. Watson could carry these to the top of a telephone pole, just a standard telelphone pole, and while balancing himself on the pole, cut four telephone wires?

Do you think he had that capability on April 9, 1971?

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11A-6

A. In terms of carrying that or holding that; I'm not familiar with the amount of force necessary to use it -- Mr. Watson on April the 9th could, in terms of -- you said --

Q. Climb the telephone pole --

A. -- climbing the telephone pole, I can conceive of on the day of my examination on April the 9th that he could have carried it up the telephone pole.

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#12

Q Carrying these --

A Carrying those.

Q -- and balancing himself on top of the pole and cut four wires?

A You must realize that this information is a hunch. I have not put this to the test.

It is based in part on the difficulty of trying to decide how much effort is involved in climbing a telephone pole carrying that and balancing yourself and that information I don't have.

Q Have you ever yourself climbed a telephone pole?

A No, I haven't.

Q I wouldn't advise it.

THE COURT: Can that be operated with one hand or two hands, Doctor? Do you know?

THE WITNESS: How big is the span?

THE COURT: How wide must you open it up before the cutting edge is open?

THE WITNESS: Unless you have a fantastically large hand you can hold it this way but you can't open it and I don't think any force can be provided with the thumb and fingers. I guess you would have to use both hands.

Q BY MR. KAY: And do you think that on April 9, 1971 that, say, Mr. Watson would have the coordination to open this while balancing himself on the top of a telephone pole and cut four wires?

A I really haven't a solid feel for that problem so that I could make a definitive statement on that. May I

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1 qualify that in part?

2 Q Yes.

3 A When I said there was a deficit -- I am sorry --
4 there was no deficit that I saw in his power, that it was
5 commensurate with his muscle size. I did not mean to imply
6 that he was weak. That is a neurological statement saying
7 that for his size and for his muscles his power was adequate.
8 I saw no evidence of weakness.

9 Q What about his coordination?

10 A Coordination was poor both on foot tapping ability,
11 which requires you to stand on one foot -- it was poor in
12 fine control in terms of placing the index finger on the nose.
13 Those are fine coordination problems. He did demonstrate
14 some minor difficulty in coordination.

15 Q Don't you feel that in climbing a telephone pole
16 and with these wire cutters and getting up to the top and
17 cutting four wires while balancing yourself on the top of the
18 pole, that requires pretty good coordination?

19 A Again I just feel embarrassed to say that I don't
20 know the nature of that task. I have no basis for making a
21 judgment on that.

22 Q Let me ask you this: Isn't a common test,
23 neurological test, for coordination, having a patient button
24 and unbotton a shirt?

25 A It is one of the tests -- not too common.

26 Q Did you give that to Mr. Watson?

27 A I did not give that to Mr. Watson.

28 Q Now, you state in your report, Doctor, that Mr.

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1 Watson adequately performed the finger to nose test although
2 at a slow rate; is that correct?
3 A That is correct.
4 Q And will you demonstrate what the finger to nose
5 test is?
6 A The instructions are to touch my finger, then
7 touch your nose, and the examiner moves his finger so that it
8 is a tracking target type test -- finger to nose, finger to
9 nose, finger to nose.
10 Q Is the patient sitting or standing?
11 A It can be done in either position. In this
12 circumstance I prefer that they stand. That is the way I
13 examined Mr. Watson.
14 Q Then you say he adequately performed that test?
15 A He was able to touch my finger and his nose but at
16 a very slowed difficult rate associated with a facial
17 presentation of great effort.
18 Q I take it, Doctor, that you are not at all
19 familiar with the facts of the Tate-La Bianca murders?
20 A I am not.
21 Q You never discussed this with Mr. Watson?
22 A I did not.
23 Q Now, you say in your report -- and you told us today
24 that Mr. Watson was able to subtract serially sevens at a fair
25 rate of accuracy, that he did this pretty well?
26 A That is right.
27 Q This is a fairly difficult thing, isn't it, to
28 subtract in your head seven from 100 and then seven from 93

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1 and so on and so forth?

2 A The degree of difficulty depends in part on custom,
3 experience, whether you are a mathematician or use numbers.
4 It also involves something more related to past memory rather
5 than recent memory.

6 In my experience that particular test, serial
7 sevens, not infrequently is performed very well by people
8 who have moderate to advanced chronic brain syndrome simply
9 because they are relying on past memory rather than recent
10 memory.

11 They learned the arithmetical operation years ago
12 and it is not affected necessarily by a chronic brain syndrome.
13 It is a paradox.

14 Q Now, also in your report, Doctor, you state and
15 I quote:

16 "When supplied a rather complex test
17 story and asked to repeat the details some two or
18 three minutes later, Mr. Watson was unable to
19 recall many of the details in the test story,
20 though he was able to retain the general context."

21 Is that true?

22 A That is correct. That is in my report.

23 Q Do you have the story here in court so you can
24 read it into the record so we can see exactly what Mr. Watson
25 remembered and what he forgot, or do you remember?

26 A The story is in my head.

27 Q All right. Could you tell us the story?

28 A There was a cowboy in the Panhandle of Texas who

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frequently had been to Dallas. He was a typical cowboy in that he had a 10-gallon hat and wore high heels, high-heeled shoes, as is the custom of most cowboys.

He also had a dog whose name was Rover. The dog was a Collie.

The cowboy and his dog came to California. They went to San Francisco, went to a small hotel on Market Street.

The cowboy then went down on a nearby street, bought a new set of clothes, returned to his hotel room and the Collie dog barked at him because he did not recognize the cowboy in his new clothes.

I apologize for the story. It is dreadful but it is a commonly used type of test with lots of detail.

Q And then after you told Mr. Watson this story, of course, you first told him that you wanted him to remember it?

A That is right.

Q And then for how long of a period did you wait before you asked Mr. Watson any questions about this story after you told it to him?

A If I did much in those three minutes, it might distract him, and part of being able to recall things is being able to concentrate.

I mentioned that I waited approximately three or three and a half minutes. I did not time it.

Q Now, you say that after this 3-minute waiting period or approximately three minutes, that Mr. Watson retained the general context of this story pretty well, but he didn't

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remember a lot of details?

A That is correct.

Q Now, do you feel that this is really abnormal on Mr. Watson's part, not remembering a lot of details, but keeping the general context of what you call a complex test story?

A I have to say on the basis of my experience and having given that very poor story to many people, Mr. Watson's performance was abnormal and compatible with chronic brain syndrome.

I also mentioned that there is no way that I know of to codify, to measure such a test phrase, but it is commonly used at the bedside in the clinic by neurologists.

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13R-1

Q. You can conceive of the fact that a lot of normal people would have trouble remembering the details of that story after three minutes, can't you?

A. Not most normal people, no; having used that sentence for 16 years and maybe 3,000, 4,000 times to all sorts of patients with varying degrees of problems, I have to say that Mr. Watson's performance was abnormal.

Q. So, in other words, if you interviewed somebody now and you told them that story and waited for three minutes and they couldn't repeat a lot of the details in the story, you would say that they were abnormal, or at least performed abnormally on that story?

A. I would say that.

Q. Now, you also state that when he was supplied with a seminonsense -- well, with seminonsense words, that's your language in your report, quote, "Silk and sad uncertain rustling of each purple curtain," there appear to be some slurring of his speech and it was difficult for him in spite of frequent repetitions to retain the test phrase?

Doctor, isn't it human nature to reject nonsense?

A. Well, "silk and sad uncertain rustling of each purple curtain," is a line from "The Raven" by Edgar Allen Poe; it is not nonsense. Superficially it does look like nonsense and I have had responses to that seemingly nonsense sentence by people coming up with the next line from "The Raven."

Q. Well, of course, if somebody who read "The Raven," it might just not be nonsense; but if you just took this line out of Mr. Poe's work, I'm sure he wouldn't appreciate it;

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13-2

but don't you think that most people would consider that nonsense?

A. Yes, I believe I called it nonsense -- what was my sentence then, that you read to me, seminonsense or --

Q. Yes, let's see.

THE COURT: "Quoth The Raven nevermore."

MR. KAY: Q. "Seminonsense words."

Now, you say that you saw something that wasn't nonsense in this phrase. What do you see that is not nonsense in this phrase?

A. Your point is well taken. In a sense, it is nonsense; in a sense it also has a broader aspect. Taken in context with the entire poem it does make sense, but at a practical or pragmatic level, it is, in my judgment, used as a nonsense sequence. It doesn't make much sense; most people are able, fairly rapidly -- and, again, I can't quantitify that -- able to learn the sequence and repeat it after several trials. Mr. Watson could not do this.

Q. Well, Doctor, isn't it a common example of a normal person's inability to retain nonsense, the fact that a lot of people have trouble with remembering jokes?

You know, somebody will tell you a joke and a minute later you'll forget it; some people just have a hard time remembering jokes.

Isn't that just one example of a normal person's inability to retain nonsense?

A. Some people have this difficulty; they may be quite normal.

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1-3-3

Q. Now, don't we really retain things based on logic and if something goes against our logic and our past experience, that we tend to reject it?

Isn't that a normal human trait?

A. Yes, logic, sequence, appropriateness is usually our best method of learning things.

May I report, however, that the reason that nonsense is used is that it is our best measure of determining the ability to learn in its abstract form, not only in neurology but in psychology, test situations are developed using nonsense rather than sequential or logic phrases.

Q. Well, did you ever take into consideration the fact that Mr. Watson might have had other things on his mind and that he wasn't concerned with learing your nonsense phrase at the time?

Did you take that into consideration?

A. I always have to take into consideration whether the subject is cooperative, attending, in the correct mental set, is vigilant enough to carry out a task.

In my judgment, he was.

Q. Now, you say that he was -- I want to quote you right -- "there appeared to be some slurring in his speech."

Did you take into consideration the fact that he has a deep Texas drawl?

THE COURT: "slurring in his s's."

MR. KAY: Well, this report doesn't say "s's."

THE COURT: Isn't that what you said, Doctor?

THE WITNESS: Slurring in his s's.

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13-4

Q. BY MR. KAY: Well, did you in this report --

A. I cannot report that in my report, as I remember -- though I have not climbed telephone poles, I have talked to many people from Texas and I believe that I'm quite familiar with a Texas drawl.

What I heard was above and beyond a Texas drawl.

Q. What did you hear?

A. I heard slurring of s's, difficulty in pronouncing s's; I'm not very good at mimicking that --

Q. So you can't demonstrate how Mr. Watson did it?

A. No, I am sorry.

MR. BUGLIOSI: This might be a convenient time.

THE COURT: Mr. Kay, are you going to be much longer with the doctor?

MR. KAY: Yes, I am, your Honor.

THE COURT: We will recess at this time, ladies and gentlemen, till 1:30; and once more, heed the usual admonition, please.

(Noon recess.)

14f.

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LOS ANGELES, CALIFORNIA, TUESDAY, SEPTEMBER 7, 1971; 1:30 P.M.

- - -

THE COURT: People against Watson.

Let the record show all jurors and all counsel and defendant are present.

You may proceed, Mr. Kay.

RICHARD D. WALTER,

resumed the stand and testified further as follows:

CROSS-EXAMINATION (CONTINUED)

BY MR. KAY:

Q Dr. Walter, in your report to Dr. Suarez dated April 14, 1971, in the last paragraph of your report you state that it is your impression based on your examination that Mr. Watson demonstrates at the present time some fairly classical signs of organic brain disease.

Do you remember that?

A Yes.

Q And that is accurate?

A That is what I remember is in my report.

Q What do you mean by the word "impression" when you say it is your impression?

A "Impression" to me is a designation that I use in place of or as a substitute for "diagnosis."

It is a commonly used medical phrase. My understanding of this case, my diagnosis of this case, my impression

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of this case are used somewhat interchangeably and the reason that I personally use "impression" is because it avoids the definitive unmistakable absolute character as expressed by the word "diagnosis."

Q Now, Doctor, to clarify this point, you don't know whether or not Mr. Watson had any organic brain disease on August 8, 9 and 10, 1969, do you?

A I do not.

Q In your report you say that the evidence for this conclusion -- in other words, your conclusion that Mr. Watson had organic brain disease -- "The evidence for this conclusion is based on the marked slowing in his motor activity."

And I take it that was from touching his index finger to his thumb and also I believe you have had him do a test tapping.

A That is right.

Q The palm of one hand with the palm of the other hand?

A And foot tapping.

Q And foot tapping?

A And tongue movement.

Q And tongue movement.

"The slight" -- you use the word here "slight" -- "The slight slurring of his speech, mild to moderate, difficulty in recent memory as evidenced by the test story --" that is the story you told here in court; right?

A Right.

Q "And the test phrase --" which is that one from

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15

Edgar Allan Poe's the Raven; is that right?

A That is right.

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15-1

Q. And his impoverished abilities to supply similarities in an abstract fashion, which was the fact that he said that apples and oranges could be eaten but he didn't tell you anything more about apples and oranges, that they were similar -- any more similarities; is that true?

So, in other words, these items that I have just related to you, which you stated in the last paragraph in your report, are the items that you based your opinion on?

A. That's right.

Q. Now, at the time of your report, are you saying that he showed the signs of brain damage or that he actually had brain damage?

A. "Showed," as opposed to "had"?

I'm not sure I understand the alternatives, showed versus had.

Q. Well, were you saying --you said, "It is my impression, based on this examination, that Mr. Watson demonstrates at the present time some fairly classical signs of organic brain disease."

Now, are you saying that he just demonstrates these signs or that he actually has organic brain disease?

A. Oh --

Q. Did you understand?

A. I meant to say in my report that I believe he shows signs of organic disease and I meant to imply in my report that he has organic brain disease on April the 9th when I examined him.

Q. In 1971?

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15-2

A. Right.

Q. Now, Doctor, have you ever examined a patient other than Mr. Watson who was facing a trial for murder, which could probably result in the imposition of the death penalty?

A. No, I have not.

Q. Now, this case that Mr. Keith was talking to you about before, the Washington case, you never did examine Mr. Washington, did you?

A. No, I did not.

Q. You just came into court and testified based on a hypothetical question?

A. That is correct.

Q. And Mr. Keith was the defense attorney in that case?

A. That's right.

Q. Now, wouldn't it be fair to say that because of the fact that Mr. Watson at the time of your examination, that Mr. Watson was facing this trial, which is a reality now; we are in trial -- that at the time of your examination, that he was facing this trial, that he had already been in jail for about a year and a half at the time, that he was in a severe state of depression?

Would you say that he was in a severe state of depression?

A. I could not say that he was in a severe state of depression because I did not examine him from this point of view.

Q. Did you get any impressions along this line?

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L5-3

A. No, on the contrary; during my examination, I saw no overt signs of depression as measured by either verbalization or facial expression; and his affect was occasionally one of smiling; so I have no basis for saying he was depressed.

Q. So you are saying that he didn't show any anxiety during your examination --

A. No.

Q. -- that is what you are saying?

A. I am saying he showed no evidence of depression and you used the word "anxiety," and I did not see any evidence of anxiety.

Q. Now, you came to the court last Friday to testify, did you not?

A. Yes, I did.

Q. And when you came here Friday, Mr. Keith gave you the record of the EEG exam given to Mr. Watson at Atascadero; is that correct?

A. That's correct.

Q. And it is a big record, almost like the one you have there; is that right?

A. It is half as big, because it is an eight channel record; this is a sixteen channel record.

Q. Did you examine that record?

A. Yes, I did.

Q. And that exam was given Mr. Watson in November of 1970?

A. That's my recollection of what is on the outside of the tracing or record.

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15-4

Q November 11th, I think?

A I can't remember the actual date.

Q And did you study that record?

A Yes, I did.

Q Did you go over it -- and what were your conclusions as to what the record showed about Mr. Watson?

A I believe that that record is within normal limits.

Q In other words, that was a normal exam; it showed that Mr. Watson didn't have organic brain disease on November 11, 1970?

A That record was normal. It does not indicate that he does or does not have organic brain disease. It was a normal EEG, period.

Q And you are saying that the EEG at UCLA was an abnormal --

A I have testified that the UCLA EEG was abnormal.

Q Can you explain the difference between the two; do you feel that Mr. Watson might have deteriorated somewhat between November 11, 1970, and -- what was it, March 19th that he was given the exam at UCLA?

A I believe that's right. I have no definite, absolute statement that I can make about the difference between a normal EEG in, say, November and an abnormal EEG in March.

There are a number of factors that we can consider. First of all, it is a laboratory test, and changes from day to day.

By an analogy, I might use the pulse count varies. The EEG is not a stable, long-term consistent event, like a signature or a fingerprint.

16f,

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#16

Q A fingerprint?

A A fingerprint, it varies.

Secondly there are a number of pitfalls in the technique of the EEG -- I don't mean that -- but fluctuations in the course of some illnesses. As an exaggerated example I might say that the electroencephalogram in patients who have epilepsy may on one day be normal and on another day be abnormal.

There are some other neurological problems that have this similar electrical fluctuation.

It does not necessarily mean that the clinical diagnosis fluctuates. I am talking about electrical events occurring in the brain.

Q Doctor, assuming that Mr. Watson did have an organic brain deficiency when you examined him, would this -- well, let me ask you this: There are a lot of people that function normally that have brain damage, aren't there?

A Oh, yes, but how do we know they have brain damage? I suppose it can be limited, so small that it interferes with the function of one hand? They have brain damage but they don't have organic brain syndrome. Yes, I can see your point.

Q Now, do you feel that Mr. Watson, the type of brain damage, assuming that on March 1971 he did have some sort of organic brain damage, would this type of brain damage cause Mr. Watson to black out?

A No. I have no evidence that this is the type of brain damage associated with seizures.

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16--2

Q That type of brain damage is known as epilepsy; is that right?

A That is right.

Q And in the EEG exam and in your examination of Mr. Watson you found no sign of epilepsy, did you?

A I saw no signs in either of the two EEG's that I have examined of a signal that might identify epilepsy, nor have I heard in my discussions with Dr. Frank and Suarez any history of a convulsive disorder or epilepsy.

Q And is there anything in Mr. Watson's -- assuming that in March 1971 that he did have an organic brain damage, is there anything in the type of organic brain damage that Mr. Watson demonstrated, according to you on this date, March 19, 1971, that would impair him or impede him from knowing exactly what he was doing at all times?

A This is a question really relating to degree and the organic brain syndrome, just as the encephalographic abnormality, can vary.

Q I am talking about Mr. Watson now.

A Yes.

Q His state.

A And the electroencephalogram obtained in March was mildly abnormal, not a severe king-size abnormality. My neurological examination somewhat later was also abnormal, but in the mild to moderate category, not king-size.

These types of findings, both the EEG and in the neurological sense, need not result in severe obvious gross incapacity.

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16-3

Q So, in other words, what you are saying is that the EEG exam at UCLA and your neurological exam both showed minor abnormalities?

A I believe I used the word "mild."

Q Mild?

A Not "minor."

Q All right.

What is the difference between the two?

A A fine distinction.

Q A fine distinction.

A To me mild is a continuum -- good, better, bad, mild, definite. "Minor" implies we can ignore them and I don't want to imply that we can ignore them.

They are mild but definite abnormalities. A subtle point.

Q Would you say borderline?

A No. I would not say borderline. Why I don't say borderline -- I personally try and avoid borderline because I think we should make a judgment -- yes, no, good, bad, normal or abnormal.

I personally don't use borderline. When I say mild, I mean definitely abnormal, not borderline.

Q But mild?

A Mild, right.

Q And I take it that you don't know what a EEG examination would have shown of Mr. Watson had it been taken on August the 8th, 9th and 10th, 1969?

A I have no idea.

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Q How many EEG exams were given to Mr. Watson out at UCLA? Just the one?

A Just one.

Q And at any time during that examination was Mr. Watson given any, either or both, LSD, speed, or belladonna to see how his brain reacted under these drugs?

A No. I say that emphatically. He was given 100 milligrams of seconal so that he would go to sleep, but he was not given any of those drugs.

Q Seconal is a sleeping pill; right?

A It is a barbiturate.

Q It is classified as a dangerous drug?

A It is not a dangerous drug. It is commonly used. It can be addictive.

Many of use it to go to sleep at night. It is used routinely in practically every electroencephalographic laboratory to induce sleep.

Q Well, you can only have seconal in a prescription, isn't that right, Doctor? It is in the Health and Safety Code as a restricted drug?

A I see what you mean. From that legal sense it is a dangerous drug.

From a medical sense it is not dangerous -- another fine distinction.

THE COURT: You didn't have to write out a prescription to give him that seconal?

THE WITNESS: I didn't write it out as a prescription. It is tabulated and recorded in our pharmacy over my overall

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signature.

Q BY MR. KAY: Now, Doctor, do you feel that a prolonged lack of food and nourishment might have any effect on Mr. Watson's brain?

A It is a theoretical possibility.

There are chronic brain syndromes and neurological disorders that result from malnutrition. An example is a berri-berri, probably the best example.

This is associated with organic brain disease, all of the features that I mentioned this morning, plus one very striking phenomenon -- that is a disturbance in the peripheral nerves.

Actually every nutritional or metabolic disturbance that I can think of is associated with disorders in the peripheral nervous system.

So in order to have a diagnosis of a berri-berri condition or vitamin deficiency producing a chronic brain syndrome, I as a neurologist would look for disorders in the peripheral nervous system.

By that I would mean atrophy of the muscles, a loss of reflexes, diminution or alterations in sensation and a loss of power.

I've already indicated that I did not see those findings on my examination in April.

16A

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.6A-1

Q. Doctor, can you see any outward physical signs, in other words, by looking at a person, can you see any outward physical signs of a person that suffers fror organic brain disease?

A. I can't be sure that I can, and I think I am a trained observer -- that I can't look at somebody and say, "Aha, he has a chronic brain syndrome."

I can extend that. Most of us who have been around sick people for a long time develop a clinical feel, which I don't like to talk about either, it is harder to teach -- the way they act, the way they talk, it is a clinical hunch, but not very scientific. I can't look at somebody and say they have a chronic brain syndrome.

Q. You can't see any signs at all?

A. You mean by --

Q. Just the way a person looks without hearing him talking, without seeing him move, just by --

A. I cannot.

Q. -- looking at the person?

A. I cannot.

Q. What are artifacts, Doctor as relates to the EEG exam?

A. Any signal appearing in the tracing that is not of brainwave origin.

They can be such things as eye blinks, swallowing, movement, extraneous sources, somebody throwing a switch which is on the circuit. They can be 60 cycle artifacts -- anything in brief which is not of cerebral origin, brain origin.

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Q. Doctor, do you know whether or not Mr. Watson during the course of the examination had his eyes shut during the entire exam or was he blindfolded?

A. We are talking about the EEG?

Q. At UCLA.

A. At my laboratory?

Q. That is right.

A. The instructions in my laboratory are that the technician tells the patient to keep his eyes closed.

During a portion of the record, he is asked to open his eyes and the technician reports on the tracing whether they are open or closed. That is a standard part of the examination.

There is also internal evidence in the tracing whether the eyes are open or closed. The eyelid closure is associated with the elevation of the globe of the eye.

This induces a signal into the electroencephalogram which appears as an artifact in those areas close to the eye.

Q. Artifacts in fact are quite common in EEG exams, are they not?

A. Unfortunately, they are quite common.

Q. What are movement artifacts? Is this what you have been talking about? The blinking of the eyes?

A. That is one source of movement. Another source might be moving the head from side to side, wiggling the foot, inducing a sway in the electrowire that goes from the scalp to the patient.

Q. And as you have stated I believe on direct

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.6-3

examination, you were not present during the actual giving of the EEG?

A. That is correct.

Q. Now, isn't it true that the rhythmical 8 to 13 cycle per second activity obtained is obtained most characteristically when the patient is awake, reasonable alert, and when the eyes are closed?

A. That is true.

Q. Is it true, Doctor, that with the same patient an EEG tracing may be abnormal at one time and normal at another?

A. In the same patient? It is true that a tracing may be normal at one time and abnormal on the other, yes.

Q. Okay. Do dreams and nightmares produce any changes in EEG tracings?

A. Yes. They produce actually a very characteristic -- not abnormality, it is called an electrical signal.

During the past five to ten years, a great deal of research has been done on dreams and nightmares. There is a stage of sleep called rapid eye movement sleep in which dreaming appears and this stage can be identified in the electroencephalogram, not as an abnormality, but a characteristic stage of sleep associated with dreaming.

17f.

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#17

Q What effect does lack of sleep on the part of the patient have on the results of the EEG exam?

A There have been some studies on sleep deprivation or lack of sleep. In general, if the sleep deprivation is prolonged -- by prolonged, I am talking about at least one, possibly two nights -- it may be that certain epileptic-like abnormalities in the tracing are enhanced; but the period of sleep on the resting record, per se, are not altered by sleep deprivation.

Q Did you make any inquiry of Mr. Watson to find out whether or not he was sleeping regularly and normally around the time of his EEG, per se?

A I did not.

Q What effect does the fact that a person might be under a lot of emotional stress have on the results of an EEG exam?

A There have been many studies in that regard and, curious as it may seem, emotional stress, anxiety, depression, does not appear as an abnormality in the electroencephalogram.

Let me explain that: We, as a part of the psychiatric facility at UCLA routinely secure electroencephalograms on our psychiatric patients, and the common situation is no matter how upset, how tense, how delusional they may be, if they have a functional problem; i.e., not an organic brain syndrome, their electroencephalograms are normal.

Q Well, you say that stress doesn't appear independently on the EEG exam; but could it affect other brain waves, in other words, although it doesn't itself appear

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1 independently, could it have effect on other --

2 A Rhythms?

3 Q Rhythms?

4 A We have talked about that band between 8 and 13

5 cycles per second, which is alpha. There is some indication

6 that anxiety and stress can appear as another frequency, a

7 faster frequency, on the order of 14 to 30 cycles per second.

8 A statistical statement is that people who are

9 tense may have a greater amount of these faster frequencies;

10 but this is only a statistical statement and many people,

11 such as Albert Einstein, show a great deal of these fast

12 frequencies from 14 to 30 cycles per second.

13 Q Doctor, isn't it true that approximately 10 percent

14 of normal people tested show abnormal EEG tracings?

15 A I'm not sure about the truth of that. It is a

16 question that I frequently ask our candidates on the American

17 EEG Board examination, Board of Qualification.

18 The answer is changing. 10 or 15 years ago this

19 was a common response; people would say, "Yes, 10 percent of

20 normal people have abnormal EEG's."

21 I found that now with more careful, rigorous control

22 ov the people that we are examining, the incidents may be lower

23 -- and if this sounds rather pedantic, forgive me: I think it

24 is down to maybe four or five percent of normal have an abnormal

25 EEG.

26 I think I should qualify that, that these are minor

27 electrical abnormalities and not severe electrical abnormalities.

28 Q What effect do short periods of drowsiness during

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1 the examination of the patient have on the effect of the EEG
2 exam?
3 A Appears as a very characteristic signal in the
4 electroencephalogram, characterized by rhythmic 4 to 10
5 cycle activity appearing in a great many areas of the head.
6 It is so characteristic that the technician and
7 electroencephalographer can predict with high accuracy that
8 the patient was drowsy.
9 Q Did Mr. Watson show any of these signs in his EEG
10 exam at UCLA?
11 A In the tracing we secured -- we secured a tracing
12 when he was awake; we secured a tracing when he merged in the
13 drowsy phase of sleep; we also secured a tracing during stage
14 2, which is light sleep, which is characterized by some other
15 electrical signs; we also obtained a tracing during a fairly
16 deep level ofsleep; and we also obtained a wake record after
17 he had been alseep.
18 Q Was any check made of Mr. Watson before giving
19 him this exam whether or not he was on any medication; whether
20 or not he had taken any medication?
21 A There is a, on the outside of all of our forms, a
22 little stamp. The technician is instructed to ask the patient
23 whether the patient is or is not on any medication.
24 In this circumstance, after the stamp, "Medication,"
25 my technician has said, inappropriately, "Not"; I'm sure she meant
26 "No."
27 Q Doctor, I show you the report of the electroencephalo-
28 gram exam at UCLA. Have you read this report before?

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A Yes, I have.

Q And up here where it says "Medications," it says "Not known."

What does that mean?

A Dr. Suarez filled out this form, asking us to perform an electroencephalogram. At the time that he filled it out -- I can't speak for Dr. Suarez -- filled out the report, he did not know of any medication.

When my technician began the tracing of Mr. Watson, she asked if he is on any medication; and she said, "N-o-t," not.

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17AR-1

Q So what you are telling us, Doctor, that at most all the technician did was ask Mr. Watson whether or not he was on any medication; is that true?

A That is true.

Q You didn't ask the jail authorities, the jail doctors or anybody like that?

A I don't know what she did. The practice is to ask the patient whether he was or was not on any medication.

Q Well, this would be pretty important, wouldn't it, as far as whether the brainwaves would be slowed up; don't you think it would be important to know whether or not the defendant was on drugs or medication?

A It would be interesting -- important? -- I will have to think about that a little bit.

Actually, this is not an uncommon situation in our laboratory, where we perform EEG's on a great many people. We'd like to know; it assists us if they were on medication.

Many times we don't have that information. Actually, most of our medication does have a signature in the electroencephalogram, which we can identify. We would not be able to identify it as Valium or Librium or barbiturate, but we can identify it as a medication effect.

Q Did you check Mr. Watson's EEG to determine whether or not he had taken any medication?

A Yes, I gave him medicine; that is, I didn't personally do it, 100 mgs of Seconal was administered prior to the examination and it showed a medication effect by an increase in the amount of 25 to 30 cycle per second activity,

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17A-2

which is characteristic of barbituates, Valium and Librium.

Q What about any other medication?

A. I know of no other medication.

Q. Now, isn't it true that a lowered blood sugar level may affect the EEG tracing?

A. In some circumstances a lowered blood sugar can.

Q. Did you check Mr. Watson for this before the EEG exam?

A. The technician asks the patient when did the patient last eat; she also records the time at which the electroencephalogram was performed.

In this circumstances the technician reports that Mr. Watson had breakfast. The time of that was 6:00 a.m. There is a space for that.

The EEG was started at 10:55 in the morning. I do not know, and I have not instructed my patients -- I mean, my technicians to record all the details of their breakfast -- so, all I know is that he did have breakfast, it was at 6:00 in the morning; we ran the test at 10:55. It is unusual after the usual breakfast, whatever that may be, he would be hypoglycemic.

Q. Again, Doctor, you know that Mr. Watson had breakfast because he allegedly told the technician that he had breakfast. I mean, you didn't check with the jailers or --

A. No, I indicated that I was not present when the EEG was performed. All I can really say is that my technician reported that he had breakfast; the source of her information, I don't know.

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17A-3

Q. But the general practice is just to ask the patient?

A. That's correct.

Q. Now, what if Mr. Watson had something for breakfast that he had an allergy to; how would that affect the EEG?

A. Actually, it sounds pretentious: I have done some study on the effect of allergy on an EEG and have written one study in that regard.

Unless there is severe allergic signs -- I'm talking about wheezing, difficulty in getting your breath -- there are no definite changes in the electroencephalogram that I can see.

Q. Doesn't it cause spiking?

A. No, I am sorry, not in my experience.

Asthma, wheezing, allergy, does not cause spiking. This is contrary to my experience.

Q. Isn't it also true that the age of the individual tested influences the type of electrical patterns obtained?

A. Certainly, yes.

Q. Do you know whether or not the state of oxygenation in Mr. Watson's blood was checked before the EEG was performed?

A. No, this is not a routine part of our electroencephalographic examination.

Q. Isn't that important?

A. Yes, it is important in those situations where we do electroencephalograms in the intensive care unit and we are attempting to determine whether the brain is producing signals or not. Under those limited circumstances, we might ask for levels of oxygen tension in the blood, is there any blueness

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or cyanosis; but it is not a part of my practice, and I believe I am familiar with the major electroencephalographic facilities in this country; I know of no laboratory that routinely checks oxygen supply of blood.

Incidentally, that requires a needle inserted into an artery, the blood to be taken to the laboratory, discomfort to the patient and some time before the determination can be made. It is not a routine test.

17Bf.

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17B-1

Q Isn't it true, Doctor, that the correlation between EEG patterns and I.Q., intelligence level, is an extremely poor one for I.Q.'s above 50?

A Yes, I firmly agree to that, very poor.

THE COURT: Now, you tell us what you agree to, Doctor; what did that mean?

THE WITNESS: Oh, I am sorry.

Yes, the EEG correlation with I.Q., is very poor, the only exception are those people who have an intelligence quotient below 50; in that circumstance, the electroencephalogram is usually, a statistical statement, abnormal; but I cannot tell from an electroencephalogram, an I.Q. determination.

Q BY MR. KAY: Did Mr. Watson appear restless during the EEG exam; do you have anything that would indicate that?

A We can record not only by the technician noting whether he moved or whether he blinked; we can also record the artifacts induced by that, and it is my impression, having read the report, that there is no more in the way of movement, or artifact indicating restlessness, than the average electroencephalogram obtained in my laboratory.

Q Now, Doctor, isn't it true that some of the few tests made of the relationship of general intelligence and the EEG show increments in slow wave activity during periods of mental effort?

In other words, slow waves are associated with mental performance?

A That is a very difficult one. I'm sorry, it sounds difficult; let me explain what I mean by that.

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17B-2

There are changes in the electroencephalogram induced by thinking, mental effort. There are two in number. If I instruct the patient, "Eyes closed, please; now, please let's perform -- would you multiply 11 by 32"; during the period that he is performing this mental task, there are changes in the Alpha frequency; they generally drop out.

There is an indication that may be some slowing, call it a Kappa rhythm, which is uniquely isolated to both temporal areas.

This is still controversial and not all electroencephalographers really believe that they can see the slow wave bi temporal Kappa rhythm that is associated with mental effort.

Q Let me ask you this along the same lines; would you agree with this statement: Nonetheless, a conceptual problem remains in that slow Alpha frequencies which we have found to be associated with strong automatization and superior tasks, have also been reported to characterize mental retardedness as contrasted with normal children, as contrasted with adults and brain injured as contrasted with normal persons?

Did you get that?

A Even for me, that's a tough one.

THE COURT: Suppose you explain what you mean, Mr. Kay; explain it to the doctor.

Q BY MR. KAY: Isn't this basically what it boils down to, Doctor, the question I was going to get to: Isn't there a disagreement among electroencephalographers to the meaning of Alpha waves, of slow Alpha waves?

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17B-3

A. There is disagreement as to the physiology of the rhythms. Their origin, but we are reaching agreement and consensus in that regard.

There is agreement that Alpha frequencies are still cosidered to be normal. The problem comes up in the interpretation of those variations, as this phrase that you read said, "slow Alpha," which is something of a paradox.

Let's talk about rhythms that are slower than Alpha, on the order of 5 to 7 cycles per second. It is true in that circumstance that the clinical correlates, what does the patient have who shows this phenomenon, is controversial and not at all clear -- 1971.

Q. Doctor, isn't it, among electroencephalographers, isn't it a consenual opinion that the EEG and intellectual functioning are unrelated?

A. Well, we'd have to go back to that phrase that you -- the question that you asked me about correlation between I.Q. and the electroencephalogram. I think that still holds that below 50 the correlation is very poor --

Q. You mean above 50, the correlation --

A. I'm sorry; did I say below 50?

Q. Yes.

A. I meant to say that those patients with that I.Q. usually have abnormal EEG's; above that they don't.

Intellectual functioning, was that the word that you used?

Q. Yes.

A. Intellectual functioning and the electroencephalogram are poorly coordinated.

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17B-4

Q. Doctor, the EEG only shows the functioning on the surface of the brain; is that right?

A. Yes, it records the electrical activity that is appearing at the surface of the brain. There is a technical aspect here; this surface activity may be influenced by and under the control of some of the deep structures, but that is a very technical aspect and unless you want me to, I won't go into that.

Q. Well, let me ask you this question, Doctor: You have been at UCLA for a period of time and you have studied organic brain damage for quite a period, haven't you?

A. Yes.

Q. Isn't it true, doctor, that there has never been a documented case, not one single case that shows any connection between brain damage and the ingestion of hallucinogenic drugs?

A. No, I can't agree to that statement.

Q. There has been a documented case?

A. Documented? You mean appearing in the literature?

Q. I mean, you know, proving that there is a connection between the ingestion of hallucinogenic drugs and brain damage.

A. Well, we have to go back, as I believe I mentioned this morning, about the degrees of my knowledge, 1971. At the present time in my neurology ward we have a young man who has ingested LSD and who has used a great deal of the amphetamine drugs.

.8f.

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#18

Q Now, I am just talking about --

THE COURT: Let him finish the answer.

THE WITNESS: Both of those are hallucinogenic agents.

He is on the neurological service because he has very strong neurological signs, briefly put, damage of the cerrebellum, damage in the motor sphere, damage in the sensory sphere and damage in his intellectual capacity.

Now, I cannot prove in this man's case that it was a direct result of his hallucinogenic experience. The evidence, however, is growing, and we have only had this information the last several months, that it may well be.

The reason for that is -- and I don't know of any case in the literature, so I am having to talk from my own experience -- we performed a number of studies on this man, including one test called the arteriogram. This is a study of the blood vessels of the brain.

There are indications on that study that he has an abnormality in his blood vessels characterized by a beading typepicture, which we are just now beginning to recognize as one of the complications of amphetamines, not LSD.

In reports or talking about this case to some of my colleagues in San Francisco, they have seen one other case. I believe that I have seen one other case. I suspect that USC has had more experience in this regard.

So when I say I can't really answer your question, there is a growing indication to me, as a neurologist, that there may well be cases with brain damage resulting from hallucinogenic drugs.

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1 Q But you say there is nothing in the literature?

2 A The literature is sort of controversial. I could

3 report to you cases, reports, papers indicating that a chronic

4 brain syndrome has been associated with the amphetamines.

5 There is a great deal in that regard.

6 I would have more trouble reporting a chronic

7 brain syndrome in the presence of LSD. The literature to

8 my estimation is rather controversial about that.

9 Q Isn't it true with LSD that LSD concentrates in

10 the liver and not in the brain?

11 A The only way that LSD can possibly influence

12 mental function is through the brain. It has to get to the

13 brain.

14 There are very few things that I am certain about.

15 This is one of them.

16 Q I am not saying that, Doctor. What I am saying

17 is isn't it true that it is concentrated in the liver and

18 not in the brain?

19 A I am not a pharmacologist and I am not knowledgeable

20 about the biology of LSD. I am positive, however, that it does

21 influence brain cells. As a matter of fact, I have measured

22 it.

23 Q What are brain lesions?

24 A Brain lesion, a lesion is any damaged area regardless

25 of cause to the brain.

26 Q Did you discover any brain lesions in Mr. Watson's

27 head?

28 A In order to examine for brain lesions I must,

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unfortunately, have what we call the complete brain specimen available to me. I did not perform an autopsy.

Q Did you X-ray Mr. Watson's brain at all?

A It is very difficult to X-ray brain. In order to do that we have to admit the patient, do a lumbar puncture, inject air into intrathecal space, take him down to X-ray, take many, many pictures and then evaluate those pictures.

That is a pneumoencephalogram. An X-ray of the skull does not demonstrate an X-ray of the brain.

Q Well, pneumoencephalograms are not that rare, are they, Doctor?

A They are commonly used in neurology.

Q And you are a neurologist?

A I am a neurologist. I would not, incidentally, recommend nor did I feel that it would be necessary to do a pneumoencepahlogram.

This has some risk, some hazard. I saw no indication for doing a pneumoencephalogram.

Q Doctor, the last question here: Would you agree with this statement and you might recognize it:

"Attempts to correlate EEG's and abnormalities with psychiatric syndromes have resulted in a notable lack of success and a great deal of confusion due to the many conflicting reports"?

A I agree.

Q You wrote that, didn't you?

A Yes.

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MR. KAY: No further questions.

REDIRECT EXAMINATION

BY MR. KEITH:

Q Doctor, can you tell from your examination precisely what part of Mr. Watson's brain is suffering the chronic brain syndrome, or does it cover all areas of the brain?

A Well, the job of neurology is to identify areas of brain damage and I am embarrassed to say that in this circumstance I cannot do my ordinary function of saying ah-huh, it is in a particular area of the brain.

Let me elaborate a little bit on that.

The motor function, what I talked about, the ability of all extremities. We can localize that in part. We know that is not just the nerve cells that control, localize and send down impulses to muscles to produce. We don't have any signs of damage to those nerve cells.

The nerve cells must be damaged in some way or not working correctly beyond this motor function, but I cannot say that on the basis of my examination that the thalmus is involved or any other known area of the brain. This is a diffuse and global picture as I see it.

THE COURT: Did you say something about the slowness of the left temporal area?

THE WITNESS: Yes. This was of concern to me. As you know the electroencephalogram was performed prior to my neurological examination.

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1 Focal problems in the EEG may have a more ominous
2 connotation. So it was also a function of my neurological
3 examination to be sure that there wasn't some evidence of
4 focal disease -- left versus right.
5 And I paid particular attention in my neurological
6 examination to convince myself that there was no abnormality
7 of the right side, either sensory or motor, which would
8 correlate with the left-sided abnormality of the EEG.
9 Q You found the chronic brain syndrome then to be
10 diffuse, that is spread all over the brain?
11 A Yes. I could not make any localizing statement.
12 Q You told us you actually measured brain cells in
13 connection with your clinical studies.
14 A A number of years ago when LSD was being studied,
15 in 1964, we did measure in man from electrodes implanted in
16 the brain for other reasons.
17 We were studying these patients to see if we
18 could perform surgery for their epilepsy.
19 We did administer in five patients LSD and measured
20 the changes in the electrical activity that resulted from this
21 administration.
22 That paper was published, made no great contribution.
23 Briefly the LSD did enhance the electrical aspects, that we
24 were able to record in man.
25 Q By enhancing the electrical --
26 A Increased some of the electrical features. It made
27 it more responsive to outside stimuli, such as flashes or
28 clicks as an outgrowth of that study.

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18A

We also felt that it increases the propensity for patients who have already had seizures to have clinical seizures. We are no longer studying LSD.

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Q. You say you are no longer studying LSD. You mean you are no longer studying it in respect to your neurological --

A. I personally am not studying LSD and as an institution, UCLA is not studying LSD.

I am on the committee that is responsible for evaluating human research. I have been on the committee now for four years. We have not approved a study on LSD during that time, to my knowledge. This is true also for the State Department of Mental Hygiene.

Q. Theretofore UCLA conducted very extensive research into the effect of LSD; isn't that right?

A. Very extensive.

Q. Drs. Ungerleider, Cowan, and Dittman, a lot of men out there at MPI; isn't that correct?

A. That is correct.

Q. Doctor, what is the ingestion of some kind of a barbituate, assuming that to be the case, just before the undertaking of an EEG test, how does that affect it? Does it affect it in some way?

A. Yes, it does affect it but we can recognize the effect.

Routinely, we use either chloralhydrate, another sedative drug or a barbituate.

Q. You told us about the Seconal?

A. Yes.

Q. You were able to recognize the rhythmic changes, or what have you, in the EEG as a result of the ingestion of Seconal, but before the Seconal was administered, is there

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18A-2

anything on Mr. Watson's EEG indicating that he had taken some barbituate?

A. No. I saw no unusual fast tracings, activity, for drugs in the early portion of the tracing.

Q. That is what I was talking about?

A. That is right.

Q. Did you tell us that you observed Mr. Watson to have dilated pupils?

A. It is in my report. I did not include that in my letter to Dr. Suarez as an indicator of chronis brain syndrome.

It was an observation which I cannot explain. Dilated pupils -- forgive me for staring at you, I can't see from here -- is an abnormality.

There are several possibilities: One recent drug ingestion, most commonly atropine, belladonna-like drugs.

There is a neurological syndrome that goes with alterations in pupils, which is related to syphilis, but these dilated pupils were not of that character.

There is a benign disorder in which a pupil may be dilated known as Adie's pupil, but both pupils are dilated. I don't know what to do with that observation.

Q. However, does it lend some support to your ultimate finding of chronic brain damage?

A. No. I can't even say that, because I just don't -- I am not able to interpret the significance of bilateral dilated pupils.

THE COURT: It would be different if one pupil was

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18A3

1 dilated?

2 THE WITNESS: This would be quite different. That is a
3 very powerful neurological sign.

4 THE COURT: You spoke that you remember the EEG used
5 16-something and they used 8. What is that, Doctor?

6 THE WITNESS: Yes. It is really a function of the size
7 of the machine.

8 Our equipment for the most part uses 16 channels,
9 so that simultaneously we can record 16 channels of data from
10 the patient.

11 Atascadero has 8 channels. I hasten to add, how-
12 ever, that this in no way influences the technique. You can do
13 just as good a job with 8 channels as you can with 16. It
14 just takes twice as long.

15 Q BY MR. KEITH: Doctor, if you opened up Mr. Watson's
16 brain by way of surgery, there is no telling what you would
17 find, isn't that right, or would you expect to find no damage?

18 A That is a hypothetical question.

19 Q Yes. You told us that the EEG doesn't penetrate
20 deeply into the surface of the brain?

21 A That is true.

22 Q Do you cannot tell from the EEG what damage there
23 may be down deeper into the brain than the EEG penetrates?

24 A No, I cann't use the EEG to study deep brain
25 problems.

26 Q Did your neurological examination cast any light
27 on whether there is deep brain damage as opposed to more sur-
28 face chronic brain syndrome damage?

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PSYCHOLOGIST

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A. No. I was unable to make any inference or judgment about the location of superficial versus deep on the basis of the neurological examination.

MR. KEITH: I have no further questions.

MR. KAY: Nothing further.

THE COURT: Thank you, Doctor. You may be excused.

THE CLERK: Raise your right hand, please.

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.

JAMES O. PALMER,

called as a witness on behalf of the defendant, testified as follows:

THE CLERK: Thank you. Be seated.

Would you state and spell your name, please?

THE WITNESS: My name is James O. Palmer, J-a-m-e-s, initial O., P-a-l-m-e-r.

19f.

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#19

DIRECT EXAMINATION

BY MR. BUBRICK:

Q Dr. Palmer, can you tell us where you went to school, please?

A I attended the University of California at Berkeley, where I received my Bachelor's degree in philosophy, and my Doctoral degree in psychology.

Q Do you belong to any professional organizations?

A Yes, I am a Fellow in the American Psychological Association.

I am a Diplomate of the American Board of Professional Examiners.

I am a member of the Western Psychological Association and a member of the Society for Research and Child Development.

Q What is the nature of your present practice?

A I'm associate professor at the University of California at Los Angeles in the Department of Psychiatry, where I work with adolescents and adults in both the adolescent service and in the legal psychiatry division of the Department of Psychiatry.

Q How long have you been involved in formal teaching in psychology?

A Approximately 25 years.

I'm also a lecturer in the Department of Psychology at the University of California.

Q Did you do anything in the field of psychology during your military career?

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A Yes, I served in the old Army Air Force as a military psychologist for approximately two and a half years.

Q Have you done any writing in this field, Dr. Palmer?

A Yes, I have some 25 published articles, including three books.

Q In the field of psychology?

A In the field of psychology, yes.

Q Have you done any research in the field of psychology?

A Most of those papers are research papers.

Q Can you tell us what the field of psychology covers, Doctor?

A The field of psychology, in general, covers the scientific study of behavior of all organisms, my own field concentrating on human behavior.

Q Are there various specialties within the field of psychology?

A Yes, there are quite a few specialties.

Q Have you specialized in any one field?

A Yes, my specialty is known as clinical psychology; that is, I am engaged in the diagnosis and treatment of humans who have emotional or intellectual difficulties.

Q Does your work require that diagnosis, if there be one made, in a clinical atmosphere?

A Yes, most of my work is done with other professional people in the field of mental hygiene -- all of mine is.

Q Now, did you have occasion to examine Mr. Watson?

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A Yes, I did.

Q Do you remember when you first saw him?

A May I refer to my notes?

Q Yes, please.

A It was in March; I can give you the exact date here in just a moment -- March 19, 1971.

Q Would you call the broad aspect of a psychological workup some sort of a diagnostic study; is that what you tend to do?

A Yes, in a very broad sense of the word.

Q Prior to talking to Mr. Watson, Dr. Palmer, can you tell us how many people you may have examined with a view toward developing a psychological workup?

A Oh, I'd say over the 25 years I must have seen two to three people a week, sometimes much more frequently, especially during my military years.

Q Let's talk about that just for a minute.

What was your function in the military with respect to the attitudes of the people who were taking the exams?

A Well, some of the men -- it was not too much different than civilian -- but, of course, there were many men who were eager to get out of the service; a few that tried to hide any disability or any emotional difficulties in order to stay in the service, though they were rare.

Q You obviously were very conscious or aware of that.

A Oh, yes.

Q And as a result was this something that you always watched for as you administered the test?

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A Yes, this is part of any standard psychological examination, is to understand what we call the set of the person who is taking tests. That is, we must understand what his motivations are concerning the test, what he might be afraid will be found out or what impressions he might want to make on us, and so on.

Q In other words, a person could be something less than honest with you in an effort to get into some branch of military service, just as he could be something less than honest with you in an effort to get out of military service; is that correct?

MR. BUGLIOSI: It is irrelevant.

THE COURT: I will allow it.

THE WITNESS: Yes, that is true.

Q BY MR. BUBRICK: Now, getting back to Mr. Watson, then, can you tell us the various types of tests that were administered to Mr. Watson, if you can recall?

A Yes. I administered the Wechsler Adult Intelligence Scale; that is W-e-c-h-s-l-e--r, Adult Intelligence Scale; the Graham, G-r-a-h-a-m, Kendall, K-e-n-d-a-l-l,Memory for Design; the Rorschach techniques, R-o-r-s-c-h-a-c-h technique; the Thematic Apperception Test; draw a person test; and the Minnesota Multiphasing Personal Inventory, commonly known by the initials MMPI.

In addition I received further data regarding his behavior prior to -- during his high school and college years by sending to his high school and college for his cumulative record, which contained test scores of tests he had taken during his school years.

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Q Can you tell us very briefly, Dr. Palmer, the functions of each of the various tests that you administered, with any limitations on them, if they have limitations?

A Yes. The Wechsler intelligence scale is a general scale for adults -- for measuring adult intellectual efficiency. It consists of 11 different small tests on which the subject makes a score in each test and these are added together to obtain a total score and an intelligence quotient or I.Q.

Q Let me stop you there, Doctor.

Is this subjective or objective?

A No, it is a purely objective test. By objective, I mean that the subject is asked to perform tasks so that you can objectively see what he is doing and score it accordingly to right and wrong answers.

The Graham-Kendall Memory for Designs consists of 15 geometric designs. The subject is asked to look at the design for 5 seconds and it is taken away and he has to draw it from memory. This is a test of concentration and attention and is commonly used to assess perceptual memory, which is an element in brain damage.

The Rorschach technique is perhaps commonly known as the ink blot test; it consists of 10 cards on which there are ambiguous figures made as if one had splattered ink on the paper. This test, again, tests for perceptual difficulties as well as giving cues about the way a person handles his emotions.

The Thematic Apperception test is a test of fancy in which the person is shown a picture, kind of a photograph

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or painting, and is asked to make up a story with a plot about the picture, the story they would consider. It is a test of fantasy and imagination.

The draw a person test is simply to ask the person to draw a person of any kind they want, other than just a stick figure. THis test is used to -- for several purposes among children as an indication of intelligence -- and among both children and adults it can be used to indicate how the person sees himself, how firm his own personal identity may be, is one of the common uses of the test.

The MMPI consists of 556 statements to which the subject responds "True," "False." It is the most common and widely used of all such questionnaires in the country today -- or, around the world, really.

These are all the most commonly used tests in the United States today. They are all standardized; they have all been the subject of considerable research and refinement over the years.

Q Is there any one of these tests, Dr. Palmer, with which you have done any particular work?

A My own research study involved particularly the Rorschach technique, the ink blot test, and some work with both the Weschler -- with the Weschler, with the Thematic Apperception and with the MMPI.

Q Now, is it possible for you to generalize and tell us as a result of these tests that you administered to Mr. Watson, the kind of person you found Mr. Watson to be?

A Yes.

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Q. Will you do that, please?

A. Yes. First, regarding his intelligence, which was, I think that, yes, first regarding his intelligence, I think that first to understand this, one has to have some understanding of his current condition -- or, at least, the condition in March when I saw him -- one would have to have some understanding of his intellectual efficiency at earlier times in his life, and I made such an estimate based on the records I received from -- what's the name of that high school again? The school in, high school -- Copeville, Texas.

THE COURT: Copeville or Farmersville?

THE WITNESS: Wait a minute; Farmersville, Farmersville, Texas, excuse me.

MR. BUGLIOSI: Your Honor, may we approach the bench?

(The following proceedings were had at the bench, outside of the hearing of the jury:)

MR. BUGLIOSI: I don't want discussions in front of the jury, but he is going to -- what I think -- engage in gross speculation and say that based on the grades back there he estimates that Watson used to have an I.Q. between 110 to 120.

Now, I would ask the Court not to permit him to give that. This is a gross conjecture, again, a speculation; the test was never given then.

He is looking at the man's grades and saying that, "With those grades I would estimate the I.Q. would be 110 to 120."

He doesn't know anything about the Texas school

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system, how hard Tex was working, whether Tex was cheating; he doesn't know anything and I think it is extremely crucial that we don't get testimony in front of this jury that his I.Q. dropped from 110 or 120 down to 89 at the present time, unless there is some valid basis for it.

I ton't think this is an area that he can testify to.

THE COURT: Well, let's see if he can lay the foundation for it; if not, I will sustain the objection.

MR. BUGLIOSI: Instead of that, how about an offer of proof right now?

My understanding is he looked up the man's grades back there and he is going to --

THE COURT: If this man is an expert and can say that by looking at a man's grades over a period of time, whatever that was, "I can't evaluate his I.Q. with any reasonable degree," I think he is qualified to do it.

MR. BUBRICK: Isn't it a matter, really, of weight?

MR. BUGLIOSI: There is no I.Q. test --

THE COURT: All right, but --

MR. BUGLIOSI: No I.Q. test was given back there.

THE COURT: But based upon his accomplishments, school accomplishments, he may be able to form an opinion as to what his I.Q. was at that time.

MR. KAY: If he can lay the foundation that he knows what the Texas school system is like, what the grades were like back there --

MR. BUBRICK: I think he can do that. I think he can

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tell you on a national scale where the University of Texas is.

THE COURT: He doesn't have to be in Texas. I think an expert in his field would say that, based upon certain grades, he falls in a certain range.

MR. BUGLIOSI: But that is not the way it is. That is not the way it is, if you get a C in high school, that meant that you have an I.Q. of a certain number; you have got to take an I.Q. test. That is the whole purpose.

THE COURT: If he can do it, he is an expert; that's why he is an expert.

MR. BUGLIOSI: An expert cannot testify to everything, Judge.

THE COURT: Not everything, but certainly more than you and I can.

MR. BUGLIOSI: I agree, but this isn't one of them; no I.Q. test was given back there.

This is important.

THE COURT: But based upon further subjective scores, he may be able to form an opinion on what a man that makes these scores -- I don't know whether he can or not; I don't know whether he will be able to do it.

MR. BUBRICK: Could we take a recess, judge, and I will talk with him?

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

THE COURT: Ladies and gentlemen, we will have our afternoon recess at this time, and, once more, please heed the admonition heretofore given.

(Recess.)

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THE COURT: People against Watson.

Let the record show all jurors, counsel, and the defendant are present.

You may proceed, Mr. Bubrick.

MR. BUBRICK: Thank you.

Q I think when we stopped, Dr. Palmer, you were telling us something about Mr. Watson's intellectual function; is that correct?

A That is right.

Q And I think you started to tell us that in connection with that, among other things, you got a transcript of his grades back in high school in Farmersville, Texas.

A That is right.

Q Did you also get a transcript of his grades at North Texas State College?

A Yes.

Q Now, going back to the high school grades, along with the transcript of his grades there, Dr. Palmer, did you also get some results on some tests?

A Yes, the results on two standardized tests of educational achievement.

Q And what are those tests, please?

A The Iowa test of Educational Development and the ACT, which is an American college test, I believe.

Q Is there a term such as standardized that is used in connection with testing?

A Yes, there is.

Q What is a standardized test?

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A A standardized test is one where it is administered to large groups of people of various walks of life, such that the constructors of the test can then report several things.

They can report shall we call the range, that is a proper term, the range of behavior. That is we know from, say, a normal population, that is population of the public high schools, for example, how many people are able to answer certain questions of range of difficulty.

The standardized tests are usually given in repeated sequence, so that we may know how reliably or consistently people answer.

Also the validation of the test, which consists of giving other -- getting other measures or indexes of behavior and seeing how people who give certain kinds of responses to the test may behave in other situations as, for example, in an educational test such as was given in Mr. Watson's high school, the Iowa test, had been given nationally many times and it is known how high school students perform on this test.

It is known whether they are consistent on it and correlations have been made between their test scores and their actual grades both at high school and at college.

Q How about a ACT test?

A It is similar.

Q Also a standardized test?

A Yes. Both are tests used, widely used in nearly every high school in the country.

Q Dr. Palmer, is there any correlation between the test results and the intelligence quotient on the national

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standardized test?

A Not direct correlation, no, sir. The best one can make is an estimate of intelligence from the educational achievement test, the general range of intelligence.

That is one can tell from a person's educational achievement whether they are of generally low intelligence or high intelligence or in the average range but precise I.Q. correlations are not possible.

Q Can you tell from the test administered to Mr. Watson back in his high school years the range in which he fell on this test score?

MR. BUGLIOSI: Your Honor, I would like to take the witness on voir dire if possible after this question.

THE COURT: You may.

MR. BUGLIOSI: He may answer yes or no to this particular question.

THE COURT: Did you answer that question?

THE WITNESS: Can I tell. Is that the question?

THE COURT: Yes.

THE WITNESS: Yes. I can tell the range.

THE COURT: Go ahead, Mr. Bugliosi.

VOIR DIRE EXAMINATION

XXXXX BY MR. BUGLIOSI:

Q Are you familiar, Doctor, with the relative academic status of high school students in Texas as opposed to elsewhere?

A The test results here give some indication of that,

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1 yes.

2 Q Texas as opposed to elsewhere?

3 A High schools as opposed to elsewhere.

4 Q How does the Texas high school match up, let's say,

5 with high schools in Maryland?

6 A I don't know about Maryland.

7 Q What about Minnesota?

8 A Well, would an average help?

9 Q All right.

10 A He tested in the upper percent, belonging to the

11 brighter students of his high school, but at the average level

12 for nationwide.

13 Q He did?

14 A Yes.

15 Q Have you ever given this Wechsler test to students

16 in Texas?

17 A People from Texas.

18 No, I have never worked in Texas.

19 Q Have you ever given this Wechsler test to students

20 from the state of Texas?

21 A Yes.

22 Q Have you ever given it to students who had an A

23 or a B average in Texas in high school?

24 A I just don't remember. I don't know.

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Q You say there is not a direct correlation between the results on these tests and I.Q.; is that correct?

A Yes; people of average I.Q. by being very persistent can make very good grades, in what the educational people call "Over-achieved," and other people with high intelligence may not work at all and make low grades.

Q Would it be possible for a student, let's say, to get B and A marks in the state of Texas, in high school, and to your knowledge have an I.Q., let's say, of between 80 and 90?

A I would doubt it.

Q I said, is it possible?

A Possible, but improbable.

MR. BURRICK: I think that is objectionable.

Q BY MR. BUGLIOSI: Is it probable that a student with A's and B's in Texas, let's estimate, get an 85 or a 90 on the Wechsler; is that what your testimony is?

A I would say it is highly imporbable, yes; it would be a very unusual circumstance.

Q Would you say that the possibilities are extremely remote or what?

A Yes, extremely remote that a person with an I.Q. of 90 on the Wechsler would make above average grades in school, most anywhere.

Q What if that particular student on the Iowa test of educational development came out below average on a national scale, he was below average on the Iowa test, would that student, perhaps, have an I.Q. of around 88, 89, 90; would that be farfetched?

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A Below average?

Q Below average on the Iowa.

A You mean nationally?

Q Yes.

A No, not necessarily, because the national average is intended to predict college performance and college performance requires an above average to superior intelligence, such that the average is different there for the national than for the local.

Q Let's take this Iowa test: If a student came out average, nationwide, on an Iowa test, what would you estimate his I.Q. to be?

MR. BUBRICK: Your Honor, may I interpose an objection? I think it is improper voir dire; I think this is cross-examination.

THE COURT: Yes, this is cross-examination.

MR. BUGLIOSI: Well, I think it is a foundation for his testimony as to what Mr. Watson's I.Q. was back in Texas, your Honor, because I think he is basing it partially on the results of the Iowa tests.

Q Doctor, are you basing the estimate that you are about to give on the results that Tex got on the Iowa test, Tex Watson?

A In part, yes.

Q Let's say a student came out with an average grade on the Iowa test; what would his I.Q. be?

A If his average -- if he comes out average on the Iowa test, I'd say his I.Q. would be in the average to bright

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1 average range.

2 Q Which would be what?

3 A Oh, somewhere between 100 and 120, in that range.

4 Q If he was below average what would you estimate his

5 I.Q. to be?

6 A That, I would have more difficulty with because

7 there when you get to the below average scores on educational

8 achievement you don't know whether the student has, for some

9 reason or other, failed to fail at school but may be quite

10 bright; but if he does well at school and does well on the

11 educational achievement test, you may presume quite well that

12 he is of above average intelligence.

13 Q Well, Mr. Watson took this Iowa test in 11th grade

14 in high school; is that correct?

15 A Yes.

16 Q And he came out below average on that; isn't that

17 correct?

18 A Well, there is a whole series of scores here, so he

19 didn't do well on some, and some he did excellently on.

20 Q But overall he came out below average?

21 A No.

22 THE COURT: I am sustaining the objection; this is

23 properly cross-examination, not voir dire.

24 MR. BUGLIOSI: I would object, your Honor, to this witness

25 giving any testimony as to an estimate of Mr. Watson's I.Q.

26 back in Texas. It is purely speculative; and it is conjecture.

27 No I.Q. test was ever administered to Mr. Watson

28 back in Texas. This is not within the, I think, permissible

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realm of expert's testimony.

THE COURT: I don't agree with you. The objection will be overruled.

MR. BUBRICK: Thank you.

DIRECT EXAMINATION (RESUMED)

BY MR. BUBRICK:

XXXXX Q Do you remember the last question we had pending, Dr. Palmer?

A No, I don't.

Q I think we were talking about his national rating so far as the test scores in Texas, and how they compared nationally.

A Yes.

Now, there are two sets, of course, the Iowa test and the ACT.

Q Yes.

A He at that point was in the 11th grade. He did best -- better than three-quarters of the population on one section of the Iowa test known as quantitative thinking, a percentile of 78.

That means he was better than 78% of the average high school population in the United States.

He was at good average level in the average range on reading and social studies and on reading of natural science and on reading in general.

Excuse me if I delay here, but the Xerox is not quite clear.

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Q Surely.

A He was below average in only the first quartile -- that is, at about the same as 25 percent below -- below 75 percent of the population in natural science and in -- what is this -- well, I can't rightly read the Xerox here, but it is a test which is of verbal special -- like writing essays.

Overall, his percentile -- excuse me, this is not an overall test; this is a test for his ability to look up things, to find resources, to find information; and that is at the 58 percentile, or at about somewhere between what the average student and the above average student would do.

From this one might predict, of course, that he should have done well in anything to do with arithmetic and mathematics. He would have had more difficulty in studies involving -- in writing essays or in science; but doing fairly well in most other subjects.

This means that overall this was a young man who functioned in the bright average level, bright average range of intelligence. I couldn't put an I.Q. number to it precisely, but above average.

Q Could you give us the range that that would cover by way of I.Q.?

A Somewhere, average I.Q. is 100, then this would be 110 and above, 110 to 120.

This is the range that one normally sees among junior college students. It is the range required for entering officer training school in the military, and so on.

Q Did you administer a test to him, Dr. Palmer, in an

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effort to see what his I.Q. is at the time you examined him?

A Yes, that was the Wechsler, W-e-c-h--s-l-e-r, or Adult Intelligence Scale.

Do you want me to --

Q Yes, will you, please?

A -- give the results of this?

Q Yes.

A In March he was functioning at -- in the dull, what is known as the dull normal or borderline range, with a full scale I.Q. of 88; and his I.Q. on both of the verbal and non-verbal section was similar I.Q., 89, which there is no significant difference between those numbers.

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This is approximately, I would estimate, anywhere from 15 to 20 points lower than his range of intelligence as shown by his educational achievement tests and grades in high school and college.

Q When this test was administered by you in 1971, when you gave him this test, Dr. Palmer, was there any conscious effort on your part to look for malingering?

A Well, I would say particularly here, of course, since I was aware that Mr. Watson was on trial for his life, but this I do with every patient that comes before me.

Malingering in the general sense of a conscious attempt to in some way mislead the examiner, to give an answer which might appear to influence the examiner's judgment, is common with every patient that comes before me.

I would say that some degree of it is true with normal people who come to see a psychologist. They very possibly don't want to give away anything that they thought I could see secretly in their mind -- although I don't mind read. It is part of every clinical examination to have some awareness of the attitude and motivation of the subject taking the test, yes.

Q Did you find any evidence of malingering or what you thought was malingering on the part of Mr. Watson?

A No. Well, let me define that a little bit, if I may.

Mr. Watson came in looking bewildered. I will make it more positive: He was bewildered. He wasn't quite sure of what this was about.

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I did as I do with any subject that comes before me. I sat him down and before we began the test I asked him if he knew what was up, what was going on, why he was there, who I was.

He was rather vague about all of this. When I asked him, you know, was he aware that he had seen many doctors and he said yes, and I asked him a little more about what kind of things the doctors had done and I asked him if he had taken any tests that he was aware of and he said he wasn't sure.

I explained a little more -- had some psychologist sat down with him and asked him to answer a lot of test questions and he said this had happened at Atascadero, but he didn't seem to remember much about what this was about except that he didn't remember having taken some tests there.

I gave him then the usual instruction, so to speak, that I give all my subjects. I told him that it is common for those of us in the mental health profession to sit and talk with people, but that in this instance, instead of just talking, I was going to ask him to do things, to see how he thought in his way of looking at things, that this was what this was about this morning.

Mr. Watson replied that he was very concerned about this, that he was worried that he might be confused in his thinking, that he had times in which he found he wasn't thinking at all.

I can give some almost exact quotes, if I may refer to my notes. He had trouble, a great deal of trouble, quote, thinking and he had quote, blank moments in which no

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thoughts occurred to him at all and as he explained it, he was worried about this and he hoped that in some way I might help him on this.

I told him that I would try to help him, but first I needed to know what he meant by this and I could tell a little bit better if he would cooperate and answer the test, and he was eager to do this because he said he was very uneasy about his own mental process and thereafter he worked very assiduously.

He had moments in which he didn't respond and seemed to be looking blankly at the wall and I repeated the quetion and he would come to and say, "Excuse me, Doctor," and then try to answer the question.

All through I had the strong impression that this young man was struggling very hard to try to achieve throughout the I.Q. test, trying to cooperate through all tests, because he himself was motivated to try to get some grasp of what he thought was wrong with him.

So to me this was contraindicative of what one generally means by malingering.

Q How would you expect somebody who was malingering to respond to these tests?

A. Well, a little differently on each test. On tests of intelligence, people who are trying to feign being stupid say, "I don't know," to very simple questions but usually their pride gets in their way and when they come to a more difficult question, they answer that one correctly and so you see a spotty pattern of responses to the I.Q. test in which

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they are obviously trying to fool you at the lower end and forget about fooling you. They can't keep it up.

Or on the MMPI, there are certain scales that give you indications of whether the person is being overly proper or being, trying to exaggerate his complaints or being excessively defensive.

These are built in as part of the MMPI.

Q. Sort of a falsification scale built into some aspects of the test itself?

A. On the MMPI.

On the Rorshach test the question of malingering is not so great because there are quote no right or wrong answers. This is a test by associations.

Q. Sort of a subjective test, is it?

A. We use the term projective, that is in the sense that a person projects his own mental processes, his own associations on to this meaningless ink blot.

He tries to make some meaning out of it. So that any responses the subject makes, the person who is trying to malinger or duck out of things there is likely not to give any response at all or to give some very simple response, hoping he can get away with it.

But, of course, in the Rorschach test, after the free association is given, the examiner then proceeds to ask him to explain each response in what is known as the inquiry, like a cross-examination, so to speak.

Q. Can you tell us just a bit about the MMPI test, Dr. Palmer, what it is intended to cover and what it shows

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about the person who takes the test?

A. Yes. Originally, it was made up to give a clearer picture of various mental disorders, as was then conceived in approximately, I think, 1938, when the test was first made up.

At that time, of course, psychiatrists and psychologists were interested in pinning a diagnostic label like schizophrenia or hysteria, or so on, to a person and this was considered the naming of psychiatric diagnosis.

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However, since that time both on the MMPI and in general in psychiatry we have realized that most of our patients have a wide range of disturbances, such that they may have more than one diagnosis.

Over some 30 years or more that the MMPI has been studied, it has been discovered that people may have high scores on several of these scales of diagnosis, that are diagnostically labeled like schizophrenia, mania, hysteria and so on so that the analysis of the MMPI is now what is known as a profile analysis.

We look at a pattern of scores rather than any one score.

Q Is there more than one phase to the MMPI test?

A There are nine scales, plus the three so-called validation scale -- nine commonly used scales. There are also many special scales that have been developed too.

Q Is there anything that one does or may do with a MMPI score, so far as running it through a computer is concerned?

A Yes. There are several computer programs, including one developed by my colleague, Dr. Alex Caldwell at UCLA.

Q Did you run Mr. Watson's MMPI score through a computer?

A Yes. Although I myself consider myself expert in the analysis of the MMPI, since I was -- I am old enough to have been around when the thing started off -- nevertheless because Dr. Caldwell's computer analysis, as my computer, has more variables than any one human mind can keep in mind,

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1 I felt it would be helpful to have an anonymous analysis
2 of Mr. Watson's responses.
3 Thus I gave the sheet on which Mr. Watson gave his
4 responses to Dr. Caldwell but with no name on it.
5 So Dr. Caldwell didn't know that this was Mr.
6 Watson's responses. He had an anonymous test.
7 Then Mr. Watson's response pattern was fed into
8 the computer, which has been programmed to show the kind of
9 behavior commonly associated with certain test patterns on
10 the MMPI and the computer than typed out a description of
11 people who have certain patterns, such that we know not only
12 the standard answers on the MMPI, but we know the standard
13 types of behavior for certain patterns out of the computer.
14 Before I received any response from the computer I
15 made my own analysis of the MMPI from my own knowledge of the
16 response patterns.
17 Q And were your results and the computer results
18 compatible in your opinion?
19 A Thank goodness they were, yes.
20 Q Does the type of testing that you do, Dr. Palmer,
21 also permit you to determine any motor handicap difficulties
22 that a person would have?
23 A Yes. By motor difficulties, I would say difficulty
24 in coordination between what one sees and one's hand movement,
25 yes. That type of behavior is measured by several of the
26 tests I gave Mr. Watson.
27 Q Which of them specifically measured motor?
28 A The Graham-Kendall is specifically for this, the

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memory for deisgns test, that is. Certain tests on the Wechsler also give some measure of this. Tests of perception, perhaps the very test of perception, perceptual ability, that is ability to see things clearly and coherently is the Rorschach test.

Of all the tests which have been utilized for the behavioral measurement of possible brain damage, the Rorschach has turned out to be the best in research.

Q I was going to ask you, Doctor, whether as a result of all these various tests that you have talked about, so far as they measure motor functioning are concerned, whether you drew any conclusions from them.

A Regarding Mr. Watson?

Q Yes.

A Yes.

Q Regarding Mr. Watson?

A Yes.

Mr. Watson's responses to the tests -- and I want to emphasize this is his behavior -- his behavior is very comparable to patients who suffer from a generalized disfunction of the central nervous system of the brain.

Q In what respects?

A In several respects.

First, he reverses figure and ground.

By this I mean if you give him a simple drawing, he draws it inversely. He draws it inversely, backwards, which is very unusual.

People may not draw it correctly or leave out

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1 pieces, but such rotations, or he reverses all of the design, are
2 quite rare.
3 His Rorschach responses were marked by several
4 of the common signs of brain damage as they are known in
5 Rorschach studies.
6 That is by perseveration, which is a repetition
7 of the same response to different blots, even though they don't
8 fit. Perseveration in everyday life means you give the same
9 answer, kind of helplessly because you cannot figure what else
10 to do.
11 By a perplexity of "Well, maybe," but not in a
12 sense of evasiveness but "Well, it could be," and then when you
13 ask him to tell a little bit more he gets more puzzled and
14 more perplexed.
15 Let's see other things on the Rorschach that I can
16 think of. His inability to deal in and integrate various pieces
17 of the blot. Most people look at this ink blot and either they
18 separate off a piece over here and say, well, that looks like
19 such and such or another piece over here, that seems to be
20 something else, or they can look at the whole blot and decide
21 well, that gives me a general impression of this.
22 Mr. Watson would give a response and you would come
23 back to him and then he would be very unsure. He would say,
24 "Well, did I say that. Well, now, I don't know," and so on.
25 And you would ask him more specifically, "Well,
26 tell me a little more how you saw it."
27 "I don't know now," but I didn't feel he was
28 ducking me. I felt he really kind of lost track of where he

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perceptually.

Most of all throughout not only on the Rorschach, there was a general kind of helplessness -- "Is that right?" Checking back with me, wanting to know about this kind of thing. Again I see this as distinct from evasiveness.

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22B

Q Your impression was, your diagnosis was that he was brain damaged; is that correct?

A My diagnosis would have to be more cautious here, Mr. Bubrick, and that is that his behavior on the test is very similar to people who have known brain damage diagnosed by neurologists, yes.

Q Have your yourself ever been around people with known brain damage?

A Oh, yes. I worked four years with the brain damaged children at the Sanoma State Hospital.

I have consistently associated with the Department of Neurology at UCLA, at Washington University where I first taught and so on and I do a great deal of examining of brain damaged children and adults.

Q In summary then, Doctor, can you tell us what sort of a psychological person you found Mr. Watson to be and some gross areas as you have examined him on the date that you did?

A Yes. As I say I saw him first as functioning in the dull normal to borderline intellectual range and interpreted this as a loss of intellectual efficiency contrasted with his performance in the educational achievement test in Texas.

I saw him as showing many signs of quote "brain damage," that is behavioral signs of it.

In addition on the emotional aspect he gave every evidence on across the board of being severely depressed and confused.

He particularly seemed to be not sure at all of who he was. This was demonstrated on his test responses in

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1 various measures and indicators we have as to a kind of
2 firmness of identity -- how well one person feels about himself,
3 his drawings, his histories, his association to the ink blots,
4 very indefinite.
5 His feeling that he had very little identity. He
6 himself several times spontaneously mentioned that he was not
7 sure whether his name was Watson or Manson and when I asked him
8 to draw a person, he asked me if he could draw a picture of
9 Manson and I agreed to this and then I asked him to draw
10 another person and then because of his difficulty in this area,
11 I asked him also to draw a picture of himself.
12 These were very indefinite pictures. These are
13 not tests of his artistic ability at all, but these pictures
14 usually give some indication of how firm a person's sense of
15 his own self is and this seemed to be one of the most indefinite
16 things in his personality. He was just not sure who he was
17 or how much of a person he is.
18 23 fls.
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23R-1

CROSS-EXAMINATION

BY MR. BUGLIOSI:

Q Doctor, you were not appointed by Judge Alexander, were you, to examine Mr. Watson?

A I'm not sure. I was --

Q Did you ever get a letter from him, from Judge Alexander?

A Yes.

Q All right.

A Not a letter -- here, just a moment; what did I do with that?

Something -- that I was not aware of, that in someway I was supposed to be appointed by the Court, but I don't find it now.

MR. BUGLIOSI: May it be stipulated that he was not appointed by the Court, your Honor?

So stipulated by the defense?

THE COURT: I think Judge Lucas.

MR. BUGLIOSI: By Judge Alexander --

MR. BUBRICK: By Judge Alexander, he was not appointed.

MR. BUGLIOSI: So stipulated?

MR. BUBRICK: Yes.

Q BY MR. BUGLIOSI: The first person to contact you was Sam Bubrick; is that correct?

A Regarding Mr. Watson?

Q Yes.

A Yes.

Q There are quite a few psychological tests that can

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be given a person; isn't that true; Doctor?

A. Yes.

Q. For instance, you have heard of the Bender-Gestalt test?

A. Yes.

Q. What do these tests consist of and what is the purpose of the test, very briefly?

A. It is very similar to the one I described as the Memory for Designs, except it does not require memory; it requires copying, simple copying of 9 geometric forms.

Q. Did you give Mr. Watson a Bender-Gestalt test?

A. No.

Q. What is a Benton Visual Retention test?

A. This is, again, a test very similar to one I described here in which a person tries to retain visual form. It is not one I give commonly or familiar with.

Q. You did not give Mr. Watson that test?

A. No.

Q. How about Goldstein-Sorting test?

A. No, I did not use that.

Q. What sort of test is that?

A. That is -- it is a long time since I have used that -- it is a test in which the various forms of the -- one in which a person is asked to sort objects that belong together or to separate objects that do not belong together, to sort out the yarns of different colors.

Q. Very briefly, Doctor, I am going down the list of these tests; don't go into detail.

You did not give him the Goldstein Sorting test?

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1 A. No.

2 Q. What about the Goldstein Schurer Cube test? What

3 does that consist of?

4 A. That consists of copying designs with colored

5 blocks. I did give a form of that as part of the Wechsler

6 test.

7 Q. What about the Goldstein Schurer Stick test?

8 A. No, I didn't use that.

9 Q. Have you ever heard of that test?

10 A. Yes; oh, yes.

11 Q. YOu did not give him that test?

12 A. No.

13 Q. What about the Haufmann-Kasanin corrupt formation

14 test?

15 A. Do you want to describe it?

16 Q. Very briefly, describe it and then indicate whether

17 you gave it to him.

18 A. It consists of little colored blocks, the bottom

19 of which there is a nonsense syllable, and without looking

20 at the bottom of the block the subject is to sort them into,

21 if I remember, three different forms.

22 Again, this is not a widely used test anymore and

23 I haven't used it for years.

24 Q. What about the Healy pictorial completion test?

25 A. That is a test for children.

26 Q. Is it ever given to adults?

27 A. Not commonly anymore, no.

28 Q. Talking about tests for children, isn't the

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1 Draw a Person test, wasn't that originally designed as a
2 technique assessing intellectual levels in children --
3 A. Known as the "Good Enough Draw A Man Test" is the
4 test for children; but the Draw A Person test is used for
5 adults.
6 Q. How about the Hunt-Minnesota test for organic
7 brain damage? Did you give that to Mr. Watson?
8 A. No.
9 Q. What does that test consist of?
10 A. I don't remember that one. I saw it briefly in
11 my studies and I don't know anyone that has used it for years.
12 Q. What about the Partington's Pathways test?
13 A. That's kind of a maze, so to speak. It's like the
14 kind of thing that -- oh, children used to do for puzzles where
15 you followed dots back along and back around to find the
16 design, you know, the hidden design.
17 Again, it is not a well standardized test and I
18 don't use it and I don't have many people that do.
19 Q. What about the Shipley Institute Living Scale
20 test?
21 A. That's a brief test of intelligence and I didn't
22 use that, since I had a full intelligence scale; I didn't need
23 it.
24 Q. What about the Wisconsin Card Sorting test?
25 A. I have heard of it but I have never given it and it
26 is not one of the most common tests used. I don't know that
27 one.
28 Q. What about the Sentence completion test; that is

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a very common test?

A. Yes, that is a very common test. I might have given it, but it is a test of association, one completes the sentence, a given sentence.

However, I had a good test of association in the Rorschach; I had a good test of it in the TAT and I deemed it unnecessary to duplicate these.

Q. What about the Word Association test?

A. AGain, I had a test of association and I didn't use it.

Q. Rosenzweig Picture Frustration test?

A. Oh, I am very familiar with that one because I worked with Professon Rosenzweig and made up one very similar for teen-agers.

This test is really one for lookingat a person's attitudes towards frustration. It probably would have been appropriate here, however, it does take a certain degree of concentration and I didn't -- I admit, I didn't consider giving it.

It is not one that I usually give anymore; partly because it can be -- there is no way of knowing how a person dissembles on that test very much at all. It has been one of the troubles that Professor Rosenzweig had with it and it has been one of my headaches in trying to use it with teen-agers.

Q. How about the Guilford-Martin Tempermental Profile test; that is not an unusual test, is it, to be given?

A. I don't believe it is among the top 20 tests given in the nation by clinical psychologists in a clinical setting.

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1 It is much more of a research instrument used for measuring
2 temperament of normal people, college students, as a research
3 instrument. It is not commonly used clinically.
4 Q You have heard of the Proverbs test, of course?
5 A Yes, but that is not a test, in a sense. We don't
6 know the standard answers -- well, we do know the standard
7 answers to it. Some Proverbs are included on the Weschler.
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#23A

Q So you gave Mr. Watson the MMPI, the Wechsler, the semantic apperception test and draw a person and the Graham-Kendall test?

A Yes.

Q These tests, I think you'll agree, Doctor, are merely diagnostic aids; is that correct, they are not conclusive of everything, they are diagnostic aids?

A They are used in association with other clinical materials, commonly, yes. They can be used independently, but most commonly they are used separately.

They are another piece of data in a total clinical picture in most clinical settings, along with the neurologist, psychiatrist interviews and so on, yes.

Q Were you present at the time that Mr. Watson took all of these tests?

A That he took all of them?

Q Yes.

A I believe he was in the hallway with a guard at the time he filled out the MMPI, according to my memory; this is also a very common way of doing it.

Q All of these tests were administered out at UCLA?

A Yes.

Q None were administered at the County Jail?

A No.

Q Would you say that there is a standard procedure that you follow in interpreting these tests?

A Very much so, yes.

Q Is it kind of a three-portion procedure, three-step --

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A Three portion?

Q Three-step procedure?

A I'm not clear as to what you are referring to.

Q What procedure do you normally follow in interpreting these tests?

A Well, first I make sure that the tests have been completed; that is, for example, if the subject has not filled in the MMPI items, I make sure he does before we are through. Then I score the tests.

I count the number of correct responses or incorrect responses of the Wechsler, on the intelligence test. I count the patterns of true-false on the MMPI. I score according to certain scoring methods, the Rorschach technique, the TAT -- that's the thematic apperception test; excuse me, if I use the initials, TAT.

The formal scoring of that is not commonly used, although I was trained in it at one time; but, rather, I analyzed that by going through the common themes of the writing down, the theme of each story told, looking at the total number of times that the subject has repeated the same kind of story, the same kind of plot, as to the completeness of his plots, and so on.

The Graham-Kendall memory for designs is similarly scored according to a standard scoring book, and then I get these total scores from all the various tests.

The draw a person is not scored, and that is the most subject of all tests, and I do not -- I would never depend on that test, alone.

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Q After you get all of this test data you interpret this test data all by itself; is that correct?

A Before I hear the history?

Q I don't know, I'm asking.

A That varies. Usually, of course, my testing is -- my examination is conducted for a purpose.

That is, the person says, usually some doctor or attorney or a judge or someone else, asks me to examine the patient and I say, "For what purpose? What's the question?" And this so that I have that in mind.

I don't just randomly give tests to see what the person is like. I want to know what the question is so that before I interpret I do know and look at certain scores and items to see whether or not I have examined the patient for the purposes indicated.

Q Isn't it the customary sequence to examine the test data all by itself --

A Yes.

Q -- alone, and then to re-interpret the test data in the light of the person's history?

Isn't that the general consensus among psychologists as to the preferred sequence?

A Yes.

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are at times, but in this instance when I later conferred with my colleagues, psychitrists and neurologists, I found no gross inconsistencies between what I had found and what they were saying and I saw no need to go over and reanalyze the responses.

In other instances, other times persons give one picture to me and another picture of himself when he is being interviewed, or when he is behaving on our psychiatric ward. Then we have to sit down and look at the inconsistencies that we see from various sources of data, but in this case we didn't.

Q In any event, at the time that you interpreted the test data, you did not know hardly anything about Mr. Watson's past history?

A Very little.

Q Let's talk about the Wechsler test, Doctor.

You have mentioned his grades in high school. I think you emphasized them.

Mr. Watson's grades in college back in Texas were in the low C's; isn't that correct?

A That is true.

Q Now, could you draw any correlation between a student who gets low C's in college and, let's say, an I.Q.? You have done that already?

A Yes, oh, yes.

Q All right.

A I could. This is one of the things that we didn't cover too well when Mr. Bubrick was asking me questions earlier.

You see what Mr. Watson did was he did well in his

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1 own high school and he also was doing well on the educational
2 achievement tests, as compared with others in his own high
3 school, but his educational achievement test at that time
4 predicted that he would have difficulty -- he was below what
5 people who went on from high school into college would do on
6 the tests.

7 It was understandable that when he got to college
8 -- here he had been a bright student at Farmersville, wasn't
9 it? At Farmersville, and successful.

10 But as it sometimes happens, the bright student
11 from a small school -- and bright as compared to his immediate
12 peers, the other kids in the school -- does have difficulty
13 when they are competing with the bright kids from across the
14 country or across the state.

15 Q Doctor, we are getting off on a tangent. I will
16 ask you the question again: Will you draw a correlation
17 between the student who gets low C's in college, draw a
18 correlation between that and an I.Q.?

19 A A person who does C, average work in college --

20 Q No; low C's, Doctor.

21 A Okay, low C's -- in college will range in I.Q.
22 somewhere from average to bright average.

23 Q You say that a student who gets low C's in college
24 will have an I.Q. normally between 110 and 120, would you say?

25 A Yes. C is an average grade in college.

26 Q I am talking about low C's, Doctor.

27 A Yes.

28 Q Low C's, C-minus

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A. All right.

Q. All right.

A. And these can vary up and down.

Q. All right.

A. So that sometimes he had B's and others were F's.

24Af.

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#24A

Q Do you have any literature to support you that a student with a low C in college would have an I.Q. normally between 110 and 120? Any literature?

A I cannot quote it on the stand. I don't have it with me but I am aware that generally -- people who are in college are above average in intelligence, usually superior in intelligence, that is ranging in I.Q. from 120 and above.

Q People who are in college are of superior intelligence?

A Right. The I.Q. of the college student runs 120 and above.

Q And someone who gets a low C, Doctor, at North Texas State College?

A Yes.

Q You don't think that person to be of superior intelligence, do you? North Texas State?

A Okay. May I explain further?

Q Yes.

A Okay. So if you are looking at a college population, you are looking at a very special population of people who function intellectually better than at least 90 percent of the population.

A C is an average grade, or even a low C is still in the average grade.

Thus anyone who can do average work at a state college of some repute -- and North Texas is an accepted college in the United States, must --

Q What do you mean by an accepted college?

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24A-2

A Well, for instance, when graduate students are being selected to the University of California, North Texas would be considered a reputable college. That is graduates from this college -- at Denniston, Denniston, Texas -- people who make good grades at Denniston would be considered good bets for admission to graduate study at UCLA and I imagine to other universities of similar stature.

Q What are you basing this conclusion on? Do you have any personal knowledge of this?

A Oh, yes. My wife works in the graduate department, graduate admission.

Q You have people from North Texas State?

A I am not sure of that but I do know of North Texas State and its general reputation is fair.

Q But you don't know if there are any transfer students from North Texas State to UCLA graduate school?

A I couldn't swear to it now.

Q Well, I believe you testified earlier that someone with B's and A's in high school in Texas would probably have an I.Q. of between 110 and 120, would be someone with low C's in college in Texas.

A Similarly because again if you are comparing to the college population and you have an I.Q. of 110, then you are below average for the college population. Do you understand what I mean?

Q Well, I just want to get this down on paper here.

A It may be a little complicated.

Q Low C's in Texas is you feel between 110 and 120

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1 I.Q.; is that correct?

2 A I would say that would be a modest estimate, yes.

3 Q Now, we are going to recess very shortly and if

4 you could bring some literature to court tomorrow I will waive

5 any hearsay objection, anything indicating that someone with

6 a low C in Texas is most likely to have an I.Q. of between

7 110 and 120.

8 What about a B average in Texas? Would that person

9 have an I.Q. of around 150, Doctor? Would he be a genius?

10 A No.

11 Q What type of I.Q. would he have if he had a B in

12 Texas?

13 A Again I have to assume that North Texas State is

14 a comparable college to any college in the United States.

15 Q All right. Let's say a person had a B average at

16 North Texas State.

17 A Like he would have a B average at California State

18 or B average at Iowa State or anywhere. Is that what you mean?

19 Q Do you think there is a slight possibility that

20 you might be increasing the academic reputation of North Texas?

21 A I have no reason to feel that it is below average.

22 As I say the general reputation, it is a known college of fair

23 reputation among my colleagues and as reported to me personally

24 by my wife and other people who work in graduate admissions

25 where I am familiar with the work.

26 Q You are not aware of anyone transferring from North

27 Texas State to UCLA?

28 A I don't work in the admission office myself.

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MR. BUGLIOSI: Thank you, sir.

It is five after 4:00, your Honor. Does the court want to adjourn at this time?

THE COURT: We will recess at this time.

Ladies and gentlemen of the jury, we will recess until 9:30 tomorrow morning.

During the recess do not form or express any opinion in this case. Do not discuss it among yourselves or with anyone else.

Please keep your minds open and please, ladies and gentlemen, do not read any reports of this case in any of the newspapers, try not to listen to any radio or see any television concerning this case.

Thank you.

(An adjournment was taken until Wednesday, September 8, 1971 at 9:30 a.m.)

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LOS ANGELES, CALIFORNIA, WEDNESDAY, SEPTEMBER 8, 1971; 9:30 A.M.

- - -

THE COURT: People against Watson.

Let the record show all jurors are present; all counsel and the defendant are present.

Mr. Bugliosi, you may proceed.

JAMES O. PALMER,

resumed the stand and testified further as follows:

CROSS-EXAMINATION (CONTINUED)

BY MR. BUGLIOSI:

Q Doctor, did you bring any literature with you this morning indicating a low C average at North Texas State that would have a particular I.Q.?

A Yes.

Q What literature is that?

A I went to the library at UCLA and looked up the question of relationship between I.Q. and college success.

Q No, I am talking did you bring any literature to the court with you, any article or any book or anything like that that we can look at?

A I copied out of a book.

Q I'm afraid that would be hearsay, Doctor --

MR. BURRICK: Objection, your Honor.

THE COURT: Just a moment.

Just a moment; you will disregard that remark,

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1 ladies and gentlemen.

2 That would be no more hearsay than the book,

3 itself, would it?

4 MR. BUGLIOSI: Well, it is his statement that he copied

5 something.

6 THE COURT: Well, the book, itself, would be hearsay,

7 too, wouldn't it?

8 MR. BUGLIOSI: That is true.

9 THE COURT: Disregard that remark, ladies and gentlemen.

10 Go ahead; you may proceed.

11 Q BY MR. BUGLIOSI: Did you read any particular

12 article or any book indicating that a low C at North Texas State

13 would have a particular I.Q.?

14 A I read a book regarding I.Q. and university

15 success, in general.

16 Q What is the name of the book?

17 A The name of the book -- the book is written by

18 Donald Super, S-u-p-e-r; and the title of the book is Appraising

19 Vocational Fitness, 1968 revision.

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Q What does the book indicate with respect to a low C at North Texas State?

A First, I would remark that a C grade at a class A university, such as Texas State University, is an average grade. He was an average college student.

Q Before you go any further, doesn't your report indicate that he got low C's in college, if I'm not mistaken? Let me have just a moment here.

A If so, I might correct that.

Q At page 3 of your report -- do you have your report with you?

A Yes. Just a moment.

Q I thought I read somewhere that he got low C's in college. I may be mistaken.

Line 5 and 6:

"When compared to those who actually went on and succeeded in college, he was below average."

If average would be a C, would that indicate a low C or a D?

A No. I was talking there about his achievement test taken in high school.

Actually he did maintain about a C average. This average, however, of course, like any average -- well, in Mr. Watson's case his grades covered quite a range.

He had A's in such -- it looks to me like a third year course in American Constitution and Texas Government, he got an A. He got A's in physical education. I understand

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he was a football player at one time. That is understandable.

He got B's in geography, psychology, economics, all university level courses.

On the other hand he failed completely -- what is this? Composition and rhetoric. He took it over again and get a C. So he was maintaining -- this was my rough estimate that he was an average college student.

Q He got some F's in addition to that then?

A Let me look down this list. Yes, there are three F's in three years, two of them in the same course and another one in finance and in his very last year he got an F, in the last year he was there, which must have been his junior year, the third year, he had three B's, a C, and an F in finance, which is about a C average.

Q My photostatic copy --

A When you photostat a photostat it is hard.

Q Did he get a D in Themes and forms -- is that the language? Themes and forms.

A Yes. This was predicted too from his -- apparently his talents did not lie in writing essays, in expressing himself in language as is true sometimes in people who are majoring in business.

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3R-1

Q Besides English, he didn't lie too well in mathematics, also; is that right?

For instance, he got a D in mathematics for business; is that right?

A Yes.

Q And he got an F in finance?

A Yes, even though his talents were in that direction. I don't know how to explain that, but his average across the board is around a C. They don't give a grade point average on this, as many universities do.

Q So it is your belief that a C, then, would be equivalent to what?

A To an average college student.

Q And that would be an average I.Q. of what?

A Shall I continue?

Q Yes.

A Okay; Dr. Super in his book quotes on Page 86: A study by Hauffmann done at Oberlin College, that 65 percent of entering freshman who are below I.Q. 110 failed; and, again I am quoting, in another college of less prestige than Oberlin, there were practically no freshman with I.Q. below 110.

This is at the college level and Mr. Watson was attending a Class A university.

In a subsequent paragraph Super states, quote: Data on the Wechsler Bellevue has been summarized in a study in 1958 showing that the average liberal arts college freshman has a Wechsler I.Q. of 116. The average student, one of 120.

That is, that the entering college freshman has an

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I.Q. slightly below the average for all students at a liberal arts college. Again, I would submit that a Class A university, such as North Texas State University, probably has a better selection than would the average liberal arts college; that is, their educational requirements are probably higher, as most universities are.

The University of North Texas, a state university, is probably comparable, as best I can ascertain, to state colleges elsewhere; such as Ohio State, or Michigan State or our state universities here in California.

Q Why did you select Oberlin there?

A Only because this was where this particular research was conducted, as an illustration.

Q Are you familiar with the academic requirements at Oberlin?

A Only generally. It is a fairly stiff little college. They have a high scholastic standing.

Q And Oberlin was used in that report --

A In that one study --

Q -- as a --

A -- other studies, however, done at other universities, the general idea here, and I perhaps could have looked up more, but at least these three different studies cited here suggest that in general it was, and insofar as one can generalize, from the studies of various colleges that a C student at a major university would have an I.Q. of about 120, give or take a few points.

Q On the Iowa test of educational development, you

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1 indicated that Mr. Watson's grades were below average; is that
2 right?
3 A Let me look at that again -- may I look at that
4 again?
5 Q Yes. I believe he took this exam in the 11th grade
6 in high school.
7 A Yeah, I've found it. Well, there is quite a
8 variation in his scores on this test. That is, they range from
9 at one point he is better than three-quarters of the national
10 average; this is in quantitative thinking; and on another point,
11 if I read it correctly here -- these Xeroxes are hard to read
12 -- at another point, and this was on what, social studies --
13 he is only at the 15 percentile. In other words, 85 percent
14 of the students are better than he, so he had a range of
15 academic abilities in the 11th grade and these are reflected
16 to a certain extent in his successes and failures when he went
17 to the university.
18 Q On the college entrance examination in 1963, Watson's
19 scores were in the lower 25 percent; is that correct?
20 A Again, they vary.
21 Q But overall his scores were in the lower 25 percent;
22 is that correct?
23 A I don't see any overall score here. They don't,
24 you know, they don't add up mathematics and English, just like
25 you don't add up apples and pears; they are not comparable.
26 Q I am reading from Page 2. You say on the college
27 entrance examination in 1963, both his verbal and mathematical
28 aptitudes were above two-thirds of the general high school

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1 population, but compared to those who actually went on to
2 college, his scores were in the lower quartile?
3 A. That is true. The point here is that Mr. Watson
4 apparently was doing very well in his own high school but was
5 running up against -- it was predictable that he would run up
6 against considerable competition when he went on to university.
7 That's why -- this is not an uncommon situation for a young man
8 to be an A student in high school, but then he runs up against
9 A students from everywhere else when he gets into the univer-
10 sity, because he is an average in competition with other
11 people.
12 Q. Is it a fair statement to say that on the college
13 entrance examination in 1963, compared to those people who
14 actually went on to college, Watson's scores were in the lower
15 25 percent?
16 Is that a fair statement?
17 A. No, they vary up and down.
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#4

Q Well, what do you mean when you say his scores were in the lower quartile?

A There are some in the lower quartile. Let me see. Again you are talking about the ACT, the American College Test?

Q Yes, the college entrance examination in 1963, but compared to those who actually went on to college his scores were in the lower quartile?

A Yes, that is true. Again you are comparing him with people of superior intelligence, that is the people who go on to college are of such intelligence, and if you take that end of the scale, that is if you say that people who go to a university have an I.Q. of somewhere between 120 on up, he was at the lower end of that group.

That is why I am saying that the best estimate I can make of his intellectual functioning at that time was that he was at the lower end of the superior intelligence group, an I.Q. of approximately 120.

Q I think yesterday you said 110 to 120.

A Yes. Since I did this research, I revised it upward a little bit.

Q The research says 116, doesn't it?

A That is the liberal arts college freshman, average student, 120, average for the four years.

You see the person with the I.Q. of 110 that goes to college soon finds it a very hard struggle to complete with much brighter people and he drops out.

So that when you take all four years, you know --

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and Mr. Watson went three before he dropped out --

Q Assuming, Doctor, that Mr. Watson's I.Q. has dropped -- let's make that assumption.

A Yes.

Q Isn't it true that one of the causes of this diminution could very well be his present depression and his emotional problems?

A Yes.

Q And you so state that in your report; is that correct?

A Yes.

Q In other words, Mr. Watson's I.Q. at the time of these murders could very well have been higher than it is right now?

A I don't know. I would say that I have seldom seen depression cause an I.Q. to drop some 15 to 20 points at least.

This is rare to see depression alone do this. I made a point in my report that I could not account for it on depression alone, that I would judge from my experience that other things must have been affecting his intellectual functioning than depression.

Q You mentioned not only depression in your report but his present emotional confusion.

A Yes.

Q So his depression and emotional confusion, as you say, could be responsible for lowering his I.Q. between, let's say, the time of the killings and now?

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A Well, I don't know his I.Q. at the time of the killings. I have an estimate of what his I.Q. was in his college years and then in March of this year and I cannot account for his, you know, very significant lowered intellectual efficiency on the basis of emotional disturbance alone. This would be extremely rare.

Q I am talking about emotional confusion plus depression.

A Yes. So am I.

I would say that emotional confusion plus depression, it would be difficult to account for his significant drop in intellectual efficiency on the basis of those two things alone.

Q But it is your opinion that those two factors could very well cause a decrease in his I.Q.; is that correct?

A They could partly -- they certainly could be part of it, oh, yes.

Q Is it true, Doctor, that there has never been any concrete evidence that one can assess an individual personality from the test results on the Wechsler? Is this a true statement, that you cannot make a determination or an evaluation of a personality by interpreting the Wechsler?

A That is mostly true. It is an intelligence test, not emotional functioning, but it is also well established, both in clinical practice and in research, that certain kinds of intellectual functioning are disturbed by personality disturbances.

Q The Wechsler I.Q. test, I take it, is not a test

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of exact precision; is that correct?

A It is as precise as psychologists have been able to make it so far.

Q I agree. We are talking about the degree of the degree again, but it is not as accurate, for instance, as when one says that the thermometer today has a reading of 76 degrees -- it is not that type of accuracy?

A No; that is true.

Q In other words, one's actual I.Q. may be higher or lower than is reflected in the Wechsler?

A There are variations in it, yes.

Q The Wechsler I think breaks down I.Q.'s into groups; is that correct?

A Yes.

Q Do you have that breakdown with you?

A Yes.

Q Perhaps you could step down from the witness stand, Doctor, and for the benefit of the jury write out the particular I.Q. groups.

A Sure. This stands for Wechsler Adult Intelligence Scale and it has three I.Q.'s.

There are a set of tests that are labeled verbal tests. These require the subject to give verbal answers to vocabulary questions --

Q No, I meant, Doctor --

A The verbal I.Q. is 89. The performance I.Q., that is the nonverbal test, is also 89 and the full I.Q., full scale I.Q., is 88. These numbers are not significantly

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1 different.

2 Q What I meant by I.Q. groups, for instance, 130

3 and above is classified as superior. That is what I meant by

4 I.Q. group.

5 A Oh, certainly, all right.

6 That is not a very good bell-shaped curve.

7 Average I.Q. is 100. Two-thirds of the population,

8 approximately, range between 90 and about 110. This is average

9 I.Q. covering about two-thirds of the population.

10 Another group of the population have I.Q.'s

11 somewhere between 75 and about 120 -- or, let's see -- yes,

12 about 120, so that you have an average I.Q. of 100 and this

13 is the average range.

14 Bright average runs from 110 to 120 and above

15 120 is considered superior, less than 2 percent of the

16 population.

17 Q Excuse me a moment. You may resume the witness

18 stand.

19 I think for the jury we can perhaps simplify

20 this a little bit.

21 THE COURT: Supposing, Mr. Bugliosi, you draw the curve

22 that you want.

23 MR. BUGLIOSI: I am just going to make a breakdown.

24 THE COURT: Yes.

25 Q BY MR. BUGLIOSI: And you tell me if it is correct.

26 THE COURT: If you don't agree with the doctor, you just

27 tell him.

28 Q BY MR. BUGLIOSI: This is the Wechsler -- tell me

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if I am correct on this.

A Yes.

Q 130 or above would be superior; is that correct?

A Very superior.

Q 120 to 129 would be superior?

A Yes.

Q 110 to 119 would be bright normal?

A That is the term Wechsler uses, yes.

Q 90 to 109 is average?

A Uh-huh.

Q Now, 80 to 89, dull normal?

A Uh-huh.

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5R-1

Q 70 to 79, borderline?

A That's right; and below 70 --

Q Would be a mental defective; is that correct?

A Mental retarded.

Q Now, it is a fact, Doctor, from your studies that many criminals have what are termed dull normal I.Q.'s; is that correct, from research studies?

A I don't know of such a study. Many criminals have bright I.Q's, as far as I have been informed. But up here, I am not an expert on this, but my own information, such as I do know on this, is that -- and this I got mostly from my association with Atascadero State Hospital, where I have been a consultant from time to time -- is that they have two kinds of prisoners there. They have prisoners who are very, very bright, extremely bright, and the people who are very dull; and fewer of the normal ones.

Q There is no question about that. We are talking about averages, now --

A Well, you can't average, again, when you have two extremes and no middle.

Q There is no average middle I.Q. among criminals; is that your point?

A I would say it would be illogical to talk about an average. Well, that you have two classes of criminals, as far as intelligence is concerned.

Q Haven't you been talking about averages with respect to North Texas State and Oberlin and things like that; hasn't that been your testimony so far today?

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A You can talk about averages in places where you have a range; but prisons you get both extremes rather than a range, if I make myself clear.

Q No, I'm not clear at all on that, Doctor. I would assume --

A Okay. If you talk about a general population, the average, quote, average citizen, not in prison, not in any institution, then you can talk about an average I.Q.; but if you take a special population, such as a prison, then when you talk about an average, what you are having is very, very high scores at one end and low scores at the other end and saying an average in the middle -- doesn't really exist -- or if you take a university, you are going to have a special sample of very bright people, such that the average at a university population is in that superior range.

Q I'm not just talking about --

A So where you have to think about what the average man is, what I am trying to say, sir --

Q I am not just talking about criminals who end up in prison; I am talking about prisoners, period. Certainly there have been studies indicating that an average criminal has a dull I.Q.; isn't that true, Doctor?

A I didn't read that.

Q You haven't done any research in that area?

A That is not my --

Q You realize that Mr. Watson is a criminal --

MR. KEITH: If the Court please --

MR. DUBRICK: Objection, your Honor.

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THE COURT: Objection sustained.

MR. BUGLIOSI: Your Honor, he has already admitted seven killings. I don't see what is prejudicial about that.

THE COURT: That determination is to be left to the jury.

Q BY MR. BUGLIOSI: Isn't it true, Doctor, that approximately 16 percent of the American population falls into the dull normal category, which would be 80 to 89?

A. That would be about it. Well, a little less, but approximately.

Let me just think on that for a moment -- yes, about that; about 15 percent, somewhere along in there.

Q The figure is not 16, from the books?

A. I will grant you that.

Q You say 15; is that correct?

A. Somewhere along in that range, yes.

Q Okay.

A. That's true.

Q And isn't it true that about 7 to 8 percent of the American population falls into the borderline area?

A. Mm-hmm.

Q What is it, 7 or 8?

A. Somewhere along in there.

Q Okay, I'll put 8 here and 15 up there.

In other words, about 23 percent of the American population falls between 70 and 89 I.Q.; is that correct?

A. Let me just add it a minute so I can see.

It would be the same at the top, then, wouldn't it; this is about 2 percent, this is about 60, about two-thirds

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would be; another 8 and 2 percent here, and 2 percent up here.

Does that add up to 100? We are over somewhere.

Q Well --

A No, this is lower and this is lower. You are correct in here, but I think this is about 5 percent and this is about 13 and this is about 1 at the top.

Q At noontime today --

A We can check with the Wechsler book. I would have to look at those figures again; I know it is supposed to add up to 100 percent and I know that in that average range is approximately two-thirds of the population and the others divide out according to the Bell curve.

Q Check at noontime and see if this is 16 and this is 6 and this is 2.

A You have the books; I don't have the books with me.

Q Could you call back to your college at noontime --

A It follows the Bell curve, as I was illustrating and you are illustrating.

Q Would it be close that approximately 25 percent of the American population have I.Q.'s below 90, close to 25 percent?

A No; two-thirds of the population fall in the average range and the balance falls on either side of that.

Q You are talking about 33-1/3 percent?

A 17 percent fall on either side of the average; 17 percent are superior and 17 percent are below average.

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Q What percentage of the American population have I.Q.'s below 89 or below 90?

A Well, as I was saying, this would be half of what are not average, half of two-thirds.

Q Doctor, you deal with figures all the time; I am just asking you a simple question --

A Mm-hmm.

Q -- approximately what percentage of the American population have I.Q.'s below 90? Try to give us a figure.

A Around 17 percent, 17 to 18 percent, something like that.

Q Even by your figures, Doctor, you have got 13 and 5 is 18, plus 1 is 19.

A That's right; approximately, I said.

Q Doctor --

A Give me one or two percentage points.

Q Doctor, you are the psychologist, you are familiar with facts and figures; this is your business; right?

A Right.

Q Does 20 percent sound like a good figure would be below 89 I.Q.; does that sound like a reasonable figure?

A I'm sorry, I can only repeat what I have said, is that the average I.Q. range in there contains approximately two-thirds. This is figured on a Bell shaped curve.

Q I'm not asking that question --

A And half the remainder fall below average. I'm much more familiar with that figure of the mental retarded, which is approximately 1 percent; and those between mentally

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retarded and average, then, are the balance between -- half the remainder.

Q Would it be a fair statement to say, Doctor, that even by your figures that about 40,000,000 Americans have I.Q.'s below 89 -- even by your figures?

A 200,000,000 in the United States -- I'm trying to figure it in my head here -- well, if there is 200,000,000 people in the United States and we say 15 percent or 15 or 16 percent, that is about 30,000,000, yeah.

Q 15 to 16 what, Doctor?

AGain, Doctor, I'm using your figures of 13 and 5 is 18, and 19.

Now, you were talking about 15 percent?

A However, as I pointed out, and here again I don't memorize figures, sir, I point out that you have to add up to 100 percent here so that the figures in here that you gave would not -- would add up to far more than 100 percent.

Q Doctor, you have --

A Because there is about two-thirds in the middle; this is the way the thing is built.

Q Doctor, you say you don't memorize figures, and this is your business. Didn't you ask Mr. Watson to memorize figures?

A I asked him to repeat.

Q That is not his business, is it?

MR. BURRICK: Your Honor, I am going to object.

THE COURT: Objection sustained.

Q BY MR. BUGLIOSI: Let's drop it from 19 percent to

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15. Your figures say 19, but suddenly you have come up with 15 --

MR. BUBRICK: It is not "suddenly," your HOnor.

MR. BUGLIOSI: It is; he put 13 and 5 and --

THE COURT: The jury will disregard that remark, too.

Q BY MR. BUGLIOSI: Even by your -- I don't know what your figure is, Doctor; is it 15 percent, now, or is it 19?

A In that --

Q 89 and below?

A -- 89 and below, is half of two-thirds, which would be about 17 percent, yes.

THE COURT: You mean half of one-third?

THE WITNESS: Half of one-third; excuse me.

Q BY MR. BUGLIOSI: So, using that figure, then, about 35,000,000 Americans, between 35,000,000 Americans and 40,000,000 would have I.Q.'s below 89?

A Mm-hmm.

Q And you were not suggesting for one moment, Doctor, that 35 to 40,000,000 Americans cannot deliberate and premeditate a murder; you are not suggesting that, are you?

MR. BUBRICK: Assumes facts not in evidence, your Honor. I think it is beyond the scope of the direct examination.

THE COURT: Objection sustained.

Q BY MR. BUGLIOSI: You say Mr. Watson's overall I.Q. is what?

A In March, when I measured it?

Q Mm-hmm.

A It was 88.

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Q So from 90 to 109 is average and Mr. Watson's I.Q. is only 2 points below the average I.Q. of people in this country, then; is that correct?

A That's right.

Q The Wechsler test consists of 11 subtests; is that correct, Doctor?

A Mm-hmm.

Q And could you briefly enumerate what those 11 tests area?

A I thought I did that already, but I will do it again, if you like.

The verbal tests are tests of general information: A test called comprehension, which covers the kind of social knowledge and judgment; a test of arithmetic reasoning; a test called similarities, in which a person is asked to say how two things are the same or alike; a test called digit span, in which a person is asked to repeat a series of numbers given to him immediately after they are given to him; a vocabulary test, asking him to define certain words.

The nonverbal test consists of one called a digit symbol test, in which the person is asked to copy little symbols going from a chart, a diagram he already has, going with certain numbers and to do this as fast as he can; a picture completion test, he is to find the missing part in the picture; the block design test, which he copies designs given to him with colored blocks; a picture arrangement test, in which he tries to find -- make sense out of a series of pictures, something like comic strips, to get them in the right

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order to make sense out of them; and an object assembly test, in which he puts together very simple jigsaw puzzles.

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#6

Q Before I go any further, Doctor, I want to remind you would you please call back to UCLA perhaps at the break or at noontime and ascertain according to Wechsler what percentage of the population falls between 80 and 89 and 70 and 79 and 69 and below?

A Certainly.

Q Would you do that, sir?

A Yes.

Q On the similarities test one of the questions was the similarity between an orange and a banana; is that correct?

A Uh-huh.

Q And Mr. Watson gave what similarity with respect to those two?

A "Fruit."

Q He said "fruit"?

A Yes.

Q What about "Coat" and "Dress"?

A "Clothes."

Q "Axe" and "Saw."?

A "You cut with them."

Q "Dog" and "Lion"?

A "They are animals."

Q "North" and "West"?

A "Directions."

Q "Eye" and "ear"?

A "They are both on the head."

Q "Egg" and "Seed"?

A "Beginning of a tree or a bird."

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Q Those aren't too bad answers, are they, Doctor?

A They are correct answers.

Q On the vocabulary what about the word "winter"?

A He said, "It is cold and snow."

Q "Repair," the word "repair"?

A He said it meant to fix.

Q "Breakfast"?

A "A meal in the morning."

Q "Fabric"?

A "It is material," and I asked him to explain a little more and he said, "It is paper or anything."

Q He said, "Paper or" -- something else? It looks like a-n-g.

A That is for "anything."

Q "Slice"?

A "To cut."

Q "Assemble"?

A "To put together."

Q "Conceal"?

A "To hide."

Q Enormous"?

A "Big."

Q "Sentence"?

A "Write out a line of words."

I gave him credit for that but it is not really precise.

Q "Commence"?

A "Begin."

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Q "Cavern"?

A "Cave."

Q "Designate"?

A "Pick out somebody," and I asked him to explain it and he said "Point out."

Q "Consume"?

A "To eat."

Q "Matches"?

A "Couldn't find a match. Can't match with."

I gave him credit for that even though that first part of it was a nonsense answer.

Q Those are pretty sensible answers by and large, aren't they, Doctor?

A They vary. Of course, you left out all those he missed.

Q That is right in the report and I am reading them. I am talking about the ones that he answered correctly. Those are pretty sensible, aren't they?

A Well, some of them are and some of them got only part scores.

For instance "Winter" should be defined correctly as a season and he just described it, so he got a score of 1 rather than 2 on that one.

Or his reponse to "fabric" was a 1. "Enormous" is more than big, it is huge or very large.

They are allowed part credits on some of these.

Q For the word "slice" you only gave him part credit.

He said "To cut."

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A That is correct. The word "slice" is to cut into thin pieces according to the standard answer in the Wechsler book and the dictionary.

Q You only gave part credit for the word "Enormous" too?

A That is right.

Q Part credit for the word "sentence"?

A That is right.

Q With respect to the digit span test, the 14th line, you asked him to remember those numbers.

A Fourteenth line?

Q Fourteenth line. This is the digit span test. Aren't there 14 lines of digits, digits forward, or are there 14 lines?

A No. I don't know what you are referring to here, sir.

Q Block No. 5 says digit span 14 lines -- I am counting the 14th line down.

A No, because the test says when you fail two in a row you stop. So he failed. He could not repeat seven numbers forward on two tries and thereafter the test is stopped according to directions given.

Q You are familiar with all of these numbers and their sequence, I take it?

A Familiar in what way, sir?

Q In other words, if I were to ask you the numbers in the 14th line you would be very familiar with those numbers and their sequence?

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A No. I have read them. I don't memorize these. I read them.

Q How often have you given this test, Doctor?

A Oh, hundreds of times.

Q Thousands?

A I would guess but I don't memorize these numbers myself. I read them with the patients to be sure to get them accurate.

You see Mr. Watson makes an average score, about average score on that test. This is a test of immediate concentration.

Q You gave him a zero for "Praise" and "Punishment"?

A Yes.

Q He said he didn't know what those words meant?

A No. He didn't know how they were alike. He didn't know how they were the same, in what way praise and punishment are the same.

Q In what way are they the same?

A They are both methods of discipline or criticism, methods of getting people to behave.

Q And Mr. Watson didn't know that and you gave him a zero for that; is that correct?

A That is correct. This is not -- this is a difficult similarity and is not commonly passed by people of average intelligence. It is hard to think how praise and punishment both could be the same, if you stop to think about it a little bit, unless you give it considerable thought.

Q How long did you give him to see the similarity

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1 between the words "praise" and "punishment"?

2 A That is not a time test.

3 I let him think about it and he said he didn't

4 know and couldn't think it out. I went on to the next

5 question.

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Q You also gave him a zero for "Fly" and "Tree"?

A Yes.

Q What is the similarity between those two?

A They are both living.

Q They are both living?

A Living organisms.

Q And Mr. Watson couldn't see the similarity between those two and you gave him a zero; is that correct?

A That is right. Again, that is the most difficult item on the test, on this particular section of the test.

Q Is one of the tests on the Wechsler a situation where you tell Mr. Watson a story and then ask him to repeat it?

A No.

Q That is not part of the Wechsler?

A Tell him a story? No.

Q You talked briefly about the Rorschach test. This is the so-called ink blot test as you have said; is that correct?

A Yes.

Q And the subject who is being given the test is shown a series of cards with ink blots on them?

A That is right.

Q That is just as if someone had taken a bottle of ink and indiscriminately splashed ink on the card; is that correct?

A They are made -- it is made similar to, I think, the psychiatrist Rorshach got this from kindergarten children where

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they would put a little ink on a paper and splash it, fold it over and open it up and the child looks at it to see what he can make out of it.

Q And then the person who looks at the blot tells you what he sees in the ink blot?

A Yes, what does this suggest to you, make you think of, remind you of offhand.

Q And somebody else might be shown the same ink blot and see something completely different?

A Right.

Q May I see the ink blots if you have them?

A No, I don't have them here.

Q Is there a reason why?

A Yes.

Q That reason, sir?

A The ethics of the American Psychological Association prohibts us from displaying the test in public.

Q If Judge Alexander were to issue an order to you, would you comply with that order?

A I would.

Q Can you recall what Mr. Watson -- when I talk about order, I mean order to bring in the ink blots into court.

A I understand.

Q With respect to these ink blots, could you tell the jury what each ink blot looked like to Mr. Watson and what the ink blots would look like to a normal person?

A Or what some common responses are?

Q Yes.

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A. Yes.

On Card 1 he said, "I guess it is some kind of bird."

He was talking about the whole ink blot. This is a fairly common popular response.

He had a little difficulty in justifying his response; whereas people would point out directly the wings. It is a bird-shaped thing as most people look at it, a butterfly, and most people point out the wings and the tail, or whatever they see on it. He had difficulty in making details out of it when I inquired later.

On Card 2, he described, he mentioned "It looks like a couple of rabbits," again, a very common response and here, as I think I explained previously, he makes his associations first to all 10 cards. Then afterwards, I go back and ask the subject to please explain each response related to the ink blot as you saw it.

His explanation of the rabbits, he could point out the details of it.

On Card 3 he saw two heads, maybe two people looking at each other.

Again, this is pretty close to what most people say, except that most people see these people doing more than looking at each other.

On Card 4, he said it looked like a skin, a dried out skin and again he had difficulty getting much detail and I had difficulty finding out exactly what he was referring to on the blot.

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Most people on that card see it as two huge feet, which is a very common response. Maybe they see a giant figure or it may be seen again as a bat or butterfly, which is a very common response to many of these cards.

Card 5, he saw a butterfly again for that response.

Card 6, he couldn't make any response out of it at all. Most people see Card 6 as being like a fur rug, but he could make no response to that.

Card 7, he saw a couple of angels and this I had to inquire about quite a bit because I couldn't see what he was talking about at first and in this he did something that was somewhat unusual in that he not only used the ink itself, but the spaces in between, but I finally figured out approximately what he was talking about, but it was a confused response and not at all, at least the way he explained it to me from the blot -- I would say it was very rare that anyone would have seen it.

I had never seen it before in the thousands of responses I received from subjects.

Card 8, he saw two animals on each side -- a popular response, but he didn't see them as moving.

Cards 9 and 10, he just couldn't see anything at all on either card.

Card 9 does not have a popular response.

Card 10 has several popular responses. Mr. Watson didn't suggest anything to me that this looked like, just "I can't make anything out -- just a lot of colors."

Q Now, say that Mr. Watson did make something out of

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No. 10 and what he saw in No. 10 is what most people see, there would be nothing to prevent him from saying that he never saw anything on No. 10; is that correct?

A. No, but it is unusual for people not to see anything.

Q. I am saying even if he did see something, there is nothing to prevent him from saying that he did not see anything?

A. That is true.

Q. You would have no way of knowing whether he was telling the truth of not; is that correct?

A. That is true.

Q. In other words, Doctor, a person taking the ink blot test has free rein to tell you just about whatever he wants; is that correct?

A. Yes.

Q. Have you ever heard of Dr. Arthur R. Jenson, a psychologist at the Institute of Human Learning, University of California?

A. Yes.

Q. Do you agree with this statement by Dr. Jenson:

"But, frankly the consensus of qualified judgment is that the Rorschach is a very poor test and has no practical worth for any other purposes for which it is recommended by the devotees"?

A. Not at all.

Q. You don't agree with that?

A. I completely disagree.

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Q You will agree, Doctor, that the Rorschach test does not reveal what a person's conduct was or will be in the future. You will agree with that?

A It reveals his underlying attitudes, not his overt behavior, that is true.

Q Did this Rorschach indicate any mental illness on Mr. Watson's part?

A It certainly represents a young man who has considerable perceptual difficulties. He just didn't see things very straight or explain things very straight.

6Bf.

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Q I am talking about mental illness.

A Well, insofar as such functioning is part of mental illness, yes, that is true. It does indicate a state of quote "mental illness."

Q You say he doesn't see things too clearly. Didn't he indicate that he saw on several of those ink blot cards what is a customary response of all the people?

A Yes, but you see the difference here is he had a much harder time justifying his responses -- and this is a very common hallmark of brain damaged patients.

The brain damaged patient will say, "Well, it looks like a butterfly," and he doesn't know that later you are going to say, "Well, now show me the butterfly."

When he gets to the butterfly, the ordinary subject will say, "Well, here's the wings and the tail and it is flying along."

Mr. Watson had difficulty, the classic difficulty of the brain damaged patient of not being able to explain himself and getting more confused as he went along.

Q Take a look at the Thematic Apperception Test. There are 20 cards there.

A Yes. It is not customary to give all 20, however?

Q Did you give all 20?

A No.

Q How many did you give to him?

A 12.

Q Did this test indicate any mental illness on Mr. Watson's part and if so, what kind?

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6b-2

A May I just look at my notes for a moment?

Q Yes.

A Well, again I hope you will excuse me, sir, but I work in terms of describing behavior rather than putting diagnostic labels on things and here, if I may be permitted, I will describe behavior, which falls under several different kinds of mental illness.

For one thing Mr. Watson's stories to the TAT lack reference to feelings.

I kept trying to say, "Well, how does the person in the story feel? What does he think about this?"

His stories were marked by a kind of very bare matter of fact approach, a lack of feelings in them.

Secondly, they were on the depressive side in the sense that they were apathetic stories. They also indicated a considerable amount of passivity, that is seldom did the person in the story, the hero of the story, do anything.

Other things happened to him all through the stories. These were the characteristics of these stories.

Q Passivity?

A Yes.

Q Go ahead.

A These could be characteristic of several different kinds of quote "mental illness."

Q Passivity and depression, that is not necessarily synonymous with mental illness, is it?

A No.

Well, again I hope you will excuse me -- I am a

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6b-2

1 psychologist. I am not a psychiatrist. I don't deal with these
2 diagnostic labels.
3 I think in terms of humans who suffer from
4 emotional problems and in Mr. Watson's stories, his associations
5 with the Rorschach, the responses to the TAT, taken altogether,
6 do indicate that this was a very depressed confused apathetic
7 young man.
8 His confusion at times is a point that psychiatrists
9 would call it schizophrenic.
10 MR. BUGLIOSI: Motion to strike that last gratuitous
11 remark.
12 MR. BURRICK: I think that is within his range of
13 knowledge, your Honor.
14 MR. BUGLIOSI: Talking about what psychiatrists would
15 say.
16 THE COURT: I think you asked him what kind of mental
17 illness, didn't you?
18 MR. BUGLIOSI: He classified it from a psychiatric
19 standpoint and said that psychiatrists would say that. I was
20 asking him for his opinion.
21 THE COURT: The motion to strike will be denied.
22 Q BY MR. BUGLIOSI: There is a considerable
23 divergence of opinion, is there not, Doctor, as to whether
24 there is any connection at all between the TAT, the Thematic
25 Apperception Test, and conduct?
26 A Well, there is a considerable gap between fantasy
27 and action in everyday life and TAT is usually used where we
28 are interested in understanding the fantasies behind actions,

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but to predict from fantasy to action is risky.

It is more not so much prediction as the fact that you can say, "Well, now I understand why he behaved that way because this is the way he had been thinking."

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#7

Q In other words, depression and confusion and apathetic -- or, apathy, this would indicate that someone would kill seven people; is that correct?

A Gee, I don't know on that.

Q You realize that he's on trial for seven counts of murder, Doctor?

A Yes.

Q And you say that you can draw some type of a correlation between the results of the TAT and conduct?

A Oh, no, I said the opposite, sir. I said that one's fantasies did not predict his behavior; but, rather, that the fantasies are used by the psychologists and psychiatrists to help understand behavior.

Q So you can look at the TAT, then, and based on the TAT result you can say, "Now I understand why this particular person did certain things"; is that correct?

A It assists in that. I would emphasize here, sir, that no one test does the trick.

Q Right.

A And, in fact, as is brought out, I think, before, even the whole battery of tests needs to be compared with the findings from other sources, such as psychiatric interviews or neurological studies, so that the TAT is not used alone as a single indicator, but, rather, merely as a sample of the subject's fantasies.

Q Well, when you examined Mr. Watson you were aware that he told other psychiatrists that he had killed seven people; you were aware of it?

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A Oh, I read it in the newspaper.

Q Now, after you gave him these tests and you came up with your conclusion that he was depressed, confused and apathetic --

A Uh-hmm.

Q -- based on those conclusions did you say to yourself, "Now I know why he probably killed these people"?

A No.

Q What is the validity, then, of all these tests?

A The validity of them?

Q Yes. You indicated that there might not be a causal connection between the results of these tests and conduct, but --

A You can't predict the conduct.

Q -- but you can look at what a person did and then look at the tests results and then say, "Now I understand why he did this"?

A Yes, a bit more; I have more insight into it.

Q Well, knowing that --

A Not completely, yes.

Q -- but knowing that he killed seven people, do you find it understandable now why he killed seven people, based on the conclusion of depression, confusion and apathy?

A Not that alone, no, sir. I am puzzled there; I would not base -- I could not explain that entirely.

Q There seems to be an inconsistency; is that correct?

A No.

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Q Paradox?

A No, I don't say it is a paradox. I would say that that, alone, would not explain to me why anyone would do anything as horrible as he is reported to have done, that is true.

I can only say that when you put my results together with other data it becomes more understandable -- still, I cannot explain this.

MR. BUGLIOSI: Before we go on to the next test, your Honor, may I mark this as people's exhibit -- people's next in order, whatever it is?

THE COURT: I will tell you in a moment.

THE CLERK: 307, Judge.

XXXXX THE COURT: That is 307.

Q BY MR. BUGLIOSI: And we'll put on here Mr. Watson's I.Q. was 88?

A Yes.

Q And you said that his I.Q. is only two points below the average I.Q. of individuals in this country, you said that; is that correct?

A Well, approximately 20 points below what he probably had in college.

Q Yeah. Just try to answer one question at a time, Doctor.

It is two points below, his I.Q. is two points below the average I.Q. of individuals in this country; is that correct?

A Yes, that's correct.

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1 Q With respect to the Graham-Kendall Memory for
2 Design test, did you show Mr. Watson all 15 of the designs?
3 A Yes.
4 Q And how did he come out on that test?
5 A He completely reversed two of the figures, giving
6 him a raw score of 6. I corrected, as given in the directions
7 to the test, I corrected for his age and his vocabulary score
8 on the Wechsler, giving him a corrected score of 3, which is
9 called by the authorities of the test in the borderline range.
10 However, rotations in themselves are suggestive
11 of a perceptual disorder associated with central nervous
12 system dysfunctioning.
13 Q In this Graham test you showed Mr. Watson some
14 designs --
15 A That's correct.
16 Q -- then shortly thereafter you asked him to draw
17 what he saw?
18 A Immediately afterwards. He sees them for five
19 seconds, I take them away, he draws them.
20 Q Even assuming he drew designs different than what
21 he actually saw, you have no way of knowing that he was
22 drawing distortions?
23 A Only his general attitude toward the whole thing;
24 that is, he was struggling to make correct answers.
25 Q But, in any event, Mr. Watson was given free
26 rein to draw anything he wanted?
27 A Well, he was asked to draw what he had seen.
28 Q But he could draw something that he did not see and

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1 you would have no way of knowing it; is that correct?
2 A That is true.
3 Q You have to answer out loud, Doctor.
4 A I'm sorry; that's true.
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7A-1

Q On the Draw A Person test did you bring -- incidentally, did you bring the TAT cards or the Graham-Kendall Memory For Designs cards with you?

A No.

Q You brought none of these with you?

A No.

Q For the same reason?

A That's right.

Q With respect to the Draw A Person test, did you bring Mr. Watson's drawings with you?

A Yes, I have them here.

Q How many drawings were there?

A There are four drawings altogether.

Q Why did you make an exception with respect to bringing these drawings to court?

A Well, I brought the Rorschach responses; there is no test cards or test equipment involved in the drawings.

Q So there were four drawings; is that correct?

A That's correct.

Q Could I see those drawings?

A Sure. This is the one he drew first; the second drawing; this is the third drawing; and that's the last drawing.

Q These aren't bad drawings at all, are they, Doctor? I mean, for someone who is not an artist?

A They lack considerable detail or expression for someone who is not an artist. Most people do not draw quite such stiff, rigid, empty looking drawings.

Q The reason I'm smiling, Doctor, is that I'd hate

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to show you the pictures I draw for my children every night. I think this is considerably better.

A. As I emphasize in my directions, it is not a test of his artistic ability.

For instance, if you look at a very simple drawing, such as was drawn by Thurber, the little animal line drawings in which there is considerable expression in these very simple drawings, and people who are not artists nevertheless end up giving much more expression, movement, feeling to their drawings, rather than the rather empty figures that Mr. Watson drew for me.

Q. Doesn't it look like some of these people are smiling?

A. I'd have to look at it again.

Q. That one right there.

A. Well, not much of a smile, in my estimation. I will agree it is a little more smile than any of the rest of them. That's which, that's the drawing he made of Manson?

He put a smile on Manson and he didn't put a smile on anybody else.

MR. BUGLIOSI: May these drawings be marked, your Honor, as People's exhibits?

THE COURT: 308.

308id.

THE WITNESS: May I get some copies of those, or Xeroxes of them for my files? You can have the originals, as far as that goes.

MR. BUGLIOSI: Perhaps they can collectively be marked 308, put 308 on all three of them?

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THE COURT: Yes.

Do they take a Xerox, Doctor?

THE WITNESS: Yes, they should Xerox.

THE COURT: Stipulate we can have them Xeroxed and return the originals to the doctor?

MR. BUGLIOSI: So stipulated.

MR. RUBRICK: Thank you, your Honor.

Q BY MR. BUGLIOSI: Let's talk about the MMPI test, the Minnesota Multiphasic Personality Inventory --

A Yes.

Q How many questions are there on that test?

A Now, I, again --

Q 556?

A 566; that's right. I started to say "556" and I have to stop myself to remember exactly.

Q Did you give Mr. Watson all 556 questions?

A That's right.

Q What is an MMPI profile, Doctor?

A It is a set of weighted scores given on 10 different scales, plus three scales that have to do with the validity of the test.

Q Isn't it true that approximately 10 to 20 percent of completely normal people will produce profiles and indicate mental illness?

A That is a difficult one to answer. Well, the estimates in the population are that about 10 to 20 percent of the people suffer from emotional discomforts of some kind, so that this is probably true. I have never heard that

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statement regarding the MMPI, but I would agree this makes sense to me, when you make the statement.

Q No, I'm talking about 10 to 20 percent of normal people, not of people with emotional disturbances; 10 to 20 percent of normal people produce profiles on the MMPI which indicate a mental illness?

MR. BUBRICK: The question is ambiguous, your Honor.

THE COURT: Does the doctor understand the question?

THE WITNESS: Of people who are not coming to psychiatrists; is that how we mean "normal"?

Q BY MR. BUGLIOSI: How would you define the word "normal"; let's start with that?

A I would say -- it is a hard word to define -- I would say that if we talk about people who are not going for any kind of help for emotional problems and are not planning to, that surveys of various kinds across the country have shown that about 15 to 20 percent of them do suffer from emotional disturbances, that do need some psychotherapy or other help; therefore, when you say would this be true that they would show this on the MMPI, I would agree.

Q That is not what I said, Doctor.

Let's talk about people who do not suffer from emotional disturbances: Isn't it true that 10 to 20 percent of those show some type of mental illness on the MMPI?

A People who are perfectly happy? I would say that I would doubt it.

Q You indicated, I think, under direct examination, that a doctor Alex B. Caldwell assisted you in some fashion on

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7A-5

1 the MMPI test?

2 A. Yes.

3 Q. He is an associate of yours?

4 A. Yes.

5 Q. Isn't it true that Dr. Caldwell concluded that

6 Mr. Watson's profile is of only, quote, very borderline validity,

7 unquote?

8 A. The diagnostic statement that he gets from his

9 machine says that, yes.

10 Q. Didn't he put his name below that conclusion,

11 Doctor?

12 A. Well, that was one paragraph in -- one line --

13 yes, that is true; he did say that.

14 This is in a paragraph on Page 2 labeled "Diagnostic

15 Impression," and he said, "It should be reemphasized the

16 profile is a very borderline validity and that a diagnostic

17 formulation is only tentative and speculative." That is, as

18 a diagnosis. This is Dr. Caldwell's opinion.

19 sf.

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#8

Q His diagnostic opinion; is that correct?

A Diagnostic formulation is only tentative and speculative.

Q In other words, in the opinion of Dr. Caldwell, your associate, the validity of the MMPI test with respect to Mr. Watson is very doubtful; is that correct?

A No.

Q What does very borderline validity mean in your language, Doctor?

A Well, I checked this back with Dr. Caldwell. You see I should explain that Dr. Caldwell's report is based on a computer.

The computer has certain information in it but not all information about the MMPI. It would be impossible.

What the computer took into account here, I am quite sure, is Mr. Watson's score on what is known as the F or falsification scale.

This is a scale that was made up originally to determine if people were exaggerating or falsifying their complaints.

It was made up by asking people -- I believe it was in the military -- people were asked to take the MMPI and asked to pretend that you are really crazy and psychotic, you are to be discharged from the Army and what your answers would be, what answers would you give and this is how it was made up.

However, the falsification score has a high correlation with the schizophrenic score itself. That is what people would consider to be quote "crazy" -- and I am using the

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1 layman's language here -- is included in both the falsification
2 scale and the schizophrenic scale itself.
3 Now, the schizophrenic scale contains other
4 items to which a person who suffers from this disorder would
5 ascribe and normal people would not, but which normal people,
6 or even most psychologists looking at the questions themselves
7 would not know that this was a quote "schizoprenic response."
8 Thus the falsification score here on Mr. Watson's
9 profile is a part of his schizophrenia.
10 Now, the computer does not have that piece of
11 information built into it.
12 I asked Dr. Caldwell specifically what the overlap
13 is between the falsification and schizophrenic scores and he
14 said it is the greatest overlap between any two scales in the
15 entire set of 13 scales.
16 Q Let me ask you this: Do you disagree then with
17 his conclusion?
18 A Yes. I believe this is a valid scale.
19 Q Dr. Caldwell's conclusion is that the profile of
20 Mr. Watson is a very borderline validity. It is very doubtful.
21 Do you disagree with that?
22 A Yes, I would disagree. My own opinion is to agree
23 with his statement, "The disturbance is apt to be borderline
24 if not overtly psychotic, such as a psychotic depression or
25 schizo-affective schizophrenia."
26 I agree with that statement and I have more
27 confidence in that statement than Dr. Caldwell's computer. I
28 believe there is one place where I had information the computer

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1 didn't.

2 Q When Dr. Caldwell makes the statement that it should
3 be re-examined, that this profile is a very borderline validity
4 and that such a diagnostic formulation is only tentative and
5 speculative -- are you saying that this is the computer talking?

6 A Yes.

7 Q Are you saying that Dr. Caldwell did not adopt
8 that conclusion?

9 A He makes his reports directly from the computer.

10 Q And he signs his name below that; is that correct?

11 A That is correct.

12 Q Do you recognize the signature of Alex B. Caldwell?

13 A Yes.

14 Q This is his signature?

15 A That is right.

16 Q On that report?

17 A That is right.

18 Q Do you normally disagree with Dr. Caldwell on his
19 findings?

20 A At times.

21 Q And this is one of those times?

22 A Yes.

23 Q What is the MMPI critical items list?

24 A It is a list of items which are used generally to
25 follow up the MMPI, to interview the patient, ask him what
26 he means about it.

27 Q Do you feel that Mr. Watson's answers to the
28 questions on the MMPI criticial items list indicate mental

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illness on his part?

A May I just take a second to find that.

Again I don't like to seem to be quibbling, sir. I again talk in terms of emotional disturbance, confusion, of behavior, rather than strictly mental illness as such.

Q All right.

Let's talk about emotional disturbance. What else, sir?

A Emotional disturbance, depression.

THE COURT: I think you said confusion.

THE WITNESS: And confusion. Thank you, sir.

THE COURT: Would this be a good time to have our morning recess?

MR. BUGLIOSI: Yes.

THE WITNESS: Would you hand me those three sheets.

THE COURT: We will have our morning recess at this time and once again please heed the usual admonition.

(Recess.)

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THE COURT: People against Watson.

Let the record show all jurors, counsel and defendant present.

You may proceed, Mr. Bugliosi.

BY MR. BUGLIOSI:

Q Doctor, before we continue on with the MMPI, going back briefly to the Wechsler, have you clarified any of these points with respect to percentages?

A Yes, may I do that?

Q Please.

A I was hasty here and I did make an error in my figures.

This figure that is 65 should include all of this, and then I believe the figures that you quoted, which you told me came out of the book -- I believe Wechsler's textbook?

Q Right.

A -- would be correct; so the 65 or two-thirds includes bright-normal, average and dull-normal. That's why -- and this figure here is mistaken.

Q You agree, then, that dull-normal would be 16 percent; borderline 7; and mentally retarted, 1?

A That sounds reasonable to me. I don't memorize figures, sir, but since you quoted from the book --

Q But i'm not on the witness stand, so I can't --

A Yes.

Q If you agree with what I say, I will write those figures in.

A Yes, would you? I believe that's correct.

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9-1

Q 16.

A About 16 percent there.

Q 7; and you say about 1?

A About 1; that will add us up, won't it?

Q So about 20 percent of the American population have I.Q.'s below 89?

A That's right.

Q Approximately 50,000,000 Americans, then?

MR. BUBRICK: Your Honor, that depends on the United States population.

MR. BUGLIOSI: Well, assuming the population is 200,000,000.

MR. BUBRICK: It varies.

Q BY MR. BUGLIOSI: That would be about 50,000,000; is that correct?

A No, 24 percent, a quarter of 200,000,000 -- yes.

Q About 50,000,000; is that correct?

A That's right.

Q And of these 50,000,000 Americans, Mr. Watson, having an 89, would be at the upper 1 percent of those 50,000,000; is that correct?

A As of March 1971, yes.

Q Going back to the MMPI critical items list, do you feel that Mr. Watson's answers to those questions in that list indicate any type of mental illness on his part?

I believe you said -- what, emotional disturbance?

A Considerable emotional disturbance.

Q -- depression and confusion?

A Yes.

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9-3

A. Yes.

Q. We are talking about the critical items list now; is that correct?

A. Yes.

Q. Did you feel that his answers were inappropriate to the questions on the critical items list?

A. They are not, certainly not the way most people would answer them at all. They are inappropriate in that sense.

Q. All right. Let's take a look at Question No. 5; "I am easily awakened by noise"; Mr. Watson answeres "True" to that question.

Now, would a person charged with seven counts of murder, as you knew Mr. Watson to be at the time you examined him, would he be expected to sleep soundly?

MR. BUBRICK: Oh, if your Honor please, I think that calls for a conclusion of the witness.

MR. BUGLIOSI: This is what he is testifying to, your Honor; he analyzed --

THE COURT: No, that is not his answer at all.

MR. BUGLIOSI: He analyzed the MMPI critical items list and I am asking him for the basis --

MR. BUBRICK: That was Mr. Watson's answer.

MR. BUGLIOSI: I see a "True" after No. 5 here.

THE WITNESS: Yes, he said "True," to that.

THE COURT: What is the question? What was your question; what was the question on the test, Doctor?

THE WITNESS: The statement is, "I am easily awakened by noise," and Mr. Watson answered "True."

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Q BY MR. BUGLIOSI: Now, my question, then, would a person charged with seven counts of murder, as you knew Mr. Watson to be at the time you examined him, would he be expected to sleep soundly?

A I don't know.

Q Do you feel that that was an inappropriate answer?

A Most people taking this test, again the average person taking this test, says "False" to that.

Q All right. Let's take a look at Question No. 142: "I certainly feel useless at times."

Mr. Watson answered "True" to that question?

A Yes.

Q Do most people answer "False" to that question?

A Yes.

Q Would a person charged with seven counts of murder, Doctor, normally feel other than useless?

MR. BUBRICK: Object to that, your Honor; calls for a conclusion of this witness.

THE COURT: If you know.

MR. BUGLIOSI: He is the one that is giving his opinion.

THE COURT: If he knows. Can you answer that, Doctor?

THE WITNESS: No, I don't know.

Q BY MR. BUGLIOSI: Question No. 152, "Most nights I go to sleep without thoughts or ideas bothering me"; he answered "False" to that question; is that correct?

A That's correct.

Q In other words, what he said there is that most nights he goes to sleep with thoughts or ideas bothering him;

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A Presumably, yes.

Q Now, shouldn't a person charged with seven counts of murder, Doctor, in your opinion, go to sleep at night with some thoughts bothering him?

A I would think so; but, then, you know, I have difficulty putting myself in a person's shoes who commits murder. I don't know.

Q But the majority of people answered that question differently from Mr. Watson?

A That's right.

Q But the majority of people who took this test are not charged with murder; is that correct?

A That's right.

10f.

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10R-1

Q. Let's take a look at Question No. 337.

"I feel anxiety about something or someone almost all the time."

And he answered that "True"; is that correct?

A. Yes.

Q. Shouldn't a person charged with seven counts of murder feel an anxiety about things almost all the time?

A. I don't know. Some might and some might not.

Q. You say you don't know, Doctor. You did form opinions based on his answers to these questions. You said that they indicated emotional disturbance, depression, confusion, his answers were inappropriate.

Now, I am asking you why would that indicate confusion on his part, inappropriateness, emotional disturbance or anything?

A. These are items dealing with distress and depression.

Q. You realized that he was charged with seven counts of murder when he answered that question?

A. Yes.

Q. Wouldn't the answer to that question then by Mr. Watson, the answer he gave, be a perfectly normal response?

A. If it were a normal person committing the murder, I would presume that anyone who committed murder, who was a normal person, would feel a lot of anxiety, that is true, but, you know, again, you don't know.

There are people who commit murders, I would guess, who may never feel anxious. I don't know.

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Q What do you find confusing or inappropriate about Mr. Watson's answer to Question No. 337?

A That is part of what I was talking about the depression. I was talking about confusion, listed under Ideas of Reference, persecution, delusions and the answers labeled peculiar experiences and hallucinations.

Q What do you find inappropriate or confusing about that answer?

A That answer deals with depression, not with confusion or inappropriateness. It has to do with depression and anxiety, the last one you read.

Q Where do you see on the MMPI critical items list anything dealing with confusion, any subject title called "Confusion"?

A Okay. I am using confusion to cover other items here, other categories, Ideas of Reference, persecution, delusions, peculiar experiences and hallucinations.

Under Ideas of delusion, Ideas of Reference, he has two, four, six, more than half -- almost all of them under peculiar experience and hallucinations.

Q You say reference, persecution and delusion shows confusion; is that correct?

A It is part of a confused state of mind.

Q Let's look at Question 110 under that reference, persecution and delusion which you claim means confusion.

A I would say similar terms.

Q Question 110, "Someone has it in for me?"

"Answer, True."

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10-3

What confusion does that show on Mr. Watson's part?

A Okay. I am looking at a pattern of answers, sir, not one answer at a time.

I will agree you can take any one answer and you can say this does or doesn't mean, but when one takes -- talks about a confused state of mind, one looks at a great many responses, across several tests.

Q Let's take several others.

"Question 284. I am sure I am being talked about.

"Answer True."

What type of confusion does that show on Mr. Watson's part?

A These are answers that are generally given by people who feel confused.

Q Doctor, you have read about Tex Watson, haven't you, being charged with these murders?

A Yes.

Q It is a pretty publicized case? The Tate-La Bianca case?

A That is right.

Q Wouldn't it be normal for Mr. Watson to say, "Yes, people are talking about me?"

MR. BUBRICK: Object to the word "normal." I think that is a conclusion. Whatever his response is, is his response.

THE COURT: Can you answer the question, Doctor?

THE WITNESS: I had difficulty answering you. I am not quite sure what is wanted here.

Q BY MR. BUGLIOSI: Let's take another question,

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10-4

Question 364.

"People are saying insulting and vulgar things about me."

And the answer is "True."

Shouldn't a person being charged with seven counts of murder answer a question like that?

A. I don't know how a person charged with murder might answer to these -- on this test.

Q. Doctor, you are the psychologist who analyzed his answers to these questions. Now, I am asking you how you come up with your analysis?

A. I came up with it, as I said before, sir, on the basis, not of this set of -- there is I don't know how many but scarcely a fifth of the MMPI items included on this critical items. I did not base my judgment alone on these critical items but rather on the profile of the MMPI, on the Rorschach technique, on his responses to the TAT and so on, across the board, rather than on any one particular item.

Q. Let me interrupt you.

You said on two occasions that the MMPI critical items, just that, show emotional disturbance; depression and confusion, that that has been your opinion.

We are talking about the MMPI critical items list and I want to know how his answers to those questions show emotional disturbance, depression, and confusion, that wouldn't be normal for him to show?

A. I can tell you this, that I based this on a comparison again as one basis psychological test -- that we

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1 compare this with what you say the average person would say.
2 His items here are not what average persons say at all, but
3 they are responsive people who generally quote ideas of
4 reference, persecution, delusion, peculiar experience and
5 hallucinations.
6 I am using the term confusion as a general term
7 to cover those statements.
8 Q "Question 323. I have had very peculiar and
9 strange experiences.
10 "Answer true."
11 Wouldn't a person who had ingested LSD and every
12 other type of drug and killed seven people answer that ques-
13 tion "True"?
14 A I would expect that.
15 Q What is so unusual about it? Where do you come
16 up with the inappropriateness and confusion?
17 A Most people don't answer that "True."
18 Q Most people haven't killed seven people or ingested
19 LSD and every other type of drug. We are talking about Mr.
20 Watson, now.
21 A All right. Killing seven people and ingesting a
22 considerable amount of LSD is very inappropriate in my thinking.
23 Q But his answer to that question wasn't inappropriate?
24 A It is also inappropriate to the normal population.
25 Q You mean to tell me that if he killed seven people
26 and ingested LSD, belladonna and everything else and someone
27 asked him a question "True or False, I have had very peculiar
28 and strange experiences?" and he answered that "True," you

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1 think that is a funny answer on his part?

2 A Oh, it is onhis part.

3 Q Do you think we are talking about if it is not

4 Charles Tex Watson?

5 A All right. Then Charels Tex Watson's response

6 here is what he believes about himself but most people don't

7 say"True" to that item.

8 Q Doctor --

9 A So most people don't have these confusing exper-

10 iences. He is saying, "I did have them."

11 Q I guess I am having difficulty making myself clear,

12 although maybe not, maybe I am not, Doctor.

13 A I don't know.

14 Q Maybe I am not having a difficult time.

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#11

MR. BUBRICK: Your Honor, whatever the inference is in that statement, I'd ask it be stricken and the jury asked to disregard it, please.

THE COURT: He has been asked not to make statements like that before.

Whatever it means, disregard it, ladies and gentlemen of the jury.

Q BY MR. BUGLIOSI: The norm group, that is the original group upon which the MMPI test was standardized was relatives of 700 hospital patients in Minnesota; is that correct?

A To the best of my memory.

Q And the test has never been standardized on criminal defendants; is that correct?

A It has never been restandardized; there have been studies, I believe, though I am not familiar with them.

Q Has the MMPI test ever been standardized on criminal defendants?

A Not so far as I know.

Q Now, since the norm group, the group upon which these questions and answers were standardized were noncriminals, 700 relatives of patients --

A Oh, excuse me; the standardization group, that was the control group -- standardize -- it also included many people who were -- who suffered from mental disorders, and so that there were two standardization groups.

There was a control group; that is the normals, so you would know what normals answer like; then they had --

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some of these people did commit crimes. If you look at the Atlas for the MMPI, many of the histories given in that Atlas are people who have committed crimes.

Q What type of crimes?

A Including murder; various types of crimes.

Q But the test has never been standardized on criminal defendants?

A There is no scale for criminality here, no.

Q Right.

By and large, the vast, vast majority of individuals upon whom this test was standardized were noncriminals; isn't that true?

A That is true.

Q Now, since the norm group, then, standard group, by and large were noncriminals and Mr. Watson is not a noncriminal, how can this test be valid with respect to Mr. Watson?

MR. BURRICK: If your Honor please, I respectfully object to the phrase "noncriminal"; I think that is for the jury to decide.

MR. BUGLIOSI: May we approach the bench?

THE COURT: Yes, you may approach the bench.

(The following proceedings were had at the bench.)

MR. BUGLIOSI: It is obvious from the man's answers that he was looking at Mr. Watson's answers to these questions the way a person who was not charged with murder --

THE COURT: Now, wait a minute now. You didn't ask him about persons charged with crime, but you assumed him to be

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a criminal, which is for this jury to decide.

MR. BUGLIOSI: No, no; he based his conclusions at the time of these examinations on the fact that Watson had told others that he had killed seven people.

THE COURT: That he read about it; that he read about it.

MR. BUGLIOSI: And also that -- in discussions with the psychiatrists.

THE COURT: So what does that mean?

MR. BUGLIOSI: That means that he thought Mr. Watson falls into a different area than the group upon which these tests were standardized and, hence, this test is invalid.

THE COURT: I think the objection here is to referring to Watson as a criminal.

MR. BUGLIOSI: I have to categorize him some way.

THE COURT: "Charged with crime" is different from being a criminal. The jury is going to decide whether he is a criminal or not.

MR. BUGLIOSI: But he has already said that when he examined Mr. Watson he had been told that the man killed seven people.

THE COURT: All right.

MR. BUGLIOSI: I think we playing with words --

THE COURT: No, we are not at all; we are not at all.

The fact that a person has killed seven people, that killing might not be criminal. That is what I am trying to tell you. It is up to the jury.

MR. KAY: You mean, in other words, it could have been done in self defense?

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THE COURT: Suppose he was insane at the time.

MR. BUGLIOSI: Even then it would be criminal. It would be criminal.

THE COURT: But then he is found not guilty by reason of insanity.

MR. BUGLIOSI: He has to be found guilty first, before he can be found not guilty --

THE COURT: If he is found insane, he is not guilty of the crime, is he?

MR. BUGLIOSI: But he is not treated as an innocent person; he is treated as a guilty person. He is sent to the hospital for the criminal insane.

THE COURT: But whatever it is, he is found not guilty by reason of insanity; isn't that true?

MR. BUGLIOSI: Yes, but he is not treated --

THE COURT: Isn't it just as easy to ask him as "Persons charged with crime" rather than assume this man to be a criminal in your questions?

MR. BUGLIOSI: Well, after the man has already said that he knew that Mr. Watson -- or, he believed that Mr. Watson had killed seven people --

THE COURT: That doesn't make him a criminal. That's my point.

I think you can very easily change it to incorporate that, "Charged with a crime."

11A

MR. BUGLIOSI: Thank you.

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11A

(The following proceedings were had in chambers court.)

Q BY MR. BUGLIOSI: Going back just a moment, you say the norm group upon which the MMPI test was standardized were not criminals; is that correct?

A Certainly, that wasn't -- that wasn't any one of the special groups, no, as such.

Q And by and large the group upon which the MMPI test was standardized were not people charged with crime; is that correct?

A That's correct, yes.

Q Now, since the norm group, Doctor, were noncriminals, people who were not charged with crimes, and since Mr. Watson is charged with seven counts of murder, how can the MMPI test be valid with respect to Mr. Watson?

A Well, the MMPI isn't there -- we aren't using it to predict his guilt or innocence or his crime; but, rather, to tell us a little bit of one indicator of how emotionally disturbed he may be.

Q Isn't the basic theory of the MMPI test that the more questions a person answers the same way as persons in the norm group would answer, the more likely the person is apt to be --

A Be like that group.

Q -- be like that group?

A That is true.

Q How can you expect someone charged with seven counts of murder to answer questions like a relative of a

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hospital patient in Minnesota?

A Oh, excuse me. There were more than one group. I hope I made that clear, that the control, the standardization group consisted of two main groups; the relatives and the emotionally disturbed, mentally ill people.

There were two sets of groups.

Q But not people charged with crime?

A Not primarily, no.

Q What percentage, Doctor, one-half of one percent?

A I don't know; perhaps something like that.

Q All right.

A Okay.

You are correct in your point.

Q All right.

Since 99-1/2 percent of the people who constituted the norm group were not charged with a crime and Mr. Watson is charged with seven counts of murder, how can this test be valid as to him?

A Well, as I say, the validity concerns not the question of murder, because I don't have any murder scale on here.

It tells me how very depressed and confused he was feeling and how disturbed he felt, rather than his -- and I am talking about the profile, not the critical items, one at a time.

Again, I would emphasize, sir, that this test was made up quite imperically; nobody said that these were schizophrenic or hysterical items; rather, they gave the items

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1 to everyone concerned, the normal and quote, "abnormal groups,"
2 and then the answers that differentiated normal from abnormal
3 were statistically selected, such that you cannot tell from
4 any one item much about the subject.
5 You can only tell from the profile of responses
6 altogether; thus, I would agree with you, as you read one item
7 at a time, that it does not make too much sense to say what
8 he did mean there.
9 Q I'm just looking --
10 A I am looking at the pattern of items rather than
11 the items, per se. The critical items do suggest and are used
12 primarily as a method of following up in interviewing the
13 patient, saying, "What did you mean, you had strange and
14 unusual experiences?" And --
15 Q Doctor, you said the MMPI critical items list
16 showed confusion, emotional disturbance, and I forget the
17 other word you used --
18 THE COURT: Depression.
19 THE WITNESS: Depression.
20 Q BY MR. BUGLIOSI: The point I am trying to make,
21 Doctor, again going back to question 284, "I'm sure I'm being
22 talked about," and Watson's answer, "True" --
23 A Uh-hum.
24 Q -- some relative of a hospital patient in Minnesota,
25 the norm group, you say the average person would answer that
26 question "False"?
27 A Uh-hum.
28 Q Isn't Mr. Watson's answer to that question to be

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expected, the answer he gave, "True," to be expected in view of the fact that he is charged with seven counts of murder and these are highly publicized murders?

What is so unusual about this?

A As I say, sir, I can imagine the possibility that he might have said the opposite. He might not feel talked about.

If he does feel talked about, maybe he hears talk, undoubtedly, but whether he feels that or not is only indicated by his answer.

THE COURT: Doctor, let me ask you this, it is not a question of the correctness of his answer --

THE WITNESS: That is true; it is how he feels, his own subjective impression of how he feels.

THE COURT: And whether the answer is correct or not is not the important factor?

THE WITNESS: Yes, sir; that's quite right. Thank you.

Q BY MR. BUGLIOSI: But that answer -- "I'm sure I'm being talked about," and the answer is "True," this is to be expected from someone in Mr. Watson's shoes; is that correct?

A As I say, I don't know. I don't know what to expect.

Q Page 4 of your report, Doctor, you say that the psychological tests show that Mr. Watson is experiencing almost overwhelming feelings of depression and anxiety; he goes over and over again his troubles and worries in highly obsessive fashion, probably magnifying them extremely.

Do you say that?

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A Where is page 4?

Q Excuse me?

A Yes.

12

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#12

Q Isn't it perfectly normal, Doctor, for a person being charged with seven counts of murder to be depressed and suffering from anxiety?

A I can only say, you know, that I would imagine that to be true, but I can also imagine that there would be people who would not.

So how this refers to his acts, I don't know.

Q Doctor --

A I would say yes, I can see your point.

Q You say he was probably magnifying his troubles and worries.

For a person charged with seven counts of murder, and facing a possible death penalty, Doctor, how in the world can he be accused of magnifying his problems?

I mean does anyone have more problems now than Mr. Watson?

How can you say he magnified his troubles and his problems when he is charged with seven counts of murder and he is facing the death penalty?

A You see I don't know that that is exactly what he was worried about. He might have been worried about other things for all I know.

I know the proportion of his disturbance, but I saw no indications -- at only one point did I see any reference in his answers to these tests that had reference in any way directly connected to the alleged crime.

I only talk about the degree of his disturbance and the fact of it. The content of it, I must admit I don't know

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1 what he was worrying about. He might have been worried about
2 other things. It seems to me reasonable what you say.
3 Certainly I would feel that way, I know, but I am
4 not Mr. Watson and I've heard of people who commit crimes who
5 do not feel guilty about the crime or worry about it or worry
6 about the possibility of execution.
7 That is they almost feel relieved. This has been
8 published many times by various prison psychiatrists and
9 psychologists who have studied the matter. I have seen some
10 cases myself of this.
11 Q Mr. Watson wasn't worried about his sex life, was
12 he?
13 A Might have been.
14 Q "Question No. 20. My sex life is satisfactory."
15 What does he say? He said that he is worried
16 about it; right?
17 A He thought his sex life -- at that point,
18 apparently, he thought his sex life was satisfactory. He
19 said "False." No, he said "True."
20 Q Doctor, let me ask you this: Prior to this trial have
21 you ever examined a person being charged with murder and then
22 testified at that trial?
23 A Yes.
24 Q What trial was that?
25 A One recently I can think of was a juvenile. I
26 would rather not mention the name for matters of confidence
27 and the other was a trial -- I don't remember the names of
28 the people involved -- I was in the military. I remember those

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1 two particularly.

2 Q Okay. You had one case --

3 A I don't remember others offhand. I know I have

4 examined people who frequently have been adjudged guilty and

5 examined before the sentence. This is what I am more commonly

6 involved in and I don't appear in court on those.

7 Q With respect to your military service examination,

8 how long ago was that?

9 A Oh, gosh, World War II, 25 years ago.

10 Q Other than that you say you have examined one

11 person charged with murder?

12 A Where I appeared in court.

13 Q Right.

14 Was this a juvenile court that you appeared in?

15 A Yes.

16 Q It wasn't a criminal court?

17 A No.

18 Q So this is your first trial then in a criminal

19 court where you have examined someone charged with murder?

20 A And testified.

21 Q And you testified?

22 A Yes. That is true. This is not part of my common

23 practice, but then very few murders are referred to psychologists.

24 Q What is a sociopath?

25 A That is old-fashioned term that was kind of a

26 wastebasket term to describe people who were delinquent and

27 didn't seem to comprehend or go along with social mores and

28 customs.

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Q Are they called psychopaths today, or is it just the reverse?

A Both terms are still used. I don't use them commonly because I think they are too broad and have too much meaning.

Q On page 4 of your report you say, referring to Mr. Watson, "His pattern as a whole indicates a considerable social and emotional alienation."

A Yes.

Q "And an inability to accept and live within social bounds or to form interpersonal relationships."

A Yes.

Q Isn't that kind of a sociopath or psychopath?

A Well, that is why I say those terms are too broad. I don't use them. It is also true schizophrenics. It is true of all three diagnoses.

Q You say it is true of schizophrenics. You are very, very well aware that many, many schizophrenics have responsible positions, very responsible positions in our society such as doctors and lawyers. You are aware of that?

A So do sociopaths and psychopaths, yes.

Q But sociopaths and psychopaths as opposed to the schizophrenics, doctors or lawyers, by definition, if he is a sociopath or psychopath he is violating the law; right?

A Not necessarily, no. He may skim along the edge of the law, find the loopholes in it.

Q Isn't it true that sociopaths constitute a very large portion of the criminal element in our society?

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A Again the term is so broad I have difficulty answering that in good conscience. I would say that probably this is what most people would say.

Yes, I will agree this is a common opinion, but I do reserve my own belief that the term is rather meaningless to mean anything about human behavior. Psychopaths is a broad and meaningless term to me.

Q Doctor, on page 4 of your report you say that Mr. Watson has serious doubts as to his masculinity.

Did you form any opinion whether this had been a problem that he had had for quite a while or whether it is of recent origin?

A Well, here again my tests don't tell me that entirely.

I do say this, that from the tests alone, where I see the kinds of doubts that Mr. Watson's responses indicated, are ones that I would normally believe are of some extent, that he has probably held them for some time and than when I heard the history, it seemed to me that there was more evidence of this.

Again, however, that is in the history and not in my data.

Q You say he had held this feeling of lack of masculinity for some time.

Would that be prior to his coming out here to California and meeting Charles Manson?

A Well, I again refer to, you know, general clinical experience in dealing with youngsters and young adults and

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generally people of Mr. Watson's age, who still have doubts about their sexual identity, doubts about how manly they are, are still resolving the doubts that are normal to a young teenager.

Mr. Watson's responses were more like those of a 14 or 15-year old boy in that respect and so I would say that, you know, he still was trying to resolve something that he had not completely resolved in his teenage years.

Q Would you say, Doctor, that feelings of guilt over what he has done and fear of what might happen to him underlie much of his depression?

A His current depression?

Q Yes.

A Oh, I would imagine that would be true, yes, but this is again a hypothesis. I don't know for sure.

It would seem that is reasonable to expect, yes.

Q His feelings of guilt over what he has done underlie much of his depression.

A Again this is a hypothesis that I would agree with. I would suspect that is probably true, yes.

Q It is not only a hypothesis that you would agree with, Doctor, don't you say on page 5, "Although Mr. Watson's general pattern of responses indicate that considerable feelings of guilt underlie his depression and are probably a major source in his confusion --" don't you say that?

A Yes, but I am not sure -- you know, I don't know how much of the guilt has to do with the crime which we are trying, or whether it had to do with guilt about other things

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in his life because again there are many, many studies to show that people who commit crimes, commit them -- because they already feel guilty before they ever commit the crime, and they feel more guilty about the things they have done before in their lives than they do about the crime, the crime then that invites the punishment.

They then in some magical and quote "crazy way" receive the punishment that will eventually atone for all of their previous crimes that are more desperate than the one they are accused of. This seems strange but there have been many studies and suggestions.

13

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Q You are not suggesting that he has done something other than -- well, worse than kill seven people?

A. It is possible that he has done things that in his own mind are worse -- in other words, I am saying here now, not knowing about Mr. Watson specifically, but talking about the theory of crime -- do you understand what I mean, sir?

I am talking about a theory of crime which might, I don't know, apply to Mr. Watson.

Q When you say here Mr. Watson's general pattern of responses indicate that considerable feelings of guilt underlie his depression, you were thinking that maybe he was feeling guilty about, say, skipping school when he was a young kid?

A. Oh, I would guess it would be something more than that.

Q Stealing a grape at a supermarket?

A. Making all A's in high school and then failing out of college.

Q Oh, I get it; so this is what you were referring to?

A. I would say that that would be one kind; I would say it would be more major than the kind of things you say; and, as an illustration in his case, I think these are the kind of things that would make a young man who had been a success in high school -- and I am told he was an athletic of some note -- he goes to college and doesn't do as well.

Q And you say he failed --

A. I say that, therefore, he doesn't do as well at college and therefore, he used -- that this could cause

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depression, but, again, this is a hypothesis, I don't know.

Q Did you say he failed out of college?

A No, I didn't say failed out of college --

Q Earlier you said --

A I did, but I corrected it; but, he certainly didn't do as well in college.

Q But when you talk about feelings of guilt underlying his depression, you feel that he was really referring to getting lower grades at North Texas?

MR. BUBRICK: That is not what he said at all; I object to that.

THE COURT: No, he didn't.

THE WITNESS: I didn't say that.

Q BY MR. BUGLIOSI: Did you get the impression, Doctor, from the psychological tests that you administered to Mr. Watson that he has a tendency to want to blame others for problems that beset him?

A Yes, or to see it -- see himself as the victim of circumstances. I don't know what language I used here, but we'll look at it here.

Yeah, he's the passive figure in his fantasies on the TAT, as I mentioned before; he's the passive figure that things happen to, rather than as a person determining his own fate; and, thus, when things happen, he wonders what has happened to him, rather than he has done something.

This is his general attitude and approach to life.

Q Well, the people he blamed or things he blames are other human beings; right?

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A. Or circumstances, yeah.

Q. In fact, you used that language, talking about his masculinity, which, again, he has to cover by blaming outside influences; is that correct?

A. Yeah, may I expand on my remarks as regarding guilt?

Q. Yes.

A. Okay. As a better example here, and this is suggested by some of his stories, and again seem verified a bit when I heard some of his history, that he was a fairly nice and obedient boy who was very close to his mother. His stories indicate a great deal of fondness for his mother, and that he may have -- that is a very common picture for a young man who feels close to his mother, dependent on her, to feel guilty a bit when he begins to leave home, when he breaks the apron strings, to feel even more guilty when he does not succeed and to feel intensely guilty about that when he finds himself in a situation which is highly socially disapproved of, such as the Manson family; and involved in the crimes which he is alleged to have been involved in, that this disappointment and this feeling of guilt, I would submit, is probably one of the central things which Mr. Watson felt as indicated by his responses to the test.

Q. Did you get the impression, Doctor, that Mr. Watson doesn't want to face up to the fact that he killed seven people and he is trying to talk himself into believing that this was some type of an accident?

A. No.

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Q You didn't get that impression?

A (Shakes head.)

Q You have to answer out loud, Doctor.

A No. I feel that this is one matter which he was most confused about and puzzled about within himself.

Q Page 5 of your report --

A Yeah.

Q -- the story suggested that Mr. Watson is unable to account to himself the events of which he is accused of participating in; that is, he tries to tell himself that it was more like an operation, possibly an accident.

A Yes, that is my conclusion from that one story. This is the only incident --

Q What story are you talking about, Doctor; aren't we talking about --

A The story quoted previously, a story he told to the TAT.

Q You were talking about stabbing the people?

A Yes.

Q You got no information from any psychiatrist that other than those seven killings, Mr. Watson stabbed someone else, did you?

A That is true, but I would say that this is a general pattern of Mr. Watson's life, that things are accidents; that they are not, you know, they are accidents of life.

Q When is the last time you read your report, Doctor?

A Just the other day.

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Q Had you forgotten some of the contents?

A No, I am referring back to them as you read them. I don't memorize reports, sir.

Q If this is true, what you say here, that he is trying to tell himself that it was more like an accident; in other words, he doesn't know how to account for himself, the events which took place, it is exceedingly common, is it not, for human beings to rationalize and attempt to explain away their wrongful conduct so they could live with themselves, so to speak?

A Yeah.

Q That is exceedingly common, isn't it?

A Oh, sure.

Q So you find nothing unusual about Mr. Watson trying to tell himself that maybe this was an accident, these seven killings?

A Yeah, I can't see how it is an accident; but he -- the story suggested this. I quoted this story, sir, because it was the only response out of all the responses that seemed to have some direct bearing of any kind on the alleged crime.

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Q Okay, going on, Doctor, would you agree that an atmosphere and that the circumstances surrounding the taking of these tests can affect the results?

A Oh, yes.

Q And therefore, I take it, that you try to give these tests to everyone under essentially the same conditions; you seek uniformity; is that correct?

A I seek it, but I never attain it completely.

Q But this is what you try to achieve, a certain amount of uniformity?

A Yes, as much as possible.

Q Wouldn't the anxiety and the depression of a person being charged with seven counts of murder, and on trial for his life, contrast considerably to the relaxed circumstances under which we can assume the norm group took these tests?

A The nonemotionally disturbed group, oh, yes, I would assume that.

Q Even the emotionally disturbed group, you indicated that it would probably be one-half of one percent of those were charged with a crime; Mr. Watson is charged with seven counts of murder and one count of conspiracy to commit murder.

A Yes.

Q Wouldn't you say that the anxiety and depression of Mr. Watson would contrast considerably with, let's say, the relaxed circumstances of these other people, the norm group?

A Oh, I have seen young men come in my office who were far more upset about going to Vietnam than Mr. Watson

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1 seemed to be.

2 Q But you do say that Mr. Watson was suffering from

3 extreme depression; isn't that right?

4 A Yes.

5 Q So we can talk about Mr. Watson, not about some-

6 body going to Vietnam.

7 A Except you asked -- you asked what the setting is

8 in which the tests are conducted, or how the patient feels

9 when he comes in, and I am saying that Mr. Watson certainly

10 came in under, you know, considerable stress involved before

11 he came into the test --

12 Q All right, now, let's --

13 A -- but I would say that my practice is to handle

14 people who are under considerable stress and try to ask them

15 to take these tests, no matter how disturbed they may feel at

16 that moment, and try to settle him down and get their co-

17 operation. This I did with Mr. Watson, the same as I do with

18 any other young person who comes in my office.

19 Q In view of the fact that we have a norm group

20 against which other people are compared --

21 A Mm-hmm.

22 Q -- isn't there a possible distortion, because of

23 the stress setting in which Mr. Watson took this examination,

24 as opposed to the norm group, isn't there a possible distortion

25 because of that?

26 A You are talking here about my office or him?

27 My office was the same for all patients; there was

28 no stress in my office.

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1 Q You mean Mr. Watson felt no stress in your office?
2 A No more than anyone else would have, no.
3 Q Didn't you say that based on your examination of
4 him in your office, that he was suffering from extreme depres-
5 sion and anxiety?
6 A But that wasn't due to anything I did in my office,
7 no.
8 Q I am talking about Mr. Watson, his state of mind
9 in your office.
10 A Right; and that state of mind, I maintain, reflected
11 throughout his responses, just as any other depressed person
12 would have.
13 Q So the total circumstances surrounding his taking
14 the tests would vary in contrast considerably from the circum-
15 stances surrounding the taking of the test by the norm group?
16 A They are not anxious, they are not depressed, so
17 they don't register anxiety and depression on the test; true.
18 Q Doctor, can poor physical health affect these
19 tests?
20 A If it affects and disturbs them, yes.
21 Q Did you feel that Mr. Watson was in poor physical
22 health at the time he took these tests?
23 A I had no knowledge of his health, sir.
24 Q You saw he was a tall individual, over six feet --
25 A Yes.
26 Q -- weighing between 110 and 116 pounds?
27 A Yes.
28 Q That is not good physical health, is it?

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1 A I'm not a physician, sir.

2 Q Certainly extreme depression can affect the results

3 of these tests, can't it?

4 A That is what the tests are there to measure.

5 Q That is what I am saying; if someone is extremely

6 depressed --

7 A It will show up on the test.

8 Q That will be reflected on the test?

9 A Yes.

10 Q And normally in a negative fashion; right?

11 A Yes.

12 Q So if Mr. Watson was in poor health and extremely

13 depressed, this would account for the rather low grade he got,

14 then; there could be one more factor accounting for the low

15 grade; isn't that true?

16 A You are talking here about his intelligence?

17 Q Yes.

18 A Yes.

19 Q Low grade on intelligence and every other test he

20 took.

21 A Well, the other tests are tests of his emotional

22 state, and so they do reflect his depression. His intelligence,

23 as I have testified before, could be partly -- intellectual

24 deficiency could be partly deterred by depression, except that

25 the gap between I estimated his intelligence in college and

26 the intelligence I got is hard to explain, purely on the basis

27 of depression.

28 Q These results you have come to are your personal

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conclusion; is that right, Doctor?

A That's right.

Q In fact, given the same test data that you had, different psychologists could reach different conclusions; is that correct?

A I would doubt it.

Q Have these tests been standardized, psychologically speaking, on you; are you the standard, in other words?

A No.

Q When you reach a conclusion, is that the standard conclusion among psychologists in this country?

A I believe my interpretation of the tests are very similar to what most psychologists conclude, yes.

Q But other psychologists could differ, based on the same data?

A There would be differences, but not major differences. I would believe that most psychologists would find the same general pattern. There might be some slight differences of opinion on this one point or that one point, but the same general pattern, yes.

Q When you examined Mr. Watson, in fact, at the time that you reached your conclusions you were aware that he was being charged with murder and that the prosecution was asking for the death penalty?

You were aware of that; is that correct?

A I knew he was being charged with murder and I'm not sure what the penalty is. In fact, until you mentioned it, I didn't know what the penalty would be, being asked here.

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Q But you know, of course, that the death penalty was one possible punishment; is that right?

A That's right.

Q Are you against the death penalty, Doctor?

A I am.

Q Now, Doctor, you understand that perhaps the most critical, or at least one of the very, very critical issues during this trial is whether Mr. Watson could maturely and meaningfully deliberate, premeditate and reflect upon the gravity of the contemplated act of killing.

Were any of the psychological tests you administered to Mr. Watson, were any of them designed to determine whether a person taking the test could maturely and meaningfully deliberate, premeditate and reflect upon the gravity of the contemplated act of killing?

A No, sir; they are not specifically designed for that question.

MR. BUGLIOSI: Thank you. No further questions.

14f.

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14R-1

REDIRECT EXAMINATION

BY MR. BURRICK:

Q Dr. Palmer, would you lie on the witness stand because of any possible consequences that this case might reach?

A No, sir.

Q Can you separate your own personal and private feelings from your professional feelings?

A Yes, sir.

Q Do you ever do work at the request of the courts?

A I have.

Q Have you ever expressed this feeling as you have on other occasions about the death penalty?

A Oh, yes.

Q That is no big secret, so far as you are concerned?

A Oh, no. I have made this in public statements many times.

Q Dr. Palmer, are there any specific questions that you relied on, exclusive of everything else, to reach the conclusion that you did about Mr. Watson?

A Any specific questions?

Q Yes.

A No, sir.

Q To the complete exclusion of everything else?

A No. I went on a general pattern of questions, not on specific items.

Q Is there any specific test, the result of which you used to the complete exclusion of everything else in an

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effort to decide whatever you did about Mr. Watson?

A No, sir. I used all tests combined.

Q Do you know, Dr. Palmer, whether there is any test at all that is made exclusively for people who are accused of committing crimes?

A No. I don't know of one.

Q Is there anything in any of the tests that you gave Mr. Watson, Dr. Palmer, that would tell you what he was feeling guilty about?

A There is some indications in his fantasies, sir, that I did read in my report, that he did have concern about what his mother might think of him.

I gained that impression from some of the things, fantasies, and associations, that he revered his mother.

He saw her as an angel and my hypothesis was that among the things that he felt very guilty about was the possibility that he might have disappointed her.

Q Is there anything else, any other area in which you specifically find references to guilt in any of the tests that you gave him?

A No, sir -- well, except his generalized feeling of depression and guilt, but specific to any one item, no.

Other than, again, the story that was quoted in my report, because I looked for something as one might do in such an instance to see any possible reference to the crime and this one TAT story was a story about stabbing. Again, it is a story, the response to that particular picture is not unusual.

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1 Q These tests that you gave, Doctor, pretty well
2 measure the subjective person, do they not?
3 A That is true.
4 Q Is there any way you know of, or can you tell from
5 anything at your disposal what the degree of emotionalism,
6 depression, or confusion might have existed in the norm group?
7 Do you understand my question?
8 A Not exactly.
9 Q Is there any way of telling whether any people in
10 the norm group were emotional about anything else, were feel-
11 ing depressed or were confused?
12 A You mean when the tests were standardized?
13 Q When the test was standardized.
14 A No. These people were presumed to be nondisturbed.
15 This again is one of the questions of standardizing
16 a test, because we know that in people who are used as normals,
17 that they are people with quote normal anxieties and there are
18 people who may be as emotionally disturbed as we have in mental
19 hospitals, but just don't happen to be in the hospital and
20 might very well be in the normal group.
21 Q That is the point of it, Doctor. People who are
22 quote normal have emotions and can suffer from some degree of
23 emotionalism, can't they?
24 A Yes.
25 MR. KAY: I will ask that that be stricken -- "that is
26 the point of it," as a gratuitous statement.
27 THE COURT: "That is the point of it" may go out.
28 MR. KAY: Thank you.

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Q BY MR. BUBRICK: People who are normal suffer from some degree of emotionalism, do they not?

MR. KAY: That is a leading question.

THE COURT: If I recall, he is practically repeating a question you put to him.

MR. BUGLIOSI: This is his witness, your Honor.

THE COURT: The objection is overruled.

THE WITNESS: I am sorry. The question is normal people have emotion? Oh, yes, of varying degrees.

Q BY MR. BUBRICK: And do normal people suffer from some degree of depression?

A Certainly under certain stresses or losses, they would.

Q And whatever might make a person depressed would depend certainly upon the individual who feels depressed.

MR. BUGLIOSI: A leading question.

THE COURT: Overruled.

THE WITNESS: Oh, excuse me. The depression would depend on the stress that he as an individual is experiencing.

Q BY MR. BUBRICK: Yes?

A Yes.

Q And the same is true of confusion; correct?

A Yes.

Q There are no objective tests which you can administer to a normal person to find out whether he is suffering from any degree of emotionalism, depression, or confusion at the time he takes the test?

A Well, if he is suffering from this to an unusual

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1 degree, it will show up on the test, yes.

2 Q But we have --

3 A But if he is feeling sad that day or something is

4 puzzling him that day as opposed to being confused about things

5 across the board and in general, and from day to day, this may

6 not show up on, say, like the MMPI, which is built to check

7 out gross disturbance rather than just everyday emotional

8 upsets, worries, puzzlements, that all of us have.

9 Q In other words, it is a --

10 A That does not show up on the MMPI.

11 Q In other words, it is a matter of degree, then?

12 A It is a matter of degree, yes.

13 THE COURT: Are you going to be much longer, Mr. Bubrick

14 with the doctor?

15 MR. BUBRICK: I don't think so, your Honor. Although I

16 think he is coming back this afternoon. He was asked to get

17 something for Mr. Bugliosi.

18 MR. BUGLIOSI: He already did. Well, the ink blots,

19 of course, we would ask the Court to have him bring those in.

20 MR. BUBRICK: I do want to cover something else, and I

21 think it is rather important, unless you want to run over a

22 few more minutes.

23 THE COURT: I would run over a few minutes, if I thought

24 that we could get through with the doctor.

25 Q BY MR. BUBRICK: Dr. Palmer, would you tell us what

26 a Class A university is, please?

27 MR. BUGLIOSI: This calls for a conclusion, your Honor.

28 He is not an expert in the field of education.

14mf.

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#14

Q BY MR. BUBRICK: In response to some requests by Mr. Bugliosi did you do some research last night?

A I made an inquiry about this, yes.

I was advised by the Division of Graduate Admissions at the University of California --

MR. BUGLIOSI: This is hearsay, your Honor, calling for hearsay.

MR. BUBRICK: You said you wouldwaive the hearsay rule, Mr. Bugliosi.

MR. BUGLIOSI: If he would bring in the actual documents or the actual books.

THE COURT: You consider North Texas University as class A?

THE WITNESS: It was classified this by the book I read.

THE COURT: That is all.

Q BY MR. BUBRICK: Let me ask you one further question, Dr. Palmer: There was something mentioned about the falsification scale on the MMPI test.

A Yes.

Q Do you recall that?

A Yes.

Q And then you said there was a schizophrenic scale on the MMPI test.

A Yes.

Q Now, included within the schizophrenic scale are there a lot of questions which appear in the falsification scale?

A Yes.

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14-2

Q Are there also a series or a group of questions in the schizophrenic scale called the subtle items that do not appear in a falsification scale?

A That is true.

Q If somebody were trying to intentionally falsify his answers on the MMPI test, is there any correlation between answers to the falsification scale and the subtle items?

A The subtle items are not in the falsification scale.

Q No. They are in the schizophrenic scale.

A They are in the schizophrenic scale. So that one way one could differentiate would be to say that the person who is suffering from what is called schizophrenia would be more apt to answer some of these questions that most people would not know were quote "schizophrenia items," yet he might also answer these very obvious items that the general public would say "Oh, I'll bet that is how a crazy person would answer," which are on the falsification scale.

Q Did the -- can the computer pick up this difference?

A No. It is not programmed to pick that difference up, so this is where I have some knowledge that the computer doesn't have. It has not been programmed.

Q It is something that the psychologist does independent of the computerized program?

A That is right. This I did independent of the computer program.

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14-3

Q You did that with respect to Watson's test; is that correct?

A That I did.

Q Can you tell us how the schizophrenic scale portion of the MMPI test turned out?

A Yes. The schizophrenic scale, weighted scale of between 105 and 110, where 50 is normal.

Q You mean he is twice normal?

A He is twice schizophrenic.

Q Twice schizophrenic?

A A very high score. It is only surpassed by his depression score.

They are both very extreme. Much less than 1/10 of 1 percent of the population would give such a pattern of responses.

Q One final question: Dr. Palmer, in all of the testing that you do over the years that you have done it, have you ever given any thought to assessing credibility of the taker of the test?

A Credibility?

Q Yes.

A Oh, constantly, in every instance.

Q Did you do that with Mr. Watson?

A Yes.

Q Did you have any opinion or did you have any feeling about whether or not he was trying to fake it?

A I felt on the contrary that he was most eager to try to respond as honestly as he could because he himself

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1 was worried about his condition and he wanted to see where he
2 stood.
3 Q Now, these tests that you gave him, are they tests
4 that have been used over a long period of time?
5 A Yes.
6 Q So far as you know have any of them been rejected
7 by psychological services?
8 A No.
9 Q Are there any tests that you gave him which are
10 personal to you alone, that you, so far as you know, you are
11 the only psychologist who uses them?
12 A No. These tests constitute the most commonly used
13 tests in clinical practice today throughout the United States.
14 Q Are the standardizations that you talked about
15 tabulations which come nationwide so far as these same tests
16 are concerned?
17 A Yes, in general, yes.
18 Q They are nothing that you have done and keep --
19 A Yes.
20 Q -- personal to you within the selected group?
21 A No. These are standardized. For instance, the
22 Wechsler test was standardized by a corporation in New York
23 using samples from across the country, independent of anything
24 I have ever done.
25 Q May we assume, Doctor, that the opinion you formed
26 of Mr. Watson is the result of a profile that was apparent to
27 you as a result of all the tests that you administered?
28 A That is right.

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MR. BUBRICK: I have nothing further, your Honor.

MR. BUGLIOSI: Nothing further.

THE COURT: All right. Thank you. You may be excused.

Ladies and gentlemen of the jury, we will recess at this time until 1:30.

Once again please heed the admonition heretofore given.

(The noon recess was taken until 1:30 p.m. of the same day.)

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