

4
1 Q Okay. And what did he say? A That he was coming
2 to San Francisco.

3 Q Okay. Had he ever come to San Francisco before?

4 A No, he had not been here.

5 Q And the day before he arrived in San Francisco did he
6 call you again? A I believe he did, yes, gave me
7 the flight time.

8 Q And he called you at your residence? A At my home.

9 Q On 21st Avenue? A That is correct.

10 Q And at that time did he give you his flight time and
11 what plane he would be arriving on, things like that?

12 A Mm-hmm.

13 Q So you knew where to meet him and everything?

14 A Right.

15 Q Now, on October the 30th, 1975, when you met Mr. Ismail
16 at the airport could you tell us what you did?

17 A Well, I picked him up.

18 Q Okay. And after you picked him up did you go any place?

19 A I took him to the Sunset Motel.

20 Q Where is that located? A 19th Avenue and Taravel.

21 Q How far is the Sunset Motel from your house?

22 A Five minutes.

23 Q Five minutes. A By car.

24 Q You live at 21st? A Mm-hmm.

25 Q And the Sunset Motel is at 19th? A Mm-hmm.

26 Q Now, had you arranged for Mr. Ismail to stay at the

5
1 Sunset Motel? A Yes, I did.

2 Q And did you register him at the Sunset Motel?

3 A I registered him, yes, I did.

4 Q When did you register him? A The evening when I
5 was going to pick him up.

6 Q Did you register him before or after you picked him up?

7 A Before.

8 Q So that would be October 30th? A That's right.

9 Q 1975? A That's right.

10 Q And had you told Mr. Ismail that you were going to
11 register him at a motel? A I asked him on the phone
12 because, you know, he is an old friend and a distant relative,
13 if he would like to stay at our home, and he said he would
14 rather not because it was just my mother and myself, and since
15 we had been working he would feel more comfortable, you know,
16 close by. Therefore, I called the Sunset, went in and
17 registered him.

18 Q Were you familiar with the policy of your boss, Mr. Yule
19 Lazar, about giving a 50 per cent discount to all Assyrians?

20 A We do that.

21 Q Was there any particular reason why you didn't give Mr.
22 Ismail the benefit of this discount? A Because he
23 wanted to be near our home. I didn't like him driving down-
24 town every day, back and forth, to go sightseeing. It was
25 closer to my home.

26 Q Now, during this period of time that Mr. Ismail was in

5
1 San Francisco were you working? A Yes.

2 Q And what days did you work? A Five days a week.

3 Q Monday through Friday? A Yes.

4 Q So you had to drive down to the PSA Hotel?

5 A I don't drive to work.

6 Q You had to be downtown there? A Yes.

7 Q Take the bus down? A Yes, I take municipal
8 transportation.

9 Q But you decided to put him in the Sunset Motel?

10 A Yes.

11 Q How did you register Mr. Ismail? A I registered
12 him, I was late, they were closing, and I went in there and
13 instead of writing the whole name out, David Malek Ismail,
14 I said I'll put David Benjamin. I put my address on the
15 slip for no reason, just that we were his hosts and we were
16 paying his bill.

17 Q Okay. That was my next question. Showing you People's
18 Exhibit No. 19, is that your handwriting on there?

19 A That is.

20 Q Okay. Indicating -- can I have it? Indicating David
21 Benjamin, with 1477 21st Avenue in San Francisco?

22 A That's right.

23 Q And that is your address? A That is my address.

24 Q Okay. Now, when you registered Mr. Ismail did you pay
25 for his room the first night? A No.

26 Q You didn't pay for that room? A Not the first

1 night.

2 Q Okay. Prior to registering Mr. Ismail did you have to
3 put down any sort of a deposit on the room? A No.

4 Q Okay. Now, I take it that you took Mr. Ismail from the
5 airport to the Sunset? A Right.

6 Q Okay. And could you tell us what Mr. Ismail was
7 wearing when he got off of the airplane? A I believe
8 he was wearing a suit.

9 Q Okay. Now, you say you believe he was wearing a suit?

10 A Yeah.

11 Q Are you certain about that or are you uncertain?

12 A It's been so long ago, I believe he was dressed very
13 nice.

14 Q Okay. Why don't you think real hard, if you can for
15 a few minutes and try to remember?

16 MR. PESTARINO: I am going to object to this form
17 of question, "Why don't you think real hard."

18 MR. ROBINSON: I would like to give her a chance to
19 remember. If you want to be fair, counsel --

20 THE COURT: Let me hear what the objection is.

21 MR. PESTARINO: I object to the form of the
22 question, it is implying that the witness is unfair.

23 THE COURT: Well, she hasn't indicated she is not
24 able to remember.

25 MR. PESTARINO: Well, I know, but that is an unfair
26 question.

1 MR. ROBINSON: That is not a legal objection, Your
2 Honor.

3 THE COURT: Well, I think you ought to rephrase it.
4 Think real hard implies something about the answer.

5 MR. PESTARINO: That's right.

6 Q (By Mr. Robinson) Can you think about it for a few
7 minutes, if you could, and try to remember what he was
8 wearing when he came off the airplane?

9 A I think he was wearing a grayish suit, very neatly
10 dressed.

11 Q Okay. Now, when you met him at the airport did you
12 have a drink at the airport? A No.

13 Q Okay. Did you go down to pick up his luggage?

14 A Yes.

15 Q Okay. And what luggage did he have?

16 A He had a small, blue, like a weekender, and a grip bag,
17 I can't remember the color.

18 Q What about a suitcase? A It was like a weekender,
19 a small.

20 Q How many pieces of luggage did he have?

21 A Two.

22 Q What about a bag where you carry extra clothes in like
23 a suit, or something like that? A No, nothing.

24 Q All right. What about an extra suitcase?

25 A No.

26 Q Okay. And how big was this bag that he had?

1 A. I really don't remember the size, but it was just the
2 regular little --

3 Q. Like a grip? A. Like a, you know, you see a lot of
4 people carrying them.

5 Q. Like if you were going to play basketball or something
6 you would put your shoes in, that sort of sized bag?

7 A. I think it was like this (indicating), small, wasn't
8 large.

9 Q. Okay. The sort of bag that you -- did you pick this
10 up at the baggage part of the airport? A. Mm-hmm.

11 Q. Is this the sort of bag -- well, you have flown,
12 obviously? A. Yes.

13 Q. Is this the short of bag that you can bring with you
14 right into the airplane and stuff it up top?

15 A. You could but he didn't have it with him.

16 Q. Okay. Now, after you picked up Mr. Ismail's luggage
17 you drove him, did you drive straight out to the Sunset Motel?

18 A. Straight to the Sunset Motel.

19 Q. What time did you arrive there? A. I don't
20 remember.

21 Q. All right. And what happened when you arrived there?

22 A. Left his bags off, then I took him home, to my home.

23 Q. When he left his bags off did you already have the key
24 to the motel? A. I had already picked it up because
25 they were closed.

26 Q. And did you accompany him into the motel?

10

- 1 A Just for a few minutes while we unloaded his stuff.
- 2 Q When he unloaded his stuff you were in the room?
- 3 A Just for a few minutes. He hung his clothes up, that's
- 4 all.
- 5 Q He did hang his clothes up? A Mm-hmm.
- 6 Q What clothes did he have to hang up?
- 7 A His shirts, and I don't know, pair of slacks.
- 8 Q And where did he take these clothes from?
- 9 A From his suitcase.
- 10 Q Okay. A This weekender-sized bag.
- 11 Q He had extra clothes like shirts and slacks in that
- 12 little weekender bag? A Mm-hmm.
- 13 Q And did he take out anything else out of that bag?
- 14 A No.
- 15 Q He put all of his clothes away though?
- 16 A I believe he did.
- 17 Q Okay. Did you see a gun in that bag? A No.
- 18 Q Okay. When you were with him in the motel on October
- 19 30th, 1975, did you see a gun at any time?
- 20 A Not at all.
- 21 Q Did he ever talk to you on that day about having a gun?
- 22 A No.
- 23 Q Okay. So he basically unloaded his stuff, then you
- 24 brought him over -- A And I brought him over to my
- 25 home for dinner.
- 26 Q You saw his bag was empty? A Yeah.

11

1 Q So there was no gun in the bag? A Not at all.

2 Q So you brought him to your house for dinner?

3 A Mm-hmm.

4 Q And you had some dinner? A Right.

5 Q Okay. And then what happened next?

6 A Then I took him, well, we played records, Assyrian music,
7 you know, folk music, we danced, we sang a little bit. My
8 mother was enjoying visiting with him. And then I took him,
9 I think it was up for a ride out by the Cliff House, up by
10 Twin Peaks because it was late, then I dropped him off back
11 at the motel and went home.

12 Q All right. Now, that would be on Thursday?

13 A Mm-hmm.

14 Q All right. Let's talk about Friday. Did you see Mr.
15 Ismail on Friday? A In the evening.

16 Q Okay. Did you see him Friday morning at all?

17 A No, I went to work.

18 Q Okay. Did you talk to him at all Friday before seeing
19 him? A No, but I told him Thursday evening, you know,
20 to occupy himself, to take a ride out to the zoo.

21 Q Okay. And when was the next time you saw him then on
22 Friday? A After work.

23 Q Okay. What time would that be? A I guess it would
24 be about 6:30, quarter to seven I picked him up and brought
25 him back home, to my home.

26 Q Okay. And what was Mr. Ismail wearing at this time?

1 A. His suit.

2 Q The same suit he was wearing when he came in?

3 A Mm-hmm.

4 Q Pardon me? A Yes.

5 Q Okay. The same suit he was wearing when he got off
6 the airplane? A Yes.

7 Q Showing you People's Exhibit 10-BB, is this the suit
8 that we are describing? A Yes.

9 Q Okay. Thank you. Now, when you picked Mr. Ismail up
10 on Friday and brought him to your house, did you enter his
11 motel room to pick him up? A No.

12 Q Or how did that work? A I honked the horn and his
13 room was right on the street side, he knew my car and he came
14 down.

15 Q And you went to your house and had some dinner?

16 A Mm-hmm.

17 Q That is on Friday, the 31st? A Friday night.

18 Q Okay. And when you were at your house, did Mr. Ismail
19 take off his suit coat? A Yes.

20 Q Okay. And at that time did you see Mr. Ismail with a
21 gun? A No.

22 Q Okay. Did you hang up his suit coat for him?

23 A Yes.

24 Q As you hung up his suit coat did you notice anything
25 unusually large or bulky in the pockets? A No.

26 Q So would it be your opinion that Mr. Ismail didn't have

13
1 a gun on Friday, the 31st? A That is correct.

2 Q Okay. Now, how long did you stay at your house on
3 Friday, the 31st? A I think until about 9:00 o'clock.

4 Q Okay. And then what happened?

5 A Then I took him out to the Hyatt Regency to the Equinox
6 for a drink, see the city.

7 Q Okay. A And we spent quite a bit of time there
8 talking, you know, and visiting.

9 Q All right. How long did you stay there?

31
10 A Oh, I don't remember. It was, maybe, until 12:30.

11 Q Okay. How many drinks did you have there?

12 A Mmm, oh, I'd say four or five.

13 Q Okay. You each had four or five drinks? A Yeah.

14 Q Okay. Both of you were sitting there drinking together?

15 A Of course.

16 Q Okay. Now, do you consider yourself a heavy drinker?

17 A No.

18 MR. PESTARINO: Objection, well --

19 MR. ROBINSON: Okay.

20 Q (By Mr. Robinson) And Mr. Ismail had the same amount
21 of drinks as you? A Right.

22 Q Did you consider Mr. Ismail a heavy drinker?

23 A No.

24 Q Was Mr. Ismail drunk or under the influence of alcohol
25 that night? A Not any more than I was.

26 Q Okay. And you weren't, right? A I was not.

14
1 Q Okay. So, after you left the Hyatt Regency, Miss
2 Benjamin, where did you go?

3 A I drove down by the Embarcadero and around Fisherman's
4 Wharf and around Doyle Drive, up 19th Avenue, made a U-turn
5 around the corner and came back up by the Sunset, dropped
6 him off and went home.

7 Q You remember doing all of that driving?

8 A That is the way I go, down that way, yes.

9 Q You always go that way? A I know my way.

10 Q Okay. And what time did you drop him off?

11 A Oh, I don't know, about one, one-thirty, one-fifteen,
12 somewhere around there.

13 Q Okay. And this would be, well, Saturday morning now?

14 A Mm-hmm.

15 Q Okay. Dropped him off back at the Sunset?

16 A At the Sunset.

17 Q Now, when was the next time that you saw Mr. Ismail?

18 A Saturday morning.

19 Q Okay. And could you tell us about that?

20 A I told him that I was off that day and I could take him
21 around sightseeing to the Cannery and to Ghiradelli, and I
22 tried to take him in the Bay cruise.

23 Q Okay. A So I took him around as long as I could,
24 and I had to leave town in the afternoon, go to Turlock,
25 California.

26 Q And what time did you -- what did you do with Mr. Ismail

15
1 on Saturday after you had taken him sightseeing?

2 A Well, I picked him up, we had been talking the night
3 before, and I told him I worked downtown at the hotel and
4 Yule was there, and he thought he might like to come down and
5 stay in that area because it was more available for sight-
6 seeing and visiting and shopping around the city. So I
7 said okay, you know, you can go there, it is up to you,
8 whatever you want to do. When I picked him up I went up to
9 the office, I paid the bill.

10 Q Okay. A Then we left.

11 Q You paid the bill for the Sunset Motel?

12 A That's right.

13 Q Okay. A I might add, the reason that I did pay
14 it was because our --

15 Q Well, Mrs. Benjamin, my job is to ask questions. Okay?
16 And I am sure that Mr. Pestarino is going to ask you that.

17 A Okay.

18 Q Now, when Mr. Ismail, I take it he checked out of the
19 motel, of the Sunset Motel, that would be on November 1st,
20 Saturday? A Saturday, right.

21 Q That is when you paid the bill? A Right. I
22 checked him out because I went in and I said, "I don't want
23 him to see the bill, or anything. He is our guest and I am
24 taking care of it."

25 Q What did he do with his luggage? A He left it
26 there and picked it up on his way back, or out to the other

16

1 place.

2 Q He left it behind the desk with the manager?

3 A In the office, I believe so.

4 Q And he asked the manager to hold his luggage for him?

5 A Mm-hmm.

6 Q Because he didn't know whether he was going to come
7 back there or not? A That is correct.

8 Q So at that time he hadn't made up his mind whether or not
9 he was going to stay at the Sunset or move to a different
10 motel? A That is correct. Well, he mentioned that
11 he wanted to stay at the PSA and I said it is up to you,
12 whatever you would like to do.

13 Q So what time did you drop him off back at the Sunset on
14 Saturday? A About four.

15 Q And can you recall for us what he was wearing on Saturday?

16 A He had a pair of slacks on and a sport shirt.

17 Q Now, were these slacks that he was wearing, were these
18 part of his suit pants that you had seen him in before or
19 were they different? A No, they were different.

20 Q Okay. And you dropped him off at about 4:00 o'clock
21 and you went somewhere? A I left town.

22 Q Where did you go? A Turlock, California.

23 Q Okay. And was there an Assyrian party down there?

24 A Yes, there was.

25 Q Okay. Was Mr. Yule Lazar invited? A He was going
26 to go.

17

1 Q Did Mr. Lazar attend that party? A No.

2 Q Was that party cancelled? A It was cancelled.

3 Q And you drove all of the way down to Turlock?

4 A I didn't know.

5 Q To find out it was cancelled? A (Nods affirmative.)

6 Q And did -- when did you return back to San Francisco?

7 Yeah, San Francisco? A Sunday evening late.

8 Q Okay. Spend the night in Turlock? A Yes.

9 Q Okay. And when was the next time you saw Mr. Ismail?

10 A Monday, Monday morning.

11 Q I take it you didn't see Mr. Ismail Sunday evening?

12 A No.

13 Q And where did you see him Monday morning?

14 A Very briefly he stopped in our office. I was so

15 surprised, I mean, I didn't really expect to see him there in

16 the office, and he walked in and said hello. He was talking

17 with Yule and went and had coffee, and I had to stay at my

18 desk, and that was it.

19 Q All right. Did you see him at any other time on

20 November the 3rd, Monday? A I really don't remember.

21 Q Okay. What about Monday night, did you see Mr. Ismail

22 Monday night? A I can't remember.

23 Q Okay. What about Tuesday? A Well, I saw him in

24 the morning again, he stopped by and said hello at the office.

25 Q Okay. A And I asked what he is going to do, he

26 said go sightseeing. I said good.

- 18
- 1 Q Now, did you see him after -- did you see him Tuesday
2 afternoon? A Yes, I think he returned to the hotel
3 in the afternoon.
- 4 Q Did you have a cup of coffee with him?
5 A No, I didn't.
- 6 Q Did you see him Tuesday night? A Yes.
7 Q All right. Where was that? A He came to my home.
8 Q How did he get there? A By taxi.
9 Q Okay. And what happened at your home?
10 A We visited. You know, sat around, then we were talking
11 about businesses and opportunities, and I drove him around to
12 show him some Mama-Papa shops.
- 13 Q Okay. When you saw him on Monday do you remember what
14 he was wearing in the hotel? A That suit.
- 15 Q That suit? A Mm-hmm.
- 16 Q Okay. And what about on Tuesday?
17 A He had the suit on again.
- 18 Q The same suit? A Mm-hmm.
- 19 Q Okay. Now, Tuesday night you drove him around looking
20 at various businesses and things? A Yes, gas stations
21 and liquor stores.
- 22 Q Where did you go? A Down Geary, we have several
23 Assyrians who have stations, and I just drove him, you know,
24 in the area to see what they had and where they are at.
- 25 Q Okay. And did you do anything else Tuesday night?
26 A No, I took him back.

1 Q Now, what about November the 5th? Took him back to
2 the PSA? A To the hotel, mm-hmm.

3 Q What about November 5th, a Wednesday, did you see Mr.
4 Ismail? A In the morning.

5 Q Okay. And once again, how did you see him? Where?
6 A In the office.

7 Q Okay. And did you have a cup of coffee with him or
8 anything? A No, I didn't.

9 Q And did you see him later on that day, Wednesday?
10 A In the afternoon he came back.

11 Q Okay. This is once again in the hotel?
12 A In the office.

13 Q All right. What about Wednesday evening?
14 A I don't think I saw him but I talked to him on the phone.

15 Q Okay. A I think he was going to visit other people.
16 Q Okay. Do you recall what he was wearing on Wednesday

17 when you saw him? A The sporting attire.

18 Q Okay. And that consisted of what?
19 A Slacks and shirt.

20 Q What about a coat? A No.

21 Q What about a brown leather coat, three-quarter length,
22 hip length? A No.

23 Q Never saw him wearing one of those? A No.

24 Q Okay. What about sort of a European-style shirt, buttons
25 up, close-fitting, did you ever see him wearing one of those?
26 A No.

20
1 Q Now, directing your attention to November the 6th, which
2 is a Thursday, did you see Mr. Ismail that day?

3 A Yes.

4 Q All right. And once again, where and how?

5 A In the office. He came in every morning, greeted us.

6 Q Okay. And did you see him that afternoon?

7 A He mentioned that he would be leaving.

8 Q Okay. A And then at 1:00 o'clock -- pardon me --
9 1:00 o'clock in the afternoon.

10 Q You need a glass of water? A If you don't mind.
11 Thank you.

12 MR. ROBINSON: I don't know how cold it is but --
13 counsel, can I fix you a cup?

14 MR. PESTARINO: Why are you so nice to me?

15 MR. ROBINSON: The County's water.

16 THE WITNESS: Thank you.

17 Q (By Mr. Robinson) Sure. So you saw him Thursday
18 afternoon? A Yes, Yule said as long as he is leaving
19 why don't you go down, have coffee or lunch with him.

20 Q Did you do that? A I did.

21 Q And did you have coffee or lunch or both?

22 A We had coffee.

23 Q Okay. And he indicated to you he was going to be
24 leaving? A Yeah, he was going back.

25 Q Going back where? A Well, going back to Canada.

26 Q Okay. And did he indicate that he had already bought

21
1 his plane fare back or anything like that? A No.

2 Q Okay. And did you just say your good-byes, then he

3 left? A Well, you know, I gave him my regards and
4 salutations to everybody that he knows that I knew.

5 Q Okay. A Right.

6 Q And then he just left? A Well, I walked out to the
7 lobby with him and then I went up to my office and he left.

8 Q Okay. A He was going to the downtown terminal,
9 airline terminal.

10 Q That is what he told you? A To catch the express.

11 Q Okay. Now, what was he wearing that day?

12 A His suit.

13 Q Okay. And when he checked out of the hotel did you see
14 him leave? A No.

15 Q Okay. So you don't know what items of luggage he took?

16 A No, I don't.

17 Q Okay. Now, Mr. Ismail wouldn't have any reason to leave
18 any of his luggage at the hotel, would he?

19 A I don't know.

20 Q Well, did he tell you he was leaving any there?

21 A No.

22 Q Did he leave any at your house? A No.

23 Q Okay. You don't have any of his luggage at your house?

24 A No.

25 Q Now, when you saw Mr. Ismail, I think we have already
26 covered October 30th when he was staying at the Sunset, okay?

1 A Mm-hmm.

2 Q And at that time you indicated that he had no weapon
3 upon him? A No weapon.

4 Q You didn't see a gun? A That is correct.

5 Q Saturday, November the 1st, when you were with Mr. Ismail
6 did you see him with a gun? A No.

7 Q Did he tell you he had a gun? A No, he did not.

8 Q Sunday you didn't see him? A No.

9 Q Monday, November the 3rd, when you saw Mr. Ismail did
10 you see a gun? A No.

11 Q Did he tell you he had a gun? A No.

12 Q Tuesday, November the 4th, when you saw Mr. Ismail did
13 he have a gun? A No.

14 Q Did he tell you he had a gun? A No.

15 Q Wednesday, November the 5th, when you saw Mr. Ismail,
16 did he have a gun? A No.

17 Q Did he tell you he had a gun? A No.

18 Q Thursday when you saw Mr. Ismail did he have a gun?
19 A No.

20 Q Did he tell you he had a gun? A No.

21 Q Okay. Now, when Mr. Ismail and you were together both
22 at your house having some drinks and things like that did you
23 talk about politics? A No.

24 Q Didn't talk about politics? A No.

25 Q Okay. Did you talk about the Assyrian Universal Alliance?
26 A The Assyrian Universal Alliance? Well, in general

23
1 conversation.

2 Q Okay. And are you a member of that group?

3 A No, but I am planning to be a member.

4 Q Okay. Do you support it? A I do.

5 Q Okay. Is Mr. Ismail a member? A No.

6 Q Does he support it? A He has nothing to do with
7 politics. That is what he told me.

8 Q He told you that? A Yes.

9 Q When did he tell you that? A At various occasions.

10 Q Then you did talk about politics? A No, we talked
11 about the A.U.A.

12 Q I asked you a question, did Mr. Ismail and yourself talk
13 about politics and you said no. Remember that a few seconds
14 ago? A You were just asking me in regard to the
15 conversation that we had at that time.

16 Q Well -- A At various --

17 Q Mrs. Benjamin, when he was here the last two days in
18 October and the early days of November, I asked you, did you
19 talk about politics? A No.

20 Q Okay. When did he tell you he wasn't interested in
21 politics then? A Various times on the phone.

22 Q On the phone? This was prior? A Prior to his
23 arrival.

24 Q Okay. A Many times.

25 Q Many times he would just phone you up and tell you he
26 wasn't interested in politics? A I would ask him

24
1 something, he would say, "I have nothing to do with politics."

2 Q Did you talk about the Patriarch? A No.

3 Q Never talked about him? A No.

4 Q Did Mr. Ismail tell you he was going down to see the
5 Patriarch? A No. And it is Miss Benjamin.

6 Q I believe that is what I said. If I didn't, I apologize.

7 I'd like to show you this Christmas card.

8 MR. ROBINSON: Might we have this Christmas card
9 marked?

10 MR. PESTARINO: Let me see it first.

11 THE COURT: Yes. It will be marked People's 29
12 for identification.

13 (Whereupon, the above-mentioned item, being a
14 Christmas card, was marked as People's Exhibit No. 29 for
15 identification.)

16 MR. PESTARINO: Thank you.

17 Q (By Mr. Robinson) I'd like to show you this and ask you
18 if you recognize the writing on there? A Mm-hmm, it is
19 mine.

20 Q And who is it addressed to, please?

21 A To David.

22 Q David who? A David Ismail.

23 Q And the address is? A 94 Celia Avenue, London,
24 Ontario, Canada.

25 Q Did you get a chance to look at the card, inside?

26 A No.

25
1 Q Did you send that card to Mr. Ismail?

2 A I did.

3 Q May I see it, please? Now, on the card did you make
4 all of the writing on the card? A I did.

5 Q And is the date on the card December 14, 1973?

6 A May I see it again?

7 (Handed to the witness.)

8 THE WITNESS: Yes.

9 Q (By Mr. Robinson) Okay. And did you write on there,
10 it is printed, "A Merry Christmas and a Happy New Year, Love,
11 Kitty Benjamin, God Bless you, keep the good work up for the
12 A.U.A." Did you write that? A Yes, I did.

13 Q What does A.U.A. mean? A Assyrian Universal
14 Alliance.

15 Q What work had Mr. Ismail been doing for the A.U.A.?

16 I thought he wasn't involved in politics? A He is not.

17 Q And the A.U.A. is not a political group?

18 A It is a political group but, no, it is a peaceful
19 political group.

20 Q And you make a distinction between a peaceful political
21 group and what other type of political group?

22 A All I know, I am not involved in politics, but the A.U.A.
23 is a peaceful organization.

24 Q Okay. We have heard that now. Now, what sort of work
25 was Mr. Ismail doing for the A.U.A., this good work you wanted
26 him to keep up? A At that time they were in a

26
1 project to collect clothing and articles to send to our
2 people who were in need in the northern part of Iraq. And
3 everybody was working, to my knowledge, to support this cause.

4 Q Okay. And I take it that you were involved at that
5 time? A I was involved?

6 Q Yes. A I was not involved directly. Indirectly,
7 I was trying to get everybody to donate clothing or articles,
8 or whatever they could afford to give.

9 Q Now, you told us that you are not a member of the A.U.A.
10 but you wanted to join? A Right.

11 Q And why is it you put off so long to join?

12 A Because I am involved in other organizations and they
13 take up an awful lot of my time.

14 Q I see. Now, are you familiar with Mr. Ismail's brother,
15 Zaia? A Yes, I know him.

16 Q And is he a member of the A.U.A.? A Yes.

17 Q Is he involved in politics? A I believe he is.

18 Q And isn't it the aim of the Assyrian Universal Alliance
19 to get a homeland for the Assyrian people? A Yes, that
20 is one of them.

21 Q Isn't that their primary aim? A That is the
22 primary aim.

23 Q And this homeland is supposed to be given to the Assyrian
24 people by the government of Iraq? A My understanding
25 is that they are trying to establish an autonomous state
26 within the boundaries of the country of Iraq.

1 Q And you are a member of the Church of the East?

2 A No, I am not.

3 Q Are you familiar with the Patriarch? A I knew who
4 he was.

5 Q What is your nationality? A I am an Assyrian
6 American.

7 Q Okay. And is it fair to say that the Patriarch was the
8 religious leader of the Assyrian people? A My under-
9 standing is that he was the religious and political leader
10 of the people, Assyrian people.

11 Q That is your understanding? A Yes.

12 Q Okay. And did the Patriarch support the Assyrian
13 Universal Alliance in terms of their wanting to go to Iraq
14 and get land for the Assyrian people? A I do not know
15 that.

16 Q Now, was Mr. Ismail just on a sightseeing trip in San
17 Francisco? A It was both business, investigative,
18 wanting to see what the business opportunities were, and sight-
19 seeing, too, because he had never been here.

20 Q Well, other than that one night when you drove him around
21 at night and showed him some gas stations, what businesses did
22 he look into? A Well, he was asking about liquor
23 store, grocery store or gas station.

24 Q Who was he asking? A Me.

25 Q You? A And Yule.

26 Q You own a store? A No.

- 28
- 1 Q Do you own a grocery store? A No.
- 2 Q Do you own a gas station? A No.
- 3 Q Did you take him to any liquor stores?
- 4 A Well, I took him by a liquor store that is owned by an
5 Assyrian, but we didn't go in.
- 6 Q Why didn't you go in? A There was no need to go
7 in.
- 8 Q Well, I thought he wanted to find out?
- 9 A I wanted to show him the area. Well, he wanted to find
10 out the business. I am not in the business. He could
11 talk to the boys.
- 12 Q To your knowledge did he talk to the boys?
- 13 A I don't know.
- 14 Q Did you ask him when you were with him for the six to
15 eight days, did you say, "Hey, how's it going? You got any
16 business contacts yet?" Anything like that?
- 17 A I think he wasn't actually -- he was on more of a fact-
18 finding trip as far as business. You know, what it takes to
19 establish yourself in a business. I don't know anything
20 about that. I only work.
- 21 Q All right. Did you ever call the Patriarch's house?
- 22 A Me?
- 23 Q Mm-hmm. A No.
- 24 Q Now, did you ever discuss the Assyrian Universal Alliance
25 with Yule Lazar? A Yes.
- 26 Q Okay. And did you ever discuss politics with Mr. Lazar?

29
1 A Not really because I am not that interested in politics.

2 Q Okay. Now, you told us that on October the 31st, 1975,
3 that would be the Friday that you brought Mr. Ismail to your
4 home and you had a dinner with him? A He came to my
5 home.

6 Q And you told us that you had dinner at your house?

7 A Yeah.

8 Q Okay. And he stayed until about 9:00 o'clock, then you
9 went to the Hyatt Regency? A Mm-hmm.

10 Q Did he ever have dinner with Mr. Yule Lazar on Friday,
11 October the 31st, 1975? A Friday, he had dinner with
12 them.

13 Q He had two dinners? A No, he had dinner, I think,
14 with Yule on Friday. He was, either he was busy with some-
15 one for dinner, or he was at my house for dinner. We didn't
16 have any place else to go, and it was most of the time. He
17 did have dinner with Yule.

18 Q Mm-hmm. A I'm sorry, if it was a Friday it was
19 a Friday.

20 Q So you are not sure he had dinner at your house October
21 31st? A I thought it was Friday but I may have made
22 a mistake. I'm sorry.

23 Q Now, when Mr. Ismail left you on Thursday did he ask to
24 borrow any money? A No.

25 Q Now, since Mr. Ismail has been in custody in the jail
26 have you visited him on numerous occasions? A Every

30
1 Sunday.

2 Q Every Sunday? A Mm-hmm.

3 Q Has Mr. Lazar visited? Yule Lazar? A No.

4 Q Never came down with you? A No.

5 Q Okay. Have you contributed any money to his defense
6 fund? A No. I am contributing my share in another
7 way.

8 Q Has Mr. Lazar? A Yule Lazar?

9 Q Mm-hmm. A I don't really know who has
10 contributed money.

11 MR. ROBINSON: Thank you. I have nothing further.

12 CROSS-EXAMINATION

13 BY MR. PESTARINO:

14 Q There hasn't been much money, has there? A No, I
15 really don't know how much there is.

16 MR. ROBINSON: I am going to object to that. What
17 is not much to me, getting paid by the County --

18 MR. PESTARINO: I'll give you an accounting.

19 THE COURT: There is no evidence she knows how much
20 has been contributed.

21 MR. PESTARINO: Well, I think she does. Let me
22 correct a few things. Just a few questions.

23 Q (By Mr. Pestarino) What is the name of the place of
24 your employment? A The PSA San Franciscan Hotel.

25 Q You indicated that you are planning to join the A.U.A.
26 Why are you planning to join the A.U.A.?

31
1 A Because I like what they stand for.

2 Q What do they stand for? A They are a peaceful
3 political group, but they also are concerned with the Assyrian
4 culture and heritage, of which I am very proud and I want to
5 work for this cause.

6 Q Now, in the A.U.A. do you have or do you know if you have
7 people from the Church of the East, Catholic people, and
8 Presbyterians, and other denominations? A Yes.

9 Assyrians from any religion, denomination, or organizations
10 belong to the A.U.A. They belong to more than one organiza-
11 tion, but most of the Assyrians belong to the A.U.A. It is
12 an organization that is uniting our people throughout the
13 world. And every year they hold an annual congress in a
14 country, wherever they vote to have it. This year it is in
15 Sweden.

16 Q So it is a national -- A International.

17 Q -- or international organization? A International
18 organization.

19 Q And besides holding the congress and preserving the
20 culture of the Assyrian people and their heritage --

21 A Yes.

22 Q -- do they do any other things for the Assyrian people?

23 A They are at present working simultaneously with the
24 Assyrian, Assyrian-American National Federation to help the
25 Assyrian people in Lebanon during the civil strife which is
26 going on there. We have many thousands of Assyrians who are

32
1 refugees in Lebanon.

2 Q Is that much like the Israelis people, the Jews here
3 in this country? A I would imagine. We are trying
4 to through the World Council of Churches to help these people
5 through their legal --

6 Q Representative? A No, through their legal channels
7 where they can be immigrated to other countries and re-
8 establish them.

9 Q In other words, you get the feeling that in certain areas
10 in the Middle East the Assyrian people, because they are
11 Christians, are being persecuted? A That is very right.

12 Q And what you are indicating now is that this organiza-
13 tion is helping these people move to other countries?

14 A Yes, they are.

15 Q Are they shipping arms or money to them?

16 A No. No, they are working through the World Council
17 of Churches to relocate and get them out of these camps that
18 they are stuck in right now. They are helping them with
19 money, some monies, but the World Council of Churches is
20 mainly the organ that is helping to relocate these people.

21 Q Let me ask you, did you have a radio program?

22 A Yes, I did. I had the Assyrian-American Radio Hour
23 about ten years ago in San Francisco.

24 Q And throughout the years following your program have you
25 been in close touch with the Assyrian people?

26 A I am very active in the Assyrian organizations between

33
1 San Francisco and Los Angeles. And I support all of them.
2 And I am a member of two of them right now.

3 Q What are those organizations? A The American-
4 Assyrian Association of San Francisco, and the Assyrian
5 Athletic Club, which is a soccer organization.

6 Q Now, had you heard some time ago that the Patriarch of
7 the Church of the East had married? A Yes.

8 Q What was the reaction of the Assyrian people when they
9 heard about his marriage? A The reaction of the
10 Assyrian people was not good. Everyone everywhere were
11 screaming and yelling and cursing him and lost total respect
12 for him. They were shocked, ashamed that after all of these
13 years a holy man would break the rule of the church and take
14 for himself a wife.

15 Q As far as you were aware this is the first time since
16 about the 5th century that a Patriarch had married?

17 A Yes, as far as I know.

18 Q And do you know whether or not he was defrocked?

19 A I understand that he was defrocked. He defrocked
20 himself in Seattle prior to his marriage. I might add, Mr.
21 Pestarino, that everywhere in all of the churches between San
22 Francisco, Turlock, all over the world, it hit the people like,
23 I don't know what the word is to describe it, it was as if
24 their main lifeline had been cut.

25 Q Is that why you say that the Patriarch was the political
26 and the religious leader of the Assyrian people?

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1 A I believe that in the foreign countries where we have
2 Assyrian people they had such high respect and esteem for
3 this man that it is just an unbelievable thing. Even today
4 I am told in Syria the people do not believe he is married.
5 They won't accept it.

6 Q Okay. Let me change the subject for a minute. You
7 have known David Ismail since 1967 or '68? A Yeah.

8 Q And since '67 to the present time how many times have
9 you seen David Ismail? Approximately?

10 A Physically seen him?

11 Q Yeah. A Oh, I am trying to think of all of the
12 conventions. Maybe four times.

13 Q Maybe four times? A Mm-hmm.

14 Q Have you spent much time with him on the other three
15 occasions? A No, other than in the conventions
16 themselves. You mean?

17 Q Physically in his presence? A At the conventions?

18 Q Yeah. A Well, no, except that everybody was
19 in the parties or in the meetings. We hold meetings during
20 the day, and evenings they always have a big function, a dance,
21 dinner dance, and Labor Day they hold a picnic.

22 Q Now, these conventions are what? What are these
23 conventions? A These conventions are held annually by
24 the --

25 Q First of all, what are they? The conventions of A.U.A.?

26 A No.

35

1 Q Or religious people or what? A The Assyrian-
2 American National Federation. It is an organization that is,
3 that is mainly chiefly, mainly concerned with the Assyrians
4 in the United States. We have scattered throughout the
5 United States many affiliates. I believe there are 26,
6 could be 28 affiliates. And every year we gather together
7 and hold a convention. This has been going on for the past
8 30 years maybe.

9 Q Okay. Now, did you know David Ismail's family, his wife,
10 his brothers? A His brothers. I talked to the family
11 on the phone.

12 Q Did you know his father? A I have seen his father.
13 I didn't know him personally but I have heard much about him
14 from everywhere.

15 Q Did David Ismail ever talk to you about his relationship
16 with his father? A Yes.

17 Q And on this recent visit did he talk about his father?

18 A He --

19 Q Be careful. My question is, did David Ismail ever talk
20 to you on this recent visit about his father?

21 A Yes. I mentioned to him that in Turlock, when his father
22 passed away, we were reliving old things, and I told him what
23 a wonderful memorial service they gave for his father in
24 Turlock.

25 Q Were you present there? A Yes, I was. It was a
26 three-and-a-half-hour service. And there were an awful lot

36
1 of people there paying their respects to the man.

2 Q All right. And so did you talk to David about his
3 relationship with his father? A Yes, he mentioned that
4 he missed his father very much.

5 Q Did he say when his father -- well, strike that.

6 Did he say anything more about his father?

7 A That his father was a great man and how much he loved
8 him and missed him, and he tried to be very much like his
9 father. He was close to his father. His father meant a
10 great deal to him.

11 Q Okay. You paid the fare at the Sunset Motel for David?

12 A Yes, I did.

13 Q Why did you do that? A Because my people, the
14 Assyrians, pride themselves on hospitality. And there was no
15 way this man was coming all of the way out here to visit with
16 us that we would let him, you know, being that I had booked
17 him in there, that I would ever let him pay his bill.

18 Q Did you pay his bill at the PSA? A No.

19 Q Why not? A Because I just didn't. I didn't
20 book him in there. I mean, I really didn't have anything to
21 do with that.

22 Q So you felt because you had registered him --

23 A I felt obligated.

24 Q -- under the name of David Benjamin --

25 A I felt obligated, we should pay this bill because of his,
26 you know, background, his father and our hospitality. That

37
1 is the least I could do for him as friends.

2 Q At the time he was down here did you -- strike that. He
3 was always dressed neatly, wasn't he?

4 A Very.

5 Q Did you press his clothes or do his washing?

6 A No, nothing of the kind.

7 Q And you have been visiting with him regularly ever since
8 he has been in jail in November? A That's right. Every
9 week-end.

10 Q Is there anything between you people other than the fact
11 that you are Assyrians? A No. Assyrian people somehow
12 unite together through a blood bond. All you have to say
13 anywhere in the world if you run into someone, you are an
14 Assyrian, and immediately there is a brotherly fellowship that
15 comes between you.

16 Q This People's Exhibit for identification, the Christmas
17 card, 29, People's Exhibit No. 29, where you wrote, where you
18 signed that, "God bless you," and so forth, "Love, Kitty,"
19 did love have any particular significance? A No. No.

20 Q Huh? A No. I sign most of my Christmas cards
21 love. I love my people and I just sign it automatically
22 unless, you know, it is a casual acquaintance.

23 Q And there was a footnote to that card, "Keep up the good
24 work for the A.U.A." A Mm-hmm.

25 Q And I think you have explained that, what work.

26 A That was when they were having a special drive to get

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1 clothing and goods for people who were having a very difficult
2 time in Iraq, Assyrian people.

3 Q And what year was that? A I think it was '73.

4 But all over the United States, in Chicago, Turlock, Los
5 Angeles, everywhere they had a drive going. And it was
6 basically the baby of the A.U.A. and everybody was working to
7 help.

8 Q So that is what you meant when you said, "Keep up the
9 good work" -- A That's right.

10 Q -- "with the A.U.A."? A That's right.

11 Q How long have you known Mr. Lazar?

12 A Yule Lazar? I have known him since '75. I mean,
13 close. I saw him in various parties that we have had but I
14 didn't really know him like I know him now.

15 Q When did you start to work for him?

16 A In September of '75.

17 Q And he is a bookkeeper basically or an accountant?

18 A He is the controller.

19 Q What does that mean? A The man in charge of
20 finance of our hotel.

21 Q Does he keep records of everything? A Everything.

22 Q Is he a meticulous record-keeper? A He sure is.

23 Q He has kind of a bookkeeper's mind, has he?

24 A Very, very sharp with figures. Excellent bookkeeper.

25 Q Really, the only relationship you have with Yule Lazar
26 is that you work for him, isn't that right? A I work

39
1 for him, right. I do see him in the Assyrian, you know,
2 community functions. I have been on the radio program with
3 him a few times.

4 Q Do you go out with him socially? A Oh, no, not
5 socially except in the Assyrian, only for the Assyrian parties,
6 but everybody knows everybody. I mean, it is very ethnic.
7 It is a very close ethnic group.

8 MR. PESTARINO: I think that is all. Thank you.

9 MR. ROBINSON: I just have a couple quick questions.

10 REDIRECT EXAMINATION

11 BY MR. ROBINSON:

12 Q You told us that the Assyrian community was shocked when
13 the Patriarch was married, that they didn't feel it was good,
14 they were screaming, cursing, and they lost all respect for
15 him, right? A Yes.

16 Q Okay. So I take it you must have discussed this with
17 Mr. Ismail when he came down here? A No, we didn't
18 discuss it.

19 Q Didn't discuss it at all? A No, not when he came
20 down here.

21 Q But it was being discussed in the Assyrian community?

22 A Not when he was here. This happened, this discussed,
23 the shame came upon my people when he married three years ago,
24 or whenever he married, three years ago.

25 Q So is it safe to say within the last, say, year before
26 the Patriarch was killed that it wasn't an issue in the

1 Assyrian community any more, that they had accepted it?

2 A They had never accepted it. It had just kind of quieted
3 down. The only people that were concerned with this problem
4 were the members of the church.

5 Q He was still the Patriarch, wasn't he?

6 A No.

7 Q When he was killed? A No, not to my knowledge.

8 Q He wasn't Patriarch when he was killed? A No.

9 Q Who was the leader of the church when the Patriarch was
10 killed? A There isn't a leader any more. My under-
11 standing was that the relationship was severed. He defrocked
12 himself and said he was a common man. And the bishops were
13 running the church.

14 Q That is your understanding? A That is my under-
15 standing.

16 Q Now, Sargis Michael, do you know the individual?

17 A Sargis Michael?

18 Q Mm-hmm. A No.

19 Q Never heard that name? A No.

20 Q Yet you attend the Assyrian Universal Alliance functions
21 from here to San Francisco, from here, from San Francisco to
22 Los Angeles? A That's right.

23 Q You are a very close knit community? A Right.

24 Q And you never heard of Sargis Michael? A No.

25 Q What about Mr. Kanna in Sidney, Australia, are you
26 familiar with him? A No.

1 Q Never heard his name? A I heard his name
2 mentioned.

3 Q Okay. Now, was Mr. Kanna a supporter or somebody who
4 disliked greatly the Patriarch? A I really don't know.

5 Q Well, in your experience with this close knit community
6 and being a broadcaster, and discussing this close knit
7 community, surely you must have heard, Miss Benjamin?

8 A Heard what?

9 Q About whether or not Mr. Kanna was an avid supporter or
10 somebody who greatly disliked the Patriarch?

11 A No, I never heard that mentioned.

12 Q Okay. Now, you told us that Mr. Ismail discussed his
13 father, he is very close to his father, right?

14 A He was.

15 Q And that he said he missed his father very much?

16 A Yes.

17 Q How come he didn't attend his father's funeral down in
18 Turlock? A It is a little expensive to come from

19 Canada to go all over for these memorial services.

20 Q Well, he used to go from Canada all over for these
21 Assyrian meetings? A Once a year.

22 Q How many times did his father die?

23 MR. PESTARINO: Excuse me, I think, if I may
24 interrupt, Your Honor, I think we are talking about a funeral
25 as against a memorial service. And I don't know if the
26 witness understands that.

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1 THE COURT: Well, it tends to get argumentative.

2 MR. PESTARINO: I am not even worried about the
3 argumentative. But I don't think that the witness understands.
4 I think counsel has the impression that the funeral was down
5 in Turlock.

6 MR. ROBINSON: That is the impression I had.

7 THE WITNESS: No. I said memorial service.

8 MR. ROBINSON: I understood that to be a funeral.

9 THE WITNESS: A memorial service in the memory of
10 Malek Yagoub.

11 Q (By Mr. Robinson) How many people from the Assyrian
12 community attended? A All of the people in Turlock
13 was there. The hall was just filled to capacity.

14 Q Anybody from outside of Turlock attend?

15 A The people from San Francisco and Los Angeles.

16 Q And that is all? A That is all.

17 Q Nobody from back East came? A No.

18 Q The Reverend DeBaz and those people didn't come out
19 here? A No.

20 Q Now, are you familiar with Mr. Ismail's wife?

21 A I know her.

22 Q Okay. And I take it you have this same common bond
23 because -- strike that.

24 Is she an Assyrian?

25 A Yes, she is.

26 Q And you have this same common bond with her that you do

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1 with Mr. Ismail because they are both Assyrians, right?

2 A. Yes.

3 Q How come on the Christmas card you just addressed it to
4 David Ismail, not David Ismail and family or Mr. and Mrs.
5 Ismail? Any reason for that? A No reason. Really

6 it is understood that the man is the head of the household.

7 Q Now, did Mr. Ismail's wife accompany him when he would
8 go to these various meetings? A No.

9 Q Did you know that Mr. Ismail was unemployed?

10 A I don't understand your question. What period?

11 Q When he came down here to San Francisco and was touring
12 around looking for various business opportunities, sightseeing,
13 did you know that he didn't have a job?

14 (Off-the-record discussion between the witness and
15 the Court.)

16 THE COURT: Tell the attorney that.

17 THE WITNESS: When he came to San Francisco he was
18 not employed, that is correct.

19 Q (By Mr. Robinson) And did he tell you for how long he
20 had been out of a job? A No, not directly.

21 Q Okay. A I don't recall.

22 Q Did you discuss money with him? A No.

23 MR. ROBINSON: I have nothing further.

24 MR. PESTARINO: All right. May this witness be
25 excused?

26 MR. ROBINSON: No, this witness can go back to her

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1 job but perhaps she might be needed to testify later on in
2 the trial. So I would like her subject to subpoena.

3 THE COURT: You are excused for now but you may be
4 recalled.

5 (Witness excused.)

6 THE COURT: All right. Ladies and gentlemen, let's
7 take our afternoon recess, and you will keep in mind my
8 previous admonition. The defendant will be ordered to return
9 also. Thank you.

10 (Short recess taken.)

11 THE COURT: Be seated, please. Let the record show
12 that the jury is present, defendant and counsel are present.

13 MR. ROBINSON: Thank you, Your Honor. The People
14 will call Larry Crowley.

15 LARRY JOE CROWLEY,

16 called as a witness on behalf of the People, being first duly
17 sworn, was examined and testified as follows:

18 THE CLERK: Take the witness stand, please.

19 DIRECT EXAMINATION

20 BY MR. ROBINSON:

21 Q Could you state your full name, spelling your last name
22 for the record? A Larry Joe Crowley, C-r-o-w-l-e-y.

23 Q Your occupation? A I am a security agent for
24 Macy's in Sunnyvale, Concord, California.

25 Q And Mr. Crowley, are you familiar with Mrs. Edith Hart?

26 A Yes, that is my mother-in-law.

45
1 Q You married to her daughter? A Yes.

2 Q And are you familiar with the fact that she manages the
3 Sunset Motel in San Francisco? A Yes, sir.

4 Q Okay. Can you tell us where that motel is located?

5 A It is on 19th and Taravel.

6 Q Mr. Crowley, do you and your wife sometimes help out your
7 mother-in-law and father-in-law in managing that motel?

8 A Yes.

9 Q Now, directing your attention to October 30th, 1975,
10 that would be a Thursday, were you helping out and managing
11 the motel at that time? A Yes, sir.

12 Q Okay. Had your in-laws gone some place?

13 A Yes, they had gone to San Diego for my brother-in-law's
14 graduation from naval boot camp.

15 Q So, you and your wife were in the motel?

16 A Yes, sir.

17 Q I am going to show you People's Exhibit No. 19, Mr.
18 Crowley, and ask you if you can look at that and tell me if
19 you recognize it? A Yes, this is the registration card
20 from the Sunset Motel.

21 Q Okay. And the name David Benjamin, does that ring a
22 bell to you? A Yes, sir.

23 Q Okay. Can you tell us how you received this registra-
24 tion card? A That registration card was filled out by
25 a lady that I know by Mrs. Benjamin through meeting her when
26 she came to the motel. She filled it out to speed things up

1 so when the person that was coming to the room wouldn't have
2 to stop and sign in.

3 Q And this lady called herself Mrs. Benjamin?

4 A I believe so.

5 Q Now, when did this lady fill out this card, Mr. Crowley?

6 A In the afternoon on Thursday.

7 Q All right. And in filling out this card did she pay

8 for the room? A Yes, sir, she paid one day in advance.

9 Q Okay. And is that cash money? A Yes.

10 Q And why did she have to pay one day in advance, cash

11 money? A This is general procedure, when you rent a
12 room to someone that they give you the advance money to make
13 sure that they are going to occupy the room for that day.

14 Q Now, Thursday, Thursday evening, October the 30th, 1975,
15 were you on duty with your wife? A Yes, sir.

16 Q Okay. And did an individual named, who you know as David
17 Benjamin check into that motel? A Yes, sir.

18 Q Did you see him when he checked in? A Yes, I did.

19 Q Did you see if he had anything with him?

20 A No, I didn't notice at the time.

21 Q Okay. Now, could you tell me what he was wearing?

22 A He was dressed casually, no tie, open shirt, leather
23 jacket, waist length leather jacket, slacks.

24 Q When this individual checked in was he with anybody?

25 A Yes, he was with Mrs. Benjamin.

26 Q And did you direct him to his room or something?

17
1 A No, she already knew where it was. I gave her the key
2 and he went to his room.

3 Q You hadn't given her the key prior? A No, I offered
4 to give it to her earlier because she wasn't too sure as to
5 what time he was going to get in, if it was going to be
6 extremely late, I was willing to give her the key but as it
7 turned out they came to the office for it.

8 Q Do you know about what time? A It was between
9 8:00 and 9:00, or so.

10 Q In the evening? A Yes.

11 Q And this individual that was, that you know as Mr.
12 Benjamin that was wearing the waist-length leather jacket,
13 the slacks, and European-styled tapered shirt, do you see this
14 person in court today? A Yes, sir.

15 Q Would you point him out, please?

16 A The gentleman right here (indicating).

17 Q Now, directing your attention to October the 31st, which
18 would be a Friday, okay? Did you see Mr. Benjamin, the
19 person you know as Mr. Benjamin, did you see him at about
20 8:00 or 9:00 o'clock in the morning? A Yes, sir.

21 Q Okay. Where did you see him? A He was down
22 close to the office, and I was going to give him directions
23 on how to get to the zoo.

24 Q Did he ask you how to get there? A Yes, sir.

25 Q Did you give him the directions? A Yes, sir, I did.

26 Q And when Mr. Benjamin was going -- well, strike that.

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1 Did he leave the motel area?

2 A Yes, he did, sir.

3 Q And is this a small motel? A Yes, it is. There is
4 only 10 units.

5 Q So you can pretty much keep track of what is going on
6 in there? A Right, sir.

7 Q When he left the motel area did he receive a call from
8 anybody? A Yes, he did.

9 Q And do the individual motel rooms in your motel have
10 telephones? A No, sir. All calls for all rooms
11 come through the office.

12 Q Okay. And this call that he received, who called?

13 A Well, the first call was from Mrs. Benjamin asking if
14 he had returned from the zoo yet. And I told her he hadn't.

15 Q And subsequent to that time was there another call?

16 A Yes, sir. There was a call from Los Angeles, gentleman
17 asked for him and he asked for a person that I didn't
18 recognize the name, and I told him, I says, "The only person
19 that checked in the day before was a Mr. Benjamin." And he
20 said that that will be the gentleman in Room 1, and that is
21 who I want to talk to, and I said he is out at the moment.

22 Q This call from Los Angeles, was the name he asked for,
23 does this ring a bell, David Ismail? A Yeah, it sounds
24 something like it, but I am not too sure.

25 Q And you said the only person you had at the motel was a
26 David Benjamin? A Right.

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1 Q And this man said, "That is the person I want, in Room 1"?

2 A Yes, sir.

3 Q How did this person know that Mr. Benjamin was staying
4 in Room 1? A I don't know, sir.

5 Q Okay. Did you tell him he was staying in Room 1?

6 A No, sir.

7 Q Was he staying in Room 1? A Yes, sir.

8 Q What time did this call come in, Mr. Crowley?

9 A This was shortly before noon.

10 Q Okay. Now, did Mr. Ismail, the person you know as Mr.
11 Benjamin, did he return some time on Friday?

12 A Yes, he did.

13 Q Okay. And when he returned did you give him any
14 messages? A Yes, sir. I told him that Mrs. Benjamin
15 had called and also a gentleman from Los Angeles had called.

16 Q And did you take the number of this person from Los
17 Angeles? A No, sir, I didn't.

18 Q Okay. Did Mr. Ismail call anybody? A Yes, sir,
19 he did.

20 Q Where did he place the call from? A He made a
21 long distance phone call to Los Angeles, California.

22 Q Is that located on the reverse side of this card?

23 A Yes, sir, it is.

24 Q And is the telephone number indicated on there?

25 A Yes, sir.

26 Q And were you present when Mr. Ismail made this call?

10
1 A Yes, sir.

2 Q Okay. Where did he make the call from?

3 A From the office right there at the registration desk.

4 Q All right. And did you hear any conversation when he
5 was talking on the phone? A Yes, sir, but I don't
6 recall what they were talking about.

7 Q Did you stay in the room or did you leave the room?

8 A No, sir, we went back to work.

9 Q Now, did Mr. Ismail make any calls in the afternoon,
10 Friday afternoon? A Yes, sir.

11 Q And were they, also, made from the phone in the office?

12 A Yes, sir.

13 Q Were you there when he made these calls?

14 A Yes, sir.

15 Q And could you hear anything he was saying?

16 A He made a couple of local calls, and they were in a
17 foreign language and I didn't understand any of it.

18 Q Okay. Now, later on Friday, in that afternoon, did Mr.
19 Ismail ask you about going to any place in San Francisco?

20 A Yes, sir. He asked me about how to get to an address
21 on Judah Street. I don't remember the address though.

22 Q Did you inform him how to get there? A Yes, sir.

23 Q How did you do that? A I told him it was up 19th
24 Street and it was approximately six blocks from Taravel that
25 he would find Judah.

26 Q And did you show him a map? A Yes, sir.

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1 Q Now, directing your attention to Friday night, October
2 the 31st, 1975, Mr. Ismail was still staying at your motel?

3 A Yes, sir.

4 Q Okay. And where were you staying when your father-in-law
5 and mother-in-law were away? A Okay. We stayed in
6 the apartment which is just above the registration desk and
7 above Room 1.

8 Q And Friday night could you describe the type of bed that
9 you were in? A It was a very hard bed.

10 Q Okay. And did you have problems sleeping?

11 A Sure did.

12 Q Okay. And could you describe the room in which you were
13 in, does it have any sort of a window or anything?

14 A Yes, sir, it has a large plate glass window with a full
15 view of the parking area and units.

16 Q Okay. Now, were you up that Friday night because of
17 the hard bed? A Yes, sir.

18 Q And what were you doing? A I was watching Johnny
19 Carson show.

20 Q Now, some time during that night did you see a government
21 interagency car come into your motel?

22 A Yes, sir, I did.

23 Q Okay. And could you describe this car for us?

24 A It was light in color, either white or a light gray.

25 Q Okay. And did it have any identifying characteristics

26 on it? A Yes, sir. It had U.S. Government Interagency

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1 Pool Car written on the driver's side of the car on the door.

2 Q And did this car park in a certain area?

3 A Yes, sir, it parked. He pulled into the driveway and
4 straight down and parked right behind the car that was parked
5 directly below unit No. 10.

6 Q Now, why was it that you particularly noticed this car?

7 A Well, it was just kind of strange that a government car
8 would be pulling in between, say, midnight, around midnight.

9 Q That was my next question. What time did this car pull
10 in? A It was between midnight and 1:00 o'clock.

11 Q And it parked directly behind a car that was parked in
12 space 107? A Yes, sir.

13 Q Did this cause you to be apprehensive or anything?

14 A Yes, sir, it did because if the people in Room 10
15 decided to leave, which is not uncommon in the motel business --

16 Q With your TV set. A -- this car may have been
17 obstructing their way out.

18 Q Okay. And so did you watch this car?

19 A Yes, sir.

20 Q Okay. And can you tell us if anybody got out of this
21 car? A Yes, sir, two men.

22 Q Okay. And could you describe what they looked like,
23 what they were wearing, or anything?

24 A They were dressed in what looked to be like uniforms.
25 When I say uniform, like work clothes, khaki pants and shirts
26 to match.

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- 1 Q And what did these two men do?
- 2 A They went up to Room 1, sir.
- 3 Q And is that the room that Mr. David Benjamin was in?
- 4 A Yes, sir.
- 5 Q Did you see them go into Room 1? A Yes, sir.
- 6 Q How long were these men in Room 1? A About 10 or
7 15 minutes.
- 8 Q And did you see them leave Room 1? A Yes, sir.
- 9 Q What did they do? A They went out and got into
10 their car and drove away.
- 11 Q Now, when these men left Room 1 at about 12:00 o'clock
12 in the morning on Friday, October the 31st, or maybe it was
13 Saturday morning by that time, November the 1st, was it sort
14 of between 12:00 o'clock and 12:15, in that area?
- 15 A Right, yes, sir.
- 16 Q Did David Ismail, did the man that was registered in
17 Room 1 go with them? A No, sir. He walked out to the
18 car but he did not leave.
- 19 Q And then the car took off? A Yes, sir.
- 20 Q What did Mr. Benjamin do? A He went back to his
21 room, sir.
- 22 Q Now, at this time were you still watching the Johnny
23 Carson show? A Yes, sir.
- 24 Q After the Johnny Carson show came on did another program
25 come on? A Yes, sir.
- 26 Q What was that? A The Tomorrow Show, or something

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1 of that nature.

2 Q And during this period of time was your attention once
3 again directed out again into the parking lot area?

4 A Yes, sir. There was another car pulled in.

5 Q Where did this car park? A It parked underneath
6 unit 5 or unit 6, I can't really remember, but it was under
7 one of those two.

8 Q Did you see anybody get out of that car?

9 A Yes, sir, a gentleman in a suit and got out and went up
10 to unit 1.

11 Q Did this man go into unit 1? A Yes, sir, he did.

12 Q How long did he stay in unit 1? A About 10 or 15
13 minutes.

14 Q And what happened next? A Mr. Benjamin and this
15 gentleman went out and got into his car and left.

16 Q Okay. Now, this would be in the early morning hours
17 of November the 1st? A Yes, sir.

18 Q Saturday? A Yes, sir.

19 Q All right. And how long were they gone?

20 A Oh, about 45 minutes to an hour maybe.

21 Q What time did they return approximately?

22 A I would say between 2:30 and 3:00 or so.

23 Q And were you still awake at that time? A Yes, sir.

24 Q A really hard bed? A That's it.

25 Q And when this car pulled back in was it the same car
26 that had taken Mr. Benjamin out? A Yes, sir, it was.

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1 Q Okay. And when it pulled back in what did you see?

2 A Mr. Benjamin exited the automobile, went back to unit 1,
3 and the fellow left.

4 Q Okay. Now, did you have any contact with Mr. Benjamin
5 on November the 1st, a Saturday, 1975? A Yes, sir, I
6 did.

7 Q All right. Could you tell us about that contact?

8 A Mr. Benjamin came down to the office just prior to check-
9 out time which is 12:00 o'clock noon and asked if he could
10 keep some luggage at the office there because he wasn't too
11 sure whether he was going to stay on longer with us, and I
12 said, "Well, if you are we are going to have to move you to
13 a different room because that room has already been reserved
14 by someone else." So I took his luggage and put it under-
15 neath the stairwell there until he came back.

16 Q And what luggage did Mr. Benjamin have at that time?

17 A As I remember it was two suitcases and a shaving bag and
18 a clothing bag, small clothes bag that would hold maybe
19 couple shirts and suit or something.

20 Q So two suitcases? A Yes, sir.

21 Q And one, like a small attache bag? A Right,
22 shaving bag or something like that.

23 Q And a type of a thing where, what is it, a plastic thing?

24 A It is plastic.

25 Q Hold suits inside? A Clothes Guard, I think most
26 people call them.

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- 1 Q That you don't fold up? A Right.
- 2 Q And did you actually handle this? A Yes, I put it
3 behind the desk.
- 4 Q And you put his luggage behind the desk?
- 5 A Yes, sir.
- 6 Q And he left them there with you? A Yes, sir.
- 7 Q Now, did Mr. Ismail leave the motel between 11:00 and
8 12:00 on November 1st, 1975? A Yes, sir, he did.
- 9 Q And did he leave by himself or with somebody else?
- 10 A Mrs. Benjamin came and picked him up.
- 11 Q And did he return to the motel? A Yes, sir, later
12 on that evening.
- 13 Q Do you know who he returned with? A Mrs. Benjamin,
14 and I think somebody else. I don't remember who the other
15 person was though.
- 16 Q Was it a male or female? A I think it was a male.
- 17 Q Approximately what time did they come back to the motel
18 on November 1st, 1975? A Between 7:00 and 8:00.
- 19 Q Okay. And did they have a car? A I believe so.
- 20 Q All right. And did they pick up Mr. Ismail's equipment?
- 21 A Yes, sir.
- 22 Q His luggage? A He picked up everything that was
23 his and left.
- 24 Q And Mrs. Benjamin was with him? A Yes, sir.
- 25 Q And another man? A Yes, sir.
- 26 Q Was that the last you saw of Mr. Ismail?

1 A Yes, sir. He went out the door and I don't know what
2 kind of car they were in but I assume they were in an
3 automobile. They walked out the driveway.

4 Q Okay. Now, at any time when you saw Mr. Ismail was he
5 wearing a suit? A No, sir.

6 Q What was he wearing? A Very casually dressed
7 European-style clothing and the leather jacket, waist length
8 leather jacket.

9 Q Okay. Showing you People's 10-BB for identification,
10 Mr. Crowley, have you ever seen that suit on Mr. Ismail?

11 A No, sir.

12 Q Okay. Mr. Crowley, are you an Assyrian?

13 A No, sir.

14 Q Are you a member of the Assyrian Universal Alliance?

15 A No, sir.

16 Q Did you ever know Kitty Benjamin before she came in and
17 identified herself as Mrs. Benjamin and registered Mr.

18 Benjamin? A No, sir.

19 Q Did you ever know the defendant over here, Mr. David
20 Ismail? A No, sir.

21 Q Do you know Sam Lazar? A No, sir.

22 Q Okay. Do you know anything about the Patriarch, Mar
23 Shimun? A No, sir.

24 Q Okay.

25 MR. ROBINSON: Thank you. I have nothing
26 further.

CROSS-EXAMINATION

1
2 BY MR. PESTARINO:

3 Q Mr. Crowley, who contacted you?

4 A Who contacted me, sir?

5 Q Yeah. A I believe a representative from the
6 District Attorney's Office down here.

7 Q Did you make a recording of this conversation?

8 A No, sir.

9 Q When were you contacted? A I was contacted last
10 night.

11 Q For the first time? A Yes, sir.

12 Q Where were you contacted? A My wife was contacted
13 first and she called me at work, and when I came home I was
14 contacted about 11:00 o'clock or so.

15 Q Last night? A Yes, sir, on the phone.

16 Q And was there just a representative from the District
17 Attorney's Office there? A No, sir. This was over
18 the phone.

19 Q Oh. A No one in person.

20 Q I see. And you were living where? In Los Angeles?

21 A No, sir, in Martinez.

22 Q In Martinez? A Yes, sir.

23 Q And do you remember the name of the person that contacted
24 you? A Yes. Mr. Hess.

25 Q And how long did you spend talking to him on the phone?

26 A Maybe 15 or 20 minutes.

1 Q Had you talked to him since that time?

2 A Yes, sir. He picked me up in Martinez at about 11:00
3 o'clock today.

4 Q Today. And did you discuss with him the testimony from
5 Martinez down here? A He asked me if I still had in
6 my mind what I told him last night over the phone, which is
7 basically what I just told this gentleman here.

8 Q So those are the only two times that you talked about
9 this case? A Yes, sir.

10 Q All right. This happened on October the 31st, that Mr.
11 Benjamin -- A Yes, sir. That is what I know the
12 gentleman by.

13 Q And how long had you been at the motel taking care of it
14 for your in-laws prior to that time? A We were there
15 Wednesday, Wednesday evening.

16 Q So you came there Wednesday? A Yes.

17 Q How often had you taken care of that motel in the past?

18 A I would say on an average of about once a month for
19 about, off and on, for about six months.

20 Q For how long a period? A week-end?

21 A Yes, sir, so that they could get out and get away from
22 the motel for awhile.

23 Q I see. And when Mr. Benjamin registered he had some
24 baggage? A I didn't see him come in with any baggage.
25 When he came to the motel I didn't notice if he had any.

26 Q And he came in with a person by the name of Mrs. Benjamin?

1 A Yes, sir.

2 Q There was no registration on anything else, they just
3 walked in? A Yes, sir. He walked in because she had
4 already signed or filled out the registration card because
5 she was under the impression he might be coming in extremely
6 late and wouldn't want to bother with signing in.

7 Q Yeah. Okay. What was Mrs. Benjamin wearing?

8 A The day that I first saw her?

9 Q Yes. A She was dressed in black, I think, black
10 dress.

11 Q Was it a long dress or short?

12 A It was about, about knee length.

13 Q Was she wearing a coat or sweater?

14 A I don't really remember, sir.

15 Q Did she have her hair up or down? A It was up, sir.

16 Q And had you spoken to Miss Benjamin before yourself?

17 A No, sir.

18 Q Did you speak to her on that occasion?

19 A Yes, sir.

20 Q What did you talk about? A We talked about the
21 cost of the room and whether or not she was going to need a
22 key or they were going to be in early enough to pick up a key.

23 Q Did she state how long they would be there or he would be
24 there? A No, sir. She paid for the first day and
25 said he would take care of it from there, from there on out.

26 Q Was she wearing a blouse or coat or sweater, what?

1 A I don't really remember.

2 Q Don't remember. In other words, Mr. Benjamin walked
3 right by you and went directly to his room? A Yes, sir.

4 Q When he came in? A He came into the office,
5 picked up the key and then went to his room.

6 Q Yeah. Just walked right by? A Came in, I handed
7 him the key and he went to the room.

8 Q Had anybody else registered that night at your motel?

9 A I don't really think so. I think Room 1 was the only
10 one we had left vacant.

11 Q How about before Mr. Benjamin registered, were there
12 other people that walked in? A I don't remember, sir.

13 Q You have about 10 rooms there? A Yes, sir, exactly
14 10.

15 Q Was there anything in particular that struck your fancy
16 as far as Mr. Benjamin was concerned? A His accent.

17 Q People walk in there with coats and different attire,
18 don't they? A Yes, sir.

19 Q What made him stand out? A Like I said, his
20 accent, sir.

21 Q His accent made an impression upon you so that you could
22 remember his coat? A Yes, sir.

23 Q What did he speak to you about? A He didn't speak
24 to me about anything. He just said he was there to pick the
25 key up for Room 1, Mr. Benjamin.

26 Q That is all he said? A Right, sir.

1 Q What did the lady say? A I don't recall that she
2 said anything when they came in.

3 Q He did all of the talking? A I believe so, sir.

4 Q And from that conversation you can remember that he had
5 a jacket on? A Well, he had the same jacket on the
6 next morning which impressed me even more. I thought it was
7 a good-looking coat.

8 Q So you were impressed by the -- what color was his
9 jacket? A I believe it was tan.

10 Q And it was full length? A No, sir, waist length.

11 Q Waist length. What else was he wearing?

12 A Well, like I say, European-style clothing. When I say
13 that I mean that the shirt was form-fitting and the slacks
14 fit snug at the waist.

15 Q Did he tell you what his name was?

16 A Yes, sir, he did. He did on two or three occasions but
17 I couldn't understand him, and that is why I keep referring
18 to him as Mr. Benjamin.

19 Q He wasn't trying to hide his name? A No, sir.

20 Q And when he left the motel he picked up some baggage?

21 A Yes, sir.

22 Q Will you describe the two suitcases for me?

23 A I really can't describe the suitcases. They were just
24 two suitcases and a shaving bag and like I said, a plastic
25 Clothes Guard.

26 Q Plastic Clothes Guard. You mean one of those plastic

1 guards that fit over a hangar? A Yes, sir.

2 Q Or have a hangar in them? A You can place a

3 hangar in it and it's got a hole at the top that you can

4 hold your clothing by.

5 Q And you didn't see him come in with that?

6 A No, sir, I don't recall him coming in with anything.

7 Q With anything at all? A No, sir, I don't.

8 Q You don't recall Mrs. Benjamin carrying anything?

9 A No, sir, I don't.

10 Q When he left there he had these two suitcases and this

11 Clothes Guard? A Yes, sir. He brought it to the

12 office when he was checking out close to noon.

13 Q What was in the Clothes Guard? A I don't know, sir.

14 Q Did you look at it at all? A No, sir, I did not

15 look in it.

16 Q Was it plastic? A Yes, sir. But you couldn't

17 see through it.

18 Q How high or how big was it? What were the dimensions?

19 A I would say it was maybe 19 inches wide and maybe 3 feet

20 long.

21 Q Three feet long. And you hung it up behind?

22 A No, sir. I laid it down on top of the, on top of the

23 suitcases, laid it over them.

24 Q How big were the suitcases? A Standard size

25 suitcase about like --

26 Q About like that? A -- (indicating).

1 Q Two of them like that?

2 MR. ROBINSON: Your Honor, could you help us out
3 for the record?

4 THE COURT: Well, he said standard size.

5 MR. ROBINSON: Okay.

6 Q (By Mr. Pestarino) And then the little shaving bag?

7 A Yes, sir, about like this, a little bigger than what I
8 would consider shaving bag (indicating).

9 Q And that is what he left with? A Yes, sir.

10 Q Now, you indicated that you woke up around midnight?

11 A No, sir, I --

12 MR. ROBINSON: Objection, assumes something not in
13 evidence. He never indicated that.

14 MR. PESTARINO: I am asking.

15 THE WITNESS: I didn't wake up. I couldn't go to
16 sleep so I remained up.

17 Q (By Mr. Pestarino) Okay. You were up then. You were
18 up then around midnight, between midnight and 1:00 A.M.?

19 A Yes, sir.

20 Q And, sir, your testimony was that two men drove up in
21 what kind of a car? A A U.S. Government Interagency
22 car.

23 Q Interagency car. A I don't know what it means
24 myself but --

25 Q U.S. Government Interagency car? A Right. That
26 is what is on the side of the car. I have seen other cars

1 like it.

2 Q Was it a sedan? A It was a four-door.

3 Q Was it black? A No, sir. It was light in
4 color. It could have been white or light gray.

5 Q They parked the car right in the driveway?

6 A Yes, sir. They parked it at the bottom of the driveway
7 right behind the vehicle that was parked under unit 10.

8 Q And this was after 12:00 o'clock? A Yes, sir.

9 Q And did they slam the door? A No, sir.

10 Q They were very quiet, secretive? A Orderly, not
11 secretive. Just normal, got out of the car like anybody
12 else would, shut the door.

13 Q Turned the lights out? A Yes, sir.

14 Q And then they went into Room 1? A Yes, sir.

15 Q And you can see Room 1 from where you were?

16 A Yes, sir.

17 Q Now, how long did they stay in Room 1?

18 A About 10 or 15 minutes, sir.

19 Q Tell me, can you describe these men at all?

20 A No, sir, other than just the khaki uniform.

21 Q What kind of a khaki uniform? A Like it would be
22 used in a gas station, delivery person, or something like that,
23 where the khaki pants and khaki shirt to match.

24 Q Was there any writing on those? A No, sir, not
25 that I noticed.

26 Q Khaki shirt and khaki pants to match. They have hats on?

1 A No, sir.

2 Q Were they dark people, dark-complected people or light?

3 A They appeared to be tan.

4 Q Did they have dark hair or black hair?

5 A Dark hair.

6 Q Long hair or short hair? A No, sir, it's about
7 like mine is right now.

8 Q Can you give me something on their age? Approximately?
9 Were they in their twenties, thirties, forties, fifties?

10 A No, sir. I didn't really pay that much attention to
11 their features.

12 Q Did they have work shoes or boots? A I don't
13 really know.

14 Q Anyway, these two men in the khaki uniform walked up to
15 unit 1? A Yes, sir.

16 Q Could you hear or do you know whether they rang? Is
17 there a doorbell on there? A No, sir. You just have
18 to knock. There is a little knocker that you can --

19 Q I see. And could you hear them knock from where you
20 were? A Yes, sir. I had the doors, the windows
21 ajar in the upper area where I was at.

22 Q And did they have to knock for a few minutes or was the
23 door opened right away? A I never heard the door
24 open. I heard them knock but I never heard the door open.

25 Q Was there quite a bit of knocking or was it just a
26 normal knock? A Just a normal knock.

1 Q And did you see them walk into unit 1?

2 A No, sir. I didn't actually see them walk into it.

3 Q You saw them knock and you saw them leave unit 1?

4 A Yes, sir.

5 Q You actually saw them walk out? A Yes, sir, with
6 Mr. Benjamin.

7 Q With Mr. Benjamin. And Mr. Benjamin walked to the car
8 with them? A Yes, sir.

9 Q Now, was Mr. Benjamin dressed in pajamas, clothes or
10 what? A I don't really remember, sir.

11 Q Did he have his jacket on? A He had clothes on.
12 He didn't have the jacket on, I don't think.

13 Q He had clothes on? A Yes, sir. Shirt, pants
14 and shoes.

15 Q And he walked to the car with them? A Yes, sir.

16 Q Now, how long was it before this had this man asked you
17 for a person in unit 1, or talked to you in relation to a
18 person in unit 1, how long before these two men arrived did
19 you receive this phone call from Los Angeles, if you can
20 follow me? A All right. Okay. I think I under-
21 stand what you are talking about.

22 Q I don't. A Okay. The phone call came in on
23 Friday in the morning from Los Angeles, and they were at the
24 motel, the two gentlemen --

25 Q Excuse me, just a minute. November the 1st was a
26 Friday, was it? A November the 1st was Saturday.

1 Q Oh. So the 31st was Friday? A The 31st.

2 Q Now, tell me again what happened? When did they call
3 or he call? A Well, the call came first and the men
4 were there later on that night, and I guess you could say
5 there was about a 12-hour span of time between the phone call
6 and when this car arrived.

7 Q So it was about 12 hours before that somebody called
8 from Los Angeles and asked for, I guess, a David Ismail?

9 A Yes, sir. I guess so. That name just does not stick
10 in my mind.

11 Q Well, he didn't ask for Mr. Benjamin, did he?

12 A No, sir, he did not. And I said I didn't think we had
13 anybody there by that name and said the only person that has
14 checked in recently is Mr. Benjamin, and he is the only one
15 that was checked in. He said that is the man I want. He
16 is in unit -- Room No. 1.

17 Q And when they left, and when Mr. Ismail, allegedly Mr.
18 Benjamin, he went out, he went out to the car with them?

19 A Yes, sir.

20 Q And he talked to them for a few moments at the car?

21 A Yes, sir. Then walked back to his room.

22 Q Then walked back. And then you were still up watching
23 another TV program? A Yes, sir.

24 Q And you had a bad night? A Terrible.

25 Q And another car came out right by unit 5, huh?

26 A Yes, sir. There is only one driveway into that motel.

1 Q I see. And where was unit 5 in relation to unit 1?
2 Was it down a little ways? A Yes, sir, it is down the
3 hall from it a little ways.

4 Q Okay. And what color was this car?
5 A I don't really remember, sir.

6 Q Did it have anything written on it? A No, sir.

7 Q Was it a black car? A I don't really remember
8 the color.

9 Q Don't remember anything about the color except it was
10 a four-door? A It was a two-door.

11 Q Two-door? A Yes, sir.

12 Q You remember that. And what happened after the car
13 stopped? A A gentleman in a suit got out and walked
14 up to Room No. 1.

15 Q A gentleman in a suit? Was it a light suit or dark
16 suit? A Dark suit, I believe.

17 Q A dark suit. And what did he do? A He went into
18 unit No. 1, Room 1.

19 Q He knocked on the door first? A Yes, sir.

20 Q And this was about what time? A This would be
21 approximately between 1:00 and 1:15, 1:30.

22 Q About maybe half hour after the other car had departed?
23 A I'd say about 20 minutes or so.

24 Q Twenty minutes. So he knocked at the door. This man
25 in the dark suit, was he a dark-complected man with dark hair?
26 A I don't really recall, sir.

1 Q Was he a tall man or shorter man?

2 A Medium build.

3 Q You don't recall whether he had dark hair?

4 A No, sir, I don't really.

5 Q And he knocked on the door and then he purportedly went
6 in, you didn't see him go in? A No, sir.

7 Q And what called your attention to the fact that he was
8 leaving? A Well, when I heard somebody talking when
9 they were walking down the hallway, walking down the stairs
10 so I looked out to see who it was. It being such a small
11 motel and such a confined area, it is not uncommon for you
12 to pay attention to who is walking around out there, and I
13 noticed that it was the gentleman that had driven in and Mr.
14 Benjamin leaving the motel.

15 Q They were both leaving? A Yes, sir.

16 Q You heard them talking. Were they speaking in English?

17 A I don't really recall, sir.

18 Q And they both left? A Yes, sir.

19 Q So that was around 1:00, between 1:00, 1:30, 1:20 in

20 the morning? A It was about 1:30 or a quarter to two.

21 Q A quarter to two. And how long were they gone?

22 A About 45 minutes or so.

23 Q And when they came back did they drive up in the same
24 location from which they had departed? A I really

25 don't know, sir. When you pull into the driveway there you
26 can't see from which direction a vehicle has come off of

1 Taravel Street.

2 Q Anyway, what did you see when they drove up?

3 A They pulled in and Mr. Benjamin got out and went up to
4 his room and the gentleman turned his car around and left.

5 Q Did he remain there for a few moments talking to this
6 man? A I don't think so. He just got out of the car
7 and went to his room.

8 Q And he left? A Yes, sir.

9 Q Okay. Now, how was Mr. Benjamin dressed at that time?

10 A I believe he was dressed in his casual clothing again,
11 as best I can remember.

12 Q You think he had the jacket on? A Yes, sir, I
13 think so.

14 Q Did he have a black shirt on? A I don't know
15 what color shirt he had on.

16 Q Did he have light pants? A I don't really
17 remember what kind of pants he had on.

18 Q Was he wearing a hat? A No, sir.

19 Q So you believe that he was dressed casually?

20 A Yes, sir.

21 Q And then he returned. And what time did you see him
22 the next morning? A The next morning, sir? Shortly
23 before check-out time, which would be close to noon.

24 Q That is the first time you seen him the next morning
25 was close to noon? A Yes, sir.

26 Q Do you have a restaurant at your motel or a bar or

1 anything? A No, sir.

2 Q Okay. And at noon then he told you that he was
3 thinking of checking out? A Yes, sir. He said he
4 was ready to check out but there might be a possibility that
5 he would be staying on with us a little longer, but that he
6 wasn't exactly sure.

7 Q And did you talk to him any length of time then?

8 A No, sir.

9 Q Okay. So he left around noon time and he didn't return
10 until about 7:00 or 8:00 or 9:00 o'clock that evening?

11 A Right, somewhere between that period of time, 7:00, 8:00.

12 Q When he returned he was with whom?

13 A Mrs. Benjamin and I believe there was another, a
14 gentleman with him. I'm not exactly sure. But they picked
15 up his things that he had left there and they left.

16 Q Now, can you describe this gentleman that was with him?

17 A No, sir, I can't.

18 Q Can you describe what this gentleman was wearing?

19 A No, sir, I can't.

20 Q Can you tell me whether this gentleman was tall or small?

21 A I really don't remember that much about him.

22 Q Did he have black hair? A I think he had dark hair
23 but they were only there, like I say, a couple of, maybe a
24 minute, a minute and a half, two minutes at the maximum,
25 picked up his things and left.

26 Q Was this gentleman wearing glasses?

1 A I don't know, sir.

2 Q And they picked up their things, his things, and they
3 left? A Yes, sir.

4 Q What was Miss Benjamin wearing at that time?

5 A Dark clothing.

6 Q Still dark clothing? A Yes, sir.

7 Q Long dress or medium? A Medium. The occasions
8 that I saw Mrs. Benjamin she was dressed in dark clothing.

9 Q Have you seen Mrs. Benjamin outside? A Yes, sir.

10 Q She was wearing dark clothing today?

11 A She is wearing a plaid flare-length skirt and her hair
12 is done up.

13 Q She wasn't wearing that that night? A No, sir.

14 I don't think so.

15 Q All completely dark clothing? A Yes, sir.

16 Q And that is about all you know about it? They left and
17 they picked up their luggage, and you never saw them again?

18 A No, sir.

19 MR. PESTARINO: Excuse me for just a minute. I
20 don't think I have any questions but I would like, I don't
21 think that I want to excuse this witness.

22 THE COURT: All right. Do you have any redirect?

23 MR. PESTARINO: I would like him to stand by.

24 MR. ROBINSON: Yes. I do have one question.

25 REDIRECT EXAMINATION

26 BY MR. ROBINSON:

Q Mr. Crowley, you knew that your mother-in-law had been

1 questioned by the police about this? A Yes, sir.

2 Q Okay. And had you discussed this incident with your
3 mother-in-law? A Yes, sir.

4 Q Sort of get together and sort of discuss what you
5 remember and everything? A Yes, sir.

6 MR. ROBINSON: Thank you. I have nothing further.

7 THE COURT: You are excused, Mr. Crowley, but you
8 may be recalled. We will try to give you some advance
9 notice.

10 THE WITNESS: Okay. Thank you.

11 MR. ROBINSON: Thanks for coming down, Mr. Crowley.

12 (Witness excused.)

13 MR. ROBINSON: The People don't have any further
14 witnesses today. We will be ready to go tomorrow. I think
15 we are going to wrap this up a lot sooner than anticipated.
16 I think that we can get our case to the jury by the end of
17 the week easily.

18 THE COURT: You understand that we don't have court
19 Thursday?

20 MR. ROBINSON: That is correct. I am hopeful we
21 can get all of our testimony in tomorrow.

22 MR. PESTARINO: May we approach the bench?

23 THE COURT: Would you, please?

24 (Discussion off the record.)

25 THE COURT: All right. Ladies and gentlemen, we
26 will adjourn then for today. And we will resume tomorrow

1 morning at 9:45. I want to remind you that Thursday we will
2 not have court because of my settlement conference calendar.
3 And I will give you further instructions tomorrow as to any
4 other possible delays. But as counsel has indicated, the
5 case is moving right along and I don't think that you need
6 be concerned about it dragging out beyond what we had
7 originally anticipated. Could I ask you, please --

8 MR. PESTARINO: I may have one more question. I
9 hate to interrupt.

10 THE COURT: That is all right.

11 MR. PESTARINO: Do you want to approach --

12 THE COURT: Just a moment, please.

13 (Discussion off the record.)

14 THE COURT: All right. Ladies and gentlemen, keep
15 in mind the admonition that I have given you before and we
16 will see you tomorrow morning at 9:45. I understand from
17 the Bailiff hopefully we can get the air conditioning on
18 tomorrow afternoon. Maybe it will be cooler tomorrow than
19 today. And I do appreciate your sweltering with us on a
20 rather humid, uncomfortable afternoon. Again, as in every
21 case, problems keep cropping up and questions arise in your
22 mind, and I will just ask you to, please, not do any detective
23 work on your own or try to figure things out. Just wait
24 until all of the evidence comes in and you hear the arguments
25 of the attorneys. I am sure that everything you need to
26 know or can be presented will be presented. But once you

1 leave here just shut it all off until tomorrow morning at
2 9:45. See you then. The defendant will be ordered to
3 return. Also, all witnesses will be ordered to return.

4 (Whereupon, Court adjourned until March 17, 1976,
5 at 9:45 o'clock a.m.)

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SEVENTH DAY

2

March 17, 1976

9:45 o'clock a.m.

3

(Pursuant to adjournment, Court convened, and the following proceedings were had:)

4

THE COURT: Good morning, ladies and gentlemen, counsel. Let the record show that the jury is present, the defendant is present, counsel are present.

5

MR. ROBINSON: Thank you, Your Honor. The People will call briefly Sergeant Parrott.

6

AUBREY RAYMOND PARROTT,

7

recalled as a witness on behalf of the People, having been duly sworn, testified further as follows:

8

THE COURT: Sergeant Parrott, you will recall that you were sworn earlier and you are still under oath?

9

THE WITNESS: That is correct.

10

REDIRECT-EXAMINATION

11

BY MR. ROBINSON:

12

Q. Sergeant Parrott, I am going to direct your attention to when you went to the Oasis Motel, about the search on November 7th,

A. Yes, sir.

13

Q. And you told us about this brown bag you seen in the room?

A. Yes, sir.

14

Q. It was your impression that Sergeant Denknowsky had taken that brown bag and given it to the defendant, Mr. Ismail, in the jail?

A. No, sir, what I believe

15

I testified to was that the brown bag itself and the contents

16

1 that weren't considered of evidentiary nature were left in
2 the motel room. At a later time, I don't recall the exact
3 date, however it was the afternoon of the start of the
4 preliminary examination, I went to the motel and picked up
5 the bag and returned it to Sergeant Denkowsky who asked me
6 to do that, and he stated he would take it over and have it
7 put in the property of the defendant.

8 Q. This brown bag, was that the only piece of luggage in
9 the Oasis Motel when you went in that morning with the
10 search warrant?

A. That is correct.

11 MR. ROBINSON: May we have this brown bag with the
12 contents --

13 THE COURT: It will be number 30, it is a brown
14 vinyl leather zippered bag.

15 MR. PESTARINO: May I see that?

16 (Whereupon, the above-mentioned item, being a brown
17 leather bag, was marked as People's Exhibit No. 30 for
18 identification.)

19 Q. (By Mr. Robinson) Sergeant Parrott, showing you People's
20 Exhibit 30 for identification, is this the brown bag that is
21 depicted in the photographs that you took of the Oasis Motel
22 that day?

A. As far as I know it is, yes,
23 sir.

24 Q. And did you bring that bag over from Sergeant
25 Denkowsky's desk this morning?

A. Yes, sir.

26 Q. Okay. And does this brown bag appear to be the brown

3
1 bag that was in the Oasis Motel that you saw that morning?

2 A. Yes, sir.

3 Q. Did you look through the brown bag that morning when
4 you went into the Oasis Motel? A. Yes, sir.

5 Q. But did you look through the brown bag prior to coming
6 in here this morning? A. Yes, sir.

7 Q. Do those contents that are in there now appear to be
8 the same contents that were there at that time?

9 A. I believe they are with the exception of the items we
10 removed.

11 MR. FESTARINO: Leave it there, will you? Save me
12 a trip.

13 MR. ROBINSON: I have nothing further.

14 RE-CROSS-EXAMINATION

15 BY MR. FESTARINO:

16 Q. Do you recall what is in the brown bag without going
17 through each item? A. Of a general nature,
18 yes, sir.

19 Q. Yeah. That is what I mean. What is in there?

20 A. There is the gold towel you see. There are numerous
21 toiletry articles, deodorants, toothbrush, razor blades,
22 razor. There is a book, I believe it is a red hardback
23 book that is written in some type of foreign language.
24 There is what looks like one of these, it is really a wallet,
25 but a credit card, business card holder type of packet with
26 some photographs and some business cards. And I believe

4
1 there is one other book or something that is written in a
2 foreign language also.

3 Q. Yeah. When I went down to the Police Department to
4 look at some of these exhibits with Mr. Hernandez that brown
5 bag wasn't there, was it? A. No, sir. This
6 has never been looked into property.

7 Q. I see. Okay. All right. Let me ask you this, did the
8 brown bag have a tag on it such like it has now with a name
9 and an address? A. Yes, sir, I believe
10 the -- I don't recall the exhibit number, but there was a
11 travel card I think that was in evidence here the other day
12 that was attached to that.

13 Q. Yeah. And it had the name David Isaacil?

14 A. Yes, sir.

15 Q. Yeah. Okay.

16 MR. HESTARINO: That is all. Thank you.

17 MR. ROBINSON: I have nothing further.

18 MR. HESTARINO: Would you bring the brown bag back?

19 THE WITNESS: Sure thing.

20 (witness excused.)

21 MR. ROBINSON: The People call Sandra Haynes.

22 SANDRA LEE HAYNES,

23 called as a witness on behalf of the People, having been
24 first duly sworn, was examined and testified as follows:

25 THE CLERK: Take the witness stand, please.

26 DIRECT EXAMINATION

1 BY MR. ROBINSON:

2 Q. State your full name spelling your last name for the
3 record? A. Sandra Lee Haynes, H-a-y-n-
4 e-s.

5 Q. Is it Miss or Mrs? A. Miss.

6 Q. Miss Haynes, could you tell us your occupation?

7 A. I am a typist-clerk II.

8 Q. Whom are you employed by? A. It is the
9 City of San Jose but I work for the San Jose Police Depart-
10 ment.

11 Q. Okay. And in the course of your occupation do you take
12 fingerprints? A. Yes, I do.

13 Q. Were you trained to do that? A. Yes.

14 Q. Okay. And can you tell us how you take a fingerprint?

15 A. Well, first I have the person clean their hands, then
16 I roll, go finger by finger on the ink, and I roll it on the
17 paper.

18 Q. It is a relatively simple procedure?

19 A. Yes.

20 Q. Now, showing you people's Exhibit 24, A through D,
21 could you look at these and tell me if you took these
22 fingerprints? A. Yes, I did.

23 Q. And were these fingerprints taken in the early morning
24 hours of November 7th? A. Yes, they were.

25 Q. 1973? A. Yes.

26 Q. And now do you know that you took these prints?

6
1 A. Because I signed the card.

2 Q. And your name is on there? A. Yes, it
3 is.

4 Q. And is there the person's name on those cards from
5 whom you took the prints? A. Yes, it is.

6 Q. And what name is that? A. David Ismail.

7 Q. And who put that name on the card?

8 A. Well, I print his name, then I have him sign it.

9 Q. Did you do that in this case?

10 A. Yes, I did.

11 Q. How did you obtain that person's name?

12 A. The officer.

13 Q. Told you his name? A. Yes.

14 Q. And you put it down? A. Yes, sir.

15 Q. And then the person whose fingerprints appear on that
16 card signed his name? A. Yes. I fill
17 out the card and sign my name, then I have them sign their
18 name.

19 Q. Okay. And do you recognize Mr. Ismail in Court today?

20 A. Yes, I do.

21 Q. Would you point him out, please?

22 A. He is right over there (indicating).

23 MR. ROBINSON: Indicating the defendant, Your
24 Honor.

25 THE COURT: Yes. So ordered.

26 Q. (By Mr. Robinson) Now, did you testify at the Grand

1 Jury on December the 2nd , 1975? A. Yes, I did.

2 Q. And was that your first time testifying before the
3 Grand Jury? A. Yes, it was.

4 Q. Were you nervous? A. Yes.

5 Q. Were you shown a photograph of Mr. Ismail on that
6 occasion? A. Yes, I was.

7 Q. Mr. Ismail wasn't present before the Grand Jury, was
8 he? A. No.

9 Q. And were you able to identify Mr. Ismail's photograph
10 as the person you took the prints from?

11 A. I recognized the photograph but I was really nervous so
12 I didn't come right out and say it was him.

13 Q. Is there any doubt in your mind today that is the
14 person you took the prints from? A. No, sir.

15 MR. ROBINSON: Nothing further.

16 MR. PESTARINO: No questions.

17 THE COURT: Thank you.

18 MR. PESTARINO: That was easy, wasn't it?

19 (Witness excused.)

20 MR. ROBINSON: The People call Henry Inami.

21 S. HENRY INAMI,

22 called as a witness on behalf of the People, having been first
23 duly sworn, was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. ROBINSON:

26 Q. Can you state your full name, spelling your last name

1 for the record? A. S. Henry Inami,
2 I-n-a-m-i.

3 Q. And your occupation? A. I am a criminalist
4 for the County of Santa Clara.

5 Q. And Mr. Inami, could you tell us what a criminalist is?

6 A. A criminalist is a person who is engaged in the
7 investigation of physical evidence, obtaining results on
8 those evidence, interpreting the results for a judicial
9 matter.

10 Q. And could you give us your background and education and
11 work experience that qualifies you for this position?

12 A. I have a bachelors degree in chemistry from San Jose
13 State College. I have a masters degree in chemistry from
14 Stanford University. More recently I have been employed by
15 the laboratory for three and one half years. Previously,
16 between the period of 1952 and 1955 I also was employed by
17 the laboratory.

18 Q. Okay. And do you have any in-service training in the
19 laboratory? A. Yes.

20 Q. And do you discuss your work with other criminalists
21 in the laboratory? A. Correct.

22 Q. Have you attended various conferences, seminars, things
23 like that, read articles relating to criminalistics?

24 A. That is correct.

25 Q. Are you familiar with guns? A. I am.

26 Q. And is that part of your occupation, to be familiar

9
1 with guns? A. Yes, that is correct.

2 Q. Now, I am going to show you People's Exhibit 4
3 consisting of a gun and two plastic vials, one containing
4 a bullet and the other containing approximately six bullets,
5 and ask you to look at People's Exhibit 4 and tell me if you
6 have ever seen those before? A. I have.

7 Q. Could you tell when you saw that?

8 A. If I may refer to my notes?

9 Q. Sure. A. I first saw the
10 evidence before me on November 13th, 1975.

11 Q. Okay. How did you receive that evidence?

12 A. The evidence was submitted to our laboratory by
13 Sergeant Sherman of the San Jose Police Department, and it
14 was logged in by a member of our staff.

15 Q. Okay. And keep this together. I am going to show you
16 People's Exhibit No. 9, consisting of three plastic vials,
17 looks like a .22 caliber bullet expended, a casing, and
18 another casing. And ask you to look at People's Exhibit 9
19 and tell me if you have ever seen that before?

20 A. Yes.

21 Q. And could you tell us when you saw those?

22 A. Again, I saw these, the evidence before me, on
23 November 13th, 1975.

24 Q. Okay. And how did you receive those?

25 A. Again, it was submitted by Sergeant Sherman with the
26 other evidence presented before me.

10

1 Q. And I am going to show you People's Exhibit 2, appearing
2 to be an expended bullet, and ask you if you have ever seen
3 that before, Mr. Inami? A. Yes, I have.

4 Q. Okay. And once again, can you tell us when you saw it
5 and how you received it? A. Yes, again

6 Sergeant Sherman submitted the evidence before me on
7 November 12th, 1975.

8 Q. And People's Exhibit 3? A. Yes, likewise,
9 it was submitted by Sergeant Sherman on November 12th, 1975.
10 I first examined the evidence on November 13th, 1975.

11 Q. Now, what was the purpose of your examination, Mr.
12 Inami? A. It was to determine

13 whether the projectiles, commonly called bullets, was fired,
14 which was recovered from the victim, was fired from this
15 particular pistol.

16 Q. Okay. And People's 2 and 3, the bullets that are
17 recovered from the victim, did you compare those with
18 bullets fired from People's 4, a pistol?

19 A. I did.

20 Q. Okay. And did you make a determination as to whether
21 or not People's 2 and 3, the bullets recovered from the
22 body of the victim were fired from People's 4, the Walther
23 caliber .22?

24 A. Yes, they were. The two
25 projectiles recovered from the victim were fired from the
26 pistol which is before me.

Q. People's 4? A. People's 4.

11

1 Q All right. How did you determine that?

2 A After examining the weapon for trace evidence,
3 subsequently I test-fired the weapon and recovered the
4 projectile during my test-firing, and I took the test-fired
5 projectile and compared them directly with the projectiles
6 from the victim, and I found that the striations left on the
7 projectile in both cases aligned, and the match was
8 confirmed.

9 Q Now's with a little bit about striations, if we can.
10 Can you tell us what a striation is?

11 A Yes. A striation is a line or fine line, and these
12 striations are caused by markings which is left on the
13 barrel, inside the barrel, during its fabrication. And when
14 a projectile is fired through the barrel these fine
15 imperfections are produced onto the projectile itself.

16 Q Okay. So what you basically told us is that when you
17 talk about the barrel, are you talking about the barrel of
18 the weapon? A That is correct.

19 Q Okay. And would you point to the ladies and gentlemen
20 of the jury what the barrel of the weapon is? Where that is?

21 A We call this circular cylinder which extends back is
22 the barrel.

23 Q Okay. And you said that the barrel of the weapon, when
24 this weapon is made had different groovings and things like
25 that? A That is correct.

26 Q And would all Walther .22 calibers have the same

1 groovings? A. Many of the walthers do have
2 similar groovings and land characteristics, yes.

3 Q. How can you tell me then that the bullets recovered
4 from the victim came from this particular walther if in fact
5 other walthers have the same groovings?

6 A. Walthers have what we normally call the class
7 characteristics. These are the large cuts made in the inside
8 of the barrel to which -- correction which will allow the
9 bullet to rotate as it goes down the barrel which gives it
10 accuracy. These are cuts by the manufacturer during
11 fabrication. And if you take a Walther PP, many of them
12 will have the similar, what we call large cuttings. However,
13 during the manufacturing of these cuttings, fine imperfections
14 are made due to the tool markings, and these are the markings
15 that we compare.

16 Q. So what you are basically telling us, Mr. Inadi, is that
17 as the tool grinds down to grind this barrel out, naturally
18 the tool every time it is used on a different gun is losing
19 characteristics on the tool, right?

20 A. Yes. That is correct.

21 Q. And because of that loss of characteristics, different
22 characteristics are imprinted in this barrel?

23 A. That is correct.

24 Q. So if you use the same continuous tool, let's use a
25 screwdriver, and if we take a screwdriver and we grind it
26 into this gun, we'd lose part of the screwdriver, the metal

13
1 from the screwdriver? A. Yes.

2 Q. If we took the same screwdriver and ground it into a
3 different Walther, it would leave different characteristics
4 on the barrel of the Walther because the screwdriver is, in
5 essence, different? A. Yes. That is correct.

6 Q. Is that what you are basically telling us?

7 A. Yes.

8 Q. Were you also given some cartridge casings?

9 A. Yes.

10 Q. Did you examine those cartridge casings?

11 A. Yes, I did.

12 Q. Can you tell us what a cartridge casing is in relation
13 to a projectile, a bullet? A. Yes. Perhaps
14 for the benefit of the jury members I will explain the
15 components and different phases.

16 Number one, a casing, which is extending up to
17 this, where my thumb fingernail ends, is called the case of
18 the projectile or the cartridge, correction. This is
19 commonly known as a bullet by the layman's language. We
20 call it a cartridge. As you can see, there is a portion
21 extending beyond the case here. Normally that is, again,
22 many people will use the term bullet, but we use the word
23 projectile. So therefore we have cartridge, when it is
24 loaded, ready to be fired, if the cartridge is fired, then
25 the casing portion is called a fired cartridge case. And
26 the projectile, which is recovered or commonly known as a

14
1 bullet, is called a projectile. Therefore, we have three
2 parts to a cartridge, the cartridge itself, a fired
3 cartridge case, and a projectile.

4 THE COURT: I don't know whether all of the jurors
5 can see that. Perhaps he could diagram that out on a sheet
6 of paper?

7 THE WITNESS: Be glad to do that.

8 MR. ROBINSON: All right. You want to do that
9 for us?

10 THE COURT: Perhaps you ought to do it on a piece
11 of paper, Mr. Inami. Then we can preserve it.

12 THE WITNESS: What I have shown here is a
13 cartridge which has the case and the projectile fitted into
14 the casing itself. Here I have a casing by itself which
15 has been fired. We call it fired cartridge case. And in
16 this case I have drawn just a projectile portion, and as you
17 will note I have indicated that this particular projectile,
18 the lead portion here is inserted and forced into this
19 casing some distance.

20 Q. (By Mr. Robinson) Okay. Now, did you examine People's
21 Exhibit No. 9, the cartridge casings?

22 A. Yes, I did.

23 Q. And was the purpose of your examination to determine if
24 People's Exhibit 2 and 3, the bullets from the victim, were
25 ejected from People's Exhibit 9, the two cartridge casings?
26 What I want to know, Mr. Inami, is if People's 2 and 3, the

15

1 bullets from the body of the victim, were the bullets that
2 came from People's Exhibit 9, the expended cartridge cases?

3 A. I was not able to determine whether those two
4 projectiles were actually from the fired casing. I could
5 not determine that.

6 Q. Could you review your lab report, please?

7 A. Yes.

8 Q. And in reviewing your lab report you were given four
9 items, correct? You have four numbers down there?

10 A. Yes, that is correct.

11 Q. Okay. And the first item you were given was a pistol,
12 caliber .22 Walther, right? A. That is correct.

13 Q. Okay. The second item you were given, you have listed
14 as 2A and B, two fired cartridge cases?

15 A. That is correct.

16 Q. Okay. Caliber .22, right? A. (Nods
17 affirmative.)

18 Q. The third item you were given is a projectile, caliber
19 .22, from the scene? A. Yes.

20 Q. This is the projectile that was removed from the wall,
21 right? A. That is correct.

22 Q. Okay. And the fourth item you were given were 4A and B,
23 two projectiles, .22 caliber, removed from the victim?

24 A. That is correct.

25 Q. Okay. Now, you have told us that the pistol, your
26 item one in there and our item four in evidence is the same

16
1 pistol that fired your items 4A and 4B, the projectiles from
2 the victim? A. Correct.

3 Q. Okay. Now, my question is this, do you remember items
4 2A and 2B, the two cartridge cases, could you determine
5 those cartridge cases were the cartridge cases fired from

6 People's Exhibit 4? A. People's Exhibit 4
7 is the pistol? Is that correct?

8 Q. Yes. A. Yes. In that event I say
9 yes.

10 Q. Okay. So what you can tell us is that the two
11 cartridge cases, People's Exhibit 9, right?

12 A. Yes.

13 Q. Okay, People's Exhibit 2 and 3, the bullets from the
14 victim, were both, were all fired from People's Exhibit 4,
15 the gun? A. Yes, that is correct.

16 Q. Okay. Now, how did you determine that People's Exhibit
17 9, the two cartridge casings were fired from People's
18 Exhibit 4, the gun? A. In that event I

19 examined the fired cartridge cases for what is commonly
20 known as markings left by the extractor or the ejector, or
21 the firing pin. And I found that in this particular case
22 the test-fired cartridge case from the pistol had extractor
23 marks which corresponded to the extractor marks left on the
24 two fired cartridge cases recovered at the scene.

25 Q. Okay. Now, I take it that you fired People's Exhibit
26 4, the pistol, over at the laboratory?

17
1 A. Yes.

2 Q. And can you tell us how many times you fired it
3 approximately?

4 A. The first event I fired
5 four cartridges. And I made my testing. And then
6 subsequently I fired ten cartridges.

7 Q. Okay. Now, can you tell us if People's Exhibit 4 is a
8 revolver or an automatic?

9 A. It is commonly
10 known as a pistol, so it is, layman's term, it is an
11 automatic.

12 Q. I am just a layman so let's use something that I can
13 understand. Okay? So it is an automatic?

14 A. Yes.

15 Q. Now, what is the difference between a revolver and an
16 automatic?

17 Perhaps I can have the bailiff remove this for us.
18 It might be easier.

19 Now, can you explain to the ladies and gentlemen
20 of the jury the difference between a revolver and an
21 automatic?

22 A. Yes.

23 Q. Would you do it, please?

24 A. Yes. Can I
25 draw a little diagram on the board?

26 Q. Sure.

A. What I have just
shown here is a revolver and a revolver has a cylinder which
rotates and upon firing the cylinder rotates introducing a
new cartridge alignment with the firing pin. In a pistol
there is no cylinder which revolves.

18

1 Q. Now, once again, so I can understand it, a revolver is
2 something like you see in the Old West where you take, its
3 got the cylinder that goes around, you put the bullet in and
4 you can see the cylinder revolve everytime you pull the
5 trigger; is that correct? A. That is correct.

6 Q. And does a revolver have a clip that you put into the
7 gun? A. It does not.

8 Q. Okay. Now, let's use the term automatic, if we can.
9 Okay? An automatic is what People's Exhibit 4 is?

10 A. That is correct.

11 Q. People's Exhibit 4 doesn't have a cylinder, does it?

12 A. That is correct.

13 Q. People's Exhibit 4 requires a clip?

36

14 A. That is correct.

15 Q. Okay. Now, this clip -- shows you how much I know.
16 Can you get this clip out for me?

17 A. Yes.

18 Q. Okay. Thank you. That was easy. This clip fits into
19 the butt end of the gun? A. That is correct.

20 Q. Okay. Now, where do the bullets go?

21 A. The cartridges are introduced into the clip or the
22 magazine by the insertion in this manner (indicating.)

23 Q. Okay. And then you put the clip into the gun; is that
24 correct? A. Correct.

25 Q. Then you pull the trigger and the bullet goes up and
26 goes out? A. Yes.

19

1 Q. Okay.

2 THE COURT: Go ahead. Do you want to add something?

3 THE WITNESS: Yes, I do. In the event that, if
4 a cartridge is not introduced into the chamber of the weapon,
5 then by pulling the trigger it will not fire a projectile
6 because there is not one in line with the firing pin.

7 Q. (By Mr. Robinson) I was going to get to that. I will
8 cover that later.

9 Now, in addition to the revolver having a cylinder
10 and the automatic having a clip, when you shoot a revolver
11 do you have any expended cartridge casings?

12 A. Yes, you do have a fired cartridge case, casing, yes.

13 Q. My next question is, does that expended cartridge case
14 stay with the revolver? A. Yes, that is
15 correct.

16 Q. So as the trigger of the revolver is pulled the
17 cylinder goes around, the bullet projectile leaves the
18 cartridge, goes out through the barrel and the cartridge
19 stays in the cylinder? A. That is correct.

20 Q. Now, on an automatic does that happen?

21 A. In an automatic upon firing the fired cartridge case
22 is ejected from the weapon or thrown out.

23 Q. So if I was to fire this gun, People's Exhibit 4,
24 which is an automatic, the cartridge case ejects out, right?

25 A. That is correct.

26 Q. And as the bullet, the projectile leaves the cartridge

1 case? A. That is correct.

2 Q. So you don't leave a cartridge case in this particular
3 gun in an automatic? A. Upon firing,

4 that is correct.

5 Q. Can you tell us where from the gun the cartridge case
6 ejects? A. Yes. See if I can get

7 this back (referring to gun), when the weapon is fired, the
8 fired cartridge case is ejected from this opening here and
9 is thrown out.

10 Q. Now, how do you shut this?

11 MR. DESTARINO: Give it to the bailiff.

12 MR. ROBINSON: Thank you.

13 Q. (By Mr. Robinson) Now, you fired this particular gun?

14 A. Yes.

15 Q. Okay. And the cartridge cases eject out?

16 A. Yes.

17 Q. How do they eject out of this particular weapon?

18 A. Slightly to the right and to the rear.

19 Q. If I was pointing the gun like this and I fired they
20 would go back over my right shoulder and to the rear?

21 A. Yes.

22 Q. You have seen that happen every time you fired this
23 gun? A. That is correct.

24 Q. And approximately how far back do they eject?

25 A. To the best of my recollection somewhere in the
26 neighborhood of ten feet.

21

1 Q. They eject back ten feet. Okay. Approximately?

2 A. Yes, I didn't actually measure the distance.

3 Q. Okay. Now, can you tell us something about that gun,
4 how it operated, the various safety features on that gun,
5 how you actually put a bullet in that gun to shoot?

6 A. All right. Yes. First of all, one introduces the
7 cartridges into the magazine of the clip by forcing it into
8 this, and is contained inside the chamber or the
9 magazine. The magazine is subsequently introduced into the
10 weapon, and in this manner all cartridges are still in the
11 magazine and you must introduce one into what we commonly
12 call the chamber. And to do that one pulls the slide back,
13 one pulls the slide back and in that manner, if there was a
14 cartridge in the magazine the slide will automatically go
15 forward. It would not stay in this position (indicating).

16 Q. Mr. Inami, perhaps to make this clear to me, can you
17 do this for us, perhaps can I have you go to the board over
18 here and let's write in ways to use gun. Then we will
19 diagram, then one and explain it, two and explain it. Can
20 we do that? A. Um-hum.

21 Q. Why don't you write up there on that other piece of
22 paper, "Ways to operate gun," or, "Fire gun," something to
23 that effect? A. (Writing.)

24 Q. All right. Now, what does that mean, "Load magazine"?

25 A. Load magazine means that I will introduce cartridges
26 into the clip or magazine.

1 Q. Okay. A. In this case I would
2 introduce the magazine or clip with the cartridges into the
3 weapon, like that (indicating).

4 Q. Okay. A. The third step is that
5 the magazine is in position, and I can't demonstrate it
6 without a cartridge, so I will do it this way, in doing so
7 when you pull this back in this fashion and as the slide
8 goes forward a cartridge from the magazine is picked up by
9 the forward movement of the slide, and the cartridge is now
10 introduced into the chamber or commonly known as the
11 barrel.

12 Q. So what's one, a person had to do, one of the ways is
13 to take that gun, pull back the slide and let it go forward
14 and that gets a cartridge into the chamber ready to be
15 fired? A. Yes.

16 Q. Go ahead, please. A. When I have
17 pulled the slide back and allowed the slide to go forward,
18 cartridge is introduced into the chamber of the weapon.
19 All you need to do now is pull the trigger and it fires.

20 Q. Okay. Now, are there any other ways you can fire that
21 gun? A. Let's see, before I finish
22 may I continue one step further?

23 Q. Sure. A. Number five, when you pull
24 the trigger and the cartridge is fired and the gas generated
25 inside the weapon forces the slide to come back. And I
26 will have to remove this, and in doing so forces the slide

1 back, and then the slide is now allowed to go forward
2 automatically, and this is the term automatic. It introduces
3 a second cartridge into the chamber and it is ready to fire.

4 Q. Okay. So once you pulled that back, slide back, put
5 the bullet in the chamber, fired, the slide goes back
6 automatically, another bullet is automatically injected in
7 the chamber and you can fire again?

8 A. Yes, that is correct.

9 Q. That is why they call it an automatic?

10 A. Yes.

11 Q. Now, does that gun have any safety features on it?

12 A. Yes.

13 Q. Can you explain those for us, please?

14 A. Yes. If in the event that one has a cartridge in the
15 chamber and the hammer is cocked in the cocked position
16 ready to be fired, all you need to do now is pull the trigger.
17 If you wish to carry this weapon with a cartridge in the
18 chamber, then one must put this weapon in the safe position
19 in order to carry it safely and in doing so, as you can see,
20 the hammer is allowed to drop when the safety lever is
21 pushed into safe position. However, there is a bar which
22 comes, rolls up between the firing pin and the hammer when
23 the lever is actuated which prevents the hammer from
24 contacting the firing pin. So in this case one cannot fire
25 this weapon as long as the safety lever is in the safe
26 position. That is one feature, safety feature.

1 Q. Let me interrupt you right there. Then you can go on.
2 So I can get that clear in my mind, suppose somebody wanted
3 to walk around with a loaded gun?

4 A. Yes.

5 Q. And they wanted to have a bullet in the chamber ready
6 to be fired, if they wanted to, okay?

7 A. Yes.

8 Q. But they also wanted to protect themselves like if they
9 had their gun in their coat or pocket, or something like
10 that, so it wouldn't inadvertently go off and blow their leg
11 off. They'd put on that safety feature you talked to us
12 about? A. Yes.

13 Q. Now, I want to use that gun, I put the bullet in the
14 chamber, I packed it on my person, I have activated the
15 safety feature to protect my own safety, and I want to fire
16 that gun, what step do I have to take to deactivate that
17 safety to fire that weapon? A. All you need
18 to do now is to put the safety lever in the firing position.
19 That fashion and pull it (indicating).

20 Q. Okay. All right. So you have to take that conscious
21 step to take that safety lever and put it into the firing
22 position? A. Yes.

23 Q. Or else the gun won't fire? A. Correct.

24 Q. Now, you were going to proceed on with other safety
25 features. A. Yes. The second
26 safety feature which is incorporated in the weapon, again

1 let us assume there is a cartridge in the chamber, now one
2 may leave the weapon -- correction, the safety lever in the
3 firing position and you may carry it in your belt because
4 this weapon is so designed that it can only fire when the
5 trigger is pulled or depressed completely (indicating). Now,
6 let me make that clear. In an event that the hammer is in
7 the cocked position, what I have done here, I have pulled the
8 hammer back slightly and depressed the trigger, so that it
9 releases the hammer so now that, the hammer is just being
10 held back by my thumb. If you release the hammer in this
11 fashion (indicating), this weapon will not fire because I
12 have not depressed the trigger. Again, let me demonstrate.
13 Because the weapon is so designed that unless the trigger is
14 depressed there is a small blocking of the hammer so that it
15 would not contact the firing pin if the trigger is not
16 depressed. So the weapon must be fired with the trigger
17 depressed and the hammer allowed to drop on the firing pin.

18 Q. Okay. So, to sum it up, there is basically two ways in
19 which you can fire that weapon and carry it. The first way
20 would be that you don't have a bullet cartridge in the
21 chamber, you remove the weapon, you pull back that to put the
22 bullet in the chamber, then you fire, that is one way
23 (indicating)?

A. Yes.

24 Q. And the second way is that you have a cartridge in the
25 chamber, you have the safety on, you remove the weapon, you
26 deactivate the safety and then you fire?

1 A. Correct.

2 Q. These are the two ways? A. Yes.

3 Q. Now, could you describe that gun in comparison with
4 other guns, such as a .45, a .38, a .357, all types of
5 weapons in terms of noise when it is fired?

6 A. Yes, the .22 caliber produces less noise, than, of
7 course, a .45. And principally this is because a .45 requires
8 a larger amount of powder, and it generates more gases. And
9 principally it is the generation of the gas which emanates
10 from the weapon causing the noise.

11 Q. Okay. What about a .38? A. Again, a
12 caliber greater than the .22 will make a louder noise than
13 a .22.

14 Q. Okay. So any caliber gun greater than a .22 will make
15 a louder noise? A. Generally speaking that
16 is correct.

17 Q. Okay. Is there a caliber gun less than the .22?

18 A. There are what we commonly know as pellet gun or pistol
19 or what we call BB guns. These are driven by either
20 compressed CO₂, carbon dioxide or by manually operating the
21 weapon so that it compresses gas into the chamber.

22 Q. And what sort of bullets, Mr. Inami, will fit into that
23 particular gun? A. It will take a .22
24 caliber and it may be a short, a long, or a long rifle.

25 Q. Okay. And do you know what sort of bullet those are
26 that were in that gun? A. Yes, these are

1 caliber .22 long rifles.

2 Q. Let's talk about striking power with these different
3 types of bullets, the three different types of bullet that
4 will cause in terms of killing power. Okay. What types of
5 bullets are they, a .22 short, a .22 long, and a .22 long
6 rifle?

A. Yes.

7 Q. Okay. What has more force, a .22 short or .22 long
8 rifle?

A. The .22 long rifle.

9 Q. What has more force, a .22 long or .22 long rifle?

10 A. .22 long rifle.

11 Q. So of the three types of bullets that would fit into
12 that gun in order to kill somebody the .22 long rifle is the
13 most powerful?

A. Yes. Secondly, this
14 weapon is principally designed to accommodate a .22 long
15 rifle, although .22 short or .22 long can be used.

16 MR. ROBINSON: Okay. Thank you. I have nothing
17 further.

18 CROSS-EXAMINATION

19 BY MR. PESTARINO:

20 MR. PESTARINO: May I talk to you for just a
21 minute?

22 MR. ROBINSON: What?

23 MR. PESTARINO: May I talk to you for just a
24 minute? Or do you want to approach the bench?

25 MR. ROBINSON: Oh, talk to me? I thought you
26 were talking to the witness.