

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

COPY

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

CHARLES MANSON, SUSAN ATKINS,
LESLIE VAN HOUTEN, PATRICIA KRENWINKEL,

Defendants.

149

No. A253156

REPORTERS' DAILY TRANSCRIPT
Monday, November 16, 1970

APPEARANCES:

For the People:	VINCENT T. BUGLIOSI, DONALD A. MUSICH, STEPHEN RUSSELL KAY, DEPUTY DISTRICT ATTORNEYS
For Deft. Manson:	I. A. KANAREK, Esq.
For Deft. Atkins:	DAYE SHINN, Esq.
For Deft. Van Houten:	RONALD HUGHES, Esq.
For Deft. Krenwinkel:	PAUL FITZGERALD, Esq.
Also Present:	LAWRENCE B. LAUNER, Deputy County Counsel

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JOSEPH B. HOLLOMBE, CSR.,
MURRAY MEHLMAN, CSR.,
Official Reporters

1 LOS ANGELES, CALIFORNIA, MONDAY, NOVEMBER 16, 1970

2 9:07 o'clock a.m.

3 - - - - -

4 (The following proceedings were had in the
5 chambers of the court out of the presence of the jury
6 and the defendants, all counsel being present:)

7 THE COURT: All counsel are present.

8 We have various matters to take up this morning,
9 gentlemen, I just wanted to discuss with you the order of
10 procedure.

11 First, there is a motion on behalf of the
12 County Counsel to quash some subpoenas that were served
13 on three of the Judges of the Superior Court, and I under-
14 stand that the motion papers have just been served on
15 defense counsel.

16 Are you going to be ready to proceed this
17 morning, Mr. Shinn, or do you want some additional time?

18 MR. SHINN: I need some additional time for
19 opposition to the motion, your Honor. I just received
20 it this morning.

21 THE COURT: How much time do you want?

22 MR. SHINN: A couple of days.

23 THE COURT: Wednesday?

24 MR. SHINN: Yes. We will just fit it in some
25 morning. Wednesday is satisfactory, your Honor.

26 THE COURT: All right, then, we will set it

1 tentatively on Wednesday. By tentatively I mean because
2 of the request of the defendants for some time between the
3 time the People finish their case and the arguments on
4 the motion, and so forth, and the beginning of the defense.
5 IF that day happens to be Wednesday we will have to put
6 it over to another day, but we will set it tentatively
7 for Wednesday at noon.

8 Is that agreeable, Mr. Launer?

9 MR. LAUNER: Fine.

10 THE COURT: You might take a look at People vs.
11 Rhone. That is not cited in the points and authorities.
12 267 Cal. App. 2d 652.

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THE COURT: Now, the second matter is the matter of the Court's order to Patricia Krenwinkel regarding the handwriting exemplars.

The order required the exemplars to be made at 9:00 o'clock this morning, and the defendant was informed that the People would have a representative present for the making of the exemplars.

MR. BUGLIOSI: Which we have. We have someone, Mr. Roy Kiser of the Los Angeles Police Department, the Questioned Document Section, I guess.

MR. KAY: Yes.

Mr. Fitzgerald has informed us that the time has passed.

THE COURT: The time has passed, that's right.

MR. FITZGERALD: It expired today, the time limit. It was 9:00 o'clock this morning.

MR. KAY: Yes.

THE COURT: 9:00 o'clock.

MR. FITZGERALD: We are not asking for any extension.

THE COURT: How do you wish to proceed, Mr. Fitzgerald?

Do you want the defendant brought into the courtroom and then the People's representative can be present? Do you want a confrontation? Do you want the Court to ask her if she is going to comply? Or how do you want to proceed?

1 MR. FITZGERALD: Well, I was under the impression
2 that the court order was such that she was to comply by
3 9:00 a.m. this morning.

4 THE COURT: No. What I said was that the order
5 required her to comply at 9:00 o'clock because, at that
6 time, the People would have a representative present to be
7 with her during the making of the exemplars.

8 MR. FITZGERALD: Well, I mean, she is present. I
9 have no objection to your Honor asking her if she chooses
10 to comply.

11 THE COURT: Perhaps we should do it that way, out of
12 the presence of the jury, just so the record is clear that
13 she has refused^{or} failed to comply, if that is the case.

14 MR. FITZGERALD: It is my understanding that it is
15 not her intention to comply. I talked to her again this
16 morning about it.

17 THE COURT: Then, when we go back in, I will have
18 her brought out with the other defendants and simply ask
19 her if she is ready to make the exemplars.

20 MR. BUOLKOSI: Then I will read the stipulation,
21 Paul; right?

22 I will read the stipulation, then, in front of
23 the jury? Is that all right?

24 MR. FITZGERALD: Fine.

25 THE COURT: I would like to see the stipulation before
26 it is read.

Do you have one prepared?

MR. BUGLIOSI: The language is pretty simple, your Honor. I am just going to read your order.

I will start out by saying: It may be stipulated. And then I will read --

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1 THE COURT: The order starts on Line 1 of Page 17,693.

2 MR. BUGLIOSI: It is stipulated that the Court
3 ordered defendant Patricia Krenwinkel to provide the
4 following handwriting exemplars; and then read what we
5 have there.

6 Then, after I read what we have there, then
7 add that the defendant Patricia Krenwinkel failed to
8 comply with the Court's order and did not provide the afore-
9 mentioned printing exemplars.

10 That is about the extent of it; right, Paul?

11 MR. FITZGERALD: Yes.

12 Do you have a copy of that case, this recent
13 one?

14 MR. SHINN: What is the name of the case?
15 I have it at home. I was going to bring it down.

16 Mr. Fitzgerald should read that case.

17 THE COURT: Which case are you referring to?

18 MR. SHINN: I believe the case just came down last
19 week, your Honor, regarding handwriting.

20 It has some information that I think is
21 important for Mr. Fitzgerald.

22 I believe Mr. Bugliosi told me about the case,
23 too.

24 MR. BUGLIOSI: I just heard about it. I haven't
25 heard anything bad about it.

26 MR. SHINN: It may throw some light on
Mr. Fitzgerald's position. I don't know.

1 THE COURT: What is the name of the case?

2 MR. SHINN: That is what I asked Mr. Bugliosi this
3 morning.

4 I read it last night fast,

5 THE COURT: Is it in the Advance Sheet?

6 MR. SHINN: Yes. Last week's Advance Sheet, West's
7 Advance Sheet.

8 THE COURT: Is it a Court of Appeal case?

9 MR. SHINN: Yes.

10 Do you recall it, Mr. Bugliosi?

11 MR. BUGLIOSI: It is the one that we gave to the
12 Court.

13 MR. NUSICH: It is the one that we cited.

14 MR. FITZGERALD: I am still concerned, your Honor,
15 about the jury being informed that the refusal is based upon
16 advice of counsel.

17 If I am of the mind not to stipulate because
18 that clause is not included in the stipulation, would your
19 Honor then proceed by reading the order and reading to the
20 jury her refusal?

21 So I can have in mind some alternatives.
22 How is the Court inclined to proceed in the absence of a
23 stipulation?

24 THE COURT: Well, in that case, I would assume that the
25 People would request the Court to advise the jury of that
26 fact and, in such case, I would simply read the order and

1 make the statement that the defenūant has failed to comply
2 with the order.

3 MR. FITZGERALD: See, what I am concerned about, your
4 Honor, is I feel my position on appeal would be much sounder
5 if I didn't stipulate, unless it was indicated to the jury
6 that she refused on the advice of counsel.

7 I think I have somewhat less of an appellate
8 position if I stipulated she refuses, inasmuch as I am
9 taking the position that it is a Sixth Amendment violation
10 in that it deprives her of the right to effective counsel.

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1 THE COURT: Well, you can solve that problem, I think,
2 by simply advising her to respond to the Court's question
3 by saying "I refuse to give the exemplars upon advice of
4 my counsel."

5 I will inform the jury of her answer.

6 MR. FITZGERALD: Fine.

7 THE COURT: What is wrong with that?

8 MR. BUGLIOSI: That is part of the defense. It is
9 the People's case in chief; I don't think she can put on
10 her defense during our case in chief.

11 THE COURT: Well, but if her answer is a --

12 MR. BUGLIOSI: I think her answer can be truncated --
13 truncated -- chopped off -- the last part of it.

14 We have been doing that throughout this whole
15 trial. She refused to give the aforementioned exemplars.

16 The reason for her doing it is a matter of
17 defense.

18 THE COURT: I don't really attach a great deal of
19 importance as to whether it comes in as part of the People's
20 case in response to the order which was requested by the
21 People or whether --

22 MR. BUGLIOSI: Well, if it comes in as part of the
23 stipulation, Mr. Fitzgerald might decide not to take the
24 witness stand, and I would like to cross-examine Paul on
25 this.

26 The way it is coming in now -- well, I don't

1 know.

2 Are you going to take the stand anyway, Paul?
3 MR. FITZGERALD: Well, no, I mean, I'm not unmindful
4 of my vulnerable position if I take the witness stand.

5 That is not necessarily what is motivating me.
6 What I am most concerned about is the record reveal, in
7 the unlikely event the defendants are convicted --

8 THE COURT: I think I see Mr. Fitzgerald's point.

9 If I read him correctly he would prefer to be in
10 a position where he can say that he was forced to put the
11 witness on the stand, or that he did not want to put the
12 witness on the stand, that he in effect was forced to make
13 that decision.

14 From the standpoint of how the jury considers
15 the evidence, I don't think it makes any difference one way
16 or the other. They are going to get it one way or the
17 other. It may make a difference as far as the defense
18 is concerned.

19 MR. BUGLIOSI: Is it clear that the jury will be
20 instructed however, at the end of the case, that Patricia
21 Krenwinkel had the right to give that exemplar notwith-
22 standing the advice of counsel?

23 THE COURT: I have a tentative instruction prepared.

24 MR. BUGLIOSI: Because if that is not given to the
25 jury, there is no way I can argue consciousness of guilt.

26 THE COURT: I think you are entitled to that

1 instruction that she had no constitutional right to refuse
2 to give the exemplars.

3 MR. BUGLIOSI: Furthermore that she had the right to
4 give it notwithstanding advice of counsel, because if you
5 don't say that, how can I argue it shows a consciousness of
6 guilt. I can't make any argument.

7 THE COURT: I don't see any objection to that either.

8 MR. BUGLIOSI: All she is doing is following the
9 advice of her attorney.

10 For all the 12 lay people know, she doesn't have
11 the power to disagree with her attorney, and she certainly
12 does have that power.

13 If her attorney doesn't want to take the stand,
14 she can insist on taking the witness stand.

15 As long as the Court would give that instruc-
16 tion, then I would have no objection to including that in the
17 stipulation.

18 But I do want the jury to know that she had the
19 right to give this exemplar, otherwise there is just no way
20 I can argue consciousness of guilt.

21 THE COURT: I think that instruction will be appro-
22 priate.

23 MR. BUGLIOSI: I would have to argue Paul Fitzgerald's
24 consciousness of guilt otherwise.

25 So if that instruction is going to be given,
26 your Honor --

1 THE COURT: If she states a reason. If she doesn't
2 state a reason I cannot tell the jury something she does
3 not state.

4 MR. NUGLIOSI: Right.

5 THE COURT: I was just suggesting that as a way out
6 of the dilemma.

7 MR. NUGLIOSI: Very good.

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1 MR. FITZGERALD: It is a solution, thank you.

2 MR. MUSICH: Then the Court can ask if she under-
3 stands that she has the independent right to give it of her
4 own free will against the advice of her attorney. That can
5 also be included in the refusal.

6 THE COURT: All right, then. Following that,
7 gentlemen, we will bring the jury back in and advise them
8 of her failure, if such is the case.

9 Then I suppose we will be ready to start
10 arguing the admission of the exhibits, is that right?

11 MR. BUGLIOSI: One further point on the record,
12 your Honor:

13 In addition to Dianne Von Ahn, there is another
14 witness we have subpoenaed, Charles Melton, his name has
15 come up in the trial. He is the victim of that \$5,000
16 theft by Linda Kasabian.

17 He has been served with a subpoena but he is a
18 nature boy and last heard of he's apparently living in some
19 cave in Hawaii which does not have a telephone.

20 I just wanted the Court to know we are
21 looking for him. If he does show up at the time of
22 rebuttal, we will ask the Court's indulgence or consider-
23 ation to put him on for limited testimony.

24 I think the defense is looking for him, too,
25 isn't that right, Paul?

26 MR. FITZGERALD: Yes.

1 MR. HUGHES: As a matter of fact, we have him under
2 subpoena.

3 MR. BUGLIOSI: We have subpoenaed him but he is not
4 in the jurisdiction now.

5 MR. FITZGERALD: We cannot locate him either, not-
6 withstanding our subpoena.

7 MR. BUGLIOSI: So it is Von Ahn and Melton we are
8 looking for.

9 THE COURT: Very well.

10 Now, on the matter of the exhibits, gentlemen,
11 have you given some thought to expediting the arguments,
12 and so forth?

13 It seems to me in some cases the exhibits
14 naturally group themselves.

15 MR. FITZGERALD: I have given some thought to
16 expediting it, and I think if we could proceed chronologically
17 through the exhibits, but with taking aside all the
18 photographs of bodies and handling those as a group.

19 At my last count I think there are about 27
20 of them.

21 As we go along, if we could just skip those
22 until we get to the end, and then we can talk about the
23 photographs of the bodies alone. I think that would
24 materially expedite the procedure, rather than have the
25 same objections and the same argument as to each one of
26 about 27 exhibits.

1 And I have been talking it over with co-
2 counsel, and we think we can move pretty rapidly through the
3 exhibits. We don't anticipate any lengthy problem.

4 We will not stipulate to the admission of any
5 exhibit. We would prefer not to be put into the position of
6 stipulating.

7 There are some to which we will offer no
8 objection, however, and we will indicate those as we go
9 along.

10 THE COURT: What about the defense exhibits?
11 Are you going to offer those at this time?

12 MR. FITZGERALD: That might be a good idea. We
13 don't intend to offer all of the defense exhibits.

14 I have the exhibits marked that we intend to
15 introduce, and we can probably expedite things.

16 MR. BUSLIOSI: Shouldn't that be at the end of the
17 defense case? We would prefer it that way.

18 MR. KAY: It would be premature for the defense to
19 introduce their exhibits in the prosecution's case.

20 MR. FITZGERALD: I don't think it makes any difference
21 because the exhibits that are received into evidence now
22 will not actually physically get into the hands of the jury
23 until we close our case anyway, correct?

24 THE COURT: Why don't we hold off then on the
25 defense exhibits?

26 Do you have transcript references on the
exhibits?

1 MR. FITZGERALD: On most of them I do not, although I
2 have who identified them.

3 For example, a photograph that was marked and
4 it was shown to Linda Kasabian, and it was identified by
5 Kasabian. I have noted it was identified by Kasabian.

6 If any subsequent witness also identified the
7 exhibit I have the name of that person there as well, and
8 I don't anticipate we will get into any problems about the
9 foundation.

10 Most of the exhibits appear to have a sub-
11 stantial foundation with the exception of one or two.

12 I don't think we will get into foundational
13 problems.

14 Some of the exhibits contain hearsay and some
15 of the exhibits we are going to contend are immaterial and
16 irrelevant.

17 Some obviously we are going to contend that
18 any relevancy is outweighed by the prejudicial value,
19 et cetera.

20 There is nothing terribly esoteric.

21 THE COURT: Fine.

22 MR. KANAREK: Your Honor, I have the references to
23 Mr. Wolfer. Is Mr. Wolfer here?
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1 MR. BUGLIOSI: Mr. Kay checked that out.

2 MR. KAY: I checked the transcript. I have the two
3 places marked with yellow paper where there is a reference,
4 and the only representation made was a representation by
5 Mr. Wolfer that he would provide the plot-plan, not that
6 he himself would return, and that also the plot-plan was
7 brought up here while he was still on the stand, and
8 brought into the courtroom.

9 MR. BUGLIOSI: It is here now, isn't it?

10 MR. KAY: Yes.

11 MR. BUGLIOSI: The plot-plan is here, Mr. Kanarek.

12 MR. KANAREK: I refer, your Honor, to pages 12,851,
13 13,003, 13,048, 13,052-053, and also Mr. Bugliosi's representa-
14 tion to me on numerous occasions that Mr. Wolfer would be
15 here.

16 MR. BUGLIOSI: Well, he is a very difficult man.
17 He is retiring from the force. He is very hard to get hold
18 of.

19 But I have left messages for him to come over
20 here.

21 MR. KANAREK: All I know is, your Honor, your Honor
22 is the one to rule.

23 I move all of this testimony be stricken or
24 the prosecution live up to their word. He is a Los Angeles
25 Police Department officer.

26 THE COURT: What word are you talking about?

1 MR. KANAREK: I am referring to the --

2 THE COURT: What are the references again?

3 MR. KANAREK: 12,851, 13,003, 13,048, 13,052-053,
4 and I ask to be sworn as to Mr. Bugliosi's representations
5 to me.

6 MR. BUGLIOSI: You don't have to be sworn. I will
7 admit I told him I would try to get him over here.

8 MR. KANAREK: You told me you would have him, Mr.
9 Bugliosi. He is a Los Angeles Police Department officer.
10 If you wanted him to be here he would be here.

11 We have a right to have a full cross-examination
12 of him.

13 MR. KAY: That plot-plan exceeds the scope of cross-
14 examination. It is outside the scope. You would not be
15 able to cross-examine.

16 MR. KANAREK: That is my motion, your Honor, and
17 your Honor is the one to rule.

18 The motion is either he be here, or all of his
19 testimony be stricken and the jury be ordered to disregard
20 it.

21 MR. BUGLIOSI: Have you spoken to Mr. Wolfer, Mr.
22 Kanarek?

23 MR. KANAREK: I haven't spoken to Wolfer, Mr. Bugliosi.
24 I think that Mr. Wolfer after his examination is probably--
25 well, I would say that -- I would say in any event that Mr.
26 Bugliosi should live up to his word, the prosecution's word.

1 MR. BUGLIOSI: Do you want me to hand-carry him over
2 here?

3 MR. KANAREK: In the context of these proceedings,
4 he is a Los Angeles Police Department employee; he is an
5 alleged criminalist.

6 MR. BUGLIOSI: I put him on for five minutes on
7 direct.

8 MR. KANAREK: He is a purported expert on many
9 subjects.

10 THE COURT: You were informed by the Court on page
11 13,052 that you should work out with Mr. Bugliosi the matter
12 of the aerial plot-plan and if that is not satisfactory
13 then there are other ways you can get it.

14 That is what you were informed by the Court
15 at that time.

16 And then you replied, Mr. Kanarek, "I don't
17 want to inconvenience Mr. Woller by ordering him back,
18 your Honor."

19 MR. KANAREK: That's right. Mr. Bugliosi represented
20 to me --

21 I did not want to have him come and sit in
22 the courtroom.

23 Mr. Bugliosi represented to me that he would
24 be here. It has been weeks since I asked Mr. Bugliosi
25 this on many many occasions. The man --

26 THE COURT: Then on the following page, 13,053,

1 Mr. Kanarek inquired if Mr. Wolfer is going on vacation in
2 the near future.

3 Mr. Wolfer replied "I have four vacation days.
4 I might take one day off and come back."

5 And Mr. Kanarek said "Thank you very much,
6 thank you." That was the end of it.

7 MR. KANAREK: That's right. I don't want to incon-
8 venience people. The prosecution has represented he
9 would be here, your Honor.

10 THE COURT: Your motion is denied, Mr. Kanarek, Mr.
11 Wolfer is available if you wish to subpoena him.

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1 MR. KANAREK: Your Honor, it is part of the prosecu-
2 tion's case. We have a right to finish the cross-examina-
3 tion.

4 THE COURT: That was not part of the People's case.

5 MR. KANAREK: If he would have had the plot-plan here
6 we would have interrogated him on cross-examination. Now
7 the plot-plan, I'm informed, is here.

8 May I see it?

9 May I see that plot-plan?

10 MR. KAY: Let's see, it was brought up to the Court.

11 THE CLERK: It is out in the courtroom, probably one
12 of those large exhibits, is it not?

13 MR. KANAREK: I don't know. They represented they'd
14 have it here. I still don't see the plot-plan, your Honor.

15 THE COURT: Your motion is denied, Mr. Kanarek.

16 Anything else before we get started, gentlemen?

17 MR. KANAREK: May we have the plot-plan --

18 THE COURT: That is the end of it, Mr. Kanarek.

19 Now, if you want Mr. Wolfer you have ample
20 opportunity to get him.

21 MR. KANAREK: I was going to suggest, your Honor,
22 maybe then in view of your Honor's order, which I don't
23 believe is correct, but nevertheless, if your Honor is
24 ordering that way, maybe we can stipulate --

25 He will stipulate as to the foundation and we
26 can use this plot-plan.

1 MR. BUGLIOSI: When we leave the courtroom I will
2 try to find it and once we find it maybe we can work out a
3 stipulation.

4 I think it's against one of the file cabinets.

5 THE COURT: All right, then, as far as the motion on
6 the subpoenas is concerned, that will go over until
7 Wednesday at 9:00 o'clock, Mr. Launer.

8 MR. LAUNER: Thank you.

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1 THE COURT: Very well, gentlemen.

2 We will start without the jury and have
3 Miss Krenwinkel brought in, along with the other defendants.

4 (The following proceedings occur in open court.
5 All defendants and counsel present. Jury absent.)

6 THE COURT: All parties and counsel are present. The
7 jury is not present.

8 Miss Krenwinkel, on Friday afternoon, the
9 Court ordered you to make certain handwriting exemplars
10 this morning.

11 Is the People's representative present?

12 MR. KAY: Yes. Officer Kiser.

13 THE COURT: Miss Krenwinkel, are you prepared to
14 make the exemplars at this time?

15 DEFENDANT KRENWINKEL: On the advice of my attorney,
16 I respectfully refuse to comply with the order.

17 THE COURT: You respectfully refuse to make the
18 exemplars on advice of your counsel; is that right?

19 DEFENDANT KRENWINKEL: Yes.

20 THE COURT: Do you understand, Miss Krenwinkel, that
21 notwithstanding your counsel's advice not to make such
22 exemplars, you have the absolute right to make them if you
23 wish to?

24 Do you understand that?

25 DEFENDANT KRENWINKEL: Yes.

26 THE COURT: And you still refuse to make them; is

1 that correct?

2 DEFENDANT KRENWINKEL: Yes.

3 MR. BUGLIOSI: When you asked her whether she under-
4 stood, she did not answer, but she nodded affirmatively.

5 MR. HUGHES: I heard an answer.

6 MR. BUGLIOSI: Really? I didn't see her mouth open.

7 THE COURT: Anything further, then, before the jury
8 is brought down?

9 MR. KANAREK: Mr. Altobelli is here.

10 MR. FITZGERALD: Mr. Altobelli is present.
11 He has been subpoenaed by one of the defense attorneys.

12 I wonder if Mr. Altobelli could be ordered to
13 return on the 24th of November?

14 THE COURT: The 24th of November?

15 MR. FITZGERALD: Yes, your Honor.

16 MR. BUGLIOSI: Your Honor, can't these witnesses be
17 placed on call?

18 Mr. Altobelli is a businessman. Many of the
19 other witnesses are businessmen. Why can't they be placed
20 on call instead of coming in here on all of these
21 occasions?

22 This is an extreme inconvenience to them, your
23 Honor.

24 MR. FITZGERALD: I just discussed that, and the
25 defense attorneys are not of one mind on the subject, and
26 I see no alternative, your Honor.

1 MR. LUGLIOSI: Then I would ask the Court not to
2 order Mr. Altobelli to come back.

3 The defense has no right to inconvenience
4 witnesses like this.

5 MR. FITZGERALD: It is certainly not our intent to
6 inconvenience anybody. It is a question simply of assuring
7 and securing attendance of the witnesses, that is all.

8 It is certainly not my intention to incon-
9 venience Mr. Altobelli any more than is absolutely necessary.

10 THE COURT: I assume, when they want him back on
11 November 24th, they expect to call him at that time?

12 MR. FITZGERALD: Yes.

13 THE COURT: Is that correct?

14 MR. FITZGERALD: Yes, that is correct.
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1 THE COURT: Recognizing, of course, that counsel
2 can't always plan their case down to the last moment, or
3 sometimes even the day; but I assume he is being subpoenaed
4 and that he is being asked to return in good faith by
5 defense counsel.

6 MR. BUGLIOSI: I am not sure about this, but would
7 it not be a valid order of the Court if the Court ordered
8 Mr. Altobelli to be on call and to appear in court when
9 called by the defense?

10 If that is a valid order, then we could
11 eliminate his appearance.

12 THE COURT: I have serious questions about it.
13 It is too indefinite.

14 MR. BUGLIOSI: I am not sure either.

15 MR. FITZGERALD: I will certainly put it this way:
16 That if Mr. Altobelli's testimony will not be required on
17 the 24th, I would be happy to call him and inform him to
18 that effect, and he wouldn't have to appear.

19 THE COURT: With the understanding that he would
20 then appear on whatever date you need him?

21 MR. FITZGERALD: Yes.

22 But in the absence of such notice, that he
23 appear.

24 I'd be happy to do that, your Honor.

25 THE COURT: All right.

26 That is something you can work out with

1 Mr. Altobelli, since you have subpoenaed him.

2 You will be ordered to return to this court
3 at 9:00 a.m. on November 24th, without further order, notice
4 or subpoena, Mr. Altobelli.

5 MR. ALTABELLI: Yes, sir.

6 (Mr. Fitzgerald and Mr. Altobelli confer.)

7 THE COURT: Anything further, gentlemen, before we
8 call the jury down?

9 (The following proceedings are had in open
10 court. All defendants, counsel and jury present.)

11 THE COURT: All parties, counsel and jurors are
12 present.

13 Ladies and gentlemen, on Friday, last Friday
14 afternoon, the Court made the following order to the
15 defendant Patricia Krenwinkel:

16 Patricia Krenwinkel, you are hereby ordered to
17 give handprinting exemplars as follows:

18 An exemplar of each letter of the alphabet
19 in capital letters, and an exemplar of each letter of the
20 alphabet in lower case or small letters, each of those to
21 be repeated ten times;

22 An exemplar of each of the following words or
23 phrases in the manner requested. By that, I mean as to
24 whether or not each letter should be a capital or a small
25 letter. Each of these exemplars to be repeated ten times
26 as to the indicated words or phrases.

1 First is the phrase "Death to pigs."
2 The second is the word "Rise."
3 The third is the word or words "Helter
4 Skelter."

5 On Monday, November 16th at 9:00 a.m., the
6 People will have present someone for the purpose of
7 being present with you at the time the exemplars are made.

8 In other words, this order requires you to
9 give these exemplars at 9:00 a.m. on Monday in this court.

10 This morning, in open court, the defendant,
11 Patricia Krenwinkel, refused to comply with the order,
12 stating that she did so on advice of her counsel.

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1 MR. FITZGERALD: Would the Court also instruct the
2 jury that the initial court order was at the request of
3 the prosecution, that it wasn't sui sponti.

4 THE COURT: Yes, that is correct.

5 The initial order was made at the request of
6 the prosecution.

7 MR. BUGLIOSI: May I have a moment, your Honor?

8 (Mr. Bugliosi, Mr. Kay and Mr. Musich confer.)

9 MR. BUGLIOSI: May we approach the bench, your Honor?

10 THE COURT: Very well.

11 (Whereupon all counsel approach the bench and
12 the following proceedings occur at the bench outside of
13 the hearing of the jury:)

14 MR. BUGLIOSI: (Mr. Kay has made the point that
15 apparently the Court was not going to mention to the jury
16 when your order was made because it looks like a last
17 desperate move by the prosecution at the last second.

18 Can you think of any way to rectify it at
19 this stage?

20 MR. KAY: No. 1, your Honor represented in chambers
21 on Friday that you would not mention the time of the order.
22 And today you did.

23 I think it would be unfair to the prosecution
24 not to mention the fact, maybe, that this was not the first
25 order or refusal, because it does look like a kind of an
26 11th hour ploy on the part of the prosecution now.

4b-2

1 MR. FITZGERALD: I can assure you, and I will give
2 you my personal word, that I don't intend and I will not
3 argue to the jury that it was some 11th hour request.

4 My posture in front of the jury will be that
5 it came during the regular and ordinary course of the
6 trial.

7 And I wonder how much the jury, on its own,
8 is going to think this is a last minute request?

9 As a matter of fact, the 11th hour quality of
10 it hurts Patricia Krenwinkel more than it harms the
11 prosecution.

12 This is going to be the only item of evidence
13 that the jury is going to hear today. Apparently, they
14 will retire now to the hotel, and we are going to cover
15 legal matters. So, they just came down to court to hear
16 that she refused.

17 That certainly segregates and spotlights the
18 evidence as to her.

19 So, I think you have got an enormous sort of
20 evidentiary value out of it as it is.

21 THE COURT: I forgot that.

22 MR. KAY: Yes, I know it was done inadvertently.

23 THE COURT: Sorry I wasn't reminded of it this
24 morning.

25 However, I don't really attach any importance
26 to it.

1 There always has to be a last piece of evidence
2 in each case, and I don't think it loses anything simply
3 by reason of the fact that it comes in at the close of
4 a case.

5 What difference does it make?

6 MR. KAY: The point isn't that it comes in at the
7 close of the case, the point is that your Honor read to
8 the jury the fact that the request was made on Friday.

9 THE COURT: I said I made the order on Friday.

10 MR. BUGLICSI: Yes, you made the order on Friday.

11 MR. KAY: That's right.

12 I am not arguing that it is the last piece of
13 evidence in the prosecution's case. That I don't care
14 about.

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1 THE COURT: Well, I think it would be improper for
2 anyone to argue that the request was made on Friday,
3 because that certainly was not true, the request was made
4 earlier, and this is the second time around.

5 MR. FITZGERALD: I won't do it.

6 THE COURT: I don't think you have anything to
7 worry about.

8 MR. KAY: All right.

9 THE COURT: I don't know how it can be remedied
10 now, unfortunately.

11 MR. BUGLIOSI: Other than to say that the People
12 made this request a month or so ago, or two weeks ago,
13 or whatever.

14 I think we should forget about it.

15 Thank you, your Honor.

16 THE COURT: The only thing that I could do, I could
17 tell the jury that the request was made at an earlier
18 date, but the Court made the order on Friday.

19 MR. BUGLIOSI: Very good.

20 THE COURT: Do you have any objection to that?

21 MR. FITZGERALD: No, I have no objection.

22 MR. BUGLIOSI: Thank you.

23 (Whereupon all counsel return to their
24 respective places at counsel table and the following
25 proceedings occurred in open court within the presence
26 and hearing of the jury:)

1 THE COURT: One additional thing, ladies and gentle-
2 men.

3 In connection with the order that I just
4 referred to, the request for the order by the prosecution
5 was made sometime earlier during the trial, although the
6 Court made the order only last Friday.

7 Anything further, gentlemen?

8 MR. BUGLIOSI: No, your Honor.

9 MR. FITZGERALD: No, your Honor.

10 THE COURT: Do the People rest at this time?

11 MR. BUGLIOSI: No, your Honor.

12 We will move to have the exhibits received
13 into evidence before we rest.

14 THE COURT: All right.

15 Ladies and gentlemen, I am going to excuse
16 the jury at this time.

17 I would anticipate that it will be two,
18 possibly three, days before the jury is called back for
19 the resumption of the case.

20 We have a number of matters that have to be
21 taken up out of the presence of the jury, and I can only
22 make an estimate, but I would estimate that it will be
23 several days.

24 So, I will excuse the jury at this time.

25 Remember the admonition. Do not converse with
26 anyone or form or express any opinion regarding the case

1 until it is finally submitted to you.

2 (Whereupon the jury leaves the courtroom.)

3 (The following proceedings continue with all
4 counsel and defendants present:)

5 THE COURT: Mr. Bugliosi, you may proceed.

6 MR. BUGLIOSI: Yes, your Honor.

7 With the exception of those exhibits which
8 have previously been withdrawn from evidence, the People
9 now move that People's Exhibits 1 through 297 be received
10 into evidence.

11 THE COURT: All right.

12 So the record will be clear, let's establish
13 first which of the exhibits were withdrawn.

14 MR. BUGLIOSI: People's 208 was a bread knife.
15 That was withdrawn.

16 People's 227 -- I think that was a photograph --
17 that was withdrawn.

18 THE COURT: Well, before we get to there.

19 My notes indicate that 97 was withdrawn.

20 There is a 97-A, B, C, D and E.

21 MR. FITZGERALD: My records also reflect that there
22 is not a 97, although there is a 97-A, B, C, D, E, et
23 cetera.

24 MR. BUGLIOSI: Yes. There is a 97-A, B, C, D, and E.

25 THE CLERK: I believe 97 is a

26 six-page document.

MR. BUGLIOSI: 97 was a note given by, apparently,

1 Linda Kasabian to myself.

2 Do you have that, Gene?

3 THE CLERK: My records indicate that you started to
4 introduce it, then changed your mind or something.

5 MR. BUGLIOSI: All right.

6 THE CLERK: I could be wrong.

7 MR. BUGLIOSI: Then 97 is withdrawn.

8 But A, B, C, D, and E are still marked as
9 exhibits.

10 THE COURT: 208 was withdrawn?

11 THE CLERK: Yes, your Honor.

12 MR. BUGLIOSI: Yes.

13 THE CLERK: 227 was withdrawn?

14 MR. BUGLIOSI: Yes.

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1 MR. BUGLIOSI: People's 265, the letter from Roni
2 Howard -- or to Roni Howard from Susan Atkins was changed
3 from People's 265 to Special Exhibit No. 8.

4 THE COURT: My notes indicate that People's Exhibit 4
5 has been received in evidence.

6 MR. BUGLIOSI: 4?

7 THE COURT: And also 26.

8 MR. BUGLIOSI: I don't have that here in my notes.

9 There were one or two exhibits that were
10 received. Those apparently are the two.

11 THE COURT: Are you in agreement, Mr. Fitzgerald?

12 MR. FITZGERALD: Yes.

13 THE COURT: Are you ready to proceed, Mr. Fitzgerald?

14 MR. FITZGERALD: Yes, your Honor, I wonder if I
15 might remain seated.

16 THE COURT: Yes.

17 MR. FITZGERALD: People's Exhibits 1 through 5 are
18 photographs of the decedents in life.

19 There are no objections to those exhibits.

20 People's Exhibits 6 through 27 are photographs,
21 some small, some in black and white, some in color, of the
22 Cielo Drive address.

23 There are no objections to those.

24 There is no objection.

25 THE COURT: Just a moment, let's take it step by
26 step. People's 1, 2, 3, and 5, there is no objection, is

1 that right?

2 MR. FITZGERALD: No, your Honor.

3 THE COURT: All right. They will be received.

4 Now, there is no objection to 6 through 27?

5 MR. FITZGERALD: Yes, your Honor, there is no
6 objection to 6 through 27.

7 THE COURT: They will be received.

8 MR. FITZGERALD: There is no objection to 28 through
9 32.

10 THE COURT: 28 through 32 will be received.

11 MR. FITZGERALD: There will be objections to 33, 34,
12 35 and 37.

13 I lump them together because the objection is
14 the same.

15 33 is a small black and white mugshot photo-
16 graph of Nancy Pittman. It was identified by Kasabian.

17 34 is a small police photograph, black and white, of Mary
18 Brunner, identified by Kasabian.

19 35 is a small black and white police
20 photograph of Snake, aka Dianne Bluestein.

21 37 is a small photograph of Squeaky, aka
22 Lynnette Fromme.

23 THE COURT: 33, my note indicates, is Brenda.

24 MR. FITZGERALD: Yes, Brenda, who is also known as
25 Nancy Pittman.

26 The objection is that these photographs are
police mugshot type photographs that contain within the

1 picture inadmissible hearsay of a prejudicial value.

2 These photographs bring to the attention of the
3 jury that these persons who the testimony indicate have
4 been associated with the defendants have been previously
5 arrested and processed by various police agencies.

6 If there is some way in which those photographs
7 can be excised, so as to eliminate the police character of
8 the photographs, there would be no objection.

9 The objection is that the jury may infer or
10 speculate as to why they were arrested, how they were
11 arrested and obviously mugshot photographs indicate to the
12 jury some prior police contact.

13 MR. BUGLIOSI: I think it is standard operational
14 procedure in a situation like this to delete the bottom
15 portion of the photograph either by cutting it or taping it.

16 So we have no objection to that. We are only
17 interested in the physiogomy, nothing else.

18 THE COURT: All right, Mr. Darrow, would you cut
19 off the material and show the pictures to Mr. Fitzgerald.

20 Is there any objection to 36, Mr. Fitzgerald?

21 MR. FITZGERALD: No, your Honor, I looked at that
22 photograph and that appears to be --

23 It appears not to be a police photograph. It
24 is a large black-and-white photograph. It contains no
25 notations.

26 THE COURT: 36 will be received.

1 The identifying data on 33, 34 and 35 at 37 is
2 being cut off the pictures by the clerk and I would ask you,
3 Mr. Fitzgerald, to examine those pictures as edited, to
4 see if that is satisfactory.

5 MR. FITZGERALD: Now, at this time?

6 THE COURT: Yes.

7 (The clerk hands Mr. Fitzgerald the exhibits.)

8 MR. FITZGERALD: They are satisfactory, your Honor.

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1 THE COURT: Very well, 33, 34, 35 and 37 will be
2 received.

3 MR. FITZGERALD: No objections to 38, 39, 40 and 41.

4 THE COURT: They will be received.

5 MR. KANAREK: Your Honor, in order to expedite
6 matters, I would like to elicit my position:

7 May I have a continuing objection to each and
8 every one of these on the basis there is no case against
9 Mr. Manson at all.

10 There is nothing here against Mr. Manson, and
11 I have objection on relevancy, materiality.

12 I have a continuing objection to any of these
13 objects going in or exhibits going in against Mr. Manson.

14 May that be in the record?

15 THE COURT: I thought Mr. Fitzgerald was speaking
16 for all of you.

17 MR. KANAREK: Well, your Honor, in that sense, no.

18 MR. BUGLIOSI: In that sense? That is the only sense
19 we are concerned with here.

20 MR. KANAREK: May the record reflect I am objecting
21 to each and every object.

22 THE COURT: As of this point all of your objections
23 will be overruled and all of the exhibits will be received
24 as indicated.

25 MR. KANAREK: In the interest of expedition, may I
26 have a continuing objection to each and every exhibit?

1 THE COURT: Very well.

2 MR. KANAREK: It is my position none of these
3 exhibits should go in against Mr. Hanson.

4 MR. FITZGERALD: As I indicated, there is no
5 objection to 38, 39, 40 and 41.

6 That is, no objection other than was noted by
7 Mr. Kanarek.

8 THE COURT: Well, all of the objections have been
9 overruled, and those exhibits have been received.

10 MR. FITZGERALD: 42, your Honor, is a large color
11 photograph of the decedent Steven Parent.

12 I wonder if we can set that aside because
13 there is going to be a number of exhibits of this nature.
14 It would be more expedient to discuss them at one time.

15 THE COURT: Very well.

16 MR. FITZGERALD: No objection to 43, 44 or 45.
17 Those are photographs of Portola Drive, identified by
18 Rudolph Weber.

19 THE COURT: They will be received.

20 MR. FITZGERALD: 46 is a large black-and-white
21 police photograph of Clem, aka Clem Tufts, aka Clem Grogan,
22 identified by Kazabian.

23 It is my understanding that is a police type
24 of photograph with inadmissible hearsay.

25 We would ask the hearsay portion be excised.

26 MR. BUGLIOSI: No objection.

43-45

1 MR. FITZGERALD: It has been satisfactorily removed,
2 your Honor. The clerk just showed it to me,

3 THE COURT: Very well. #6 will be received.

4 MR. FITZGERALD: #7, your Honor, is apparently a
5 sword with a welded blade.

6 Additionally Exhibit 47 contains a broken
7 piece of blade.

8 Now, Mr. Kanarek wishes to impose an objection
9 on the ground it is immaterial and irrelevant as to this
10 particular item of evidence.

11 The prejudicial effect outweighs any relevancy
12 or materiality.

13 MR. KANAREK: It was not connected up with anything
14 in this case.

15 MR. BUGLIOSI: I believe Linda Kasabian testified
16 she observed that sword in the car on the night of the
17 La Bianca murders.

18 It is an offensive weapon. I think the jury
19 could very well infer that when Mr. Manson entered the
20 La Bianca residence, if he did in fact do so, that he may
21 very well have utilized that sword to cause the victims to
22 submit to his orders.

23 I think it certainly has some relevance. If
24 it had not been identified as being inside the car on the
25 second night, then I would agree it would be irrelevant.

26 MR. KANAREK: Well, your Honor, Linda Kasabian's

1 testimony was so ambiguous in connection with this sword
2 that all it does is confuse the jury, and it has nothing but
3 prejudicial value, your Honor.

4 THE COURT: Do you have a transcript reference,
5 Mr. Bugliosi, on this?

6 MR. BUGLIOSI: It will be somewhere around Volume 33,
7 Page 5,212, et seq.

8 THE COURT: Anything further with respect to 47?

9 MR. FITZGERALD: Before your Honor rules, your Honor
10 might also want to take into consideration 48, which is a
11 corollary exhibit, a large white and black photograph of
12 a dune buggy, and near the left front passenger seat it
13 appears that there is the handle of a sword which may or
14 may not resemble Exhibit 47.

15 And I take it the thrust of the People's
16 position is that that is an attempt to connect up 47 with
17 the defendant Charles Manson.

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1 MR. KANAREK: You see, your Honor, there is a
2 tendency for the jury to synthetically authenticate these
3 items by letting them go into evidence.

4 THE COURT: Anything further, gentlemen?

5 MR. BUGLIOSI: I will ask the Court, has the Court
6 found any reference in Volume 33 to Linda's identification?

7 THE COURT: Starting on page 5212 and running
8 through 5220.

9 MR. BUGLIOSI: And identification in those pages
10 of the sort being in the car that night?

11 I know she did testify to it.

12 THE COURT: Yes.

13 MR. BUGLIOSI: I have nothing further then on that.

14 MR. SHINN: Your Honor, I believe that testimony
15 of Linda Kasabian did not say Mr. Manson took this knife
16 while he was walking toward the La Bianca house, your
17 Honor. There is no evidence of that in the transcript.

18 MR. BUGLIOSI: She testified that he either put a
19 knife or a gun in his belt. She did not know what it was.

20 MR. SHINN: But she did not testify that Manson took
21 his knife when he walked toward the La Bianca house, your
22 Honor.

23 MR. BUGLIOSI: That goes toward the weight, your
24 Honor, not toward the admissibility of the exhibit.

25 THE COURT: Very well, the objections will be
26 overruled.

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1 47 will be received; also 48.

2 MR. FITZGERALD: As to 49, your Honor, there will be
3 an objection on behalf of Susan Atkins, Patricia Krenwinkel,
4 Leslie Van Houten and Manson.

5 Exhibit 49 is a large black and white photograph
6 of a home in the Pasadena area where Masabian testified that
7 the group stopped.

8 I do not have a transcript reference but my
9 notes reflect that she testified:

10 "I am pretty sure that is the house."

11 We would argue that there is an improper
12 foundation for the admissibility of this photograph, and
13 that it is immaterial and irrelevant; that basically there
14 is an improper foundation because she is not sure that
15 that is the house.

16 MR. BUGLIOSI: Of course the law is clear that no
17 witness has to be sure as to anything in order to testify
18 or identify an exhibit.

19 It only goes towards the weight, not the
20 admissibility.

21 MR. SANABER: I cannot agree with Mr. Bugliosi's
22 statement as to what the law is, your Honor, in that
23 regard.

24 That certainly is not the law.

25 The Court exercises the prerogative of
26 deciding whether or not there is proper foundation.

5b-3

1 There is certainly no all-inclusive rule of
2 law that just because the prosecution, in order to perpetuate
3 their viewpoint, present something to a witness and the
4 witness says something, therefore when it is marked for
5 identification it automatically goes into evidence.

6 That is something for the Court to decide,
7 whether the foundation is there.

8 This lady just did not remember anything.

9 THE COURT: The objections are overruled.

10 49 will be received.

11 MR. FITZGERALD: There will be an objection to
12 exhibits 50 through 56, your Honor. These are all items
13 of clothing.

14 50 is a long-sleeved velour suit.

15 51 is a Sears-Roebuck Levi-type pants.

16 52 is a black T-shirt.

17 53 is a white T-shirt.

18 54 is a heavy blue T-shirt with a pocket.

19 55 is a pair of black denim pants with a
20 Towcraft label.

21 And 56 is another pair of denim trousers,
22 Diamond brand label.

23 The objection to these exhibits, 50 through 56,
24 are that they are immaterial and irrelevant. There has
25 been an insufficient showing connecting these items of
26 clothing with the defendants.

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50 was identified by Kasabian as well as King
Baggot.

51 was identified by Kasabian and Baggot.

52 was identified by Kasabian and Baggot.

53 was identified by Kasabian and Baggot.

54 was identified by Kasabian and Baggot.

55 was identified by Kasabian and Baggot.

56 was identified by Kasabian and Baggot.

Submit it without further argument.

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1 MR. BUGLIOSI: Of course the clothing has immense
2 significance, your Honor, and Linda has identified this
3 clothing as being worn by the killers on the night of the
4 Tate murders, and several of the items of clothing do have
5 blood spots on them.

6 I don't think there is any question about its
7 relevance, nor its admissibility.

8 We are not dealing with any search issue. A
9 private citizen found the items over the side of a hill.

10 Submit the matter.

11 MR. KANAREK: Your Honor, I would ask they not be
12 admitted as to Mr. Manson in any event.

13 He had nothing to do with those.

14 THE COURT: The objections are overruled. 50
15 through 56 will be received.

16 MR. FITZGERALD: There will be an objection, your
17 Honor, to 57 which is a large color photograph apparently
18 depicting the parking lot of what is apparently a church.

19 There is a red grease pencil mark on the photograph
20 where Kasabian testified that Manson allegedly parked the
21 car.

22 The objection is that the photograph is
23 immaterial and irrelevant.

24 Also that there has been an insufficient founda-
25 tion.

26 My notes, and I am now referring to a specific

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1 transcript reference, my notes reflect that she testified
2 she thought this was the church where the group allegedly
3 stopped, and that it resembled -- the parking lot area
4 resembled her recollection of the outside structure of the
5 church.

6 We might as well handle 58 at the same time,
7 which is a large color photograph which is a close-up
8 of People's Exhibit 57 showing another portion of the parking
9 lot.

10 There will be the same objection as to that
11 exhibit, your Honor.

12 THE COURT: Do you have a transcript reference on that?

13 MR. FITZGERALD: No, no, I don't have a transcript
14 reference, but it was the same as the exhibit we just talked
15 about, the house in Pasadena.

16 I think counsel for the prosecution would agree
17 that she was not positive, certainly, that this was the
18 church.

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1 MR. BUGLIOSI: Again, your Honor, the law is
2 clear that no witness has to positively identify an
3 exhibit as a prerequisite to its admission into evidence.

4 It only goes to its weight, not admissibility.

5 We also have Sergeant Patchett's testimony
6 with respect to the photograph of the parking lot of the
7 church, as to going there with Linda Kasabian and myself and
8 several other members of law enforcement.

9 MR. FITZGERALD: I don't want to mislead the Court.
10 I am not saying that she didn't say that it resembled.

11 The thrust of our position is that that is
12 all she is saying.

13 MR. KANAREK: Mr. Patchett and Mr. Bugliosi being
14 there, your Honor, that is hearsay. All of Mr. Patchett's
15 testimony of her identification.

16 MR. BUGLIOSI: Mr. Patchett did not testify that she
17 pointed that out.

18 THE COURT: Gentlemen, the reference is
19 starting at Page 5250.

20 Miss Kasabian testified that she does recognize
21 57.

22 Her answer as to what is depicted in this
23 photograph is: The parking lot where we parked the car
24 and the church.

25 DEFENDANT MANSON: At which time? That is ambiguous.

26 THE COURT: Then she is asked if she recalls where

1 Mr. Hanson parked the car, And she indicates that.

2 MR. FITZGERALD: That is the red grease pencil
3 marking in the photograph.

4 THE COURT: As to 58, she identifies that also on
5 Page 5261, when asked what is shown in the photograph, the
6 answer is: The exact spot where we parked, and the door of
7 the church.

8 The objections will be overruled.

9 57 and 58 will be received.

10 I think we will take our recess at this time,
11 gentlemen.

12 The Court will recess for 15 minutes.

13 (Recess.)
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1 THE COURT: All parties and counsel are present.

2 You may proceed, Mr. Fitzgerald.

3 MR. FITZGERALD: I believe the next in order is
4 59.

5 No objection to 59 through 64.

6 THE COURT: All right.

7 The defendant Manson's objections will be
8 overruled.

9 59 through 64 will be received.

10 MR. FITZGERALD: There will be an objection to 65 on
11 the grounds that it contains immaterial and irrelevant
12 material as well as hearsay, and it could conceivably be
13 very prejudicial.

14 65, your Honor, is a brown leather wallet.
15 I have no objection to the wallet itself, but the wallet
16 contains the following:

17 It contains the identification of Rosemary
18 La Bianca, bearing the address 4053 Working Way, Los Angeles,
19 California;

20 It includes a Division of Real Estate license,
21 numerous Blue Chip stamps, Fargo Protective Services card,
22 a business card from Erf's Garage, a business card from
23 Charles R. La Berge, a business card from Eagleson's of
24 Los Angeles, a business card of Coquette Fashions, and a
25 credit card from Wandell Shoes, a credit card from Bullock's,
26 a credit card from Robinson's, the Broadway, Fedco, the May

1 Company.

2 A 1969 card for the Los Angeles Athletic Club.
3 A State Board of Equalization seller's permit number.

4 A colored photograph depicting some people on
5 a stage. A membership card from Gemco. A Robert Merton
6 buyer's pass. Various business cards from Bullock's.

7 A card from Smithy's Shoe Service, and a mink
8 manufacturer, and the Boutique Carriage.

9 An additional card from Marble Chariot. A
10 card from the National Automobile Club.

11 A piece of paper that contains the following:
12 Things I have put off yesterday to do tomorrow. Religion,
13 sex, adventure, security.

14 It also contains a gold watch, a lady's brand
15 Longine.

16 It contains change, a dollar and fifty cents
17 in quarters; 20 cents in dimes; 30 cents in nickels; and
18 3 cents in pennies.

19 I have no objection to the change, that is
20 material and relevant, I think, as well as the watch.

21 But the identification and the various para-
22 phernalia within the wallet, I think it is clearly hearsay,
23 and the jury may learn something about Rosemary La Bianca
24 from the materials in the wallet that they did not hear
25 from the witness stand and, in that sense, certainly they
26 are receiving evidence outside of court.

6-1

1 MR. KANARUK: Your Honor, furthermore, there is a
2 fatal lack in the chain here. There is nothing to show --
3 the People have not shown that this purse was in any
4 kind of a -- what you might say, in a sense, that there was
5 any security on this wallet from the time that it was
6 purportedly found in the rest-room.

7 The People put on no evidence whatsoever as to
8 any kind of a booking or any kind of a -- like in a
9 narcotics case, for instance.

10 There has to be a link between what
11 occurred when this man found it, assuming that it is even
12 admissible on any grounds.

13 They didn't do that. It was found by him at
14 some time in December of 1969, and all of a sudden it shows
15 up here in court. But there is no showing of where it was
16 in the interim or who could have handled it, who could have
17 added, who could have subtracted.

18 There is a fatal failure in the chain of custody
19 as far as this wallet is concerned, your Honor.

20 MR. NUGLES: Your Honor, Defendant Van Houten would
21 object to the removal of any of the credit cards from the
22 wallet, if the wallet, indeed, is admitted into evidence,
23 since there was some reference to some burning of some
24 items, including credit cards, by Dianne Lake.

25 THE COURT: Do you wish to be heard, Mr. Bugliosi?

26 MR. BUGLIOSI: None of the contents per se are

6-2

1 prejudicial in themselves, your Honor.

2 They do have relevance because Linda testified
3 that the wallet did have contents at the time that Mr.
4 Manson gave it to her. She opened the wallet up.

5 Among other things, she testified that there
6 were several credit cards in the wallet. So, the credit
7 cards would serve to confirm and corroborate her testimony.

8 The hearsay on those credit cards, I question
9 whether it is hearsay. It is not being offered for the
10 truth of the matter. Since it is not being offered for the
11 truth of the matter, I don't think it is hearsay.

12 Moreover, there is nothing in there that the
13 defense has been able to point out as being prejudicial.

14 MR. KANAREK: Your Honor, if I may respond?

15 It is all prejudicial. The People wouldn't be
16 offering it if it weren't.

17 MR. BUGLIOSI: I think you misstate what the word
18 prejudicial means, Mr. Kanarek.

19 Prejudicial, as far as arousing hostility
20 toward the defendants, is what I am referring to.

21 Of course, it has evidentiary value, and it is
22 prejudicial in that respect.

23 MR. KANAREK: Mr. Bugliosi fails to appreciate that
24 it is a balance that the Court must make. The Court must
25 balance the prejudicial effect against the probative value.

26 This lady, Linda Kasabian, didn't testify to

6-3

1 these contents.

2 Mr. Bugliosi could have asked her about the
3 contents, but he chose not to, because there is great
4 probability that this wallet has nothing to do with this
5 case, and Mr. Bugliosi just covered the fringes in his
6 interrogation of her concerning this wallet.

7 He didn't go through it and ask her what does
8 she remember as far as these individual items go. And he
9 did nothing whatsoever as far as the chain of custody is
10 concerned.

11 I am sure your Honor and I agree with Mr.
12 Witkin that the chain of custody must be shown.

13 After this man allegedly found this in the
14 rest-room, what its history is, we don't know.

15 They didn't choose to bring any police officers
16 here in connection with this item, for some reason or other,
17 your Honor.

18 It is most unusual that this item, that the
19 chain of custody is so suspect. And the foundation, the
20 burden, is upon the prosecution to lay the foundation,
21 and they haven't done it.

22 Since they haven't done it, your Honor, we
23 request, we move, that your Honor not allow it into
24 evidence.

6c file.

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1 MR. BUGLIOSI: Does the Court wish to hear any
2 argument on the chain of possession?

3 THE COURT: Yes.

4 MR. BUGLIOSI: The chain of possession rule, your
5 Honor, only applies to items of personal property which do
6 not contain within themselves their own identification.

7 For example, a marijuana cigarette. How does
8 one distinguish one cigarette from another marijuana
9 cigarette?

10 In that type of situation, it is extremely
11 relevant to show a chain of possession.

12 With a wallet which has identification cards
13 inside of it and has been identified, not only by Linda
14 but by the victim's son, Frank Struthers, Jr., as being the
15 wallet, the chain of possession rule simply is not applica-
16 ble.

17 The chain of possession rule is only applicable
18 to make sure of the identity of the item of personal
19 property.

20 Here we have established the identity beyond
21 all doubt.

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

23 The chain of possession rule also has to do with
24 tampering. It isn't just a matter of identification.

25 The Police Department, for instance, when they
26 get a gun that has a number on it, they take it to the

1 Evidence Locker, I think -- that is what my experience has
2 been -- and then they call the man that is in charge of the
3 evidence locker, who will testify as to whether or not there
4 has been any tampering with it, where it has reposed for a
5 long period of time.

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1 Now, as far as this wallet goes, we have no
2 knowledge.

3 The Police Department was conducting all kinds
4 of investigations, supposedly, in this case.

5 How do we know that there were things that were
6 not found at the La Bianca house, that they weren't all
7 dumped on the table by some detective and stuffed into
8 this wallet?

9 MR. ENGLIS: I'm sure you will argue that to the
10 jury, Mr. Kanarek.

11 THE COURT: Just a moment, Mr. Kanarek, I would like
12 to read the transcript.

13 MR. KANAREK: Certainly, your Honor.

14 (Pause.)

15 THE COURT: Anything further?

16 MR. KANAREK: Yes, your Honor, I just would like to
17 by way of evidence point out that purportedly there were
18 police officers that came when this man allegedly found
19 the wallet in the rest-room.

20 Why aren't those police officers here to lay a
21 foundation as to chain of custody, your Honor? They have
22 the burden of showing -- of putting in the foundation, your
23 Honor.

24 THE COURT: All right, I'm going to make a finding with
25 respect to all of the exhibits at the close of our session
26 with respect to these exhibits.

65
1 For the time being I will overrule all of the
2 objections, and Exhibit 65 will be received.

3 The finding I'm referring to is that the
4 probative value outweighs any possible prejudicial effect.

5 Rather than making that finding with respect
6 to each individual exhibit as we go along, I will make
7 that finding at the close, when the exhibits are received.

8 MR. FITZGERALD: Next is 66, and we might take three
9 or four of these exhibits at one time.

10 66 is a large colored photograph of a Standard
11 gas station.

12 It was identified by Kazabian and Koenig.

13 67, a photo of a gas station.

14 68 is a photo of the interior of the rest-
15 room.

16 69 is a large color photograph of the toilet.

17 70 is a large color photograph of the interior
18 of the tank portion of the toilet.

19 Mr. Samarek has objections to the introduction
20 into evidence of these exhibits, 66, 67, 68, 69 and 70,
21 your Honor, on the grounds they are immaterial and
22 irrelevant.

23 MR. SAMAREK: Well, yes, your Honor, and in addition
24 to the continuing objection, your Honor has allowed us
25 to all of these on materiality and relevancy, we also
26 object on the fact that the prejudicial value far outweighs

1 the probative value.

2 THE COURT: If you want to view the photographs, Mr.
3 Kanarek, do so at the counsel table.

4 MR. KANAREK: I thought your Honor wanted to look
5 at them.

6 THE COURT: I do.

7 MR. KANAREK: Very well.

8 (Pause.)

9 THE COURT: Have you seen the photographs, Mr. Kanarek?

10 MR. KANAREK: Certainly, your Honor, thank you.

11 (Exhibits returned to the court.)

12 THE COURT: There does not appear to be any identifica-
13 tion by the witness of either 69 or 67.

14 MR. BUGLIOSI: You are referring to Linda Kasabian.

15 THE COURT: That's right.

16 MR. BUGLIOSI: But Charles Koenig, I believe,
17 identified 69 and 70, your Honor, as being the toilet in
18 the woman's rest-room at the subject gas station that was
19 identified by Linda in People's 66, 67 and 68.

20 Moreover, Linda did identify the particular
21 spot inside the toilet where she placed the wallet. I
22 think that in People's 70, she did identify that.

23 THE COURT: That's right.

24 MR. BUGLIOSI: Pardon?

25 THE COURT: That's right.

26 MR. BUGLIOSI: It is 69 that she could not identify.

1 She said of course that one rest-room looks like another.

2 But Charles Koenig did identify People's 69.

3 THE COURT: At what place in the transcript?

4 MR. BUGLIOSI: I don't have it here. It would be
5 where he testified.

6 MR. KAY: Either 134 or 135.

7 THE COURT: Well, I think you are going to have to
8 have transcript references ready, gentlemen, for matters
9 like this.

10 MR. BUGLIOSI: Will the Court defer its rulings on
11 People's 69, then, until we find the exact place in the
12 transcript?

13 MR. FITZGERALD: Next, your Honor, --

14 THE COURT: Just a moment, Mr. Fitzgerald.

15 The objection will be overruled as to 66 and 70,
16 and they will be received.

17 I will defer ruling on 69 --

18 MR. BUGLIOSI: How about People's 67, your Honor?

19 THE COURT: I can find no identification of that
20 photograph, Mr. Bugliosi.

21 MR. BUGLIOSI: Could the Court defer its ruling then
22 on 67 and 69?

23 THE COURT: And also 68?

24 MR. BUGLIOSI: All right, 67, 68 and 69.

25 7a fls.

26

7a- 1 THE COURT: You might note the transcript references
2 that I found so far in Volumes 33 and 34.

3 MR. FITZGERALD: No objection, your Honor, to 71 through
4 74.

5 THE COURT: They will be received.

6 MR. FITZGERALD: 75, your Honor, is a length of
7 leather shoe lace or a thong.

8 There is going to be an objection that it is
9 immaterial and irrelevant.

10 In addition Mr. Kanarek wishes to argue the
11 admissibility, your Honor.

12 MR. KANAREK: Yes, your Honor, I think that here the
13 chance of confusing the jury is beyond belief.

14 It is like saying an automobile or a desk.

15 The prosecution did nothing whatsoever in
16 connection with this thong to -- they ran no chemical test,
17 no physical tests.

18 The City Council gives them a lot of money
19 for scientific work. They attempted evidently nothing.

20 All that somebody says, "It's similar," and
21 the fact of it being a physical object, your Honor, going to
22 the jury, has the prejudicial effect, the fact that they can
23 see it, look at it, and handle it, gives it an added dignity
24 that it doesn't merit in this case, especially in the
25 prejudicial -- especially in view of the prejudicial effect
26 that it has, in view of the fact that the La Blancas were

1 allegedly -- or Mr. Leno La Bianca was allegedly tied up
2 by a thong.

3 In Southern California there are -- our entire
4 culture here is loaded with thongs.

5 Everybody almost -- you just can't go down the
6 street without seeing people wearing leather thongs in one
7 way or another.

8 And without showing that there is some kind of
9 relationship other than somebody just -- some so-called
10 expert testified it looks the same, I think, your Honor,
11 that to allow the jury to have this physical object is so
12 strong that it actually denies the defendant a fair trial.

13 It is prejudicial; it's not connected up with
14 anything in this case.

15 THE COURT: Mr. Bugliosi.

16 MR. BUGLIOSI: The leather thongs, your Honor, have
17 considerable relevance.

18 Linda testified on Page 6,789 that People's 75
19 were like the leather thongs that Manson gave her on the
20 night of the La Bianca murders.

21 The jury is entitled to look at People's 75,
22 which was obtained from Manson's boots in the jail in
23 Independence.

24 They are entitled to look at those leather
25 thongs and compare them with the leather thongs which were
26 tied around Leno La Bianca's wrist. They should be permitted
to make the determination if the thongs appear to be the

1 same. If they appear to be the same, certainly there
2 appears to be some relevance.

3 Mr. Kanarek is arguing the weight of the
4 evidence as opposed to the admissibility.

5 MR. KANAREK: Your Honor, the testimony of the fact
6 of leather thongs is all that is necessary, because there
7 is no tie-in of this physical object.

8 Like you say someone drove a car away from a
9 bank after a bank robbery, and you find someone in an
10 automobile, so you come in and take the car or a picture of
11 the car and you say, "Hey, this man was found driving a
12 car; there was a car used in the bank robbery; therefore you
13 can use this picture to see he robbed the bank."

14 This leather thong is not connected up with
15 anything that the prosecution has found in the La Bianca
16 residence.

17 It is possible to do microscopic examinations,
18 physical examinations of leather.

19 I am sure this has been done. It is possible
20 in the leather industry. There are people, technicians,
21 who can do this.

22 This is what is incumbent upon the prosecution,
23 not just to use the prejudicial effect of putting a piece
24 of leather in and saying, "Mr. Hanson was wearing leather;
25 he was wearing shoes," or he was wearing whatever he was
26 wearing.

1 You cannot artificially enhance the weight of
2 evidence by just putting a physical object before the jury,
3 especially in view of those pictures of Leno La Bianca where
4 he is tied up with a leather thong.

5 To use this leather thong is so prejudicial
6 that I mean I just cannot conceive of the prosecution even
7 offering it, your Honor.

8 They have not tied it up; they have not shown
9 any relationship between this leather thong and what happened
10 supposedly on Waverly Drive.

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1 MR. BUGLIOSI: The thongs, to a layman, look identical,
2 your Honor.

3 Again, Mr. Kanarek is arguing the weight,
4 not the admissibility of these thongs.

5 THE COURT: The objection will be overruled.

6 75 will be received.

7 MR. FITZGERALD: 76 through 82, your Honor, no
8 objection.

9 THE COURT: They will be received.

10 MR. FITZGERALD: 83, your Honor, there will be an objec-
11 tion to.

12 That is a black and white mug type shot
13 photograph of Larry (no middle initial) Jones.

14 I am objecting only to the -- excuse me, your
15 Honor. Could we go to 82? I am sorry.

16 There will be an objection to 82.

17 That is a black and white photograph of Mary
18 Theresa Brunner that appears to be a duplication of
19 People's Exhibit No. 34.

20 At least, People's Exhibit 34 is a photograph
21 of the same person, and it would seem to be cumulative.

22 MR. BUGLIOSI: No objection to withdrawing 82.

23 THE COURT: 82 will be withdrawn.

24 MR. FITZGERALD: And perhaps we can excise 83.

25 MR. BUGLIOSI: No objection.

26 MR. FITZGERALD: There will be the same objection,

1 your Honor, to 84.

2 (Pause while the Court confers with the Clerk.)

3 THE COURT: Go ahead, Mr. Fitzgerald.

4 MR. FITZGERALD: I was simply going to say that 84
5 is a small police photograph of McCoy, Shirley Amanda,
6 aka Little Fatti.

7 85 is a small black and white police mugshot
8 photograph of Robert John Carr.

9 There will be the same objections to those.

10 Perhaps we can excise those as well.

11 THE COURT: The clerk will excise the data shown on
12 the photographs, 83, 84 and 85.

13 (The clerk hands the photographs to
14 Mr. Fitzgerald.

15 MR. FITZGERALD: The photographs have been sanitized.

16 THE COURT: Very well.

17 83, 84 and 85 will be received.

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MR. FITZGERALD: 86. No objection, your Honor.

86Ev.2

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THE COURT: 86 will be received.

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MR. FITZGERALD: Exhibits 87 through 93 are
of bodies.

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Could we defer discussion on those?

6

THE COURT: Yes.

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MR. FITZGERALD: 94. No objection.

94EV

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THE COURT: 94 will be received.

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MR. FITZGERALD: People's Exhibit 95.

10

This is a single leather lace or thong
approximately 24 inches in length.

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12

Mr. Kanarek would like to be heard on 95,
your Honor.

13

14

MR. KANAREK: The same argument, your Honor, in
connection with this.

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There is no showing whatsoever that this leather
thong -- I incorporate by reference the previous argument,
in addition to our continuing objection.

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THE COURT: Do you have a transcript reference on 95?

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MR. BUGLIOSI: Page 7,432, Volume 54.

21

THE COURT: 54?

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MR. BUGLIOSI: Volume 54.

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But they were also referred to in Sergeant
Fatchett's testimony later on.

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He identified People's 95 as being the companion
leather thongs found at the Inyo County Jail in November of

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'69 in Independence.

He found People's 95 on Manson's clothing.

People's 75 inside Manson's boots.

MR. KANAREN: Your Honor, our position is that all of this, both of these things, were obtained as a result of illegal search and seizure in violation of the Fourth Amendment.

There being no warrant, it is our position that--

THE COURT: Let me have Volume 54.

THE CLERK: Yes, sir.

MR. KANAREN: There being no warrant, the People haven't sustained their burden as to both of these things.

THE COURT: What was the page number, Mr. Bugliosi?

MR. BUGLIOSI: Page 7,432.

Also, page 15,385, Volume 136. Sergeant Patchett identified People's 75 and 95.

Does the Court wish to read this?

THE COURT: Volume 136?

MR. BUGLIOSI: Yes.

(Pause while the Court reads.)

8b fls.

1 THE COURT: Mr. Bugliosi, here is your transcript.

2 Do you wish to be heard, gentlemen?

3 MR. FITZGERALD: No, your Honor. Submit it.

4 MR. KANAREK: I would like to just mention, also,
5 it is quite remote in time, many months after the alleged
6 event.

7 MR. BUGLIOSI: Submit the matter.

8 THE COURT: The objections are overruled.

9 95 will be received.

10 MR. FITZGERALD: 96, your Honor, is a legal-sized
11 yellow sheet of paper allegedly in the handwriting of
12 Charles Manson entitled "By you remember this song," signed
13 "Charlie."

14 MR. Kanarek would like to be heard as to the
15 admissibility of that exhibit.

16 THE COURT: Very well.

17 MR. KANAREK: Your Honor, we have the continuing
18 objection, as your Honor knows, in connection with that,
19 and the prejudicial value outweighs the probative value.

20 THE COURT: What was the foundation for that,
21 Mr. Bugliosi?

22 MR. FITZGERALD: Basically, your Honor, that was a
23 letter that was allegedly written by Charles Manson to
24 Linda Kasabian, if the Court please.

25 MR. BUGLIOSI: I believe there is a reference to
26 this exhibit in Volume 55, Page 7,478.

1 THE COURT: Volume 55, Mr. Clerk.

2 MR. KANAREK: I think that document, your Honor, violates
3 Nassiah vs. United States, the Sixth Amendment right to
4 effective counsel; the Fourth Amendment, and illegal search
5 and seizure.

6 THE COURT: I am getting the transcript reference
7 now, Mr. Kanarek.

8 (Pause while the Court reads.)
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1 THE COURT: Where is the foundation laid?

2 MR. BUGLIOSI: What item, your Honor?

3 THE COURT: 96.

4 MR. BUGLIOSI: I am not sure but I believe that letter
5 was seized from Mr. Hanson by a bailiff.

6 There should be some reference to that.

7 THE COURT: It was taken by Mr. Stovitz, but where is
8 the foundation laid if at all?

9 I don't find it.

10 MR. BUGLIOSI: Well, other than that it was taken from
11 his person --

12 THE COURT: I don't think the foundation has been laid,
13 Mr. Bugliosi.

14 MR. BUGLIOSI: I have no objection, your Honor,
15 to that not coming in.

16 THE COURT: The objection to 96 will be sustained.

17 MR. FITZGERALD: There is, as we discussed before,
18 no 97.

19 There will be an objection to 97-A, 97-B, 97-C,
20 97-D and 97-E, all on the same grounds.

21 These are all composite police type mugshot
22 photographs.

23 For example, 97-A is a large black and white
24 photograph containing within it police type mugshot photographs
25 of eight persons:

26 "Cottage, Madelyn Joan, aka Baldwin.

1 "Linda Lou, aka Little Patti.

2 "Buzke, Patricia Ann.

3 "Morrell, December Elaine.

4 "Gillis, Kathleen Irene.

5 "Brown, Kenneth Richard.

6 "Bartell, Susan Phyllis.

7 "Phillips, Thomas Anthony."

8 I will have to spell the next one.

9 "Lukashevsky, L-u-k-a-s-h-a-v-s-k-y, Bryan" --
10 my spelling is B-x-y-a-n.

11 "Damian, Mark Bloodworth."

12 THE COURT: Do you have a suggestion as to these
13 exhibits, Mr. Buglisi?

14 MR. FITZGERALD: They do present a problem because it
15 is going to be hard to excise these without breaking them
16 up into little photographs apparently, and some of them are
17 important.

18 For example, 97-C has a photograph of Manson,
19 Charles Mills, and it contains -- strike that.

20 Manson appears in 97-C.

21 He also appears in 97-D with the aka Jesus
22 Christ and an aka of God.

23 So I think definitely those have to be excised
24 in some fashion.

25 And 97-D contains aliases for Patricia Eren-
26 winkel as well as Leslie Van Houten.

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THE COURT: Do you have any objection to excising the data on the photographs and having the clerk write on the back of the photograph the name of the person, not the aliases, only the name?

MR. FITZGERALD: I have no objection, or just going over them with a grease pencil and obliterating them would be acceptable I think as well.

MR. MANARELLI: I don't think you can excise that way, your Honor. The jury, they've got fingernails, just excising it physically that way -- I think there is no harm in cutting them up and then putting them back on some solid board, some cardboard, in this way there is no chance of the jury getting to the excised material.

I think it could be pasted on a piece of cardboard, your Honor.

9x file.

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1 THE COURT: Well, I am using a grease pencil on one
2 of them here; it cannot be removed by rubbing it.

3 I think that would suffice.

4 Let's try that, Mr. Darrow, and we will show
5 the pictures to the defense counsel after the marks have
6 been placed.

7 We will pass these for the time being.

8 MR. BUGLIOSI: Your Honor, may we go back briefly to
9 67, 68, 69 and 70.

10 I think the Court is satisfied with 70, is
11 that correct? That shows the back of the toilet where
12 Linda and Charles Koenig testified that the wallet was
13 placed.

14 THE COURT: 70 is in evidence.

15 MR. BUGLIOSI: Right, right.

16 67 is identified by, I believe, Koenig in
17 Volume 133, page 14,813 to 814.

18 These are the pumps of the gasoline station
19 showing Denny's Restaurant from the background.

20 With respect to People's 68 and 69 we will move
21 to withdraw those from evidence.

22 THE COURT: 68 and 69 will be withdrawn.

23 MR. BUGLIOSI: They have no evidentiary value.

24 THE COURT: Do you have the transcript reference to
25 67 there? May I see it?

26 (Mr. Kay hands transcript to the Court.)

1 THE COURT: Thank you, Mr. Kay.

2 MR. KAY: It is that page and the next page.

3 MR. SANAREK: Your Honor, I can understand Mr.
4 Bugliosi's wanting to withdraw those from his viewpoint --

5 THE COURT: You have a standing objection to all
6 exhibits, Mr. Kanarek.

7 MR. SANAREK: That is correct, your Honor.

8 MR. BUGLIOSI: I think he detects/something
9 surreptitious,
your Honor.

10 THE COURT: Do you wish to be heard further on 67?

11 MR. SANAREK: Is Mr. Bugliosi withdrawing all of the
12 rest-room exhibits or just 68 and 69?

13 MR. BUGLIOSI: Just 68 and 69.

14 70 shows the toilet and that has been identified
15 by two witnesses.

16 THE COURT: The only one remaining that there has
17 been no ruling on is 67.

18 Do you wish to be heard further on that?

19 MR. SANAREK: I agree with Mr. Fitzgerald's comments
20 concerning that, your Honor.

21 I gather the prosecution is now asking that
22 68 and 69 irrevocably be removed, is that it?

23 THE COURT: The objections are overruled. 67 is
24 received in evidence.

25 MR. SANAREK: But 68 and 69 are not?

26 THE COURT: They have already been withdrawn,

1 Mr. Kanarek.

2 MR. FITZGERALD: We were at 98, your Honor.

3 THE COURT: Yes.

18, 99, 100, 101

MR. FITZGERALD: No objection to 98, 99, 100 and 101.

5 THE COURT: They will be received.

6 MR. FITZGERALD: 102, your Honor, is a body photograph,
7 may that be deferred.

8 THE COURT: Yes.

103&104

9 MR. FITZGERALD: No objection to 103 or 104.

10 THE COURT: They will be received.

11 MR. FITZGERALD: No objection also to 105. That
12 appears proper.

13 THE COURT: 105 will be received.

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14 MR. FITZGERALD: 106 and 107 are body photographs,
15 your Honor.

12 Fla.

16 THE COURT: We will defer ruling on that.
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1 MR. FITZGERALD: Yes, please.

2 No objection to 108 through 116.

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3 THE COURT: They will be received.

4 MR. FITZGERALD: 117 is a body photograph, your
5 Honor.

6 THE COURT: That will be deferred.

7 MR. FITZGERALD: No objection to 118 through 140.

8 THE COURT: 118 through 140?

9 MR. FITZGERALD: Yes, your Honor.

18-140
10 THE COURT: They will be received.

11 MR. FITZGERALD: Exhibits, your Honor, 141 --

12 THE COURT: Just a moment, Mr. Fitzgerald.

13 All right, go ahead.

14 MR. FITZGERALD: Exhibits 141 through 147 are all
15 5 x 7 black and white autopsy photographs.

16 May those be deferred, your Honor?

17 THE COURT: They will be deferred.

18 MR. FITZGERALD: 148 and 149 are Coroner's diagrams.

19 Could those be deferred to the same time as the
20 photographs?

21 THE COURT: And 148-A also?

22 MR. FITZGERALD: Yes, excuse me.

23 THE COURT: They will be deferred.

24 MR. FITZGERALD: Exhibit 150 through -- well, no
25 objection -- strike that.

26 Could we defer 150, 151, 152, 153, 154,

1 --5, --6, --7, --8, --9, 160, 161, --62, --63, --64 and --65?

2 THE COURT: They will be deferred.

3 MR. FITZGERALD: 166 is a bullet in an envelope.

4 There will be an objection to that, your Honor.

5 The envelope containing the bullet contains the
6 following hearsay statement: Jay Sebring. Then it contains
7 the number 69-8995. And then it says: "This bullet is
8 recovered between his shirt and back found loosely during
9 fluoroscopy at 10:15 a.m. on August 10, 1969."

10 I would object to the jury seeing that envelope.

11 If the prosecution would like to put that
12 bullet in a white envelope, that is a different matter.

13 MR. BUGLIOSI: The only thing I am concerned about
14 is that Dr. Noguchi does have his signature on that
15 envelope and has testified to that effect.

16 MR. FITZGERALD: But Dr. Noguch did not testify to
17 the hearsay statement that this bullet is recovered between
18 the shirt and the back found loosely during fluoroscopy
19 examination 10:15 a.m. on August 10, 1969.

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1 MR. BUGLIOSI: Well, he did testify to that.

2 I don't have any objection to that being
3 deleted from the envelope, but I think the original
4 envelope with his signature on it should come in.

5 The other hearsay statements, I think, could be
6 deleted.

7 THE COURT: Suppose the statement is deleted
8 except for the name Jay Sebring, the number, and Dr. Noguchi's
9 signature?

10 MR. BUGLIOSI: And the date.

11 MR. FITZGERALD: Well, you don't know for what
12 purpose the jury is going to use it.

13 You can argue that the jury won't use it for
14 the truth of the matter asserted, but they might, and if
15 they do, they have, in effect, received unsworn testimony.

16 I think the problem could be easily solved
17 by simply putting the bullet in a white envelope.

18 THE COURT: Why don't we do this, Mr. Bugliosi?
19 Put the bullet in an unmarked envelope and make this
20 envelope a special exhibit but the jury won't see, one of the
21 Court's Special Exhibits, just so it will be preserved.

22 MR. BUGLIOSI: I am concerned about the weight of
23 Dr. Noguchi's testimony concerning the fact that he found
24 this bullet in the place where he so testified, that he
25 placed it in an envelope and he signed his name to that
26 envelope.

He has already testified to this, and I think

1 that envelope has certain evidentiary value, unless there is
2 an argument that his signature on the envelope is hearsay.
3 And, of course, that would be a frivolous argument.

4 I think his signature on that envelope has
5 certain evidentiary value.

6 I don't see why, your Honor, we can't just
7 delete the other hearsay references on that envelope but
8 retain the name Jay Sebring, the autopsy number, Dr.
9 Noguchi's signature, and, preferably, the date.

10 MR. KANAREK: Your Honor, I would be willing to allow
11 Dr. Noguchi to sign an unmarked envelope, and Mr. Bugliesi
12 will have his purported authentication by Dr. Noguchi,
13 and we then would be able to eliminate this.

14 I think that will solve the problem, your
15 Honor. I wouldn't object, and I don't think counsel would
16 object.

17 THE COURT: I don't think there is a great problem.

18 The doctor has testified. You have the
19 testimony in the transcript.

20 I think this is hearsay. It will be placed in
21 a plain envelope without identification other than the
22 exhibit number 166.

23 This envelope which presently contains the
24 bullet will be marked as --

25 THE CLERK: Court's 38, your Honor.

26 THE COURT: Court's Special Exhibit 38, and it will

not be seen by the jury.

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2 MR. BUGLIOSI: I am a little concerned now about a
3 particular attorney -- let's name him Mr. Kanarek, -- arguing
4 in front of the jury at the end of the case that there was
5 no chain of possession of this particular bullet, and then
6 I am not able to argue during rebuttal that the doctor
7 identified a particular manila envelope as being the
8 envelope into which he placed this bullet.

9 THE COURT: If there is such an argument, then the
10 Court will reconsider as to whether or not the jury should
11 see Special Exhibit 38.

12 MR. BUGLIOSI: Very well, your Honor.

13 MR. KANAREK: Your Honor, I will represent to the
14 Court that I would not make any such argument to that
15 effect.

16 Counsel is making a frivolous argument to the
17 Court.

18 I am not going to argue that.

19 THE COURT: It is after 12:00, gentlemen.

20 The Court will recess until 1:45.

21 (Whereupon, at 12:01 p.m. the court was in
22 recess.)

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1 LOS ANGELES, CALIFORNIA, MONDAY, NOVEMBER 16, 1970

2 1:55 o'clock p.m.

3 - - - -

4 (The following proceedings were had in open
5 court in the presence of all defendants and all counsel,
6 the jury being absent:)

7 THE COURT: All parties and counsel are present.

8 MR. FITZGERALD: Yes, your Honor, we might briefly
9 return to Exhibits 97-A through 97-E. Those were the
10 composite photographs.

11 All counsel, your Honor, have had an opportunity
12 to look at the photographs after the Clerk, Mr. Darrow, has
13 attempted to blacken out some of the names.

14 If your Honor will look at the photographs,
15 some of the material can be seen through the grease pencil-
16 ing, although we have, I think, a more germane objection
17 to the admissibility of all these, as we go back and discuss
18 the matter amongst ourselves, we don't see the relevance
19 or materiality and we will object on those grounds to 97-A
20 through 97-E.

21 Many of the persons depicted in those photographs
22 were not specifically identified by any witness at all.

23 We have unsuccessfully attempted to find a
24 transcript reference.

25 MR. BUGLIOSI: Volume 56, pages 7,632 to 7,635.

26 MR. FITZGERALD: Thank you.

1 And now our recollection that it was a witness,
2 John Marsh, who was conditionally examined that made some
3 tentative identifications from some of these photographs.

4 Also photographs of the defendants appear within
5 those exhibits, and inasmuch as they are on trial and their
6 likeness has been in front of the jury for some five months
7 at least, it would seem --

8 MR. BUGLIOSI: We have no objection to those photographs
9 not coming in.

10 John Marsh actually was a defense witness
11 anyway.

12 Relevant photographs have been marked and
13 identified in other places in the transcript.

14 We have no objection to withdrawing 97-A
15 through E.

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1 THE COURT: Very well. They will be withdrawn,
2 97-A through E.

3 MR. FITZGERALD: We are now at 167, your Honor?

4 THE COURT: 167.

5 MR. FITZGERALD: 167, your Honor, through 176 are
6 photographs of bodies or diagrams of bodies.

7 May they be deferred?

8 THE COURT: They will be deferred.

9 MR. FITZGERALD: 177 there will be an objection to.

10 That exhibit is described as a small envelope
11 bearing the number 698793, Frykowski, Voityck, one .22
12 caliber bullet received from Dr. Herrera, identified Noguchi.

13 My recollection is that that hearsay infor-
14 mation is actually contained on the envelope, and we are
15 objecting to the envelope rather than the .22 caliber
16 bullet contained therein.

17 MR. BUGLIOSI: I presume the Court's ruling will be
18 the same as it was with People's 176, your Honor?

19 THE COURT: Yes.

20 The Clerk will place the contents of 177 in a
21 plain unmarked envelope, except for the exhibit number.

22 The envelope in which the contents are now
23 contained will become Court's Special Exhibit --

24 THE CLERK: 39, your Honor.

25 THE COURT: 39.

26 And Exhibit 177, then, will be received.

9/176

177

1 MR. FITZGERALD: 178, your Honor, through 184 are
2 autopsy photographs or diagrams of bodies.

3 May those aforementioned exhibits be deferred?

4 THE COURT: They will be deferred.

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MR. FITZGERALD: 185 is described as an envelope
1 with a bullet from Steven Parent, Dr. Herrera.

2 My understanding is that that exhibit does not
3 have any hearsay on the outside.

4 THE COURT: May I see 185 and 186?

5 MR. FITZGERALD: 186 is also another small envelope
6 with a bullet allegedly recovered from the body of Steven
7 Parent, your Honor.

8 THE COURT: 185 contains the same information as
9 the envelope which contained 177.

10 MR. FITZGERALD: Well, we will make the same
11 objection, and perhaps your Honor could invoke the same
12 remedy.

13 THE COURT: The Clerk will place the contents of
14 185 into a plain unmarked envelope. The exhibit will then
15 be received.

16 The envelope in which the contents are now
17 contained will become Court's Special Exhibit 40.

18 MR. FITZGERALD: What about 186, your Honor?

19 THE COURT: The same ruling will be made to
20 186, and the present envelope will become Court's Special
21 Exhibit 41.

22 MR. FITZGERALD: Thank you.

23 THE COURT: 185 and 186 will be received.

24 MR. FITZGERALD: 187, your Honor, 188, 189 and
25 190 are either diagrams of stab wounds or enlargements
26

1 of stab wounds, or diagrams of bodies.

2 May that be deferred?

3 THE COURT: They will be deferred.

4 MR. FITZGERALD: Next, your Honor, my records
5 indicate that there is no 191, but there is a 191-A, B,
6 C, D and E.

7 THE CLERK: Right.

8 MR. BUGLIOSI: That is what our records indicate, too.

9 THE COURT: 191-A through E.

10 MR. FITZGERALD: Those are a series of photographs
11 depicting various items of clothing, and in some of the
12 photographs a person by the name of King Baggott is
13 depicted.

12b fls. 13

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12b-1

1 THE COURT: What about 190?

2 MR. FITZGERALD: That is a large diagram, I think,
3 by Noguchi.

4 THE COURT: Do you wish to defer that?

5 MR. FITZGERALD: Yes. May that be deferred, and we
6 will handle that with the body photographs.

7 THE COURT: Any objection to 191-A through E?

8 MR. FITZGERALD: No, your Honor.

9 THE COURT: They will be received.

191a-E

10 MR. FITZGERALD: 192, your Honor, is two glass slides
11 containing, each, three strands of hair allegedly from the
12 head of Miss Atkins.

13 Mr. Shinn would like to be heard as to that,
14 your Honor.

15 192-A appears to be a vial containing hairs
16 that were obtained from clothing allegedly found at the base
17 of Benedict Canyon.

18 THE COURT: May I see 192?

19 MR. SHINN: Your Honor, in regard to 192, your Honor,
20 I believe this is the hair that the officer took, I believe,
21 from Miss Atkins at Sybil Brand Institute for Women, your
22 Honor, and I believe it was in violation of the Fourth,
23 Fifth and Sixth Amendments.

24 I believe there was no permission to obtain
25 this hair from Miss Atkins.

26 I believe I did argue that point at the time it

1 was being introduced, your Honor, and I would like to
2 incorporate my argument at that time also into this argument
3 by reference, incorporation by reference.

4 192-A, I believe that was the hair that was
5 found on the clothes that were found at the side of the
6 hill.

7 I believe the officer testified -- I think
8 the last question I asked this officer was whether or not
9 he was merely guessing that these two hairs matched?
10 And I believe his answer was yes, that he was merely guessing.

11 Then I believe Mr. Bugliosi on redirect, I
12 think, tried to rehabilitate the officer's statement, I
13 believe, your Honor.

14 I believe that the prejudicial value far out-
15 weighs the probative value.

16 On the basis of that, your Honor, I will object
17 to the introduction of those two items.

18 MR. BUGLIOSI: The Court has already ruled on the
19 admissibility of those hairs. We had an in-chambers
20 conference on that. The Court ruled there was no violation
21 of the Fourth and Fourteenth Amendments.

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192, A, B

193

1 THE COURT: 192, 192-A and 192-B will be received.

2 MR. FITZGERALD: 193 is withdrawn, is it not?

3 THE COURT: Not according to my notes.

4 MR. FITZGERALD: No objection to 193.

5 THE COURT: It will be received.

6 MR. FITZGERALD: I thought the prosecution said this
7 morning they wanted to withdraw that, or they wanted it to
8 be withdrawn, the steak knife found in the sink.

9 MR. BUGLIOSI: No, it was the bread knife.

10 MR. FITZGERALD: Excuse me, I'm sorry.

11 MR. BUGLIOSI: The bread knife has already been with-
12 drawn in fact.

13 MR. FITZGERALD: I am sorry.

14 MR. BUGLIOSI: People's 208.

15 MR. FITZGERALD: No objection to 194, your Honor.

16 THE COURT: It will be received.

17 MR. FITZGERALD: 195 is a body photograph. May that
18 be withdrawn -- I mean deferred?

19 THE CLERK: We have 194-A and B also, Mr. Fitzgerald.

20 MR. FITZGERALD: May I inquire as to the description
21 of 194-A and B?

22 THE COURT: Three-strand nylon rope.

23 MR. FITZGERALD: Oh, that's right, different
24 portions of the same rope.

25 No objection, your Honor.

26 MR. KANAREK: May I record an objection based on the

1 prejudicial value far outweighing the probative value in
2 view of the testimony in this case concerning nylon rope?

3 THE COURT: The objections are overruled.

4 194-A and B will be received.

5 MR. FITZGERALD: 195 is a body photograph. May that
6 be deferred?

7 THE COURT: It will be deferred.

8 MR. FITZGERALD: 196 is a sketch prepared by
9 Officer Granada. No objection.

10 THE COURT: 196 will be received.

11 MR. FITZGERALD: No objections to 197 and 198 either,
12 your Honor.

13 THE COURT: They will each be received.

14 MR. KANAREK: As to 197, my position is the
15 prejudicial value far outweighs the probative value, your
16 Honor.

17 MR. FITZGERALD: That is a piece of a gun grip, your
18 Honor, 197.

19 THE COURT: Very well. The objection is overruled.

20 MR. FITZGERALD: My records then reflect that there
21 is 199-A and B which are two slides, marked 1 and 2.

22 One contains three strands of hair and the other
23 contains two strands of hair.

24 And 199-C is a single slide containing one
25 strand of hair.

26 Is that correct?

THE CLERK: I have down here samples. Slides of hair

194ab

96

97-8

1 samples.

2 MR. SHINN: Your Honor --

3 THE COURT: Yes.

4 MR. SHINN: May I make the same objections as I did,
5 I believe, on Exhibit No. 192 and 192-A, your Honor?

6 I believe this is Susan Atkins' hair again.

7 THE COURT: The objections are overruled.

8 We are talking about 199.

9 MR. FITZGERALD: Yes, your Honor.

10 THE COURT: 199-A, B and C.

11 The objections are overruled. They will be
12 received in evidence.

13 MR. FITZGERALD: 200 through 211, no objection.

14 THE COURT: They will be received.

15 MR. FITZGERALD: 212, your Honor, through 226 are
16 autopsy photographs.

17 MR. BUGLIOSI: Not 214.

18 MR. FITZGERALD: Excuse me.

19 MR. BUGLIOSI: I believe those are four kitchen
20 utensils, aren't they, from the La Bianca residence?

21 MR. FITZGERALD: Yes, I'm sorry.

22 No objection to 212 and 214 -- 212 and 213, your
23 Honor, I mean.

24 MR. BUGLIOSI: No objection to 212 and 213?

25 MR. FITZGERALD: I mean may they be deferred?

26 They are body photographs, I am sorry.

199abc

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1 THE COURT: They will be deferred.

2 Any objection to 214?

3 MR. FITZGERALD: No.

4 THE COURT: 214 will be received.

5 MR. FITZGERALD: Now, it appears that 215 through 226
6 are autopsy photographs.

7 Could we defer those temporarily?

8 THE COURT: They will be deferred.

9 MR. FITZGERALD: 228 and 229, the electrical cord,
10 no objection, your Honor.

11 THE COURT: They will each be received.

12 MR. FITZGERALD: Exhibits 230 through 240 are autopsy
13 photographs or diagrams.

14 Could those be deferred?

15 THE COURT: 239 is a cord.

16 MR. FITZGERALD: Excuse me, 239 is a cord, and 240 is
17 a diagram of Rosemary La Bianca.

18 THE COURT: Any objection to 239?

19 MR. FITZGERALD: No, your Honor.

20 THE COURT: 239 will be received.

21 MR. FITZGERALD: 240 should be deferred.

22 THE COURT: 240 will be deferred.

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13a-1

1 MR. FITZGERALD: 241 is thongs removed from the
2 wrists of Leno La Bianca, thongs or shoelaces.

3 Mr. Kanarek wishes to be heard.

4 MR. KANAREK: Your Honor, I cannot in good faith
5 say I would object if -- except for the fact of the
6 equation made, attempted to be made by these other thongs
7 that are allegedly from Mr. Manson.

8 I certainly concede the prosecution has a
9 right to try to prove a case.

10 The use in the context of using those thongs
11 along with the thongs that have been admitted that are
12 purportedly from Mr. Manson, I think in view of the
13 package that the prejudicial value outweighs the probative
14 value because the jury will be making the conjecture,
15 they will be making some kind of a comparison and they will
16 be coming to irrational conclusions.

17 That is what the prosecution is fostering,
18 this type of irrational conclusions, by taking the thongs
19 from Mr. Manson and trying to compare them with these
20 thongs from La Bianca.

21 In that context I do make the motion that those
22 thongs not be admitted on the basis that the prejudicial
23 value outweighs any probative value.

24 In addition to our continuing objection on
25 relevancy and materiality.

26 THE COURT: Objection overruled. 241 is received.

241 Ev.

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242&243Ev.

MR. FITZGERALD: No objection to 242 and 243, your Honor.

THE COURT: They are each received.

MR. FITZGERALD: 244 is another pair of leather laces or thongs, your Honor.

MR. KANAREK: Yes, your Honor, again we have the same problem.

The prejudicial value far outweighs the probative value.

You can go down here on Olvera Street, get thongs by the jillions and bring them in here and give them to the jury.

That is physical evidence.

THE COURT: What was the foundation for 244, Mr. Bugliosi?

MR. BUGLIOSI: Sergeant Patchett testified in Volume 136, we don't have the page number, to finding these leather thongs beneath the front seat of the 1959 Ford out at Howard Sommers' garage, I believe, in November of 1969.

13b fls.

13b-1

1 MR. KANAREK: Many people had access to that, and
2 there was testimony further that many people wore thongs
3 and wore this type of leather attire, your Honor.

4 THE COURT: Objection is overruled.

244 Ev.

5 244 is received.

6 MR. FITZGERALD: 245-A, B, C, D, E and F are a
7 large diagram of the latent fingerprint enlargement --
8 the fingerprint exemplar and enlargement of fingerprint
9 exemplar of Charles Tex Watson.

10 We would object on the grounds it is immaterial
11 and irrelevant and beyond the scope of the issues in this
12 case inasmuch as Mr. Watson is not a defendant currently
13 on trial.

14 MR. KANAREK: Join in on that, your Honor.

15 Also on the basis that the prejudicial value
16 far outweighs the probative value.

17 Also on the basis of the Sixth Amendment, the
18 right to confront, which is being denied and which
19 protects the defendant by way of the due process clause
20 of the Fourteenth Amendment.

21 THE COURT: Do you wish to be heard, Mr. Bugliosi?

22 MR. BUGLIOSI: The Court has already ruled about a
23 month ago that we certainly can introduce evidence against
24 Mr. Watson.

25 Furthermore Mr. Watson is named in Count No. VIII
26 of the Grand Jury indictment as a co-conspirator, so we

13b-2

1 have every right in the world to put on evidence connecting
2 him with the corpus delicti.

3 We have discussed this issue.

4 MR. FITZGERALD: It puts us in the position of
5 being required to put on a defense for Mr. Watson as well
6 as the named defendants.

7 If inculpatory evidence is going to be
8 received against Mr. Watson, then of course exculpatory
9 evidence should be admitted as well.

10 If the jury is going to arrive at some
11 conclusion vis-a-vis Watson, then it might be incumbent
12 upon us to present certain evidence.

13 For example, and only for example, it might
14 be incumbent upon us if such information was brought to
15 our attention to put on alibi evidence concerning Mr.
16 Watson, and certainly without the cooperation of Mr.
17 Watson, and Mr. Watson's counsel, that puts us in a very
18 peculiar position indeed, your Honor.

19 I admit he is named in the indictment as a
20 co-conspirator.

21 But he is not on trial, and I think Mr.
22 Kanarek's observations, we have a confrontation, probably
23 are well taken.

24 I think the Court could take judicial
25 notice of its own records in this respect, and Mr. Watson
26 has been found to be presently insane within the purview

1 of Penal Code Section 1368, and is now being housed at
2 Atascadero State Hospital, and he is obviously incompetent
3 as a witness, and if we issued a subpoena for him or a
4 removal order for him, we have problems with his attorney.

5 We do not have the right to call him as a
6 witness.

7 But if evidence is going to go in against
8 him, that puts us at a severe disadvantage.

9 We are faced with evidence against him but
10 yet we are unable to rebut it.

11 MR. BUGLIOSI: The prosecution has always had the
12 right to put on evidence connecting other than the named
13 defendants with the corpus delicti of a crime.

14 This is just standard operational procedure.

15 Four people rob a bank and only two are on
16 trial. Witnesses can testify to observing the other two
17 people enter the bank, and give their description.

18 Certainly if they have a connection with the
19 two on trial, this is extremely relevant.

20 Here not only do we have that, but the
21 particular party involved is actually named in the
22 indictment.

14 fls.

14-1
1 MR. KANAREK: Your Honor, the District Attorney --

2 MR. BUGLIOSI: This is so basic and fundamental, your
3 Honor, that we would be hard-pressed to come up with any
4 authority for it.

5 It is taken for granted that when a person is
6 named in the indictment as a co-conspirator, we have
7 every right in the world to put on evidence that this party
8 was connected with the crime,

9 MR. KANAREK: Your Honor, the Court must still go
10 through a balancing process, because what Mr. Bugliosi
11 utters is just not so.

12 There is no absolute right in the prosecution.

13 They can do all kinds of things with the Grand
14 Jury when there is no one there on the part of the defen-
15 dants.

16 This is a Grand Jury indictment. There has
17 never been the right to confront exercised or available.

18 For Mr. Bugliosi to make this fundamental
19 statement, "It has always been thus and so," that kind of
20 argument is improper argument to the Court.

21 MR. BUGLIOSI: I am using the defense argument.

22 Linda Kasabian should not have been permitted
23 to testify that Tex was along that night?

24 MR. KANAREK: I don't think this is the proper time
25 to --

26 MR. BUGLIOSI: It would be an identical argument.

1 MR. KANAREK: That is not so.

2 MR. BUGLIOSI: You can't put on fingerprint evidence?
3 Then I suppose you can't put on eye witness testimony.

4 MR. KANAREK: Mr. Bugliosi is sliding off the point,
5 your Honor.

6 DEFENDANT MANSON: This courtroom sure is old. It is
7 stiff. I don't see how you ever get anything through it.

8 MR. KANAREK: Your Honor, I believe that the right to
9 confront has been fettered. There is no question about it.

10 The prejudicial value far outweighs any proba-
11 tive value in the context of the publicity, in the context of
12 everything that has occurred so far as Mr. Watson is
13 concerned.

14 THE COURT: The objections are overruled.

15 245, 245-A, B, C, and D are received.

16 MR. FITZGERALD: In regard to Exhibits 246 and 246-A,

17 B --

18 MR. BUGLIOSI: Excuse me.

19 245-A through F; is that correct, your Honor?

20 THE COURT: And also 245.

21 MR. FITZGERALD: Itself.

22 MR. BUGLIOSI: Yes.

23 (The Court and the Clerk confer.)

24 THE COURT: There is a 245-E and F also.

25 They will be received.

26 MR. FITZGERALD: 246, your Honor, as well as 246-A

1 through F, and 247 and 248, I don't want to be in the
2 position of saying no objection to these, so I will object on
3 the grounds that they are immaterial and irrelevant, and
4 submit it.

5 MR. BUGLIOSI: Submit the matter.

14a

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14a-1

1 THE COURT: This is the fingerprint card regarding
2 Patricia Krenwinkel?

3 MR. BUGLIOSI: Correct.

4 MR. KANAREK: I would like to register an objection
5 on the basis that the prejudicial value far outweighs
6 the probative value, your Honor.

7 THE COURT: The objections are overruled.

8 246 is received. 246-A is received.

9 246-B is received. 246-C is received. 246-D is received.
10 246-E and 246-F are received.

11 Any objection to 247?

12 MR. FITZGERALD: Yes. That is in the same category.

13 247 and 248.

14 247 is the original lift, and 248 is the
15 board itself with the photographs.

16 I will object and submit it.

17 THE COURT: The objections are overruled.

18 247 is received.

19 248-A through F are received.

20 MR. FITZGERALD: 249, 250 and 251, I think, can
21 be handled together.

22 These are -- excuse me for a moment.

23 (All counsel confer.)

24 MR. FITZGERALD: 249, 250 and 251, there will be
25 no objection, your Honor.

26 THE COURT: They will each be received.

246A-FEV.

248A-F

252&253

1 MR. FITZGERALD: No objection to 252, 253.

2 THE COURT: They will each be received.

3 MR. FITZGERALD: 254 is a drawing, a hand drawing
4 of a revolver, identified by De Carlo, identified by
5 Danny De Carlo as being drawn by him.

6 That is immaterial and irrelevant, your
7 Honor.

8 MR. BUGLIOSI: It is very relevant because this
9 particular drawing was made at a time prior to the
10 discovery by the Los Angeles Police Department of this
11 .22 caliber revolver.

12 It just so happens that this drawing is almost
13 identical to the Buntline revolver.

14 So, here is Danny DeCarlo making a drawing
15 of the revolver that was out at Spahn Ranch in the
16 summer of 1969. Then the revolver turns up, and it matches
17 the drawing.

18 So, your Honor, it is very relevant.

19 THE COURT: The objections are overruled.

20 254 is received.

21 MR. FITZGERALD: The next two exhibits, 255 and 256,
22 my recollection is they were diagrams that were drawn
23 during cross-examination.

24 THE COURT: Diagrams of bullets.

25 MR. FITZGERALD: Of bullets and the base of shells.

26 MR. BUGLIOSI: I have no objection to those being

254 Ev.

1 withdrawn.

2 MR. FITZGERALD: We will move to withdraw them,
3 then.

4 MR. BUGLIOSI: This was cross-examination by Mr.
5 Shinn. These were not originally People's exhibits.
6 We have no interest in them.

14b fls. 7

8 THE COURT: 255 and 256 are withdrawn.
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14b-1

1 MR. FITZGERALD: 257, your Honor, is a LAPD Analyzed
2 Evidence Report signed by Sergeant William Lee. Attached
3 thereto are two yellow sheets of paper containing notes.

4 We will object on hearsay grounds. It is also
5 immaterial and irrelevant.

6 I think they were marked for identification only
7 to impeach the officer when he testified.

8 MR. BUGLIOSI: No objection to 257 being withdrawn.

9 THE COURT: 257 is withdrawn.

10 MR. FITZGERALD: 258, your Honor, if my recollection
11 serves me correctly, is a T-shirt that was found near a
12 dump, Ruby Pearl testified, by herself jointly with Randy
13 Starr.

14 That is immaterial and irrelevant. There is no
15 connection between that shirt and these defendants.

16 THE COURT: Do you wish to be heard, Mr. Bugliosi?

17 MR. BUGLIOSI: Yes, your Honor.

18 258, the black T-shirt, was found by Randy
19 Starr in Ruby Pearl's presence at the Spahn Ranch on the
20 ground near a little mound of dirt immediately adjacent to
21 where a trailer used to be at the Spahn Ranch, and there was
22 testimony from Ruby Pearl that the three female defendants
23 in this case used to frequent that trailer from time to time.

24 This particular black T-shirt is very similar
25 to People's 52, and People's 54, which were among the
26 clothing found over the side of the hill in the Benedict

1 Canyon area by King Baggot.

2 There is another similarity. 258, the black
3 T-shirt, was dyed. The original color apparently was white.
4 This is also true of People's 52 and 54.

5 If, in fact, 52 and 54 were worn by the killers
6 on the night in question, the night of the Tate murders,
7 and Linda Kasabian has so testified, she testified that
8 People's 52 was worn by Patricia Krenwinkel and People's 54
9 by Susan Atkins, then finding another black T-shirt right
10 out at Spahn Ranch in an area immediately adjacent to
11 where Susan Atkins and Patricia Krenwinkel used to frequent,
12 and where this black T-shirt is very similar to the two
13 found over the side of the hill, certainly it has unquestioned
14 relevance.

15 THE COURT: Who was the witness who testified to the
16 manner of dying the shirts?

17 MR. BUGLIOSI: Ruby Pearl.

18 MR. FITZGERALD: I think it is conceded between
19 counsel that she found it at least nine months later. That
20 is, nine months after the commission of the offense,
21 and perhaps even more.

22 MR. BUGLIOSI: That goes toward the weight, not the
23 admissibility.

14c-1

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THE COURT: The objections are overruled.

258Ev

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258 will be received.

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MR. FITZGERALD: No objection to 259 or 260, your

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Honor.

259&260Ev

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THE COURT: They will each be received.

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MR. FITZGERALD: 261, your Honor, is a photograph

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of a door within a trailer at the Spahn Ranch that contains

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the following: One, two, three, four, five, six, seven.

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All good children go to heaven. Healter-Sceder, and a

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peace symbol.

11

Your Honor might recall that we had an

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evidentiary hearing concerning this exhibit, and Officer

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Gutierrez testified.

14

We would like to incorporate by reference our

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objections at that time.

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We objected on the grounds that it was the

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result of an illegal search and seizure, and we actually

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took evidence on the point, your Honor.

19

In addition, we want to object on the ground

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that any probative value it has is outweighed by the

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substantial prejudice.

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MR. BUGLIOSI: There already was a hearing outside

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the presence of the jury in which Sergeant Gutierrez

24

testified, and the Court ruled, after the termination

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of the hearing, that there were no violations of the

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Fourth and Fourteenth Amendments with respect to these

1 particular photographs.

2 So, the Court has already ruled on this.

3 THE COURT: The words at the bottom of the panel
4 appear to be "Helter Skelter is coming down fast."

5 It appears that the top of the L and the
6 bottom of the L are actually in contact with the top
7 left portion and the bottom of the "D", making it look as
8 if it were a D.

9 But, in any event, the objections are overruled.

10 261 is received.

11 MR. FITZGERALD: 262. No objection, your Honor.

12 THE COURT: 262 is received.

13 MR. FITZGERALD: 263. There will be an objection.

14 That is a sheaf of documents from the Los
15 Angeles County Sheriff's Office relating to an arrest at
16 Spahn Ranch on August 16th, 1969.

17 It was identified by Miss Hardway. It contains
18 hearsay.

19 MR. BUGLIOSI: May I see that document when the
20 Court is finished looking at it?

21 (The Court hands the document to Mr. Bugliosi.)

22 MR. BUGLIOSI: The purpose of marking these documents,
23 your Honor, was simply as a basis for the testimony of
24 the clerks at Sybil Brand.

25 They contain much prejudicial hearsay which
26 has no relevance. So, we would move to withdraw People's
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261Evq

262Ev.

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It was simply used as a foundation for the testimony of the clerks.

THE COURT: 263 will be withdrawn.

Any objection to 264?

MR. FITZGERALD: No objection.

14d fls.

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THE COURT: Consisting of 44 photographs.

MR. FITZGERALD: No, your Honor, no objection.

THE COURT: 264 will be received.

MR. FITZGERALD: 265 has been already marked as a Court's Special Exhibit.

THE COURT: Yes.

MR. BUGLIOSI: Court's Special Exhibit No. 8.

MR. FITZGERALD: No objection to 266, which is the double white Beatle album with two records.

No objection to 267, which is a copy of the lyrics of the songs contained therein, your Honor.

THE COURT: 266 and 267 are received.

MR. FITZGERALD: No objection to 268, your Honor.

That is the revised standard version --
strike that.

268, there will be an objection to.

That is the revised standard version of Revelation 9.

Actually, a Bible has been introduced, and the Bible is hearsay, your Honor.

MR. BUGLIOSI: I hate to say that we are not offering this for the truth of the matters asserted, but from a legal standpoint I will have to say that. We are not offering it for the truth of the matter asserted. Therefore, it is definitely not hearsay.

We offered it as a basis of Mr. Manson's

1 interpretation.

2 DEFENDANT MANSON: That is hearsay.

3 MR. KANAREK: The Bible itself, your Honor --

4 MR. BUGLIOSI: This isn't the Bible, it is the 9th
5 chapter in one of the books of the Bible.

6 THE COURT: 268 is a one-page photocopy of what
7 appears to be two pages, 282 and 283 of a Bible, showing a
8 portion of Revelation 8, all of Revelation 9, and a portion
9 of Revelation 10.

10 MR. FITZGERALD: I stand corrected.

11 MR. KANAREK: I think, your Honor, that the
12 prejudicial value far outweighs the probative value.

13 There is no showing of any verbatim use of
14 that by anyone in this case, word for word, as that purports
15 to be.

16 THE COURT: The objection is overruled.

17 268 will be received.

18 MR. FITZGERALD: From 269 through 297, no objection,
19 your Honor.

20 THE COURT: 269 through 297 will be received.

21 269-297

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1 MR. FITZGERALD: That brings us back, I take it, to
2 the deferred exhibits.

3 THE COURT: Yes, it does.

4 MR. FITZGERALD: Basically the defendants' position
5 is this:

6 According to my count there are 74 photographs
7 of bodies relating to the seven decedents in the case.

8 These photographs fall into basically three
9 different categories:

10 They are photographs that are taken of the
11 bodies at the scene, presumably as they were when they were
12 discovered. That is the first classification.

13 The second classification is photographs that
14 are taken of the decedents either immediately before or
15 during autopsy procedures at the office of the Los Angeles
16 County Coroner.

17 The third classification of photographs is
18 enlargements or close-ups of various portions of the
19 bodies, again relation to autopsy.

20 There is also frontal and posterior diagrams
21 of all of the decedents that were prepared by the representa-
22 tives at the Coroner's Office.

23 Some of the photographs we have mentioned are
24 color photographs; some are black and white photographs.

25 Some of these photographs are small, measuring
26 approximately, oh, I guess 4 X 5 inches.

1 Some, particularly the autopsy photographs
2 which are black and white, are five by seven.

3 But a number of the color photographs,
4 particularly of the bodies as they lie at the scene,
5 are eight by ten color photographs.

6 Essentially it is the position of the defendants
7 that except in some extremely rare circumstance where there
8 is a definitive showing of some relevance or materiality,
9 the color photographs generally should not be used.

10 If photographs are to be used at all, black
11 and white photographs could easily serve the purpose.

12 The second part of our position is that whenever
13 possible smaller photographs should be used rather than
14 larger photographs.

15 Now, directing myself sort of to the first
16 point, your Honor, there is no deprivation to the prosecu-
17 tion if black and white photographs are substituted for
18 colored photographs.

19 Black and white photographs depict blood as
20 dark brown, as opposed to color photographs which depict
21 it as a bright red.

22 From looking at black and white photographs
23 one can easily determine the blood placement on the
24 bodies.

25 Furthermore, in the black and white photographs
26 you can easily tell the position and location of the

1 wounds.

2 You can see the staining, the blood staining
3 of the clothes; you can see clearly the position of the
4 limbs relative to one another.

5 You can do everything with the black and white
6 photograph that you can do with the color photograph.

7 Unfortunately the color photographs are very
8 vivid color photographs, depicting what I think we can all
9 agree on in regard to several of these pictures, are
10 absolutely horrifying and gruesome exhibits, particularly
11 the photographs of Leno La Bianca that show a knife
12 protruding from his throat, and the prong protruding from
13 his stomach.

14 Lastly we would urge the Court that if your
15 Honor deems it relevant for the prosecution to have intro-
16 duced photographs at all of the dead bodies, I think there
17 is a good argument that could be made against the admis-
18 sion of photographs at all, your Honor seriously can
19 consider receiving into evidence the diagrams drawn by
20 Dr. Katsuyama and Dr. Noguchi in place of all the photographs.

21 The diagrams of Drs. Noguchi and Katsuyama are
22 very non-emotive.

23 They are large diagrams. Each and every stab
24 wound as well as its length and width is noted on the
25 diagram.

26 Its position relative to the other stab wounds

1 is noted on the diagram, and in many cases whether or not
2 a particular stab wound was fatal or whether or not a
3 stab wound was inflicted before or after death is also
4 noted on the diagram.

5 As a matter of fact the diagrams of all of
6 the decedents in this case much more graphically illustrate
7 the position and character of the wounds that were inflicted
8 to the decedents than the photographs do.

9 In the photographs all of the decedents tend
10 to be smeared with blood, and in many of the photographs
11 they have clothing actually covering the wounds.

12 It is very difficult indeed to look at the
13 photographs of the dead bodies with clothing on and determine
14 the nature and extent of the wounds.

15 15a fls.
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1 Conceding for the purposes of argument that
2 some sort of detailed description of the wounds is necessary,
3 it would seem that the diagrams would fit those requirements,
4 and of course not subject the defendants to the enormous
5 prejudice that is going to inure as a result of these
6 photographs.

7 I think we have a very peculiar situation in
8 this case.

9 We are talking about the fact that there are
10 in this case seven decedents, and if this jury is allowed
11 to view some 73 or 74 photographs of dead bodies, I think
12 this is going to so unseat their rational thought processes
13 that they actually would be unable to give the defendants a
14 fair trial.

15 It is bad enough to look at these photographs,
16 one or two of them once a week but to be faced with some
17 sort of panorama of gore and blood is really beyond what
18 we attempt to do in these courts of law.

19 I think we would all concede that no one here
20 should properly be appealing to the emotions of the jury,
21 and that is what is going to happen if they get into a jury
22 room and they get faced with all of these photographs of
23 all of these dead bodies.

24 There has got to be some way we can eliminate
25 this.

26 Another suggestion I have is, perhaps if the

1 prosecution argues that these photographs are material and
2 relevant as illustrating some point in their case, perhaps
3 these photographs can be excised.

4 In other words, if, as the testimony indicated,
5 there are apparently some wounds described on the body of
6 Abigail Folger, let's just cut out her left arm, out of the
7 photograph that shows the defense wounds.

8 You don't get anything by looking at the
9 rest of the wounds and lacerations and the contorted
10 expressions on the faces, and so on.

11 Furthermore, and lastly, I would suggest that
12 the Court take a look at the very materiality and relevancy
13 of these photographs to begin with.

14 That is to say, what really is in issue here?
15 These defendants do not contest the fact that these decedents
16 met their death as the result of a criminal agency.

17 I think it would be preposterous to contend
18 anything to the contrary.

19 These decedents obviously received their death
20 as a result of a criminal agency, and these defendants do
21 not contest the fact, or the testimony of the coroners that
22 death resulted from gunshot wounds, and death resulted from
23 multiple stab wounds.

24 As a result, there is really very little in
25 issue.

26 What do we gain by admitting into evidence

1 photographs, if it is not to appeal to the emotions and
2 prejudices of the jury? Does it really make any difference
3 whether Voityck Frykowski was stabbed 49 or 51 times?

4 Is it really necessary for the jury to be
5 presented with photographs of each and every one of those
6 stab wounds so they can count them?

7 Is it really necessary for them to see the
8 lacerated scalp of Frykowski, to illustrate he was hit over
9 the head with a blunt instrument, when all of that evidence
10 is in the diagram, and all of that evidence was presented to
11 them by the various Coroner personnel and the Los Angeles
12 Police Department personnel at the scene?

13 I think we have achieved actually very little.

14 I think we made some arguments to the Court at
15 the time that the prosecution was attempting to introduce
16 enlarged color photographs / ^{from} the Coroner's Office.

17 At that time I believe it was Mr. Kanarek and
18 I who pointed out that civilly, in California, in wrongful
19 death and personal injury actions, photographs of dead
20 bodies are inadmissible.

21 You cannot show a jury that someone was
22 decapitated in an automobile accident because the rationale
23 would be that the jury would be so inflamed that they would
24 return a reward higher than reasonably necessary in such a
25 case.

26 I think in a criminal case you have greater

1 problems because rather than dealing with an issue of money,
2 we are dealing with an issue of the defendants' freedom.

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15b-1

1 THE COURT: Do you wish to respond, Mr. Bugliosi?

2 MR. BUGLIOSI: Yes, your Honor.

3 I will address myself to the Coroner's diagrams
4 first.

5 Black and white Coroner's photographs, as the
6 Court knows, your Honor, have traditionally been received
7 into evidence even though there were diagrams prepared by
8 the Coroner to supplement those black and white photographs.

9 The diagrams in this particular case were
10 valuable in helping Drs. Katsuyama and Noguchi testify in
11 front of the jury.

12 The diagrams were illustrative of their
13 testimony.

14 However, they do have certain limitations,
15 meaningful limitations.

16 The diagrams do not show, for instance, the
17 dimensions of the wound on the victims, and dimensions of
18 the wounds are highly relevant because from the dimensions
19 of the wounds we can infer what the dimensions of the blade
20 to the murder weapon was.

21 As the Court knows we put on considerable
22 evidence in this case as to the dimensions of the blade
23 that caused the death of six out of the seven victims.

24 Linda Kasabian, of course, testified as to
25 the dimensions of the blades on the knives in the car on the
26

1 night of the Tate murders.

2 Danny DeCarlo testified to the fact that
3 in early August, 1969, there were several new Buck
4 knives out at Spahn Ranch, and he also estimated the
5 dimensions of the blade.

6 And it is very meaningful that Linda's
7 estimation and Danny DeCarlo's estimations on these
8 blades coincided very closely to the dimensions of the
9 blade as estimated by Drs. Noguchi and Katsuyama.

10 The diagrams simply do not show it, they do
11 not show the dimensions of the blade. I submit it is a
12 highly pertinent issue in this case because of Linda
13 Kasabian's testimony and Danny DeCarlo's testimony.

14 Also the diagrams have another deficiency,
15 in that they do not reflect whether a particular wound
16 was caused by a blade which was single-edged or double-
17 edged.

18 Again, as the Court knows, reflecting back on
19 the evidence and testimony in this case, there is going to
20 be an issue as to whether the murder weapon had a single
21 or double-edged blade, or whether there was more than
22 one murder weapon.

23 So, the diagrams, although helpful, have
24 limitations and these limitations are eliminated by the
25 black and white Coroner's photographs, which, as I have
26 indicated, have traditionally come in in a criminal case.

1 With respect to the photographs, although a
2 court, and although this Court certainly has the discretion,
3 the power to exclude the photographs, as Witkin says --
4 Witkin, although he is secondary authority, his citations
5 certainly are not secondary authority. They are primary
6 authority.

7 As Witkin says, the general practice, in fact,
8 the universal practice, is to permit photographs to be
9 used by the trier of fact.

10 I note that Mr. Fitzgerald did not cite one
11 single solitary case which the trier of the fact or the
12 court in a jury trial kept the photographs out.

13 There is dictum to that effect, but when you get
14 right down to actual cases, the courts simply permit photographs
15 to come in.

15c fls.

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15c-1

1 As the Court said in People vs. Adamson, 27
2 Cal. 2d 478 at Page 486:

3 "Except in rare cases of abuse, demon-
4 strative evidence that tends to prove a
5 material issue or clarify the circumstances of
6 the crime is admissible despite its prejudicial
7 tendency."

8 With respect to color photographs they, of
9 course, are the classic type of demonstrative evidence, and
10 hence are no exception to this general rule.

11 The California Supreme Court has repeatedly
12 held that color photographs are admissible at a criminal
13 trial.

14 I would cite several cases to the Court, if
15 the Court is interested in reading the particular cases.

16 People vs. Carter, 48 Cal. 2d 737 at Page 751.

17 People vs. Love, 53 Cal. 2d 843 at Page 852,

18 People vs. Harrison, 59 Cal. 2d 622.

19 People vs. Matthis, 63 Cal. 2d 416 at Page 423.

20 People vs. La Verne, 64 Cal. 2d 265.

21 I point out that in Matthis the Court came out
22 and said that color photographs of the victim's body
23 showing a brutal beating were admissible despite the fact
24 that they admitted black and white photographs may have been
25 less inflammatory.

26 In People vs. Cruz, 264 Cal. Ap. 2d, 350, a

1 murder case, gruesome pictures of the nude body of the victim
2 with multiple cuts and abrasions, were held admissible despite
3 the defendant's stipulation was that the cause of death was
4 from gunshot wounds.

5 The Court held that the photographs of the
6 wound before the killing were probative of the defendant's
7 state of mind and supported the prosecution's theory of
8 premeditation.

9 People vs. Toth, 182 Cal. Ap. 2d 819 and, as I
10 say, also the Harrison and La Verne cases, for which I have
11 already given the Court citations, the courts held that the
12 multiplicity of the wounds and the severity of the wounds
13 were admissible on the issue of malice aforethought.

14 Other cases the Court may want to read are
15 People vs. King, 240 Cal. Ap. 2d 389 at Page 403.

16 People vs. Darlene, 58 Cal. 2d 15 at Page 20
17 and People vs. Steinworth, 71 Cal. 2d.

18 The photographs in this particular case, your
19 Honor, certainly show the multiplicity of the stab wounds
20 and the brutality of the murders.

21 Therefore, they go towards the issues of pre-
22 meditation and malice aforethought, both of which, of course,
23 are material issues which the prosecution has the burden of
24 proving.

25 It is not that we would like to prove it.
26 If we don't prove these two particular issues, we are simply

1 out of court, and these photographs will appreciably
2 assist the prosecution in meeting this burden as to pre-
3 meditation and malice aforethought.

4 Besides the fact that the photographs show
5 premeditation and malice aforethought on the part of the
6 killers, certainly the photographs also show the positions of
7 the victims' bodies, therefore corroborating Linda
8 Kasabian's testimony as to whether the Tate murders occurred
9 on the premises.

10 For instance, as the Court knows, Linda
11 Kasabian testified that Tex Watson stabbed Voityck Frykowski
12 on the front lawn of the Tate residence.

13 She also testified to observing Patricia
14 Krenwinkel chasing Miss Folger out to the front lawn of the
15 Tate residence, and of course these photographs depict the
16 deceased bodies of Miss Folger and Mr. Frykowski on the
17 front lawn of the Tate residence.

18 Linda also testified after she served Tex
19 Watson shoot Steven Parent at some later point in time,
20 perhaps a half hour later, or maybe 15 minutes she was by the
21 Rambler and she looked in and she observed that Mr. Parent's
22 head was slumped over to the right.

23 The photograph of Mr. Parent inside his
24 Rambler, of course, corroborates Linda's testimony.

25 Linda also testified, going back to Miss Folger,
26 that the woman whom Miss Krenwinkel chased out into the

1 front lawn with an upraised knife was wearing a white gown.

2 Certainly a color photograph would show that
3 the gown was in fact white.

4 A black and white photograph would not con-
5 clusively show the gown Miss Folger was wearing was white;
6 it could be green; it could be yellow.

7 But the color photograph accurately depicts
8 the color of the gown which Miss Folger was wearing.

9 This strongly corroborates Miss Linda Kasabian's testimony.

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1 Virginia Graham testified that Susan Atkins
2 told her Sharon Tate was wearing only a bra and Bikini
3 pants.

4 The photographs corroborate Virginia
5 Graham's testimony to that effect.

6 I might add by way of footnote that Mr. Kanarek
7 seemed to have seen fit to show these color photographs to
8 Linda Kasabian on the stand, and I feel that the photos
9 are even relevant to show the reason for Linda's gasps on
10 the stand when she was shown these photographs by Mr.
11 Kanarek.

12 I should think that the photos are relevant
13 to explain Linda's testimony and demeanor on the witness
14 stand when Mr. Kanarek showed her those photographs.

15 The photographs are completely illustrative and
16 descriptive. They show many things I am not even mentioning.

17 For instance, Sharon being tied to Jay Sebring.

18 They have extreme value in this case. They
19 certainly tend to prove material issues in the case, and
20 these material issues are premeditation and malice
21 aforethought.

22 They certainly clarify the circumstances of
23 the murder, and when we talk about tending to prove
24 material issues and clarifying the circumstances of a
25 murder, we fall right within the language of People vs.
26 Adamson which I previously read to the Court.

15d-2

1 I grant the Court that these photographs are
2 gruesome, there is no question about it, but the gruesome-
3 ness, the grislyness, the ghasfliness, the defendants -- if
4 they are in fact the ones who committed these murders
5 which the prosecution of course is alleging -- they are the
6 ones who are responsible for the gruesomeness and the
7 ghasfliness of these photographs.

8 It is their handiwork. The jury is entitled
9 to look at that handiwork.

10 I believe, your Honor, that brings all the case
11 authority that I have given the Court, and in view of the
12 unquestioned probative value of these photographs I think it
13 is clear that these photographs should come in.

14 That appears to be the clear state of the law
15 in the State of California.

16 Submit the matter.

17 MR. FITZGERALD: I would just like to briefly respond.

18 Obviously there are numerous numerous cases,
19 and it is clearly the law in the State of California that
20 your Honor has discretion to weigh the probative value
21 against any inflammatory and prejudicial value.

22 Secondly, if we get to the problem of photographs
23 being admissible, are all the photographs admissible or just
24 some of the photographs admissible?

25 How many bites of the apple do they get?

26 Are they allowed to show 153 stab wounds 153

15d-3

1 different ways?

2 I think there is more than the issue of the
3 photographs involved. I think that the photographs in toto
4 obviously have a cumulative effect that is almost greater
5 than the sum of its parts, and I think that an individual
6 review of these photographs will so indicate.

7 THE COURT: May I see the photographs.

8 MR. FITZGERALD: I would, if the Court please, request
9 to be allowed to put into the record a description of some
10 of the photographs.

11 I have the descriptions of the photographs
12 prepared and would take only a little time. I do this sort
13 of in an abundance of caution in the unlikely event the
14 defendants are convicted and the cases are appealed.

15 Certainly the Court of Appeal can order up the
16 exhibits, but it's been my experience in the past, and
17 recently I talked with a Clerk of the District Court of
18 Appeal who suggested to me in a case where there are so
19 many exhibits, in this case 293 prosecution exhibits alone,
20 frequently the Appellate Courts do not order up the
21 exhibits.

22 So I think that the record ought to reflect
23 in some sort of descriptive fashion what the photographs
24 are.

15e fls.

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15E-1

1 MR. KANAREK: Your Honor, if I may briefly, your
2 Honor, the prosecution cannot make up for lack or proof
3 with gore.

4 Now, the point is Mr. Bugliosi --

5 You see, they can go out, the Los Angeles
6 Police Department and the Sheriff's Department and the
7 District Attorney's Office, they can go out and take pic-
8 tures willy-nilly. They can make a million pictures.

9 Because he chooses to take a million of them
10 does not mean they have to go before the jury.

11 Now, the fact of the matter is that you have
12 to look at the issue involved.

13 Now, if the issue is whether or not a person
14 died of a stab wound, nothing but prejudicial results in
15 taking the blood and smearing it around. All that does is
16 create prejudice, and furthermore we don't know from the
17 way the Los Angeles Police Department, some of their --
18 from some of the criminalistic testimony, we don't know
19 that there wasn't some kind of movement of these bodies
20 before these pictures were taken, and to just allow that
21 stark reality of the blood to come out is purposeless.

22 At the very least we should turn these colored
23 photographs into black and white. There is not a reason
24 in the world why color is necessary. It doesn't prove
25 anything whatsoever as far as the prosecution's viewpoint
26 is concerned.

1 All the color does is create prejudice. It is
2 blood for the sake of blood.

3 The prosecution's viewpoint is not detracted
4 one wit by turning these into black-and-white pictures.
5 That is one point.

6 The other point is there is a cumulative effect
7 which if we go through the pictures as Mr. Fitzgerald
8 suggested, picture by picture, I think that we can eliminate
9 a lot of these pictures just by the repetitions that are
10 there.

11 Now, they have for instance, they have diagrams
12 from the Coroner's Office. They don't need a lot of those
13 Coroner pictures, because they are just repetitive, and they
14 are gruesome.

15 So since that has been financed by the County,
16 the Coroner's work in connection with the stab wounds,
17 it would seem like nothing is gained whatsoever by showing
18 the pictures, the gruesomeness standing out even in the
19 black-and-white pictures of the Coroner's Office, your Honor.

20 So I would ask that -- I would join with
21 Mr. Fitzgerald and ask that we look in each picture and
22 instead of broad-brushing it, let's look at the issue.

23 What issues does a particular picture tend to
24 prove? Does it prove motive? Does it prove malice? Or is
25 it just there for the sheer prejudice?

26 So may we look at these pictures individually.

1 THE COURT: Yes, of course I will consider each
2 picture individually.

3 We will take our recess at this time, however.

4 The Court will recess for 15 minutes.

5 (Recess.)
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1 THE COURT: All parties and counsel are present.

2 Had you completed your argument, Mr. Kanarek?

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

4 Mr. Fitzgerald will carry on.

5 THE COURT: Anything further, Mr. Fitzgerald?

6 MR. FITZGERALD: Except to go through the exhibits
7 singly, unless there is some way we can avoid that,
8 your Honor.

9 THE COURT: I think that is desirable.

10 I think the first deferred exhibit is No. 42.

11 MR. FITZGERALD: Yes.

12 That is a large 8 X 10 colored photograph of
13 the decedent Steven Parent in a bloody condition seated in
14 the left front seat of a white automobile.

15 The body is in a seated position with the head
16 and upper torso bent in the direction of the right front
17 passenger seat.

18 THE COURT: The objections will be overruled as
19 to 42 and it will be received.

20 MR. KANAREK: Your Honor --

21 THE COURT: I will make a finding with respect to
22 each of these photographs after we finish going through
23 the deferred photographs.

24 MR. KANAREK: May we have a black and white photograph,
25 your Honor, instead of the colored?

26 I see no purpose in colored photographs. The

42 Ev.

16-2

1 color serves no purpose, your Honor.

2 THE COURT: 42 will be received.

3 I believe the next deferred photograph is 87.

4 MR. FITZGERALD: Yes.

5 That is a large colored photograph of the decedent
6 Sharon Tate showing her in a supine position, wearing a pair
7 of Bikini panties and a bra, lying in a pool of blood.

8 That is a photograph at the scene, apparently,
9 your Honor.

10 THE COURT: The objections will be overruled.

11 87 will be received.

12 MR. FITZGERALD: 88, your Honor, is a large color
13 photograph, 8 X 10, of Abigail Folger in death, lying on
14 the lawn with her legs spread, wearing a white nightgown.

15 From the area immediately beneath the breast to
16 the hem of the nightgown it is entirely red in color.

17 MR. BUGLIOSI: Mr. Fitzgerald, I think the Judge is
18 looking at the photographs. I don't know why you have to
19 describe them.

20 MR. FITZGERALD: The record doesn't have eyes, Mr.
21 Bugliosi.

22 MR. BUGLIOSI: They have been already described by
23 the witnesses in the case.

24 THE COURT: The exhibits will speak for themselves.
25 I don't see any necessity for a running commentary as to
26 what they are.

87 Ev.

1 I am looking at each one, Mr. Fitzgerald.

2 I have seen them before. I am looking at them
3 again. I am perfectly capable of interpreting them as I
4 see them.

5 MR. FITZGERALD: Well, would you describe them for
6 the record, your Honor?

7 My point is --

8 THE COURT: That is not necessary. They speak for
9 themselves.

10a fls. 9

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1 MR. FITZGERALD: That is the problem, your Honor.

2 In the unlikely -- as I mentioned -- in the
3 unlikely event these defendants are convicted, the record is
4 absolutely silent about what we consider to be a terribly,
5 terribly important issue in the case.

6 THE COURT: I don't know what you mean by silent,
7 Mr. Fitzgerald. If the exhibits are, in fact, received in
8 evidence, they are part of the case. The record is any-
9 thing but silent. They are part of the case.

10 MR. FITZGERALD: That's right. But the appellate
11 courts frequently do not order these exhibits up. Frequently
12 exhibits get lost.

13 THE COURT: I don't think there will be a problem.

14 MR. FITZGERALD: I would ask your Honor to reconsider.
15 It is extremely important and, very frankly, what I am going
16 to have to do is to put these into declaration form, because
17 I definitely want something in this record to describe what
18 is happening here, that the prosecution is tendering into
19 evidence 74 of the most excruciatingly gruesome and horrible
20 photographs I have ever seen, and there is no way anybody can
21 see it and there is no way anybody can determine the
22 relevancy unless there is some intellectual description as
23 opposed to the emotional description on the face of the
24 photograph.

25 THE COURT: I don't know that there is going to be any
26 problem, Mr. Fitzgerald. I see no necessity of describing

1 the photographs.

2 MR. FITZGERALD: We are certainly not interested in
3 the length of this transcript, and I have been very helpful
4 with the Court in trying to expedite this matter.

5 All right, your Honor.

6 THE COURT: The objections as to 88 are overruled.

7 88 will be received.

8 MR. KANAREK: Your Honor, may there be deemed a
9 request as to each color photograph --

10 MR. FITZGERALD: No. We will do each one individually.
11 Forget it.

12 MR. KANAREK: Very well.

13 MR. FITZGERALD: As to 89, your Honor, there will be
14 an objection as to the color photograph.

15 Can we have a ruling on that?

16 THE COURT: The objections are overruled.

17 MR. FITZGERALD: We will make a motion to substitute
18 a black and white photograph for that, and we will also make
19 a motion to substitute a smaller photograph.

20 THE COURT: The motion is denied.

21 89 will be received.

22 Do you wish to be heard on 90?

23 It appears to be a photograph of Mr. La Bianca.

24 MR. FITZGERALD: No. In the interests of time, your
25 Honor, I will defer any more objections to any of the
26 exhibits.

1 THE COURT: I don't understand what you mean by
2 defer objections.

3 MR. FITZGERALD: Well, I have objected on the grounds,
4 and I can't adequately make a record in terms of what the
5 exhibits are, so I am objecting to each of the aforementioned
6 exhibits that have been deferred.

7 MR. KANAREK: And your Honor, may there be deemed --

8 THE COURT: In what way can you not make an
9 adequate record?

10 MR. FITZGERALD: Because I am not able to describe
11 what is in the photographs for the record.

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1 THE COURT: What you apparently want to do, Mr. Fitzgerald,
2 is to substitute your interpretation for that of someone
3 else. I don't know who.

4 MR. FITZGERALD: I have not foreclosed your Honor
5 from also describing the exhibits.

6 THE COURT: The jury is only going to view the
7 photographs, not hear your description of them, except as
8 you argue.

9 MR. FITZGERALD: As I pointed out, I am not interested
10 in that. I am interested in the record, so that any impartial
11 observer, especially some disinterested Court of Appeal,
12 can see what is depicted in the photographs.

13 If I make an inaccurate description, your
14 Honor can supplement it, as can opposing counsel.

15 THE COURT: I see no occasion for that.

16 MR. SHINN: Join in Mr. Fitzgerald's objection.

17 MR. KANAREK: Join also.

18 And may it be deemed, your Honor, that each
19 color photograph, and as to each color photograph, we
20 are requesting a black and white.

21 May that be deemed, your Honor?

22 THE COURT: Very well.

23 As to 90, the objections will be overruled.

24 90 will be received.

25 Do you wish to be heard on 91?

26 MR. FITZGERALD: No, your Honor.

90 Ev.

1 THE COURT: The objections are overruled.

2 91 will be received.

3 Do you wish to be heard on 92?

4 MR. FITZGERALD: It is horrible, gruesome, has no
5 probative value. Any slight probative value that exists
6 is certainly outweighed by the inflammatory and gruesome
7 character of the photograph.

8 It is a close-up of 91.

9 It is duplicative. It is cumulative.

10 THE COURT: It is not the same as 91. They are two
11 different photographs.

12 MR. FITZGERALD: Well, 92 is a close-up of 91.

13 THE COURT: It is more than a close-up of 91. It
14 is from a different position and a different angle.

15 It shows some of the same subject matter.
16 It is not simply an enlargement.

17 DEFENDANT MANSON: It is the same but it is different.
18 Is that what you are saying?

19 THE COURT: The objections as to 92 are overruled.

20 It will be received.

21 Do you wish to be heard on 93?

22 MR. FITZGERALD: It is immaterial and irrelevant.
23 It is inflammatory. It is gruesome. It shows a nude
24 body.

25 DEFENDANT MANSON: It is suggestive.

26 THE COURT: The objections are overruled.

91 Ev.

92 Ev.

93Ev.

1 93 will be received.

2 Do you wish to be heard on 102?

3 MR. FITZGERALD: It is a color photograph of Abigail
4 Folger.

5 We will object to the use of the color photograph.
6 We will object to its large size.

7 It is duplicative. There is already evidence
8 in, a photograph of Abigail Folger on the lawn.

9 It doesn't depict any of the wounds because she
10 is entirely covered by a nightgown, and there are blood
11 stains on the lower right leg, the lower left leg, the
12 left arm and the face.

13 DEFENDANT MANSON: And we will stipulate that the
14 victims are dead.

15 THE COURT: Do you wish to be heard, Mr. Bugliosi?

16 MR. BUGLIOSI: May I see 102, your Honor?

17 (The Court hands the exhibit to Mr. Bugliosi.)

16c fls.

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16c-1
1 MR. BUGLIOSI: This photograph shows Abigail, and it
2 shows Mr. Frykowski in the background, your Honor.

3 Is there another photograph showing their
4 juxtaposition to the house as clearly as this one does?

5 I don't believe there is. That is why I
6 introduced this one.

7 It is an excellent photograph showing the rela-
8 tionship of the bodies to the house.

9 I will oppose it being withdrawn from the
10 evidence.

11 THE COURT: The objections as to 102 are overruled.

12 It will be received.

13 MR. KANAREK: Your Honor, I would like to make this
14 point so the record will be unmistakably clear.

15 It is my position that the prosecution, by
16 seeking and getting these horrendous pictures into
17 evidence, are making a choice, and it is my position that
18 the defendants, being in jeopardy are being deprived of
19 a fair trial by the deliberate intent of the prosecution.

20 What they want to do is get a conviction at any
21 price, your Honor.

22 THE COURT: All right, Mr. Kanarek, address yourself
23 to the point in question.

24 MR. KANAREK: I just want to make the issue clear.

25 It is my position that the United States
26 Supreme Court has held that jeopardy is now protected by

1 the Due Process clause of the Fourteenth Amendment at the
2 Federal level, and, therefore, we are in jeopardy, and
3 any prejudice --

4 THE COURT: You are wasting time, Mr. Kanarek.

5 MR. KANAREK: Very well.

6 I want the record to reflect that position.

7 DEFENDANT MANSON: Have you got that position?

8 THE COURT: Any argument as to 106, Mr. Fitzgerald?

9 MR. FITZGERALD: Yes.

10 We object to the size, to the color. It is
11 gruesome, inflammatory and duplicative.

12 There are already photographs in evidence of
13 Sharon Tate at the scene.

14 MR. SHINN: It is a duplicate, I believe, of 87.

15 THE COURT: The objections as to 106 are overruled.

16 It will be received.

17 Do you wish to be heard on 107?

18 MR. FITZGERALD: We will object to the size, to the
19 color. It is gruesome and inflammatory.

20 THE COURT: The objections are overruled.

21 107 is received.

22 Do you wish to be heard on 117?

23 MR. FITZGERALD: That is a small colored photograph
24 indicating that the prosecution has the wherewithall to
25 produce small photographs. We will object to its
26 color. It is gruesome, it is inflammatory, it is

106 Ev.

107 Ev.

1 duplicative. There is already evidence in, photographs of
2 Sharon Tate and Jay Sebring in death.

3 THE COURT: Do you wish to be heard?

4 MR. BUGLIOSI: I don't know that there is any double
5 dealing or duplicity involved here.

6 I understand Mr. Fitzgerald's other objection.

16d fls. 7 I don't know what he means by "duplicitous".

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1 MR. FITZGERALD: I mean, more than one picture of
2 the same dead body.

3 MR. BUGLIOSI: Oh, duplicative? I am sorry. When
4 you said "duplicitous" I thought you meant some type of
5 duplicity was involved here.

6 May I see 117, your Honor?

7 (The Court hands the exhibit to Mr. Bugliosi.)

8 MR. BUGLIOSI: This photograph is very important.
9 It is the only photograph I think there is, your Honor,
10 showing the rope around Sharon Tate's neck connected to
11 Jay Sebring's neck and then going over the beam.

12 It is the only one that there is, your Honor.

13 MR. SHINN: Over the beam, under the beam.

14 MR. BUGLIOSI: I don't believe there is another one
15 like that.

16 That photograph is not duplicative of any
17 other photograph that I know of, your Honor.

18 THE COURT: The objections are overruled.

19 117 is received.

20 Do you wish to be heard on Exhibits 141 through
21 147?

22 MR. FITZGERALD: They are immaterial, they are
23 irrelevant, they are gruesome, they are inflammatory.

24 They are autopsy photographs, your Honor.
25 They duplicate one another.

26 MR. KANAREK: Your Honor, the fact that the Coroner
does this at autopsy really is of no significance. It is

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1 really immaterial and irrelevant.

2 He happens to place the body in a certain way
3 to take a picture. That certainly doesn't prove anything in
4 connection with the case.

5 On top of it, your Honor, they have their large
6 diagram.

7 So, I make a motion that the District Attorney
8 make an election. Either that they use -- I am asking
9 that the pictures not go in in any event, but in the event
10 that your Honor overrules that, I ask that the District
11 Attorney make an election as to the pictures versus the
12 diagrams, because it is clearly cumulative.

13 THE COURT: The objections are overruled.

14 141 through 147 will be received.

15 Do you wish to be heard as to 148?

16 MR. FITZGERALD: 148 is immaterial and irrelevant
17 inasmuch as the wounds have been graphically depicted in the
18 photographs heretofore received into evidence.

19 THE COURT: 148, is that the large diagram?

20 MR. FITZGERALD: Anterior and posterior of Sharon
21 Tate, yes.

22 THE COURT: 148 and 148-A?

23 MR. BUGLIOSI: Yes, your Honor.

24 THE COURT: The objections are overruled.

25 148 and 148-A are received.

26 Do you wish to be heard as to 149?

141-147

148
148a

16e

16e-1

1 MR. FITZGERALD: What is 149?

2 149 is a very large photograph, your Honor,
3 larger than 8 X 10, a blow-up of what apparently is a
4 wound.

5 We will object to that on the ground that it
6 is immaterial and irrelevant.

7 It is inflammatory and gruesome.

8 THE COURT: The objections are overruled.

9 149 is received.

10 Do you wish to be heard as to 150 through 159?

11 MR. FITZGERALD: They are also autopsy photographs.

12 We think they are immaterial and irrelevant.
13 They are gruesome, inflammatory, and serve no reasonable
14 probative value.

15 Particularly 155, your Honor, which shows the
16 autopsy surgeon lifting the left arm of Abigail Folger.

17 That is a contrived and staged photograph.
18 Deliberately so, I take it.

19 THE COURT: Are you contending that what appears to
20 be the wound on the left wrist is contrived?

21 MR. FITZGERALD: No.

22 I am saying that the autopsy surgeon lifting
23 her arm is a deliberately posed photograph, to which I am
24 sure opposing counsel would agree.

25 MR. BUGLIOSI: I agree, but I don't think that
26 makes it inadmissible, Paul.

16e-2

1 THE COURT: The objections are overruled.

150-159Ev₂

2 150 through 159 are received.

3 Mr. Bugliosi, is 160 marked on the back?

4 MR. BUGLIOSI: Here is 160 right here.

5 THE COURT: Yes. Is there a 160-A?

6 THE CLERK: I believe so, your Honor.

7 MR. BUGLIOSI: No, there is not.

8 160, and the one beneath it is also 160.

9 THE COURT: The entire thing, then, is 160.

10 MR. BUGLIOSI: 160.

11 MR. MUSICH: There are two diagrams there; right?

12 THE COURT: Do you wish to be heard, Mr. Fitzgerald,
13 on 160?

14 MR. FITZGERALD: 160 would appear to be immaterial
15 and irrelevant inasmuch as it only depicts what the Court
16 feels is the purpose of admitting the photographs.

17 In other words, why put in a large diagram
18 outlining the wounds when the wounds have already been shown
19 in photographs that were admitted.

20 Now, it would be interesting to count the number
21 of wounds that appear in each photograph and the number of
22 wounds that appear in the diagrams.

23 I am sure, without even speculating, that some
24 wounds appear depicted in six or seven different ways.

25 THE COURT: The objections are overruled.

26 160 is received.

160 ev.

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Do you wish to be heard on 161 through 164?
MR. FITZGERALD: Immaterial and irrelevant. The probative value is outweighed by their inflammatory character, their gruesomeness. And they are cumulative.

THE COURT: The objections are overruled.
161 through 164 will be received.

Mr. Bugliosi, does 165 have a sub number?

MR. BUGLIOSI: No, it doesn't either, your Honor.

THE COURT: Do you wish to be heard on 165?

MR. FITZGERALD: It is immaterial and irrelevant, your Honor.

THE COURT: The objections are overruled.
165 will be received.

161-184Ev.

17 fls.

16a-1

1 THE COURT: 166 was the envelope containing the
2 bullet.

3 MR. KAY: That's right, your Honor.

4 THE COURT: Was that previously ruled on?

5 MR. KAY: Yes, I believe you ruled on it. We had to
6 put it in the plain envelope.

7 THE COURT: 166 has been placed in a plain envelope,
8 Mr. Fitzgerald, if you care to examine it, with only the
9 exhibit identification marks on it.

10 It will be received.

11 MR. FITZGERALD: Thank you.

12 THE COURT: Do you wish to be heard on 167 through
13 175?

14 MR. FITZGERALD: Immaterial, irrelevant, gruesome,
15 inflammatory and cumulative.

16 THE COURT: The objections are overruled. 167
17 through 175 are received.

18 Mr. Bugliosi, would you see if 176 has any
19 subnumbers.

20 MR. BUGLIOSI: No, it hasn't.

21 THE COURT: Do you wish to be heard on 176?

22 MR. FITZGERALD: Immaterial and irrelevant, your Honor.

23 THE COURT: The objections are overruled.

24 176 is received.

25 Do you wish to be heard on 178 through 183?

26 MR. FITZGERALD: Immaterial, irrelevant, gruesome,

1 inflammatory and cumulative.

2 THE COURT: Objection overruled. 178 through 183
3 will be received.

4 Does 184 have any subnumbers, Mr. Kay?

5 MR. KAY: I am checking, your Honor.

6 No, 184 appears to contain also People's 187
7 and 190.

8 THE COURT: Do you wish to be heard on 184, 187 and
9 190?

10 MR. FITZGERALD: 184, the diagram, apparently is
11 immaterial and irrelevant.

12 187 is a diagram of the knife wounds; that is
13 immaterial and irrelevant.

14 190 is immaterial and irrelevant.

15 THE COURT: The objections are overruled.

16 184, 187 and 190 will be received.

17 Do you wish to be heard as to 188, a black and
18 white photograph of a wound?

19 Also 189, which is a similar type photograph.

20 MR. FITZGERALD: 188 and 189 are very large black and
21 white photographs.

22 They are immaterial and irrelevant, gruesome,
23 inflammatory, cumulative.

24 They are obviously cumulative because they are
25 enlargements of stab wounds that already have been shown
26 in other photographs.

1 THE COURT: What was the foundation for these,
2 Mr. Bugliosi?

3 MR. BUGLIOSI: I can only refer the Court to the
4 pages in the transcript. I would have to look at them
5 myself.

6 Page 8,871 for 188.

7 THE COURT: What is the volume number?

8 MR. BUGLIOSI: I believe it is Volume 68.

9 And Page 8,873 for People's 189.

10 THE COURT: Also Volume 68?

11 MR. BUGLIOSI: Yes, your Honor.

12 THE COURT: We will defer that for a moment,
13 Mr. Fitzgerald.

14 Do you wish to be heard on 195?

15 MR. FITZGERALD: That is the black and white
16 photograph, is it not?

17 THE COURT: No, it is a colored photograph.

18 MR. FITZGERALD: A color photograph?

19 THE COURT: Of Jay Sebring.

20 MR. FITZGERALD: Immaterial, irrelevant, I object to
21 the size, the color.

22 It is gruesome, it is inflammatory and
23 cumulative.

24 THE COURT: The objection is overruled.

25 195 will be received.

26 188 was identified by Dr. Noguchi as a wound

1 caused by a double-edged blade on Sharon Tate.

2 189 was identified by Dr. Noguchi as a wound
3 caused by a single-edged blade on Abigail Folger.

4 The objections are overruled as to 188 and 189.
5 They are received.

6 Do you wish to be heard as to 212 and 213?

7 MR. FITZGERALD: 212 and 213 are immaterial,
8 irrelevant.

9 I object to the use of the color.

10 It is gruesome, inflammatory, it depicts a
11 nude body when there is no necessity to do so -- a partially-
12 nude body, excuse me.

13 THE COURT: The objections are overruled.

14 212 and 213 will be received.

15 Do you wish to be heard as to 215 and 216 and
16 217?

17 MR. FITZGERALD: I object to the use of color in
18 215 and 216.

19 I object to the size of 215 and 216. They
20 are otherwise immaterial, irrelevant, gruesome, inflammatory
21 and cumulative.

22 THE COURT: 217 appears to be almost identical to
23 215, Mr. Bugliosi.

24 One is a color photograph and the other is
25 black and white, of different sizes.

26 MR. FITZGERALD: We will move to withdraw the black

1 and white no doubt.

2 MR. BUGLIOSI: They are slightly different; they
3 are almost identical.

4 Of course we would prefer to have this one
5 go in and this one come out. I will leave that up to the
6 Court.

7 THE COURT: Well, I have never been persuaded that
8 a black and white photograph of a wound is necessarily any
9 less gruesome than a color photograph, in fact I think
10 sometimes they are even more gruesome.

11 But since they are almost identical perhaps --

12 MR. FITZGERALD: We would ask that the color be
13 withdrawn.

14 THE COURT: Very well.

15 215 will be withdrawn.

16 216 and 217 will be received.

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1 THE COURT: Do you wish to be heard as to 218 through
2 226?

3 MR. FITZGERALD: Yes, your Honor.

4 THE COURT: Photographs of Leno La Bianca.

5 MR. FITZGERALD: Yes. Immaterial, irrelevant,
6 gruesome, inflammatory and cumulative,

7 THE COURT: The objections are overruled.

8 218 through 226 are received.

9 Would you see if 230 has any subnumbers,
10 please.

11 MR. KAY: No, it does not, your Honor.

12 THE COURT: Do you wish to be heard as to 230?

13 MR. FITZGERALD: Immaterial and irrelevant.

14 THE COURT: The objections are overruled.

15 230 is received.

16 Do you wish to be heard as to 231 through 238?

17 MR. FITZGERALD: Immaterial, irrelevant, gruesome,
18 inflammatory and cumulative.

19 THE COURT:- The objections are overruled. 231
20 through 238 are received.

21 Does 240 have any subnumbers?

22 MR. KAY: No, it does not, your Honor.

23 THE COURT: Do you wish to be heard as to 240,
24 Mr. Fitzgerald?

25 MR. FITZGERALD: Immaterial and irrelevant.

26 THE COURT: Objections are overruled. 240 is

18-226
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240

1 received.

2 Does that complete all of the People's
3 exhibits, Mr. Bugliosi?

4 MR. BUGLIOSI: Yes, your Honor.

5 Is the record clear whether Mr. Hughes and
6 Mr. Shinn have joined Mr. Fitzgerald in his objection?

7 MR. SHINN: I join in all the objections.

8 MR. HUGHES: I join in all the objections.

9 MR. SHINN: Mr. Kanarek's objections and
10 Mr. Fitzgerald's objections.

11 THE COURT: Very well, as to each of the exhibits
12 which the Court has heretofore indicated will be received,
13 the Court finds that the probative value outweighs any
14 possible prejudicial effect and all of the objections to each
15 of those exhibits is overruled.

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1 THE COURT: A number of the Court's Special Exhibits
2 have been received and there are a number which have not
3 been received.

4 I think we should take those up at this time,
5 gentlemen.

6 Do you wish to start with No. 1?

7 MR. FITZGERALD: I do not have my list of Court
8 Exhibits with me, your Honor.

9 THE COURT: Do you have No. 1?

10 (Clerk obtains exhibits.)

11 MR. FITZGERALD: I am familiar with them however.

12 THE COURT: Special Exhibit No. 1 is a typed
13 statement bearing the name at the bottom, Charles Manson.

14 MR. FITZGERALD: Yes, I remember that exhibit
15 vividly.

16 Mr. Bugliosi initially opposed it being marked
17 as a Court Special Exhibit because he felt it may inad-
18 vertently come to the attention of the jury.

19 Your Honor assured Mr. Bugliosi that it would not
20 inadvertently come in front of the jury and you instructed
21 the Clerk to make sure it was never shown to the jury.

22 The item itself, if my recollection serves me
23 correctly, was seized from Mr. Shinn by the bailiff, and
24 there was some colloquy between Court and counsel as to
25 whether or not Mr. Shinn was attempting to hand that
26 document to members of the media.

1 THE COURT: Well, it has been marked as Special
2 Exhibit 1. It will not be displayed to the jury unless
3 the Court makes some subsequent ruling which I don't
4 anticipate.

5 Do you wish to have it received?

6 MR. FITZGERALD: No, your Honor -- well, I have no
7 objection.

8 Yes, I will move that it be received in
9 evidence.

10 MR. KANAREK: May I see that.

11 I'm sure it's not relevant or material, your
12 Honor. It has no probative value.

13 MR. BUGLIOSI: I don't think it has any relevance,
14 your Honor.

15 THE COURT: All right, the objection is sustained.

16 Special Exhibit No. 2 is a copy of the Los
17 Angeles Times dated August 4, 1970.

18 MR. KANAREK: Which one is that, your Honor?

19 THE COURT: Do you wish to look at it?

20 MR. KANAREK: Pardon me.

21 (Mr. Kanarek peruses the exhibit.)

22 THE COURT: Actually I see no necessity for receiving
23 in evidence any of these special exhibits.

24 They have been identified; they will be
25 retained in the case; they will not be shown to the
26 jury.

Is that agreeable with counsel?

1
2 MR. FITZGERALD: Agreeable.

3 MR. SHINN: Agreeable.

4 MR. KANAREK: Agreeable.

5 MR. SHINN: All Special Exhibits, your Honor?

6 THE COURT: Well, some of them actually have been,
7 as a matter of record, have been received in evidence;
8 but they will be kept with all of the other Special Exhibits
9 and will not be shown to the jury.

10 MR. KANAREK: Agreeable, your Honor.

11 THE COURT: In order to make absolutely sure on that,
12 I would like to mention those which my notes indicate have
13 been received in evidence, so if there is any question
14 about whether any of these should be shown to the jury
15 you can make your argument now.

16 No. 3 was the report of Dr. George Abe, that
17 was Special Exhibit No. 3.

18 Fls. 17

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1 MR. HUGHES: Is that a report on Michael Hendricks,
2 your Honor?

3 MR. MUSICH: Yes.

4 THE COURT: Yes.

5 And No. 4 was the report of Dr. Thomas J.
6 Meyers.

7 I take it, no counsel is asking either of
8 those exhibits be shown to the jury?

9 MR. HUGHES: That is correct, your Honor.

10 MR. FITZGERALD: That is correct.

11 THE COURT: They will be treated just as all the
12 other Special Exhibits.

13 MR. KANAREK: That is correct.

14 THE COURT: Exhibit 13 is Dr. Skrdla's report
15 regarding Dianne Lake.

16 14 is Dr. Deering's report regarding Dianne
17 Lake.

18 15 is the commitment order regarding Dianne
19 Lake.

20 16 is the application for detention and treat-
21 ment of Dianne Lake.

22 17 is the psychiatric examination by Dr. Oshrin
23 of Dianne Lake.

24 18 is the social history evaluation of Dianne
25 Lake.

26 19 is the addendum to 18.

1 20 is the diagnosis sheet for Dianne Lake.

2 21 is the declaration of Dr. Oshrin.

3 22 is the psychological assessment regarding
4 Dianne Lake.

5 23 is a notice of hearing regarding the appoint-
6 ment of a conservator for Dianne Lake.

7 24 is a petition for appointment of conservator
8 for Dianne Lake.

9 25 is the recommendation for the conservator-
10 ship regarding Dianne Lake.

11 26 is the order appointing a temporary conserva-
12 tor for Dianne Lake.

13 27 is letters of temporary conservatorship for
14 Dianne Lake.

15 28 is letters of conservatorship regarding
16 Dianne Lake.

17 29 is Inyo County Superior Court file No.
18 6937J, by reference.

19 30 is the file of Patton State Hospital No.
20 113848-6 of Dianne Elizabeth Lake, by reference.

21 31 is a transcript of Tape No. 33342, November
22 26, 1969.

23 All those that I have mentioned, starting with
24 Dr. Skrdla's report No. 13, and going through 30, which
25 is the file of Patton State Hospital, by reference, were
26 actually received as Special Exhibits.

1 MR. FITZGERALD: May Exhibits 15 through 29 be
2 received into evidence for the purpose of display to
3 the jury?

4 MR. BUGLIOSI: 15 through 29 contain all types of
5 hearsay, your Honor.

6 There has been testimony as to the relevant
7 portions thereof.

8 But anything else is totally hearsay.

9 THE COURT: I think that is correct, Mr. Fitzgerald.

10 My recollection is that the various matters
11 were used in cross-examination to elicit answers from
12 witnesses who were testifying from the witness stand,
13 and it was simply an arrangement between counsel to save
14 time for circumventing the hearsay rule.

15 MR. FITZGERALD: Certainly, the documents relating
16 to the conservatorship and the Superior Court file of Inyo
17 County, and the letters of conservatorship and the
18 declarations, are official documents, and under the Evidence
19 Code, they are exceptions to the hearsay rule.

20 There was also a foundation laid for the
21 Business Record exception to many of the other exhibits.

22 Furthermore, Exhibits, I believe, 17, 18 and 19
23 were extensively testified to by the doctors that testified
24 here in front of the jury, Drs. Skrdla and Deering.

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18a fls.

18a-1
1 THE COURT: Well, when they were identified, and when
2 they were finally received as Special Exhibits, the under-
3 standing was, the reason, of course, that they were marked
4 and received as Special Exhibits was that the jury would not
5 be shown any of these Special Exhibits.

6 MR. FITZGERALD: That is not necessarily my recollec-
7 tion.

8 My recollection is that they were marked as
9 Special Exhibits because we were outside of the presence
10 of the jury at the time.

11 In any event, I am asking now that they be
12 received for all purposes.

13 THE COURT: I think, actually, Mr. Bugliosi, that all
14 of the parts that you would be expected to object to were
15 covered by cross-examination and direct reference, in
16 many cases, direct quotations from the files themselves.

17 MR. BUGLIOSI: I have never heard of a wholesale
18 admission of files into evidence for the jury's perusal,
19 your Honor.

20 I would have to look at each particular para-
21 graph, and I would request some time on this, if the Court
22 is entertaining the possibility of permitting this to come
23 in.

24 So far as I know, it is all hearsay. There is
25 no exception to the hearsay rule.

26 And as far as the official document exception

1 is concerned --

2 THE COURT: I am not now entertaining any such idea,
3 but in view of what Mr. Fitzgerald said, I was making a
4 tender to you, if you wanted to make a stipulation.

5 Apparently you don't.

6 MR. BUGLIOSI: No, your Honor.

7 THE COURT: Of course, the defense can call the same
8 witnesses and can attempt to get in the same evidence as
9 part of their case.

10 By way of cross-examination, they have already
11 elicited, I imagine, all of the material in these documents,
12 in the files, that they wanted.

13 MR. BUGLIOSI: Of course, it was admitted for the
14 limited purpose of a basis for the psychiatric conclusion.

15 It wasn't admitted for the truth of the matter
16 asserted.

17 THE COURT: Well, as I have already indicated, I don't
18 think it was necessary to receive any of the Special Exhibits,
19 and the purpose was to identify them and segregate them and
20 keep them from the jury.

21 The remaining Special Exhibits consist of the
22 various statements of Dianne Lake.

23 And the last four exhibits, which were identi-
24 fied today, being the various envelopes from which material
25 was taken and placed in unmarked envelopes.

26 Anything further, gentlemen?

1 MR. HUGHES: Yes, your Honor.

2 I would move that all of the Court's Special
3 Exhibits with Dianne Lake's statements come into evidence
4 and be shown to the jury.

5 THE COURT: That motion will be denied.

6 MR. BUGLIOSI: Your Honor, the People of the State
7 of California rest their case.

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1 THE COURT: The People rest, Mr. Fitzgerald.

2 What is your plan for proceeding?

3 MR. FITZGERALD: My pleasure would be to urge the
4 Court to dismiss the case pursuant to Penal Code Section
5 1118.1, and I would like to make argument.

6 THE COURT: Well, it is almost 4:30. It is 4:27
7 by the clock now.

8 Why don't we reserve that until tomorrow
9 morning at 9:00 o'clock.

10 MR. FITZGERALD: There is just one thing.

11 As I mentioned to your Honor in chambers before,
12 Mr. Kanarek and Mr. Shinn wanted to ask the Court and urge
13 the Court that the Court adjourn for two days prior to the
14 arguments on the motion to dismiss.

15 I personally was of the opinion that the time
16 could be better used after the motion. But actually it
17 makes no difference to me, and inasmuch as they want the
18 time, I certainly join in their request.

19 MR. HUGHES: I would join in their request also,
20 your Honor.

21 THE COURT: In which request?

22 MR. HUGHES: In the request that we have the two
23 days before the motions to dismiss rather than after those
24 motions, your Honor.

25 THE COURT: Are you going to ask for additional time
26 after the motions?

1 MR. SHINN: No. I doubt it very much.

2 No, your Honor.

3 MR. KANAREK: After the motion, hopefully, that would
4 be the end of the case, your Honor.

5 MR. SHINN: And if we have to continue, we will just
6 continue on the same day, your Honor.

7 THE COURT: I didn't hear you, Mr. Shim.

8 MR. SHINN: Your Honor, after the motions are denied,
9 if they are denied, your Honor, we will just put on our
10 defense at that time. We will not ask for an additional
11 two days after the motions are denied, if they are denied.

12 THE COURT: You will be ready to go?

13 MR. FITZGERALD: Correct.

14 MR. BUGLIOSI: We would ask that the motions be
15 heard tomorrow, and if they want a day or two thereafter,
16 swell.

17 THE COURT: That was my understanding, gentlemen,
18 that the request for time was for time after the motions
19 and prior to the commencement of the defendants' case.

20 MR. KANAREK: But, your Honor, we have talked it
21 over and we would like it this way, if we may, your Honor.

22 MR. HUGHES: I believe, your Honor, when Mr.
23 Fitzgerald discussed this the other day, he suggested
24 two possibilities, the one that he was considering and
25 the one that Mr. Kanarek and Mr. Shim were considering.

26 THE COURT: How much time do you anticipate your

arguments on the motion will take?

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2 MR. FITZGERALD: I expect no more than a half hour,
3 your Honor.

4 I am going to mention certain portions and
5 certain applicable law, and the other defendants' counsel
6 are going to join in.

7 It is my understanding from what we have
8 discussed that, by and large, their argument is going to
9 be factual as to their respective client.

10 As to Mr. Kanarek, it should be no more than
11 one-half.

12 Mr. Shinn, 15 minutes. And Mr. Hughes 15 minutes.

13 THE COURT: I really don't know that we can justify
14 more than one day, gentlemen.

15 I indicated to you that I thought one day was
16 reasonable last week. If you wanted more, you should be
17 prepared with some argument to persuade me otherwise.

18 So far, I am not persuaded that more than one
19 day is necessary.

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19 fls.

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1 MR. HUGHES: Well, your Honor, at least for my case,
2 I have to go back through the transcripts and excise those
3 portions of testimony so that I can be persuasive to the
4 Court.

5 I think it would be very difficult to be
6 persuasive to this Court if I were not given two days at
7 least.

8 THE COURT: You could not possibly go through
9 17,000 pages of testimony in one day, so if you haven't
10 started by now it won't make any difference whether I
11 give you one day or a week.

12 MR. HUGHES: I have started by now but I am not
13 caught up in it.

14 MR. SHINN: Your Honor, because of the fact, your
15 Honor, that all of the defense and defendants were to
16 get together one day, your Honor, and discuss the
17 strategy, what witnesses to put on first and all that, it's
18 going to take at least two days, your Honor.

19 DEFENDANT MANSON: We haven't told the lawyers anything
20 yet, you see, nothing.

21 THE COURT: Then, as I understand it, if the Court
22 were to recess for two days, Tuesday and Wednesday, you
23 would be ready to recommence on Thursday, argue the motions
24 and if the motions are denied immediately proceed with the
25 defense?

26 MR. FITZGERALD: Correct.

1 MR. SHINN: Correct, your Honor.

2 MR. FITZGERALD: You set a date certain and I will be
3 ready to proceed.

4 DEFENDANT MANSON: If your Honor please --

5 MR. FITZGERALD: No, we will be ready to proceed.

6 THE COURT: On Thursday?

7 MR. FITZGERALD: Whatever date your Honor sets. I
8 personally have about 41 witnesses under subpoena. I need
9 the time logistically. That is why I initially was talking
10 about after -- it doesn't make any difference, I can use
11 this time as well. I will assume that the motions will be
12 denied and what I have to do logistically I will do.

13 THE COURT: You have something to say, Mr. Manson?

14 DEFENDANT MANSON: Yes.

15 If the Court will not allow me to defend
16 myself, I don't wish to offer any defense, because I feel
17 you people are on one side and I am on the other.

18 I see the lawyers make mistakes that they
19 shouldn't be making, and I see the District Attorney doing
20 things he should not be doing.

21 And I think I can present a better case than
22 the whole bunch of them put together if your Honor would
23 allow me to do so.

24 THE COURT: Well, we have covered this many times,
25 Mr. Manson, and it has been covered in many courts.

26 I see no reason to change my mind now if you

1 are making a motion.

2 DEFENDANT MANSON: May I make this motion to the
3 Court?

4 THE COURT: To relieve your attorney and proceed
5 in propria persona?

6 DEFENDANT MANSON: The foundation we all stand on,
7 the Constitution of this country is the right of an
8 individual to defend himself.

9 I am not asking for anything my forefathers
10 didn't fight and die for. We are here at a very important
11 time in all of our lives.

12 You've got me going back to the penitentiary
13 unless I can speak for myself, because there's been many
14 misunderstandings here.

15 There's been semantic barrier that runs between
16 the slang of the generation gap that a lot of people don't
17 understand when they say Helter Skelter.

18 Helter Skelter merely means confusion to me.
19 If you had a dictionary you could probably look it up and
20 it would mean the same thing to you.

21 In other words, the Family, the whole thing,
22 the whole Family thing that I am a leader -- I am not
23 a leader. I don't wish to be made a leader, a martyr or
24 a hero. I would just like to be made into myself, and I
25 can make myself back into myself if this Court will give
26 me a chance to prove in this courtroom that I haven't

1 broken your law.

2 I have not broken your rules.

3 MR. FITZGERALD: Before your Honor rules, I might say
4 that there is merit to his position.

5 I would like to point out to the Court a problem
6 that I am personally suffering from:

7 By and large it has been my function to organize
8 much of the defense, and in connection therewith I have
9 interviewed well over 125 persons and looked at a number of
10 exhibits and traveled as far as Northern California, to
11 Las Vegas and back several times and I have a very very
12 distinct problem in terms of organizing this defense.

13 And that is, many witnesses, even though I have
14 them under subpoena, and many witnesses I have talked to,
15 are refusing to testify on behalf of my client or any of the
16 defendants jointly unless they have Mr. Manson's personal
17 approval or, albeit, some sort of permission to testify. ✓

18 I think as Manson points out, although I
19 hopefully in my case, there is no such generation gap
20 problem, there is a problem with respect to people who have
21 adopted a dissimilar life style from me, and most of these
22 people are willing to testify if they have the blessing, so
23 to speak, of Mr. Manson.

24 Without it they are going to be extremely
25 reluctant witnesses.

26 A number of other avenues of defense investigation

1 have been closed because, well, a number of doors have been
2 closed, and Mr. Manson possesses the key to those doors.

3 He has been reluctant to give his blessing
4 unless and until he is allowed to represent himself.

19a fls.

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1 Also in behalf of the motion I might say that
2 Manson is intimately familiar with a number of these
3 people. He knows them well and I'm sure that he's obviously
4 correct when he says he knows them much better than the
5 defense attorneys in this case do.

6 He does!

7 I feel that it is absolutely necessary, it
8 is crucial as a matter of fact that many of the witnesses
9 testify because they are witnesses who will testify as to
10 Manson's life style, Manson's philosophy, and it's a trite
11 expression, but in many respects my hands have been tied
12 because of Mr. Manson.

13 Now, Manson and I have a personal relationship
14 of long standing and I get along well with Mr. Manson and
15 I think Mr. Manson gets along well with me.

16 It is simply that he is adamant in exercising
17 what he conceives to be his constitutional right, and there
18 is certainly some merit to his position that he be allowed
19 to represent himself.

20 I think if, and this has been brought up many
21 times before, I don't want to belabor your Honor with it,
22 if allowed to represent himself in the defense portion of
23 this case, he assured me and assured the other defense
24 counsel that he will abide by every rule and instruction in
25 regard to decorum; that he will defer to the lawyers in
26 legal terms; that he will confine himself to germane and

1 relevant direct examination of witnesses, and I think
2 generally in behalf of all of the defendants it would be
3 to our benefit because so much of the defense in this case
4 is a joint defense, as the prosecution has unfolded.

5 It's unfolded sort of the drama of a number of
6 people who live together at the Spahn Ranch, and it is
7 absolutely essential that joint witnesses be put on.

8 DEFENDANT MANSON: Your Honor, it is not a
9 question of asking the witness a question and giving the
10 witness permission to answer.

11 It is a question that in the life style that is
12 involved in your thought, is not like you would think it
13 is. It isn't on a leader-follower basis; it is on a
14 reflection basis.

15 It is on a reflection that I have not reflected
16 my philosophy on anybody, but only I have sat and listened
17 because when you reach a certain awareness of thought,
18 all is implied in questions. All answers are implied in
19 questions.

20 You can question a person, that if you know the
21 circumstances you can bring the circumstances out; but if
22 you don't know the circumstances it's like swatting flies
23 with a baseball bat; it doesn't work too well.

24 The thoughts to be brought forward in the
25 courtroom would have to through the questions. It could
26 not be through the answers because you can cut a person off

1 through the attorney.

2 I can rise no further above his thought, above
3 his question.

4 "I can't not I can't explain
5 what happened.

6 But if your Honor would allow me I can bring
7 the truth out of each and everyone of these individuals
8 because I know them, and not once have I reflected my
9 personal opinion/^{on} any of these human beings, on this free
10 world -- "street" that you call it.

11 I learned years ago you don't reflect your
12 opinions on other people. You just say "yes, no," and
13 you smile and you agree with anything they say.

14 And that is all I have done since I have been
15 out of the penitentiary, and I can prove this and I can
16 bring the truth forward that I have not broken your law,
17 sir.

18 THE COURT: Well, that is not the point before the
19 Court at the moment, Mr. Manson.

20 MR. HUGHES: Before your Honor rules may I be
21 heard?

22 Your Honor, I would feel it most crucial for
23 the defendant Leslie Van Houten to join in Mr. Fitzgerald's
24 remarks and to join in Mr. Manson's motion.

19b fls.

1 I think that we have had a difficult time over
2 the last ten (sic) months, over this question of whether
3 Mr. Manson is competent to represent himself, and we
4 have had varying observers coming up with varying answers.

5 But I believe that the record is clear that all
6 of the attorneys who have ever talked with Mr. Manson,
7 including Mr. Bugliosi, who at various times joined in
8 our motions for Mr. Manson to go pro per, have agreed that
9 Mr. Manson is a competent person and those attorneys, your
10 Honor, have dealt with Mr. Manson for just manifold
11 hours.

12 They have interviewed him for hundreds of hours
13 either in the lockup or in the Los Angeles County Jail,
14 whereas the three or four judges that have come to the
15 decision that Mr. Manson is not competent have arrived at
16 that decision after actually seeing Mr. Manson in very
17 brief court appearances, and I might add to seeing
18 legal documents which were indeed prepared not by Mr.
19 Manson but were prepared in one case by a civil attorney
20 -- there were some 17 or 18-page documents which was
21 prepared by a civil attorney who was trying to curry favor,
22 as I understand, at that time with Mr. Manson so that he
23 could rip off some movie rights from Mr. Manson.

24 And I believe that these were the instigating
25 favors which actually took away Mr. Manson's pro per
26 status.

1 Also I feel cut off from presenting a defense
2 if Mr. Manson is not allowed to conduct his defense.

3 The defendants have been quite reluctant to
4 discuss the case with us in any way which would make a
5 defense worthwhile to put on.

6 I think that we will probably stumble and
7 bumble around if we do not have their cooperation.

8 I feel that the only way we can get their
9 cooperation isto allow them to participate in their defense,
10 certainly that would seem to be in the American tradition,
11 and certainly in the tradition of the Constitution, and I
12 feel it is necessary, absolutely necessary, to join in this
13 motion.

14 DEFENDANT MANSON: Your Honor, if it was just myself,
15 if it was just myself it would be a simple thing.

16 But it is not. These children here are as
17 much your children as they are my children. We both have
18 children, and I love my children very much and I would like
19 a chance to defend my children as I am sure any man would
20 want a chance to defend his children.

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1 THE COURT: Mr. Manson, this motion has been made
2 and denied by four different judges in four different
3 courts.

4 I have had an opportunity to observe you over
5 the last five and a half months.

6 It is my conclusion that you are hopelessly
7 incompetent to defend yourself in this case. The case
8 simply just has too much magnitude.

9 DEFENDANT MANSON: Would you say that is your fear?

10 THE COURT: Just a moment, sir.

11 I let you speak. Now you be quiet.

12 DEFENDANT MANSON: That is what Keene told me once.

13 THE COURT: You are hopelessly incompetent to
14 represent yourself in a case of this complexity.

15 I concluded that after observing you earlier
16 in this trial, and I have the same conclusion today.

17 DEFENDANT MANSON: Then you can conclude your trial.

18 THE COURT: And your motion to represent yourself is
19 denied.

20 DEFENDANT MANSON: You fools put yourself on trial,
21 and you don't even see it.

22 THE COURT: I would like to see counsel at the bench
23 for just a moment.

24 (Whereupon all counsel approach the bench and
25 the following proceedings occur at the bench.)

26 THE COURT: The press have requested that they be

1 permitted to see the exhibits that have been received in
2 evidence.

3 They will not be given copies and they will
4 not be allowed to copy the exhibits, but I see no reason
5 why they should not see what has, in fact, been received in
6 evidence, and I wanted to tell you gentlemen before I did
7 it.

8 I see that there are some of them here now,
9 and I will probably let the Clerk take the exhibits up in
10 the jury room, because I want to have them in a rather
11 closely confined space to make sure we can keep control over
12 them.

13 But I wanted to let you know before I did it.

14 MR. KANAREK: Your Honor, I do object on the ground
15 that I know your Honor believes that the sequestration of
16 the jury --

17 THE COURT: The jury will see these exhibits, Mr.
18 Kanarek. I am talking about the exhibits that have been
19 received in evidence.

20 MR. KANAREK: However, I believe this will result
21 in the kind of publicity that will get back to the jury.

22 The fact that the public is going to be out-
23 raged by these pictures, your Honor, if you will balance
24 the right to a fair trial against the public's right to
25 know at this stage in the proceedings, your Honor, I
26 don't think that we should allow those pictures to go out.

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1 THE COURT: The pictures, of course, are only graphic
2 evidence of what has already been testified to and published
3 in the newspaper time and time again since the trial began.

4 All right, gentlemen.

5 MR. SHINN: Your Honor --

6 MR. KANAREK: May I just make the record very briefly?

7 THE COURT: You have made the record.

8 MR. KANAREK: Very well.

9 MR. SHINN: One more point.

10 If your Honor is going to grant us two days
11 until Thursday, may this hearing be held on the same day,
12 your Honor? I think that we set this for Wednesday.

13 THE COURT: Yes. I made provision for that this
14 morning and made a tentative setting.

15 MR. BUGLIOSI: We are in recess now until Thursday?

16 THE COURT: Yes.

17 MR. KANAREK: The due process clause of the Fourteenth
18 Amendment makes it incumbent upon me to object to the
19 publication of these pictures.

20 (Whereupon, all counsel return to their
21 respective places at counsel table and the following
22 proceedings occur in open court:)

23 MR. HUGHES: Your Honor, may I join in Mr. Kanarek's
24 objection to the details of how these pictures are going to
25 be handled.

26 THE COURT: Very well.

1 At the request of defense counsel, the Court
2 will adjourn until Thursday morning at 9:00 a.m.

3 The motion that was set for Wednesday morning
4 will be continued until Thursday morning. That is
5 regarding the subpoenas, Mr. Shinn.

6 MR. SHINN: Yes.

7 DEFENDANT MANSON: I still can find no man in you.

8 THE COURT: The motions to dismiss will be heard
9 following the motion to quash the subpoenas, following
10 which, depending on the Court's ruling, we will resume the
11 trial.

12 The Clerk, I might say for the benefit of the
13 representatives of the media, will have something to say
14 to you as soon as we adjourn regarding the exhibits. So,
15 if you want to wait just a moment, the clerk will tell you
16 what it is.

17 9:00 a.m. on Thursday.

18 (Recess.)
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