

EYE OF THE BEHOLDER: THE WRONGFUL CONVICTION OF CHARLES MILLES MANSON

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I.

Imagine two crime stories. In the first, a commune of middle class, law-abiding young people living on the outskirts of Los Angeles were brainwashed by a dominating cult leader who ordered his followers to commit murders to usher in an apocalyptic race war. In his subsequent trial, the leader of the “kill-coven”¹ engaged in outrageous behavior because he thought that mainstream society was inferior to him and incapable of understanding.

In the second, a group of young, middle-class hippies, caught up in the summer of 1969, heavy drug use, and group contagion, committed the same murders. Afraid of the death penalty and having to face public responsibility for their actions, the murderers accused a mentally ill drifter, a delusional schizophrenic, whom the group had adopted as a mascot, of directing the murders. The only significant evidence implicating the drifter in their crimes was their claim that they were “following” him. The claims were given in exchange for leniency and immunity from prosecution for capital murder. Even prosecutors who charged the drifter conceded that he had not actively participated in the murders, proceeding to trial instead on the theory that he had commanded the others to commit the murders like “mindless robots.” The police and prosecutors went along because they wanted to “solve” and “win” the biggest case of their lives. The drifter’s

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1. ED SANDERS, *THE FAMILY 11* (Da Capo Press, 3d ed. 2002) (1971).

lawyer, caught up in the publicity of the original Los Angeles Case of the Century, was cited multiple times for contempt of court for his unprofessional and flamboyant behavior and presented little evidence in the drifter's defense. Out of the presence of the jury, the drifter proclaimed his innocence and condemned society for persecuting him. He engaged in disruptive behavior during his trial because he was psychotic and unmedicated. His apocalyptic obsessions were symptoms of his illness. Several of the murderers later recanted their claims of his involvement, explaining that they had fabricated the "mind control" story to escape the death penalty.

The first, of course, is the story of the "Manson Family" murders. The second story is, too.

The public image of Manson—a Svengali-like cult leader who brainwashed a group of ordinary, middle-class young adults into committing senseless murders—is deeply ingrained in the American consciousness. That image was initially cultivated in his trial, a trial in which the ratio of argument to sun4(o)-7is, too.

Watson, Krenwinkel, and VanHouten remained, killed the LaBiancas, and hitchhiked home.¹¹

On August 16, 1969, the police raided Spahn's Ranch on suspicion of auto theft and arrested members of the group for possessing stolen vehicles, but later released them.¹² On approximately August 27, 1969, Bruce Davis and Grogan killed Donald Shea, another hand at Spahn's.¹³

After the murders, the group fled back to Barker Ranch. On October 12, 1969, police raided Barker Ranch, capturing and arresting Manson and most of the "Family" for charges primarily relating to auto theft.¹⁴ It was not until "flocks of reporters appeared" at Manson's preliminary hearing on the theft charges that he became a murder suspect.¹⁵ California convicted Manson, along with Krenwinkel, Atkins, VanHouten (and later Watson), of murder and conspiracy to commit murder of the Tate-LaBianca victims.¹⁶

The Theory

Contrary to what television and movies portray, real criminal cases rarely have smoking-gun moments. Instead, they are built of small pieces that individually have little meaning, but together are supposed to form a mosaic that leads, collectively, to one unavoidable conclusion. Consequently, when talking about a criminal trial, it is necessary to

According to the State (and Bugliosi in *Helter Skelter*), Manson was the “leader” of “a hippie cult known as the ‘Manson Family,’”¹⁸ who “programmed” the murderers and “sent” them to kill.¹⁹ According to journalists Ivor Davis and Jerry LeBlanc, the State’s theory was based on their book, *Five to Die*, which they wrote and published between when Manson was charged and tried.²⁰ The theory was that Manson was a “mastermind” who converted “pliable, mindless young followers” into “modern

“followers” insist that they acted without his direction, that insistence is pointed to as evidence of his control over them.²⁴

Second, even if the theory were plausible, it is based on the uncorroborated claims of individuals with strong self-interests in having it believed. The primary proponents of the mind-control theory were other Family members who were suspected of or charged in the murders. As Manson protested: “[Atk

criminal-justice system. This second type of innocence occurs when authorities have caught the intended person, but they are wrong about

case on me because I wasn't part of those murders. I knew the people, knew the people at the ranch, but the District Attorney gave me a trial in the news media, not in the court."⁴⁷ According to a third psychiatrist:

[Manson] claims that he has no knowledge of the murder happenings as he was never on the scene at the time of these incidents. However on the witness stand it was stated that "[he] was conspiring, that [he] set the stage and others did the acting." He claims that he takes responsibility for a good portion of the crimes, and doesn't claim ignorance as an excuse. What he says to those around him, he feels was influential upon them but he at no time considered himself to be the king pen [*sic*] or the leader. They were all just a collection of people and not a family.⁴⁸

The only significant evidence of Manson's complicity was the word of the murderers, beginning with Atkins, who told her cellmates that Manson was a "charismatic cult leader, a living Jesus, a guru possessing mystical powers strong enough to entice his followers to kill for him."⁴⁹ Atkins told Kasabian that they and Brunner had been "chosen" to go to Hinman's,⁵⁰ although she omitted Manson's alleged involvement when she confessed to the police.⁵¹ Atkins claimed that Manson drove with them to the LaBianca house, although she conceded that he was "long gone" before the murders.⁵²

Much of the other evidence is inconsistent with the portrayal of Manson as a cult leader, instigato

had no knowledge of what was happening until [they] got there.”⁹⁵ Atkins also described many of the murderers’ actions as “spontaneous.”⁹⁶

At trial, Atkins, Krenwinkel, and VanHouten proclaimed that Manson had nothing to do with the murders and they had been entirely Watson’s doing, but the jury was not permitted to hear their testimony.⁹⁷ They later testified absolving Manson during the penalty phase.⁹⁸ Catherine Myers Gillies and Catherine Share also testified that Kasabian, rather than Manson, planned the murders.⁹⁹

There was never any significant evidence, other than the claims of group members, most notably Kasabian, that Manson “ordered” them to commit the murders or was present at the crime scenes. Watkins testified that Manson had subjected them to “programming techniques” and corroborated the prosecution’s claim that Helter Skelter was the “motive” for the murders.¹⁰⁰ Beausoleil testified that Manson gave the orders to kill Hinman and Melcher.¹⁰¹ Watson and Kasabian testified that Manson gave them instructions for the Tate murders, although Watson also admitted to being high on amphetamines at the time, and Kasabian claimed that she thought that they were just going to burglarize a house in Beverly Hills.¹⁰²

The individual accounts of the finger pointers contradicted one another, as well as extrinsic evidence. According to Ed Sanders, an enthusiastic proponent of the mind-control narrative, who studied the police map depicting the Tate residence, the scene discovered by police, including locations of bloodstains, was very different than the one described by the killers.¹⁰³ Contrary to Beausoleil’s claim that Manson ordered him to kill Hinman, other accounts suggested that he killed Hinman spontaneously, when he started to scream.¹⁰⁴

“[S]everal versions of the story” of Shea’s death were “told and retold” among the group “so many times that . . . no one can really say what was fantasy and what indeed was fact,” but the “consistent” version included Shea’s decapitation.¹⁰⁵ During his trial for the Shea-Hinman murders,

95. Atkins & Schiller, *supra* note 52, at A1.

96. *Id.* at A22.

97. See SANDERS, *supra* note 1, at 431; WATSON, *supra* note 5, at 161.

98. See SANDERS, *supra* note 1, at 447.

99. See *id.*

100. WATKINS, *supra* note 8, at 267.

Hawaii on a one-way ticket using a fictitious name.¹²⁰ After the others were arrested, he fled back to Texas.¹²¹

The police initially identified DeCarlo as a suspect in Hinman's murder, in part because he had bragged about the killing,¹²² until they changed their focus to Beausoleil's girlfriend Catherine Lutesinger.¹²³ They arrested DeCarlo on theft and drug charges.¹²⁴ At the time, DeCarlo was appealing a prior conviction for drug smuggling.¹²⁵ While on bail, he attended a child custody hearing, and federal authorities arrested him on gun charges.¹²⁶

When the police arrested and interrogated Atkins, she admitted participating in Hinman's murder almost immediately.¹³⁴ Her attorney subsequently convinced her that the evidence against her *and Manson* was "overwhelming" and that she could only "hope to avoid the gas chamber" if she "made a *full* confession"¹³⁵ Atkins gave a lengthy account of the murders in exchange for immunity from the death penalty.¹³⁶ On the basis

During the forty-plus years that Manson has been in CDC custody since the murders,¹⁵⁵ he has been diagnosed with several serious mental illnesses,¹⁵⁶ primarily paranoid schizophrenia¹⁵⁷ and chronic psychosis,¹⁵⁸ but also

San Quentin at 1 (Aug. 30, 1985) (on file with Author); California Department of Corrections, Psychiatric Evaluation of Charles Manson at 1 (May 25, 1976) (on file with Author).

155. *See, e.g.,*

psychiatric records, however, reveals a shift in his prevailing diagnoses over time. When he was first incarcerated, CDC staff largely viewed his psychiatric problems as “characterological”—*i.e.*, problems of character and personality like sociopathy or personality disorder—with few true psychotic symptoms like delusions and other forms of disordered thought.¹⁷⁴ In 1982, for example, the CDC Psychiatric Special Treatment Board (“STB”) diagnosed Manson with a “personality disorder” and concluded “that there was no reason to use antipsychotic drugs.”¹⁷⁵

Schizophrenia, paranoid type in poor remission. Since arrival here there has been no evidence of overt psychosis.”).

174. *See, e.g.*, California Department of Corrections, Classification Committee Program Evaluation of Charles Manson (Jan. 19, 1983) (on file with Author) (commenting that the “[c]onsensus of psychiatric staff” was that Manson was “not psychotic” and that his “social inadequacies” were “more related to personality disorders than to psychosis”); California Department of Corrections, Psych Screening Chronology of Charles Manson at California Department of Corrections Medical (and Psychiatric) Facility at 1 (Jan. 18, 1983) (on file with Author) (noting that a panel of CDC psychiatrists “came to the conclusion that Manson” “has never been a schizophrenic or psychotic” but rather was “a personality disorder”); California Department of Corrections, Psych Consult and Rx of Charles Manson (Nov. 24, 1982) (on file with Author) (noting that Manson “never showed overt psychotic symptoms” while he was in CMF custody and was diagnosed with a “personality disorder” as a result); California Department of Corrections, Psychiatric Special Treatment Board of Charles Manson at California Department of Corrections Medical (and Psychiatric) Facility (Aug. 12, 1982) (on file with Author) (noting that one psychiatrist consulting on Manson’s diagnosis found “no evidence . . . of a true thought disorder” and diagnosed him with a “personality disorder,” concluding that there was “no reason to recommend the use of any antipsychotic drugs”); California Department of Corrections, Outpatient Medical Record of Charles Manson (Aug. 3, 1982) (on file with Author) (noting that Manson’s “disjointed thought process seem[ed] to be deliberate,” concluding that he was “free of psychotic symptoms,” and questioning his “diagnosis of schizophrenia”); California Department

A significant shift in his diagnoses occurred in 1997, when he was transferred from San Quentin to Corcoran State Prison, which triggered a review of his security classification, which included a psychological evaluation. After that evaluation determined that Manson was severely mentally ill, because he was “out of touch with reality” and would not stop rambling incessantly, the CDC transferred him to Pelican Bay State Prison to participate in the Enhanced Outpatient Program there.¹⁷⁶ When he got to Pelican Bay, a psychologist determined that he suffered from a psychotic disorder so severe that it precluded his placement in the SHU.¹⁷⁷

Post-1997, a consensus seems to have emerged among CDC psychiatrists and psychologists that Manson suffers from a serious, organic, psychotic mental illness. Manson’s evaluations now present diagnoses of psychotic illness, such as schizophrenia, as his primary mental-health issue, with his social and character deficiencies being viewed as secondary. One prison psychologist noted: “Manson has a severe thought disorder in which his thoughts and perceptions merge, blend, and synthesize in an unrealistic manner, supporting a distorted identity, and interfering with his interactions

one provider described it, “a plethora of imagery but a lesser amount of logic.”¹⁸⁶ Another provider noted: “Thoughts are like popcorn – one after another.”¹⁸⁷ A third explained: “It is near[ly] impossible to engage [Manson] in a clear conversation. He thinks loosely and metaphorically.”¹⁸⁸ For example, one entry in Manson’s CDC records reads:

[Manson] was quite talkative, explaining how Japan had not really attacked Pearl Harbor but that the raid was related to the Flying Tigers supply line. He expounded on the fighting between China and Japan and stated their goal was to “wipe out the white man – divide and conquer.” He spoke disjointedly about how everyone, dead and alive, was part of the great spirit (God) and there was no dividing line between people. He talked of being “the greatest killer in the world.” When reminded that he had always claimed that “I never killed anyone,” he responded, “Well, I just didn’t do it myself. I control the strings.”¹⁸⁹

He was prescribed Seroquel (quetiapine), an antipsychotic medication typically used to treat schizophrenia, for a short period in the 2000s,¹⁹⁰ but

of Corrections, Psychiatric Evaluation for the Board of Prison Terms of Charles Manson at California State Prison-San Quentin at 2 (Aug. 30, 1985) (on file with Author) (noting that Manson’s “capacity to organize his thinking” and “judgment” were “relatively severely impaired”); California Department of Corrections, Internal Medicine Consultation—Outpatient Medical Record of Charles Manson (March 29, 1982) (on file with Author) (noting Manson’s typical “schizoid thinking with parables, hyperboles, religio } i/

he generally refuses to take psychotropic medication¹⁹¹ or admit that he suffers from mental illness.¹⁹² As a result, the CDC has deemed him “too severely disturbed to benefit from [recreational therapy].”¹⁹³

Today, he is back at Corcoran, but he continues to be in the care of the CDC Mental Health Services Delivery System, housed in a special psychiatric unit.¹⁹⁴ His treatment plan primarily consists of “reality reintegration.”¹⁹⁵

described his “‘babble’ about his bizarre and delusional world view.”²¹⁶ A fourth noted: “[Manson] makes all kinds of statements that are contrary to fact and are at times quite bizarre. . . . [H]e says many crazy things quite seriously.”²¹⁷ A fifth noted: “[Manson] often makes statements that have no real apparent meaning to anyone but himself.”²¹⁸ Medical personnel in prison have repeatedly noted Manson making “no sense.”²¹⁹ A prison guard turned in a medical report after observing Manson “talking nonsense.”²²⁰ One psychiatrist explained:

[Manson’s] speech lapses into nonsense statements with references to bizarre things. His mentality is . . . talking weird, bizarre nonsense and bringing it out with such an expression that he says it with a sort of an everyday kind of attitude which tends to make one try to figure out what he really means. [I]t is pretty obvious that . . . what he is saying is exactly what he means and it is quite psychotic. He talks about things being done to him and about God being involved, occasionally mentions the devil and this type of thing. It is much less controlled than an ordinary religious sell up which Manson does not seem to be. . . . [T]he quality of his statements reveal poor relevance and very poor appropriateness at times and as usual he says these many crazy things in a quite serious way.²²¹

For example, one time he reported during an examination that his neck was “twisted” because he “went to China with Dr. Lew and Nurse Susan

Mexico City and I'm stuck here in London.”²²² Another psychologist documented his “string of nonsensical sounds.”²²³ A third described Manson’s answer to a request to describe his mental state as “Wheels. Patriarch. Atascadero. Scotland. My army.”²²⁴

“Neologisms” are part of the loose associations and disorganized speech of schizophrenia.²²⁵ Neologisms are words that occur in the normal course of speech, which the individual treats as integral, but which convey no meaning to anyone else.²²⁶ To individuals suffering from schizophrenia, neologisms have as much meaning and status as other words, but that meaning is private and inaccessible to others.²²⁷

Manson was infamous for his neologisms. He called all snacks “Zoo-Zoos.”²²⁸ He gave the members of the group QBT1 0 6ea6r QRQVH!R[12Ag50 !RHa3"K

Bizarre Behavior

describe his cell as disorganized, dirty, and cluttered.²⁶⁸ A nurse observed him sleeping on his mattress on the floor.²⁶⁹ A therapist described the “sheets hanging from the wall [of his cell] which appeared to be curtains and colored handprints on the wall.”²⁷⁰ Guards reported that Manson was urinating in coffee mugs.²⁷¹ Another time, Manson stuffed newspaper in his toilet and insisted that he would only relieve himself on the newspaper because he did not “want to contribute to pollution” or “M M

and/or “poisoned,”²⁸⁸ he is “being poisoned by asbestosis,”²⁸⁹ and he is “allergic to air.”²⁹⁰ He hears “all kinds” of voices,²⁹¹ including “a ‘Negro’ in one ear and someone else in the other.”²⁹² He believes that his “mind is

distortions,” living in a rich “fantasy world,”³⁰⁶ and being out of touch with reality.³⁰⁷ He refuses to believe that he is in prison.³⁰⁸ There are repeated references in his records to his “bizarre world view based on no historical facts.”³⁰⁹ For example, Manson has reported to them that “Captain Kirk” is with him,³¹⁰ he “own[s] the Star of David,”³¹¹ and he used to live in a garden in Napa with one of his therapists.³¹² He requested a copy of all of

306. *See, e.g.,*

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People suffering from schizophrenia believe in their own greatness or divinity, without regard to actual circumstances.³²¹ They believe themselves to be exalted, divinely chosen, and tasked with an undefeatable purpose.³²² They can read other people's minds and receive their thoughts.³²³

Manson has long believed that he possesses the power miraculously to heal himself and others.³²⁴ In fall 1968, "Manson undertook a prolonged nude meditation period in the high desert chill [in Death Valley], discovering death," after which "he picked up a live rattlesnake."³²⁵ He told a story about breathing life into a dead bird and reanimating it.³²⁶ He believed that he had the power to imagine physical objects into existence.³²⁷

According to Watson, Manson "was absolutely sure that he was Jesus Christ"³²⁸ and was the "most ardent disciple" of his own madness.³²⁹ He alluded to himself as "a spiritual medium, a 'hole in the infinite,' a latter-day Jesus Christ."³³⁰ Manson was booked as "Manson, Charles M., aka Jesus Christ, God,"³³¹ and he referred to himself in court briefs the same way.³³²

After his arrest, Manson told Watkins that he was only "home for Christmas."³³³ "Listening to Charlie rap, you'd have thought he was free. He spoke as though nothing had changed and that being in prison for murder was merely a temporary inconvenience."³³⁴ Manson spent his pretrial detention trying to "dissolve" his cell bars with his "psychic energy."³³⁵

321. See DSM-V, *supra* note 199, at 92.

322. See *id.*

323. See *id.* at 101.

324. See *id.* at 156.

325. See SANDERS, *supra* note 1, at 88.

326. See SANDERS, *supra* note 1, at 369.

327. TJETq0 - (00)reW*BT408. 2ETBT008207m(S)JTJET8.82ETBT0.K11)087m(A)5(ND)-6E)8(R)-2S)JTJE8BTreW*

omnipotent,³⁴⁸ is a psychiatrist,³⁴⁹ “graduated from the University of Baghdad,”³⁵⁰ “had a PhD in psychology,”³⁵¹

Manson continues to maintain that he can communicate with and control people telepathically while in prison.³⁶² He claims to be “the originator of many of the President’s thoughts.”³⁶³ One psychologist noted: “[Manson] holds some very grandiose ideation, believing himself to be both the genesis and the antithesis of life itself: stating, “I am the air that you breathe, the water you drink. I am life. I am death.””³⁶⁴

Reference

Individuals who suffer from delusions of reference believe that otherwise ordinary or chance occurrences have special meaning for them.³⁶⁵ There are no coincidences or accidental happenings; everything is pregnant with meaning.³⁶⁶ Even songs on the radio hold special meaning.³⁶⁷

Manson’s most infamous delusions were those surrounding “Helter Skelter.” Manson believed that “the Beatles’ music carried an important message” directed at him personally.³⁶⁸ According to Manson, the Beatles were the four angels and the avenging locusts of the Apocalypse, and they “knew that Jesus Christ had returned to earth and was somewhere near Los Angeles.”³⁶⁹ In addition to being Christ, Manson was also the fifth angel of the Apocalypse.³⁷⁰ According to Watkins, Manson’s theory was that:

[T]he four angels [of the Apocalypse] were the Beatles, whom Charlie considered prophets The fifth angel was Charlie. . . . The passage [of the Book of Revelation] “And he opened the bottomless pit . . . And there came out of the smoke locusts upon the earth; and unto them was given power as the scorpions of the earth have power” was not only a reference to the Beatles (locusts) but implied that the power of scorpion

361. California Department of Corrections, Interdisciplinary Progress Notes of Charles Manson (Mar. 6, 2014) (on file with Author).

362. California Department of Corrections, Mental Health Interdisciplinary Progress Notes of Charles Manson (Oct. 16, 1997) (on file with Author).

363. California Department of Corrections, Neurology Consultation of Charles Manson at California Medical Facility (Apr. 13, 1982) (on file with Author).

364. California Department of Corrections, Mental Health Interdisciplinary Progress Notes of Charles Manson at 2 (July 10, 2001) (on file with Author).

365. *See* DSM

(Charlie was a Scorpio) would prevail. . . . [The] “breastplates of fire” . . . were their electric guitars.³⁷¹

At several points, Manson placed calls to London to try to talk to the Beatles.³⁷²

The idea of “a racial war between ‘blackie’ and ‘whitey’” was “the core of [Manson’s] Helter-Skelter” belief system.³⁷³ Manson believed that the Family’s music album and the *White Album* were going to inspire the “Helter Skelter” race war.³⁷⁴

When “the Apocalypse” came, Manson and the Beatles were going to join forces, and Manson was going to lead them “through a secret Devil’s Hole into the Bottomless Pit: an underground paradise beneath Death

Manson's prison providers have extensively documented his "ideas of influence and reference."³⁸³ One psychiatrist described his delusions as having a "[m]eme of religiosity, love as their common denominator [with Manson] as [the] central figure."³⁸⁴ Another provider noted that Manson claimed connections to famous people on television, claiming to be their father.³⁸⁵ A neurologist noted his "references to obvious psychotic ideas of reference, such as being able to read the minds of others and . . . that Correctional Officers obtain promotions on the basis of their handling of him particularly."³⁸⁶

It Is Paranoia if . . .

Individuals suffering from paranoid schizophrenia tend to have particularly organized delusions, connecting the dots between unconnected concepts, events, people, and ideas.³⁸⁷ Paranoid delusions develop with a common thread, usually involving an institution or organization watching the individual with a sophisticated network of operatives and strategies.³⁸⁸ Random interactions are interpreted as purposeful attempts to target or contact the individual.³⁸⁹ People suffering from schizophrenia are threatened by anyone who attempts to dissuade them from their delusions.³⁹⁰

383. See, e.g., California Department of Corrections, Mental Health Treatment Plan of Charles Manson at 3 (Sept. 13, 2011) (on file with Author); California Department of Corrections, Mental Health Interdisciplinary Progress Notes of Charles Manson (Oct. 6, 2004) (on file with Author); California Department of Corrections, Mental Health Assessment of Charles Manson at 5 (Sept. 8, 1997) (on file with Author); California Department of Corrections, Psychological Evaluation of Charles Manson at San Quentin State Prison at 3 (Feb. 1989) (on file with Author); California Department of Corrections, Psychological Evaluation of Charles Manson at San Quentin State Prison at 2 (July 3, 1986) (on file with Author); California Department of Corrections, Psychiatric Evaluation of Charles Manson at San Quentin State Prison at 1-2 (Aug. 30, 1985) (on file with Author); California Department of Corrections, Outpatient Medical Record of Charles Manson (Jan. 12, 1976) (on file with Author).

side and the newspapers are on the same side and it's all pointed against me, personally."⁴⁰³

In prison, Manson's providers have documented his paranoid delusions⁴⁰⁴ and obsession with "conspiracy theories,"⁴⁰⁵ which they consider part of his mental-health "baseline."⁴⁰⁶ He is convinced that people are constantly trying to kill him, refusing to smoke cigarettes or eat food until someone else takes the first drag or bite.⁴⁰⁷ He suspects that the medical staff is out to get him and refuses to take his medications unless they are unsealed in front of him.⁴⁰⁸ Sometimes, he refuses to take them at all because he does not trust the "monk people" in the pharmacy⁴⁰⁹ or because he claims that they come from a Chinese pharmacy (they do not).⁴¹⁰ He refuses to consent to blood tests to monitor his thyroid condition because he believes that they give him ingrown toenails.⁴¹¹ He has reported that other people invade his mind, place their thoughts there, and control his

403. WATKINS, *supra* note 8, at 266.

404. *See, e.g.*, California Department of Corrections, Interdisciplinary Progress Notes/SCAN of Charles Manson (July 25, 2012) (on file with Author).

405. California Department of Corrections, Mental Health Interdisciplinary Progress Notes of Charles Manson (May 27, 2005) (on file with Author).

406. *See, e.g.*, California Department of Corrections, Mental Health Treatment Plan of Charles Manson at 1, 5 (Dec. 6, 2011) (on file with Author) (diagnosing Manson with "schizophrenia, paranoid type,

behavior.⁴¹² He claims to be a Vietnam veteran⁴¹³ and believes that the “Viet Cong” sent him to prison.⁴¹⁴ He believes that “the Catholic Church is coming to get [him].”⁴¹⁵ He is concerned that India (the country) will “throw a cup of gasoline on [him] and set [him] on fire.”⁴¹⁶ He believes

facilitation and conspiracy.⁴²⁰ Second, insanity is an affirmative defense to any crime, even one requiring general intent, because the criminal law does not hold morally responsible individuals who cannot appreciate the legal or moral significance of their actions.⁴²¹ Once again, this is not a satisfying conception of innocence – the *Perry Mason* real killer confesses. It is, nonetheless, innocence.

IV. PSYCHOLOGY

“Mind Control”

The mind-control theory originated primarily with Atkins and Watkins, who told police and D.A.s stories of Manson’s “programming.”⁴²² The theory grew when Watson asserted a diminished capacity defense, claiming that Manson’s “domination” kept from being in control of – or fully responsible for – his actions.⁴²³

Brainwashing or mind control, which psychologists refer to as “thought reform,” is a documented phenomenon, but it is rare, particularly in the absence of the prolonged physical coercion of war captivity.⁴²⁴ The problem with the Manson case is not that mind control is never real, but that much of what is known about those who committed the murders is inconsistent with the established phenomenon, and the accounts of those pitching the mind-control narrative are full of gaps and concessions. As Manson has explained from prison, “when I start believing I might really possess all the powers attributed to me and I try to work a whammy on my

420. See Cal. Penal Code § 28 (West 2003); see, e.g., *People v. Mendoza*, 959 P.2d 735 (Cal. 1998) (holding that Mendoza’s mental impairment stemming from intoxication was relevant to whether he was able to form specific intent); *People v. Reyes*, 52 Cal. App. 4th 975, 983-85 (Cal. Ct. App. 1997) (authorizing the jury to consider evidence of Reyes’s mental impairment to demonstrate his inability to form the required mental state); *People v. Ricardi*, 9 Cal. App. 4th 1427, 1432 (Cal. Ct. App. 1992) (authorizing the admission of evidence of Ricardi’s mental impairment to show that he did not possess the required mental state).

421. See Cal. Penal Code § 25(b) (West 1982); *People v. Skinner*, 704 P.2d 752 (Cal. 1985) (explaining that the test for insanity in California was whether the accused “was incapable of knowing or understanding the nature and quality of his or her act

prison guard – he or she shuts the prison door in my face.”⁴²⁵ CDC staff agree with Manson, noting that he has “[n]o known followers” in prison.⁴²⁶

coffers,”⁴³⁴ but Manson tried to turn away the “throng” of potential “recruits” who would appear.⁴³⁵

Manson does not appear to have directed the group’s non-murderous activities. According to Manson, when he initially wanted the group to

start the war and straighten out the world afterwards, then I'm not the only one with a huge imagination."⁴⁴³

Consistent with Manson's denials, by other accounts, he admonished his "Family" that he was not their leader, they should have no leaders, they were "free," and they could do what they wanted.⁴⁴⁴ According to Watkins, Manson did not "indicate[] directly that [they] would have anything to do with perpetrating violence."⁴⁴⁵

Not only is "mind control" inconsistent with what even some of its proponents have portrayed, there is evidence that group members took advantage of Manson's emotional, socioeconomic, and psychiatric vulnerability. Manson described Fromme as "more capable of intimidating [him] than [him] her."⁴⁴⁶ He told a therapist: "Squeaky Fromme was the man, I was the woman, and the horses ran the ranch."⁴⁴⁷ Manson described himself as "a half-assed nothing who hardly knew how to read or write, never read a book all the way through in [his] life, didn't know anything except jails, couldn't hold on to [his] wives, was a lousy pimp, got caught every time [he] stole, [and] wasn't a good enough musician to hit the market"⁴⁴⁸ He explained:

Vincent Bugliosi . . . would have the world believe I got out of prison and pledged my life to corrupting the youth of the country. Hey, those kids knew everything and did everything. I was the baby! I was sleeping in the park and calling it home. I was shining shoes for money to eat on.⁴⁴⁹

Manson's account of his vulnerability is consistent with what others have recorded. According to Watkins, Manson clung to and was more dependent on Fromme than she was on him.⁴⁵⁰ While Manson was living at Spahn's Ranch, he tried to enlist the Straight Satans as his bodyguards, but they laughed at him.⁴⁵¹

There is also evidence that other group members, rather than being followers, were leaders and organizers. "The girls" accrued "additional

443. *Id.* at 173.

444. WATKINS, *supra* note 8, at 123, 224.

445. WATKINS, *supra* note 8, at 161.

446. EMMONS, *supra* note 2, at 107.

447. California Department of Corrections, Mental Health Interdisciplinary Progress Notes of Charles Manson (Jan. 7, 1999) (on file with Author).

448. EMMONS, *supra* note 2, at 222.

449. *Id.* at 81.

450. *See* WATKINS, *supra* note 8, at 106-07, 128.

451. *See* BUGLIOSI, *supra* note 5, at 103; DAVIS & LEBLANC, *supra* note 2, at 89.

would add “[a]bout one in a hundred of the girls [that he would] make love to” to his pack.⁴⁶⁶

Even Moorehouse “went on a Jesus-identity trip, . . . declaring himself both the Christ and the devil as he made himself happy at the parties during [the summer of 1968] at Melcher’s home and [Beach Boy Dennis] Wilson’s residence.”⁴⁶⁷ According to Watson, Moorehouse and “the girls” spoke to him about being “all part of the same organic whole” and “letting that old ego die” to be free.⁴⁶⁸ After he moved to Spahn’s Ranch, the women “constantly preach[ed] to [him] that [he] wasn’t as dead as [he] should be, that [he] hadn’t reached awareness.”⁴⁶⁹

after it violently kidnapped and tortured her in captivity for months.⁵⁰¹ While the court permitted Hearst to mount a duress defense based on a brainwashing theory, the jury rejected it.⁵⁰²

Folie a Deux

This is not to suggest that group psychology played no role in the murders. It just appears to have played a different one than what is portrayed in conventional tellings. If not mind control, how else to explain why a group of privileged young adults, with no significant prior signs of antisocial behavior, engaged in spree killing? Group contagion is a more plausible theory.

California in the late 1960s was a beacon for “youngsters seeking experience and truth away from their comfortable middle-class homes.”⁵⁰³ As Sanders explained: “One almost had to live there to understand the frenzy that engulfed the Haight-Ashbury district of San Francisco in the spring and summer of 1967.”⁵⁰⁴

When Watson arrived in California, he discovered “hippies and psychedelic shops and people ‘turning on’ on the sidewalk.”⁵⁰⁵ “It was a

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his eyes staring intently from face to face, he looked like Jesus talking to his twelve apostles. . . . [She] felt he might be Christ.”⁵³¹

When Watson met Manson, he “realized that this was what [he] was looking for: love. . . . the kind of love [he] seemed

heard from Charlie during the night” and he had told her to do so.⁵⁶¹
VanHouten and Atkins followed suit.⁵⁶²

Atkins continued to be a follower in search of a leader after her

swayed by the say-so of a handful of young murderers? Or was there something unique about Manson that made the otherwise implausible stories of brainwashing easier to swallow?

Touch of Class

Contrary to the common portrayal of Family members, who ranged in age from fifteen to twenty-six,⁵⁷⁹ as neglected kids,⁵⁸⁰ they came almost universally from loving, middle-to-upper-

Appalachian West Virginia and could “barely write [his] name.”⁶¹⁰ He has a third-grade education.⁶¹¹ His “worldly possessions” consisted of three changes of clothing, a sleeping bag, and his guitar.⁶¹² He has been incarcerated for almost his entire life, beginning with a string of juvenile reform schools when he was nine years old, his adult convictions prior to the murders primarily related to theft.⁶¹³ He had “no real family ties.”⁶¹⁴ His mother was an unmarried teenager,⁶¹⁵ “an alcoholic and a prostitute.”⁶¹⁶ He grew up in poverty, “in and out of orphanages, foster homes, reform schools, [and] jails.”⁶¹⁷ When he was twelve, his mother voluntarily surrendered him so that she could devote her time to a new boyfriend.⁶¹⁸ He ran away from a series of state homes, burglarizing private residences to survive and committing his first armed robbery at thirteen.⁶¹⁹ At fourteen, “he rented his own room and supported himself with odd jobs and thievery,” leading to “a long, almost unbroken series of jail sentences.”⁶²⁰ As one prison psychiatrist summarized: “Manson is the product of a chaotic, disruptive childhood, compounded by a history of psychosis, and being brought up in . . . corrective institutions since early childhood.”⁶²¹

Today, the cognitive science of implicit bias is well established.⁶²² It shows that biased intergroup judgments result from ordinary cognitive

610. EMMONS, *supra* note 2, at 103; SANDERS, *supra* note 1, at 4, 58; WATKINS, *supra* note 8, at 18, 21.

611. California Department of Corrections, Psychiatric Evaluation of Charles Manson at 1 (May 25, 1976) (on file with Author); California Department of Corrections, Sequin Unit Screening of Charles Manson (April 23, 1974) (on file with Author); California Human Relations Agency Memorandum (June 7, 1971) (on file with Author).

612. *See* EMMONS, *supra* note 2, at 86.

613. California Department of Corrections, Psychiatric Evaluation of Charles Manson at 1 (May 25, 1976) (on file with Author); California Department of Corrections, Psychiatric File of Charles Manson (April 24, 1974) (on file with Author).

614. California Department of Corrections, Psychiatric Evaluation of Charles Manson at 1 (May 25, 1976) (on file with Author).

615. *See* ATKINS, *supra* note 5, at 65.

616. WATSON, *supra* note 5, at 73.

617. WATKINS, *supra* note 8, at 21, 38.

618. *See* EMMONS, *supra* note 2, at 34-35.

processes.⁶²³ For example, people associate wrinkles with age, skin color with race, and Canadian accents with politeness without consciously equating them.⁶²⁴ We harbor unconscious, learned stereotypes, habitually and automatically categorizing and assigning perceived group attributes to one another.⁶²⁵ This process of categorization allows us to “understand[] what some thing is by knowing what other things it is equivalent to and what other things it is different from.”⁶²⁶ “Categorization of a person into a group establishes expectations about the person . . . that are formed before actually seeing the person’s behavior.”⁶²⁷

623. See Antony Page, *Batson’s Blind-Spot: Unconscious Stereotyping & the Peremptory Challenge*, 85 B.U. L. REV. 155, 181 (2005).

624. See Jerry Kang *et al.*, *Are Ideal Litigators White? Measuring the Myth of Colorblindness*, 7 J. EMPIRICAL LEGAL STUD. 886, 888 (2010).

625. See Page, *supra* note 623, at 160.

626. CRAIG MCGARTY, *THE CATEGORIZATION PROCESS IN SOCIAL PSYCHOLOGY* 1 (1999).

627. David A. Wilder, *Perceiving Persons as a Group: Categorization and Intergroup Relations*, in *COGNITIVE PROCESSES IN STEREOTYPING AND INTERGROUP BEHAVIOR* 213, 217-18 (David L. Hamilton ed., 1981) (internal citation omitted); see Maria Rosaria Cadinu & Myron Rothbart, *Self-Anchoring and Differentiation Processes in the Minimal Group Setting*, 70 J. PERSONALITY & SOC. PSYCHOL. 661, 661-62 (1996) (describing the process by which an observer confers a positive self-image to an “in-group” but not an “out-group” member). See generally TIMOTHY D. WILSON, *STRANGERS TO OURSELVES: DISCOVERING THE ADAPTIVE UNCONSCIOUS* 53-54 (2002) (explaining how “we often unconsciously bend new information to fit our preconceptions”); Galen V. Bodenhausen, *Stereotypic Biases in Social Decision Making and Memory: Testing Process Models of Stereotype Use*, 55 J. PERSONALITY & SOC. PSYCHOL. 726, 734 (1988) (finding that those who hold stereotypes pay more attention to stereotype-consistent information than stereotype-inconsistent information); Peter H. Ditto & David F. Lopez, *Motivated Skepticism: Use of Differential Decision Criteria for Preferred and Nonpreferred Conclusions*, 63 J. PERSONALITY & SOC. PSYCHOL. 568, 573 (1992) (finding that subjects affirmed preconceived theories when confronted with consistent data more quickly than they rejected them when confronted with inconsistent data); David Dunning & David A. Sherman, *Stereotypes and Tacit Inference*, 73 J. PERSONALITY & SOC. PSYCHOL. 459, 459-61 (1997) (explaining how “stereotypes alter the tacit inferences people make when comprehending descriptions of social behavior”); Susan T. Fiske, *et al.*, *The Continuum Model: Ten Years Later*, in *DUAL-PROCESS THEORIES IN SOCIAL PSYCHOLOGY* 231, 234 (Shelly Chaiken & Yaacov Trope eds., 1999) (“[O]nce perceivers categorize the encountered individual, they automatically tend to feel, think, and behave toward that individual in the same way they tend to feel, think, and behave toward members of that social category more generally.”); David Hamilton, *et al.*, *Stereotype-Based Expectancies: Effects on Information Processing and Social Behavior*, 46 J. SOC. ISSUES 35, 37-39 (1990) (describing the effect that preexisting expectations have on information processing); Angelo J. Kinicki, *et al.*, *Effects of Category Prototypes on Performance-Rating Accuracy*, 80 J. APPLIED PSYCHOL. 354, 364-66 (1995) (explaining the effect that categorical prototypes have on the way that individuals rate the performance of others); Charles G. Lord, *et al.*, *Biased Assimilation and Attitude Polarization: The Effects of Prior Theories on Subsequently Considered Evidence*, 37 J. PERSONALITY & SOC. PSYCHOL. 2098, 2108 (1979) (examining the effects that existing theories have on the interpretation of new data); C. Neil Macrae, *et al.*, *On the Regulation of Recollection: The Intentional Forgetting of Stereotypical Memories*, 72 J.

class, and mental-health status.⁶³⁴ For example, Virginia Hiday has documented the disproportionate civil commitment of poor mentally ill offenders in comparison to rich ones.⁶³⁵

Manson's class, mental-health status, and to a lesser extent his age and gender, made it easier for the police, prosecutors, jurors, and public to swallow the implausible tale of brainwashing.⁶³⁶ As Manson put it: "Some people, regardless of how dirty their hands are, have the juice to smother things and appear lily white, while those without juice are made to look dirty if they are only in the vicinity of bad happenings."

VI. MANSON-INDUSTRIAL COMPLEX

Manson has spent only six years of his adult life out of prison. He is the subject of universal condemnation, an urban legend and cautionary tale. The CDC classifies Manson as "the most infamous of all CDC inmates."⁶³⁷ *Rolling Stone* dubbed Manson "the most dangerous man alive."⁶³⁸ Even the

high-profile case to early retirement or the bench,⁶⁴² a goal that he failed to achieve after he was removed from the case for repeatedly leaking information to the media in violation of a gag order.⁶⁴³ During trial, Bugliosi would “mercilessly harangue” newspaper editors if they ran stories that he did not like, earning him the nickname “Pope Vincent.”⁶⁴⁴

Books about Manson and his “Family” could fill a library. After Manson’s conviction, Watkins toured with Bugliosi to promote *Helter Skelter* on talk shows.⁶⁴⁵

“the myth that has grown up around him.”⁶⁵⁶ One letter in Manson’s CDC file reads: “Dear Charles, We

