

1 Q What happened to the clothes that was --

2 A I roll them, and when I take my suit I roll this one and  
3 put it in my suitcase.

4 Q You rolled the plas -- was it plastic?

5 A Yeah, was, the thin plastic, you can roll it, you know.

6 Q Roll it? A Yeah.

7 Q And you put that in your suitcase? A Yeah.

8 Q So then you went in the motel with one suitcase, the  
9 small one? A I believe, I thought were two, not one.

10 Q You thought you had two? A Last two weeks ago Joe  
11 told me what you have. I told him --

12 Q Never mind what Joe told you.

13 MR. PESTARINO: Joe, incidentally, is our investiga-  
14 tor.

15 Q (By Mr. Pestarino) Joe Hernandez is the person you are  
16 referring to? You are talking about Joe Hernandez?

17 A Yeah.

18 Q Never mind what he told you because you can't say that.

19 A Mm-hmm.

20 Q So you thought you had two suitcases? A Yeah.

21 Q Well, anyway, you went to register, didn't you?

22 A Yes, I did.

23 Q You used your right name to register?

24 A Yeah.

25 Q Gave your address and everything on the card?

26 A Yeah. I print it.

1 Q And I take it that -- what did you do with the bottle  
2 of Johnny Red that you had bought in San Francisco?

3 A When I get to room I was very hungry. I called the  
4 lady. I said, "Is there any restaurant around here?" She  
5 said, "Yeah, there is, just half a block from here behind  
6 gas station there is restaurant." Call it, "Stick Barn,"  
7 (Steak), or something like that, I don't know.

8 Q Steak Barn? A Something like that. Steak  
9 something. So I walked there. So I get in and I asked them  
10 for something to eat. And the waiter was -- wasn't female,  
11 was male, he told me that we're sorry, we're closed, no more  
12 meal from, from 4:00 o'clock after or 5:00 o'clock after, I  
13 don't remember exactly. So I sit down there and asked for  
14 double shot Johnny Walker. He brought it to me. And he  
15 asked me to -- he said, "Help yourself." There was cheese  
16 and crackers there. And I did. I had one or two time  
17 cheese and crackers.

18 Q And did you go back to the motel? A Yeah, after  
19 that shot I went back to motel.

20 Q This Johnny Red was full when you bought it, was it not?

21 A Yes, sir.

22 Q How did it get in that condition? A Well, I was in  
23 room, and I phoned the lady, I said, "I need taxi," and I  
24 opened it. I say I am going to have one shot, you know,  
25 going to have something to eat, have first shot. And taxi  
26 didn't come. And I said I'm going to have another shot. So

1 by the time taxi come I have it almost to here (indicating).

2 Q Did you mix that with water or did you drink it straight?

3 A A little water.

4 Q How much? A Not much. Very little.

5 Q And the taxi came then, didn't it? A Yes.

6 Q Did you finish all of your drinks that you had poured  
7 or was there any left? A I don't know exactly.

8 Q Okay. So, anyway, a taxi came and what did you tell the  
9 taxicab driver? A I said, "Take me to Cottle and Santa  
10 Teresa."

11 Q To Cottle and Santa Teresa. Why did you want to go to  
12 Cottle and Santa Teresa? A I asked the lady if any  
13 plaza close to motel. She said, "No. There is, little far  
14 from here." So I thought that is the closest one.

15 Q Okay... So he took you there? A Yes, he did.

16 Q And how much did you pay him? A Between two to  
17 three dollars. I don't know exactly.

18 Q Did you ask him where Woosley Street was?

19 A I don't remember. Probably I did. But I don't  
20 remember exactly.

21 Q Did you see him take out a map and show you some place?

22 A Probably he did. I don't remember exactly. Not clear.

23 Q Well, had you heard the name "Woosley" before?

24 A Yes, I did.

25 Q Where did you hear that? A Well, I get, I sent  
26 the mail to Mar Shimun, and he answered me and we -- I phoned

1 him and his father-in-law had phoned him, too, from my place  
2 and that time, and the last time I was talking I said, "Maybe  
3 in summertime I going to go," I said, "we going to move  
4 from London, Ontario, but we don't know where we are going  
5 but probably we going to come to San Francisco some place,  
6 and California." And he said, "If you come through  
7 California, come on over." And he told me what Cottle, get  
8 Cottle, it's not too far from my place.

9 Q And did you remember the name Cottle?

10 A Cottle, that is the only name I remember.

11 Q And so you don't quite remember telling the taxi driver  
12 or asking the taxi driver where Woosley Street was?

13 A Probably I did but I don't remember clearly.

14 Q Well, anyway, you stopped at the pizza place, didn't you,  
15 on -- A Yes, I did.

16 Q -- on Cottle? And what did you do there?

17 A I asked for small pizza, and I had a beer. They don't  
18 have the liquor there. So I wait to pizza be cooked. I  
19 finish the beer and asked them for another beer. And the  
20 pizza at that time was ready almost, and I eat little pizza,  
21 and I couldn't, I felt like I can't eat, like throw -- sick,  
22 so I get out of that place. I get out and have a, some fresh  
23 air.

24 Q All right. Now, where did you go? A At that time  
25 I thought I must have, see him tonight, go to Mar Shimun's  
26 place tonight. Then I be free, free Saturday and Sunday if

1 I am going home.

2 Q Were you intending to go there another day?

3 A Yeah, probably supposed to be Friday, phone him before  
4 noon some time and then go there.

5 Q So instead of phoning him the next day you decided to  
6 go there that night? A Yeah.

7 Q And how did you know where he lived?

8 A That is why, I said probably I asked the taxi driver,  
9 maybe.

10 Q Mm-hmm. And how did you get there? A I believe  
11 walk.

12 Q And do you know what time this was about?

13 A No.

14 Q All right. You walked. And did you have any trouble  
15 finding the house that he lived in? A I believe it  
16 take me a long time to get to the house.

17 Q You didn't find it right away? A No.

18 Q How were you feeling about this time? Did the alcohol  
19 have any effect upon you? A Yeah, it was.

20 Q How did you feel? A I was feeling a little, not  
21 drunk I thought, but I was feeling like, like I could talk  
22 and if he asks me that by phone, I told him everything was  
23 going on.

24 Q All right. But I mean, how did you feel? You know,  
25 when people drink sometimes they feel drunk, sometimes they  
26 don't feel drunk, but they feel happy. How did you feel that

1 night when you drank whatever you drank out of that bottle  
2 of Johnny Red and with the two beers and the pizza, how did  
3 you feel? A I was feel haby (heavy), but I had for  
4 around 10, 15, 20 minutes I get sick, a little bit, I think  
5 because I mixed the beer with that Johnny Walker.

6 Q Anyway, you found this house on Woosley Avenue?

7 A Yeah.

8 Q When you got to the house what did you do?

9 A I don't remember exactly, I ring the bell or knock the  
10 door, but I remember I see Mar Shimun.

11 Q Where did you see him? A I seen him, he opened the  
12 door for me.

13 Q Is there a window on the door? A Yeah, I see one  
14 head looking from a window. I don't know who it was.

15 Q All right. So he opened the door? A Yeah.

16 Q When he opened the door what did you do and what did he  
17 do? Did he greet you? A Well, yeah, I kneel and I  
18 kiss his hand. And he smiled and he brought me in.

19 Q In what? A He brought me inside the house. I  
20 get inside the house. And I remember he told me, "I hear  
21 that you are here for a week." I said, "Yes, Kessy, I was  
22 here for a week."

23 Q What did you call him? A Kessy.

24 Q What's that mean? A Holiness.

25 Q Holiness? A I think Holiness in English.

26 Q And so what happened? A So I get inside, and he

1 was talking to me, and he was happy, the way I see him, and  
2 I thought I, I can explain what's going on, what he asked me,  
3 how is Assyrian in Canada and Iraq and in Syria, and so I  
4 told him, "Kessy, you get married and most of the people I  
5 don't think they accept you." And as a family I was  
6 talking. I don't know, as a member of family I was thinking  
7 that I --

8 THE REPORTER: Member of what?

9 THE WITNESS: -- am there, just member of his family,  
10 that is why I was talking.

11 Q (By Mr. Pestarino) Well, did you tell him at any time  
12 about, did you speak about his resignation and coming back  
13 into the church? Was that -- A No.

14 Q -- a topic of conversation? A I said, "Kessy,  
15 don't come back again because the most of the people they  
16 don't like the Patriarch get married, and you are retired  
17 now," and these things I told him, you know.

18 Q How did you feel when you were talking to him like that?

19 A I was --

20 Q Nervous, scared? A I was feeling very nervous  
21 and shaking because you can't say that words for a Patriarch,  
22 you know.

23 Q And what did he do? A Well, he get very mad, he  
24 get very upset, and I remember he call me some bad thing,  
25 first of all, and he get -- he asked me to get out of the house.  
26 And he slapped me for, he hit me with his hand.

1 MR. ROBINSON: He what?

2 MR. PESTARINO: Yeah.

3 THE WITNESS: By right hand and then left, and I  
4 tried to get out of the house. And he still has hand over  
5 here on my left shoulder, and he knocked by his knee, I  
6 believe, I fell down, I believe that.

7 Q (By Mr. Pestarino) Was there a chair there, or any  
8 furniture? A I don't know.

9 Q Do you remember hitting anything? A I don't know.

10 Q Do you remember anything scraping on the floor?

11 A I don't know exactly. I can't say.

12 Q All right. Then what happened? A Then I find  
13 myself having shower in some place.

14 Q Well, no. Before you get to the shower, what he --  
15 you testified that he kicked you, did he? A Yeah.

16 Q First he slapped you, then he kicked you? First he  
17 yelled at you? A Yeah. He yelled at me, and he hit  
18 me with his knee, and I was trying to get out when I, I  
19 believe fell down. He gave some bad word to my father, and  
20 he spit in my face, too.

21 Q He what? A Spit in my face and some bad word,  
22 two bad words for my father.

23 Q What happened then? A I was down, I just -- I  
24 don't know.

25 Q What do you mean, "You don't know"? A I really --

26 Q Don't you remember anything? A I really am

1 telling the truth, I don't remember nothing when I heard  
2 that words about my father.

3 MR. ROBINSON: Well, I think that we can leave out  
4 the opinion by the witness that he is telling the truth. As  
5 far as whether he is telling the truth that is for, something  
6 for the jury.

7 MR. PESTARINO: Of course it is.

8 THE COURT: You may answer the question as to what  
9 happened.

10 Q (By Mr. Pestarino) What happened? A I don't  
11 know.

12 Q You don't remember anything happening after that?

13 A I don't remember nothing what happened.

14 Q Do you remember getting the gun? A Yes.

15 Q You remember that? A I remember I had a gun.

16 Q Yeah. A Yeah.

17 Q You remember getting the gun? A I can't clear it.

18 Q Do you remember anything about the ammunition?

19 A No.

20 Q Was the gun loaded when you went over there?

21 A No, I never carry gun loaded.

22 Q Never? A Never.

23 Q You didn't that night? A No. Wasn't loaded.

24 Q And you remember shooting that gun? A No, sir,  
25 because if I remember anything happen to him probably I going  
26 to kill myself right there, a hundred per cent, I would

1 shoot myself.

2 Q Well, you sat through the trial here and you heard all  
3 of the evidence so far, don't you feel that you killed him?

4 A Well, after I read the newspaper the next day, third  
5 day I see what happened, look like, you know, I did it. And  
6 I feel sorry. Sure, I feel sorry. He serve our church  
7 for over 50 years, is great family, my cousin, probably I  
8 could not see my cousin which is his cousins and his mother  
9 and father, I can't see anymore. I going to feel ashamed  
10 all of my life, rest of my life.

11 Q Shame or sorry? A Sorry and shame.

12 Q Did you hate this man? A I don't know.

13 Q Did you have any bad feeling against this man when you  
14 went over there, the Patriarch? A No. No. I  
15 shouldn't go that night. Go next day.

16 Q Well, then what happened after that? Do you remember  
17 running? A No.

18 Q Do you remember falling across a chain-link fence?

19 A No.

20 Q Do you remember anything before you got to the pizza  
21 parlor? A I remember as a dream, I see, I see one  
22 officer and that is all.

23 Q That's all? A Yeah.

24 Q Do you remember this officer telling you to put your  
25 hands behind your head? A No.

26 Q What do you remember about the officer?

1 A I think my hands on the wall, some wall some place.

2 Q Do you remember your hands on the wall? A Yeah.

3 Q Do you remember anything else about the officer?

4 A No. That is all.

5 Q Do you remember seeing a dog? A No.

6 Q Do you remember giving some extended statements to the  
7 police at the police department? A No. I remember  
8 see one lady, and she said something about my suit. I don't  
9 know what she said. I wasn't paying attention. I don't  
10 know what she was doing. That's all.

11 Q You don't remember talking to the police?

12 A No, sir.

13 Q Don't you remember being arrested, putting the handcuffs  
14 on in back of you? A No.

15 Q Do you remember the officer telling you to put your  
16 hands on the table? A That time I thought there is  
17 something happened, but what, I wasn't clear what happened.

18 Q You don't remember putting your hands on the table?

19 MR. ROBINSON: Objection, asked and answered.

20 THE WITNESS: No. No, no.

21 THE COURT: I don't believe he answered that  
22 question.

23 He did now.

24 Q (By Mr. Pestarino) Do you remember anything else,  
25 holding your hands up or anything? A Put my hands  
26 on the wall.

55

1 Q That is all you remember? A Yeah, before that I  
2 remember I sitting, beer in the front of me. I don't know  
3 where about. But I think it is same place, be the pizza  
4 place, and I don't know why, how I get there or why I sit  
5 down drinking. I was thinking that I went there, I am going  
6 there, you know, I was just like a dreaming.

7 Q And you don't remember anything at all about the police  
8 department? A No, sir.

9 Q What is the next thing that you remember?

10 A Have a shower and one police officer, he was there, and  
11 he take my suit, that suit, and another two officers they  
12 take me some place upstairs, third floor, second floor, I  
13 don't remember.

14 Q How much to drink did you have that night, Mr. Ismail,  
15 altogether from, you indicated that you had, I think you said  
16 you had a double shot in San Francisco at the bus station  
17 or place next to the bus station? A Yeah, that was 1:00  
18 o'clock at noon.

19 Q And then you indicated that when you went to the Oasis  
20 Motel you stopped at the bar where the restaurant was, a  
21 steak bar or something? A Yeah.

22 Q And you had a double shot of Johnny Red?

23 A I believe I had a, I think two double shot there, I  
24 don't know exactly.

25 Q And then you came back to the motel and you had the  
26 whiskey that was, that you consumed out of this bottle?

1 A Yeah.

2 Q And that bottle was full? A Yes, was full, I  
3 opened up.

4 Q And then you had two beers at the pizza --

5 A Yes.

6 Q -- parlor? And a pizza? A I didn't eat too much  
7 pizza.

8 Q Now, when you got into San Jose what time did you start  
9 drinking? What time did you have these, this shot, double  
10 shot or two double shots at the restaurant near the motel?

11 Well, let me help you a little bit. What time did you  
12 arrive at the motel? A Around 5:00 o'clock.

13 Q Around 5:00 o'clock? A I think so.

14 Q So was it somewhere between maybe 5:00 and 5:30, or  
15 5:00, 6:00? A When I went to the restaurant?

16 Q Yeah. A Right after.

17 Q Right after? A Right after.

18 Q So shortly after 5:00 o'clock? A I asked the lady  
19 for restaurant and she told me and I went.

20 Q That is where you had -- A Double.

21 Q -- double shot or two double shots? A Two double  
22 shots.

23 Q You're not sure? A I'm not sure.

24 Q And how long does that take? A I say 20 minute,  
25 I was hungry, I want to go back to find some others.

26 Q Twenty minutes? A About.

1 Q And then when you got back is that when you asked the  
2 lady to get you a taxi? A Yes, I believe I went from  
3 restaurant to the office. I told her, so I went back to my  
4 room, she said, "I going to phone taxi," so I went to my room  
5 and I open it. I said I going to have one shot, and I have  
6 first shot. And next shot, and there is no taxi, so I  
7 phoned her again. I said, "Where is the taxi?" She said,  
8 "Be there in a minute." So take maybe 30, 35, 40 minutes,  
9 taxi to get there, over, maybe 45 minutes.

10 Q And so that is when you did most of your drinking?

11 A Yes.

12 Q During that period of time? A Yes.

13 Q And then a little later at the pizza parlor two beers?

14 A Mm-hmm.

15 Q Now, how did all of that, the liquor that you consumed,  
16 how did that affect you? How were you feeling?

17 A I was feeling haby (heavy), I wasn't feeling very bad  
18 at that time until I ate the pizza, and I had, had a beer.

19 Q Are you a member of the A.U.A.? Do you know what that  
20 is? A I don't know what A.U.A. mean until last

21 October. I know in Assyrian what it means but not  
22 Universal Alliance, I don't know what it means there until  
23 October.

24 Q Were you a member of that at any time?

25 A Some time in October, between 10, 20th of October, I  
26 sign that I like to be a member, but I don't know whether they

1 accept me or not yet.

2 Q Did you study what the A.U.A. was? A No.

3 Q Before? A No, I don't know yet what they are.

4 I know what I heard is, they want to get all Assyrian together  
5 and love and something, I didn't read what they do and what  
6 they had.

7 Q Did you shoot the Patriarch thinking about it?

8 A No, sir.

9 Q Planning it? A No, sir.

10 Q With malice?

11 MR. ROBINSON: Objection --

12 THE COURT: The objection is sustained. That  
13 calls for a legal conclusion.

14 MR. PESTARINO: All right.

15 Q (By Mr. Pestarino) What do you think caused you to do  
16 this?

17 MR. ROBINSON: Objection, he says he didn't do  
18 anything. This calls for speculation as to what he thought  
19 he didn't do.

20 THE COURT: No. Overruled. If he is implying or  
21 if he is admitting that he committed an act, then I think  
22 that it is certainly permission to indicate a state of mind  
23 at the time.

24 MR. ROBINSON: He says he didn't do it. He says  
25 he doesn't remember doing it, so how can he give us his  
26 opinion as to why he did something when he says he doesn't

1 remember doing it?

2 THE COURT: His counsel asked him the question.

3 Overruled.

4 Q (By Mr. Pestarino) Why do you think this happened?

5 A What I think? Could you repeat it, please?

6 Q Well, let me ask you another way. Your father and you  
7 were very close? A Very close, yeah.

8 Q You testified that the Patriarch called your father a  
9 vile name?

10 MR. ROBINSON: Objection, asked and answered.

11 THE WITNESS: Very bad name.

12 THE COURT: Overruled.

13 MR. ROBINSON: Thank you, Your Honor.

14 Q (By Mr. Pestarino) A very bad name? A Mm-hmm.

15 Q And after he called that bad name what happened to you?

16 A I wouldn't accept that.

17 THE COURT: He would not accept that.

18 Q (By Mr. Pestarino) What happened to you?

19 A I just, I just got upset. I don't know what happened  
20 to me, what, I lost everything that I had.

21 Q At any time were you angry at the Patriarch personally?

22 A No, sir.

23 Q Were you angry at his wife or his family?

24 A No, sir.

25 Q Were you angry at his parents? A No.

26 Q Or her parents? A No.

1 Q Did anybody pay you to do this? A No, sir.

2 Q Anybody ask you to do it? A No. Nobody could  
3 ask me that. If anybody asked me that --

4 MR. PESTARINO: I think that is all I have.

5 THE COURT: Let's take the recess then, counsel,  
6 before we have cross-examination.

7 Ladies and gentlemen, we will take our afternoon  
8 recess, about 15 minutes, and resume roughly around 3:00  
9 o'clock. You will keep in mind my previous admonition.  
10 You can step down also, Mr. Ismail.

11 (Short recess taken.)

12 THE COURT: Let the record show that the jury is  
13 present and defendant and counsel are present. You may  
14 proceed.

15 MR. ROBINSON: Thank you.

16 CROSS-EXAMINATION

17 BY MR. ROBINSON:

18 Q Mr. Ismail, to be fair to yourself and to be fair to me,  
19 if I ask you a question and you don't understand it, okay?  
20 Stop me. Tell me you don't understand it and I will rephrase  
21 it to make sure that you are answering the questions that I  
22 am asking. Okay? A Okay.

23 Q Is that fair? A That's good.

24 Q Okay. Now, you told us on direct examination that the  
25 last time you talked to the Patriarch was in February of  
26 1975? A Something like that.

1 Q Okay. And that was your last communication with the  
2 Patriarch? A I believe so.

3 Q Okay. And that communication consisted of a telephone  
4 call or letter, which? A I believe the letter.

5 Q Okay. And the letter is the letter that you previously  
6 identified as Defendant's Exhibit H?

7 MR. ROBINSON: May I approach the witness, Your  
8 Honor?

9 THE COURT: Sure.

10 Q (By Mr. Robinson) Is that the letter we are talking  
11 about, sir? A Yeah.

12 Q Okay. And you told us that it was your intention to  
13 discuss this letter with the Patriarch, come down and see  
14 him sometime? A I would like to see him sometime.

15 Q All right. Well, regarding that letter and Defendant's  
16 Exhibit H, you told us a few minutes ago on direct examination  
17 this morning that you kept this letter, "And I was going to  
18 talk to him about it sometime," do you remember making that  
19 statement? A I remember, yeah.

20 Q Okay. And was that a truthful statement, what you told  
21 us this morning under oath? A Yeah.

22 Q And did you bring this letter with you when you came  
23 down to San Jose? A I don't think so.

24 Q All right. And did you memorize the contents of that  
25 letter? A Yeah.

26 Q All right. And you had trouble reading it this morning

1 for us from the witness stand, didn't you?

2 A That's right.

3 Q Okay. But you had memorized the contents of it?

4 A I know what's in it but I can't explain in English.

5 Q And so you didn't feel any need to bring this letter  
6 down to discuss it with the Patriarch, you just memorized  
7 the contents of it, right? A Yeah.

8 Q Okay. Now, let's talk about the gun for a minute.  
9 Okay? You told us that you got the gun up in San Francisco?

10 A Right. Yes.

11 Q And you got the gun Friday and about 5:00 o'clock right  
12 before you met Yule Lazar? A Something, between 5:00  
13 to 7:00.

14 Q And at this time you were in a bar in San Francisco,  
15 right? A Yeah.

16 Q Right down by Zim's, 19th Avenue? A Yeah.

17 Q Okay. And there were two guys drinking in the bar?

18 A Right.

19 Q One guy got up and left? A Mm-hmm.

20 Q Okay. And the other fellow started a conversation with  
21 you? A Mm-hmm.

22 Q All right. Now, were you seated at the bar? Were you  
23 seated back at a table? Where were you seated?

24 A At the bar.

25 Q And were there any other people in this bar besides  
26 yourself, the individual you had the conversation with, and

1 the bartender? A There was some people, was very far,  
2 and bartender, and big man, six two, six three, and heavy.

3 Q And you bought this man a bottle of beer?

4 A Yes, I did.

5 Q Because he asked you to buy him a bottle of beer?

6 A Yes.

7 Q And then he asked you to buy him another bottle of beer?

8 A Yes.

9 Q And you told him that you didn't have any more money?

10 A Mm-hmm.

11 Q So after you told him that you didn't have any more  
12 money the guy said that he would sell you a gun for \$20?

13 A Right that time he told me that, yeah.

14 Q Where were you supposed to get the money to purchase  
15 this gun after you just told the man you didn't have any more  
16 money? A I didn't tell him I don't have no money.

17 Q I see. What did you tell him? A I said I don't  
18 have enough money. I need the money.

19 Q All right. You don't have enough money to buy a bottle  
20 of beer but you have enough money to buy a gun?

21 A Well, \$20, it's worth it to buy that gun.

22 Q Wait a minute. How much did the bottle of beer cost?

23 A I don't remember exactly.

24 Q Well -- A It was change on the table, he take  
25 from the change.

26 Q Was it a dollar, two dollars? A I don't know

1 exactly.

2 Q Well, it wasn't any more than \$2, was it?

3 A I don't believe it.

4 Q And you told this man that you didn't have enough money  
5 to buy him another bottle of beer and then he said, "Well,  
6 how about buying a gun"? A Yeah.

7 Q Okay. Well, was the gun, did the gun cost less than a  
8 bottle of beer? A No, cheaper than bottle of beer.

9 Q It was cheaper than a bottle of beer? A For me it's  
10 cheaper. It's worth it, more than \$20.

11 Q Okay. So you bought this gun from the man, right?

12 A Yeah.

13 Q Okay. And although you really didn't need a gun?

14 A No, I don't need. I have three gun.

15 Q And they are at home? A Yes, sir.

16 Q And you keep one in your car? A When I drive it.

17 Q Okay. And how many cars do you have?

18 A I have one.

19 Q And I take it then if the Canadian authorities  
20 immediately after this happened went to your car and searched  
21 it they would have found a gun? A It wasn't in my car.

22 Q It wasn't in your car. Where was it?

23 A It was in home.

24 Q You took it out of your car and put it in your home?

25 A Sure, yeah.

26 Q Now, immediately after you bought this gun, did you think

1 it was sort of odd that a guy, a stranger approaches you in  
2 the bar and asks you to buy a gun, you think that was unusual?

3 A Say that again, please?

4 Q Do you think that it is unusual -- A Mm-hmm.

5 Q -- did you feel that it was unusual that a stranger who  
6 you don't even know asked you to buy a gun in a bar?

7 A He thought that I am a stranger?

8 Q Well, did you think that it was unusual that this man  
9 asked you to buy a gun in the bar? A I think at that  
10 time, yeah.

11 Q Okay. Sort of strikes you as odd, right?

12 A Mm-hmm.

13 Q Okay. And this has never happened to you before, has  
14 it, a stranger comes up in a bar and asks you to buy a gun?

15 A Never happened before.

16 Q So that would be something out of the ordinary, unusual,  
17 right? A It never happened to me so I don't know.

18 Q Then when you saw Mr. Lazar a few minutes later, you, I  
19 take it, you told him about that? You said, "Hey, Yule,  
20 let me tell you what happened when I came to the United  
21 States. I'm sitting in a bar and some guy comes up and says  
22 'Hey, you want to buy a gun for \$20?'" I'm sure that you  
23 would have told him that, huh? A I'm not --

24 Q You didn't tell him that? A No, sir.

25 Q You were out with him that night? A Yeah.

26 Q Had dinner with him? A I don't know him.

1 Q You don't know him? You just didn't mention it to him?

2 A No, sir.

3 Q Was there any special reason you didn't mention it to  
4 him? A I don't know him very well.

5 Q Well, you didn't know the man in the bar very well, did  
6 you? A Yeah, he -- no need to tell him nothing why,  
7 there is no reason for it.

8 Q Okay. And this man also sold you two clips for the gun?

9 A Yeah.

10 Q Okay. Now, you are familiar with guns, aren't you?

11 A Yeah.

12 Q You told us that you were? A Mm-hmm.

13 Q You thought \$20 was a good price for that gun?

14 A Yeah.

15 Q How much do you think that gun is worth?

16 A Seventy-five.

17 Q Seventy-five? A Eighty, something like that.

18 Q And the man said he would give it to you for twenty?

19 A Yeah.

20 Q And you paid him cash for it? A Cash money in  
21 my pocket. I just got one bill of twenty and gave it to him.  
22 I didn't bring all of my money out.

23 Q And you put this gun in your small suitcase when you  
24 went back to your motel? A Yes.

25 Q Okay. Why did you do that? A I just put it in  
26 there. I don't know why.

1 Q Well, you took it -- what were you wearing when you went  
2 into the bar on Friday? A I was wearing something  
3 sport, wasn't my suit.

4 Q It wasn't your suit? A Wasn't my suit.

5 Q You were wearing your sport clothes? A I guess so.

6 Q And then did you put on some different clothes when you  
7 went out to dinner with Mr. Lazar? A I wear another  
8 suit, I guess. I have another suit.

9 Q Can you describe that suit for us?

10 A It is light brown, very light brown.

11 Q Does it look anything like -- does it look anything like  
12 the suit that you are wearing in People's 10-CC for  
13 identification? Your other suit? A It is a little  
14 close to this one. Yeah, close to that one.

15 Q Close to which one? A But different material.  
16 It's a little close to that but different material.

17 Q The suit in 10-CC is the gray suit?

18 A This one, yeah.

19 Q And the other one you have was a brown suit?

20 A Mm-hmm.

21 Q And when you wore the brown suit did you wear the black  
22 shirt with it? A No.

23 Q Wear a different colored shirt? A Yeah.

24 Q And wear a different tie with it? A I don't know  
25 if I have a tie on me or not that night.

26 Q And that was the suit that you wore, the brown suit, when

1 you went out to dinner with Mr. Lazar? A Mm-hmm.

2 Q Now, eventually, you took the gun out of your small suit-  
3 case, right? A I put in my suitcase, yeah.

4 Q And then you told us that you took it out because you  
5 carried it around San Francisco with you? A Sometime,  
6 yeah.

7 Q Why did you do that? A I don't know why.

8 Q Well, do you always do things without knowing why?

9 A Well, I like a gun, and I used to carry the gun when I  
10 was 10 years old, 12 years old.

11 Q Yeah. A As soon as that.

12 Q Yeah. So you just started carrying it around?

13 A Yeah.

14 Q What do you carry it for? Protection?

15 A I just carry it.

16 Q Well, you carry an umbrella when it rains, right?

17 A What's that?

18 Q When it rains you carry an umbrella because you are going  
19 to have to use it, right? A I don't know what you mean  
20 by that.

21 Q Well, my question is, you mean you just always carry a  
22 gun around with you and you don't have any reason to carry it?

23 A I love the gun. And I carry it, that's all.

24 Q And what pocket did you carry it in?

25 A Sometime in this pocket (indicating), sometime I put him  
26 underneath my shirt.

1 Q Was that while you were in San Francisco? A Yeah.

2 Q Well, why did you carry the clips around in your two  
3 separate pockets like you told us? Do you love clips, too,  
4 like you love guns? A Well, it's part of a gun.

5 Q Why didn't you hook it up with the gun if it is part of  
6 the gun? A No, when I carry the gun it is not loaded.

7 Q Pardon me? A I don't load the gun when I carry it,  
8 so have to be careful with, you deal with a gun.

9 Q Well, you're familiar with guns, aren't you?

10 A Yeah.

11 Q You fired guns, you told us, since you were 10 years old?

12 A That's right.

13 Q Very familiar with guns? A Yeah.

14 Q Then you know that gun has a safety feature on it that  
15 you can carry it around loaded and it is perfectly safe?

16 A Yeah.

17 Q Why didn't you load it and carry it around?

18 A No need to load it.

19 Q Okay. Now, you told us that you were once employed at  
20 the Ford Motor Company? A Yes.

21 Q And was your occupation there a janitor? A Yes.

22 Q Okay. You swept the floors, cleaned up? A Yeah.

23 Q Okay. And how long did you do that for?

24 A Not very long because I was check receiver before that.

25 Q You went from the check receiver to the janitor?

26 A Yeah.

1 Q All at Ford Motor Company? A Yeah.

2 Q And you were employed there for seven years?

3 A Something like that.

4 Q Now, you told us that you quit your job?

5 A Yeah.

6 Q And the reason that you quit your job is because you  
7 were so upset about the Patriarch getting married, couldn't  
8 think? A Just I couldn't work.

9 Q Couldn't work? A Mm-hmm.

10 Q Now, the Patriarch got married in August of 1973?

11 A Right.

12 Q And when did you quit your job? A November the 8th.

13 Q Of what year? A '74.

14 Q So you quit your job approximately a year and three  
15 months after the Patriarch got married? A Yeah, but  
16 at that time I don't work more than two or three months, at  
17 the most four months.

18 Q At the most four months? A At the most four  
19 months.

20 Q And during this time is this when you decided to get  
21 involved with the Assyrian Universal Alliance?

22 A That period of time, you mean between 1974 to 1975?

23 Q From the period of time when the Patriarch got married  
24 until you quit your job, is this when you decided to get  
25 involved with the Assyrian Universal Alliance?

26 A No.

1 Q When did you decide to get involved with the Assyrian  
2 Universal Alliance? A Last October.

3 Q October, '75? A Right.

4 Q Okay. And then all of a sudden after you decide to  
5 get involved with the Assyrian Universal Alliance you decide  
6 to make a trip down to San Jose? A Yeah.

7 Q Okay. Was there any relationship between your involve-  
8 ment in the Assyrian Universal Alliance and this trip to  
9 San Jose? A No, I don't know they accept me or not yet.

10 Q You were a prospective member? A I don't know  
11 whether they accept me or not.

12 Q What requirements are there to get in, sir?

13 A Huh?

14 Q What requirements are there to get in?

15 A Well, as Assyrian get in.

16 Q Well, you are an Assyrian, aren't you? A Yeah,  
17 I'm Assyrian.

18 Q And your family is well known? A Mm-hmm.

19 Q Okay. So they didn't immediately accept you?

20 A No, they should let me know.

21 Q Who is going to let you know? A I don't know  
22 really.

23 Q Did you have to do something, some sort of initiation  
24 before you could get into the Assyrian Universal Alliance,  
25 show your loyalty or anything? A I don't think so.  
26 Just you have to pay monthly or yearly.

1 Q Okay. Kitty Benjamin, she sent you a Christmas card in  
2 1973 and on the Christmas card it said, "Dear David, Keep up  
3 the good work for the A.U.A." What work were you doing for  
4 the A.U.A. in December, 1973? A Well, I don't know

5 because I seen her the first time '68, the last time '75.  
6 So when my father and my brother went to Iraq, the U.A.W. or  
7 whatever it is, I think they was behind them.

8 Q Well, the U.A.W. is the United Auto Workers. Are you  
9 talking about the Assyrian Universal Alliance, the A.U.A.?

10 A Yeah, that's A.U.A. So she thought maybe I am in that  
11 thing, too, and I know what's going on, too, probably that is  
12 why, because she never seen me then.

13 Q You told us that you sold your house in November, '74?

14 A No, my house, I think, sold summer of '75.

15 Q Summer of '75? A Yeah.

16 Q Okay. And how did you live between the time when you  
17 quit your job at the Ford plant until summer of '75 when you  
18 sold your house? A Was having some little money.

19 Q Some what? A Little money and employment --  
20 unemployment office gave me.

21 Q Can you receive unemployment in Canada if you voluntarily  
22 quit your job? A Six week after, yeah.

23 Q Six weeks after you quit a job, not laid off or anything  
24 like that? A No.

25 Q You just quit, you can receive unemployment?

26 A After six week. If you are laid off, first week.

1 Q Okay. Now, you told us that you, your father was a  
2 very religious man? A Yes.

3 Q And that every morning when you are in the Middle East  
4 you would get up at 3:00 to 3:30 with your father and go to  
5 church? A Yes.

6 Q Then in the afternoon between 4:30 and 5:00 o'clock you  
7 would once again go to church? A Yes.

8 Q Then in the evening you would pray, right?

9 A What's that?

10 Q Then in the evening you would pray, too?

11 A Before go to bed.

12 Q Was this every day? A Every single day.

13 Q Now, you told us that you went to church in San Francisco,  
14 would be November the 1st, I believe, that would be the  
15 Sunday, or November the 2nd, November the 1st when you are in  
16 San Francisco, do you remember telling us that?

17 A Mm-hmm.

18 Q You didn't go for the services, did you, sir?

19 A I was thinking of going to service. When we went  
20 there service was over.

21 Q So you just arrived for the breakfast?

22 A No, I didn't even have breakfast. I didn't eat  
23 breakfast.

24 Q You never made it to the church services, did you?

25 A I couldn't make it, no. Yule was working at the time.  
26 He dropped me there. It was late.

1 Q Now, we sort of have a gap in your life here as you  
2 have outlined it for us on direct. I was wondering if you  
3 could fill in some information for us. Okay?

4 A Say that again, please?

5 Q Yeah. There has been a gap in your life. You said  
6 until you were seven to eight years old you were in Iraq?

7 A Yeah.

8 Q Okay. So you left Iraq when you were eight years old?

9 A I left Iraq when I was seven years old? No. No, I  
10 born in Syria but I was going with my father back to Syria.

11 Q Okay. You were born in Syria. When did you leave  
12 Syria? A When I leave Syria? First time it was four--

13 I believe '43.

14 Q How old were you? A Eight.

15 Q Okay. And then you went to Iraq? A Yeah.

16 Q And you were there for seven or eight years?

17 A Something like that.

18 Q So you left Iraq when you were approximately fifteen?

19 A Fourteen.

20 Q Okay. Then you went to Lebanon? A Yes, I did.

21 Q Okay. And you left Lebanon when you were how old?

22 A I don't know exactly. It was 19 -- I think between  
23 '47 and '48.

24 Q Well, you told us you were there for about a year?

25 A Yeah.

26 Q So you left when you were about fifteen years old,

1 Lebanon? A. Something like that.

2 Q Okay. Then you spent six months in Egypt?

3 A Yeah.

4 Q Okay. A. Not quite.

5 Q And you left Egypt when you were about what, fifteen-and-

6 a-half, sixteen? A. Yeah.

7 Q Okay. Where did you go next? A. We went to Persia,

8 1950.

9 Q Persia? And how old were you when you went to Persia?

10 Is that Iran now? A. Yeah, call Iran.

11 Q How old were you when you got to Persia?

12 A. I don't know. 1950.

13 Q All right. And how long did you stay in Persia?

14 A. Not very long, about three weeks or four weeks.

15 Q Okay. Then where did you go? A. No place.

16 Q Pardon me? A. That's all.

17 Q You stayed in Persia until you came --

18 A. No, we stayed just couple weeks, three weeks or four

19 weeks in Persia, we came back home.

20 Q Came back home to where? A. To Syria.

21 Q Syria. And did you stay in Syria until you went to

22 Canada? A. Yeah.

23 Q Now, the first time you saw the Patriarch was in

24 Damascus in 1962? A. I believe.

25 MR. ROBINSON: May I see Defendant's F, please?

26 Q (By Mr. Robinson) And this picture depicts yourself,

1 the Patriarch, and your wife? A Yeah.

2 Q Okay. And you were both down on one knee, correct?

3 A Yeah.

4 Q Okay. And you are posing for a photograph?

5 A Mm-hmm.

6 Q Okay. Now, had the Patriarch helped you out of any  
7 sort of trouble you had gotten into in 1960 to 1962?

8 A 1962 he help me, pry (pray) for my wife to have children,  
9 but she didn't have any children.

10 Q Well, that's what you told us. Did you go there to  
11 thank the Patriarch for something he had done for you?

12 A No, just is our Patriarch. He couldn't come to our  
13 village. He came to Damascus. Everybody went there.

14 Q You were in Damascus in 1962? A No, I was in  
15 the village, far, 600 mile.

16 Q Where is Damascus in relation to Syria?

17 A It is capital of Syria. It is close to Lebanon.

18 Q And the Patriarch came to Damascus in 1962?

19 A I believe so.

20 Q You went there to see him? A Mm-hmm.

21 Q Now, that was the first time you had seen him?

22 A Yeah.

23 Q Now, did you go there with your father?

24 A Yeah, my father, he was on his way to Canada.

25 Q Okay. And why was your father going to Canada?

26 A Something to do with the politics, Arabian politics, they

1 don't like what he do so he left for Canada.

2 Q Your father left the country? A Yeah.

3 Q And when did you leave the country? A Late '65,  
4 first '66.

5 Q 1966? A January, '66.

6 Q And where did you go? A Canada.

7 Q Now, did you see the Patriarch in 1963?

8 A I don't think so.

9 Q 1964? A No.

10 Q 1965? A No.

11 Q Okay. You arrived in Canada then in 1966?

12 A January the 6th.

13 Q And did you take up residence with your father? Did  
14 you live with your father in Canada? A Yes.

15 Q And who else arrived in Canada in 1966 besides you and  
16 your wife? Anybody else? A Me and my wife and my  
17 father and my brother Jack and his wife.

18 Q Where was Zaia? A Syria.

19 Q He was in Syria. When did Zaia leave Syria?

20 A I believe '68.

21 Q Okay. And why did Zaia leave Syria?

22 A I don't know.

23 Q You don't know? A Uh-uh.

24 Q Did you ever discuss it with Zaia why he left Syria?

25 A He wants to come and live with his father and brothers.

26 Q That is the reason why he left? A I believe so.

1 I don't know exactly.

2 Q Was Zaia in trouble with the government in Syria?

3 A I don't know. Maybe.

4 Q Well, what do you mean by "Maybe"? A I don't know.  
5 I didn't ask for. Maybe he was.

6 Q Well, when Zaia came to see you in Canada, did you ask  
7 him why he left? A No, I didn't ask.

8 Q Okay. Now, when you saw the Patriarch in 1962 in  
9 Damascus, I take it you had a gun at that time, right?

10 A Yes, I do.

11 Q You always carried a gun? A Yeah.

12 Q And just like you carry your eyeglass case you told us?

13 A Yeah.

14 Q And your eyeglass case is visible in this picture?

15 A I don't know.

16 Q Is that your eyeglass case (indicating)?

17 A I think so.

18 Q Okay. Where was the gun? A I don't know exactly  
19 in hotel or in my pocket. I don't know, '62. Now I don't  
20 know.

21 Q So the gun was either in the hotel or in your pocket?

22 A I don't believe it was in my pocket.

23 Q You can't see the gun in there, can you (indicating)?

24 A I don't believe I carried the gun that day.

25 Q Why not? A If I carry the gun that day probably  
26 I give it to somebody before I get in.

1 Q You would give the gun to somebody before you went in?

2 A Probably.

3 Q Okay. And that is because you told us a few hours ago  
4 on direct examination that if you were going to see somebody  
5 important you wouldn't bring the gun in, but if you were  
6 going to see friends you would keep the gun?

7 A Friends, yeah.

8 Q And somebody important like the Patriarch you wouldn't  
9 carry the gun in, right? A No.

10 Q What do you mean, "No"? You would or wouldn't?

11 A I wouldn't.

12 Q Why did you bring the gun down to the Patriarch's house  
13 November 6th, 1975, Mr. Ismail? A I wasn't going that  
14 night.

15 Q You weren't going to the Patriarch's house that night?

16 A I wasn't going that night.

17 Q You weren't going that night? A I wasn't thinking  
18 going that night.

19 Q When did you decide to go to his house?

20 A After I had it, the dinner.

21 Q Why did you ask the cab driver for directions to Woosley  
22 before you had dinner? A For next day to come  
23 there.

24 Q The next day, how were you going to get to the Patriarch's  
25 house the next day? A How? Taxi.

26 Q What? A By taxi.

1 Q And you were going to have them call you -- you were  
2 going to call a taxi at the motel? A Yeah.

3 Q You were going to get into the cab and say, "Take me  
4 to Woosley Avenue," right? A Yeah. I wanted to know  
5 where it is because I don't want to take another taxi, paying  
6 \$8 like first taxi. He could charge me \$5 but he turned  
7 me around maybe 10 or 15 block for nothing.

8 Q So you decided at that time that you had to worry about  
9 your expenses? A No, I was just asking him, that's all.  
10 Probably, I don't know.

11 Q Just making conversation? A Mm-hmm.

12 Q And he pulled out a map and showed you how to get there,  
13 didn't he? A I don't know, clear about, probably,  
14 maybe.

15 Q So when you went into the pizza parlor your purpose in  
16 going to that shopping center was to get something to eat?

17 A That's right.

18 Q Okay. And then you started feeling sick?

19 A Mm-hmm.

20 Q Why didn't you go home? A I don't know. I  
21 should have.

22 Q Okay. So, now you are feeling sick and you make a  
23 decision to go to the Patriarch's house? A Mm-hmm.

24 Q Did you remember the directions to the Patriarch's house?

25 A I walked for, maybe half an hour.

26 Q Walked for a half hour? A Probably for half hour.

1 I don't know exactly.

2 Q How did you find his house? A I needed to ask.

3 Q Pardon me? A I did ask couple guys close to that  
4 house.

5 Q You asked a couple guys what?

6 A To direction.

7 Q To where? A To Woosley.

8 Q To Woosley? A Mm-hmm.

9 Q And this is after you had already asked the cab driver?

10 A Mm-hmm.

11 Q Well, hadn't the cab driver told you all you have to do  
12 is go right down Cottle and hang a right on Los Pinos and  
13 then hang another left and you are right there on Woosley?

14 A Yeah, probably told me.

15 Q You couldn't understand that or remember it?

16 A I don't know.

17 Q Okay. But you did remember, didn't you, according to  
18 your testimony that when the Patriarch talked to you in  
19 February of 1975 he told you he lived by Cottle, right?

20 A Cottle, yeah.

21 Q And you remembered that? A Yeah, I remembered  
22 Cottle.

23 Q You didn't write that down anywhere, did you?

24 A Probably. I don't know.

25 Q Well, what do you mean, "Probably"? Was it in your  
26 address book, "Cottle"? A I don't know exactly.

1 Q Well, you want to look at your address book and see if  
2 it is in there? A I don't know if I did or some place  
3 else. I don't know.

4 Q Well, if you didn't write it down that means you keep  
5 it in your mind from February, '75, until November of '75,  
6 where he lived, right? Cottle? A Mm-hmm.

7 Q Now, you asked the Patriarch, you told the Patriarch you  
8 were going to come down and pay him a visit in February of  
9 '75 and he told you, "I live by Cottle"?

10 A No, I say, "Maybe we going to move and probably going  
11 to go to British Columbia or California, I don't know exactly."

12 Q And the reason you were going to move is because you  
13 didn't like the weather in Canada? A Yeah.

14 Q You lived up there seven years, ten years, hadn't you?

15 A Yeah.

16 Q Did you all of a sudden decide you didn't like the  
17 weather? A Well, after my father passed I don't  
18 like to stay there.

19 Q Okay. And when did your father pass?

20 A January, '74, I believe. 25th of January.

21 Q '74? A Mm-hmm.

22 Q Okay. And you decided to move, you thought you would  
23 move in February, '75? A Mm-hmm.

24 Q Okay. And so the Patriarch told you what? How did he  
25 tell you to get to his house? A He didn't told me  
26 that. He just says, "We live south San Jose and just take

1 Cottle," and that's all, something like that.

2 Q Didn't he give you his address? A I had his  
3 address.

4 Q You had his address? A Yeah.

5 Q How did you get that? A I got, I don't know. He  
6 sent it to me or his father-in-law gave it to me.

7 Q Did you have his phone number? A Yeah.

8 Q Where was his phone number? A I think in my  
9 address book.

10 Q May I see the address book, please?

11 THE COURT: 16, I believe. 15 and 16, notebook and  
12 address book.

13 Q (By Mr. Robinson) Showing you this address book that  
14 you had in your possession the night you were arrested,  
15 Officer Neal testified to, is the Patriarch's name in there?

16 A Yeah.

17 Q Is his address in there? A Yeah.

18 Q Is his telephone number in there? A Yeah.

19 Q Where? A (Indicating.)

20 Q That is his telephone number? A Yeah.

21 Q What is the 1-408 in front of that?

22 A I think area code.

23 Q 1-408? A I think so. I don't know.

24 Q Okay. And there is some Assyrian writing over that?

25 A Yeah.

26 Q Okay. What does that say? A This one?

1 Q Yeah. A Mar Shimun.

2 Q That says Mar Shimun? A Yeah.

3 Q In both Assyrian and English? A Yeah, that is  
4 Mar Shimun.

5 Q Okay. I apologize. I didn't know that. So you  
6 had the Patriarch's telephone number. Did you call him  
7 when you were in San Francisco? A No.

8 Q Why not? A I just don't call him.

9 Q Well, how did you know he would be home?

10 A I don't know.

11 Q Came all of the way down here from Canada on the spur of  
12 the moment thinking that you might find him home?

13 A Well, I don't come especially for that purpose. I said  
14 I would phone him first Friday, but that day I went without  
15 phoning him.

16 Q Let me ask you this, I take it you were very devoted to  
17 the Patriarch? A What's "devoted"?

18 Q You loved the Patriarch? A I used to.

19 Q When did you stop loving him? A Well, when he get  
20 married a little bit, upset me.

21 Q That upset you? A Very much.

22 Q Okay. And then you told us that you talked to his mother  
23 and father-in-law and they sort of convinced you to still  
24 support him? A Mm-hmm.

25 Q And did you still support him? A I was thinking  
26 about, everything is changed now. It's not like 100 years

1 ago.

2 Q Okay. Well, how would you describe your feelings  
3 toward the Patriarch in, say, the first week of November,  
4 1975? A Just not very mad.

5 Q Pardon me? A I wasn't very mad at that week. And  
6 I just have to see him.

7 Q Were you excited about going to see him?

8 A I was thinking go see him --

9 THE COURT: You were going to add something else,  
10 Mr. Ismail?

11 MR. PESTARINO: Was that it?

12 THE WITNESS: I wasn't very mad that week. And I  
13 would like to see him and talk to him when I came over here.  
14 I must go and see him.

15 Q (By Mr. Robinson) Were you excited about it?

16 A Hmm?

17 Q Were you excited about it? A What's "excited"?  
18 You mean mad?

19 Q No, not mad. Sort of like, you know, you're going to go  
20 on a vacation and you sort of get excited, you get happy that  
21 you are going to go on a vacation? A Yeah.

22 Q Looking forward to doing something. Did you feel that  
23 way about it? A Yeah.

24 Q Was it a big thing in your life, you were going to see  
25 the Patriarch? A Yeah.

26 Q Okay. Had you ever seen him by yourself before, just

1 you and the Patriarch talking? A I seen in Flint,  
2 Michigan.

3 Q In Flint, Michigan? A Yeah.

4 Q Where did you see him by yourself in Flint, Michigan?

5 A I see him, I think, twice, when I take him some grapes  
6 and apples and something, he was alone in his room.

7 Q Okay. And did he live in Michigan at that time?

8 A No, he was visiting.

9 Q He was visiting and you came down to take him apples  
10 and grapes? A No, I came down to have communion from  
11 him and see him.

12 Q Did you have an appointment to see him? A No.

13 Q Just walked in and brought him apples and grapes?

14 A Yeah.

15 Q Was this a church service you saw him at?

16 A Well, I was just service.

17 Q Just a service? Okay. Well, had you ever seen him  
18 by yourself in his house? A No.

19 Q Okay. Now, I take it if you were -- do you know what  
20 the word "excited" means now? Looking forward to seeing him?

21 A Yeah.

22 Q I take it that you told Kitty Benjamin that you were  
23 going to go see the Patriarch, that was a big deal in your  
24 life? A No, I didn't tell nobody and even I see his  
25 cousin Sunday, Monday, Tuesday, and Wednesday, and I didn't  
26 tell him nothing about him.

1 Q You didn't tell Yule Lazar either? A I didn't tell  
2 nobody.

3 Q Why not? A Well, I didn't tell them because,  
4 I don't know why. I hear that not too many people they  
5 like him, so I don't want to say nothing. I'll see him and  
6 see what, what he have to say.

7 Q Well, when you were with Kitty Benjamin did you ever  
8 discuss the Patriarch? A No, sir.

9 Q Did you ever discuss religion? A No, I don't  
10 believe.

11 Q You don't what? A I don't believe I ever mention-  
12 ed anything about that.

13 Q Did you ever discuss politics? A Never.

14 Q What did you talk about? A She take me home and  
15 she have very, very old song, Assyrian song, and she asked me  
16 what my father, he did in Iraq and something.

17 Q When you were with Yule Lazar did you ever discuss the  
18 Patriarch? A No, he was discussing whether he wants  
19 to get married, and he don't know, he couldn't find yet the  
20 right broad, and he was looking for a girl.

21 Q Did you ever discuss politics with Yule Lazar?

22 A Never.

23 Q Did you know that Yule Lazar was a member of the -- was  
24 the head of the Universal Alliance in San Francisco?

25 A I don't know until he say it in here.

26 Q You didn't know that? A No, sir.

1 Q Did Kitty Benjamin ever tell you that?

2 A No.

3 Q Did you ever discuss the Assyrian Universal Alliance  
4 with Kitty Benjamin? A No, sir.

5 Q Well, did you ever ask Kitty Benjamin, "Hey, what's the  
6 story on this Christmas card here with this 'Keep up the  
7 good work for the A.U.A.'"? Did you ever ask her about that?

8 A No.

9 Q Okay. Now, you told us that you knew the Patriarch's  
10 wife, Emama, since 1969; is that correct? A Yeah.

11 Q And that is when she came to Canada, right?

12 A I believe so.

13 Q Okay. Did you ever discuss politics with her in  
14 Canada? A I don't remember. Maybe.

15 Q Pardon me? A Probably, but I don't remember  
16 exactly.

17 Q Okay. Did you ever discuss religion with her in  
18 Canada? A I don't think so. I don't remember.

19 Q Well, maybe this will refresh your memory. Did you  
20 ever talk to her about what we have to do is get the people  
21 away from the church, and once we get rid of the church they  
22 will turn to politics, did you ever discuss that?

23 A No, sir. I don't believe I say that. But I don't  
24 remember what I said. I don't believe I say that.

25 Q Your father was very interested in politics, wasn't he?

26 A He was, yeah.

1 Q And you told us you were very close to your father,  
2 right? A Mm-hmm.

3 Q And your father wanted to get a homeland for the  
4 Assyrian people, didn't he? A I think so, but he is  
5 with the Iraqi government.

6 Q Right. Your father wanted the Iraqi government to,  
7 for the government to give them a piece of their land and  
8 designate that Assyria for the Assyrian people, right?

9 A Just a state.

10 Q He wanted a state? A That's what I heard.

11 Q Well, I take it you discussed this with your father?

12 A No, sir. He don't want -- he don't want me to talk  
13 about politics.

14 Q Pardon me? A He wasn't like me to talk about  
15 politics because he knows that I am not that type.

16 Q Okay. And your brother Zaia, did you know that your  
17 brother Zaia was very active in the Assyrian Universal  
18 Alliance? A I don't know that.

19 Q You don't know that? A No.

20 Q Did you know that your brother Zaia was very active in  
21 politics? A I know he is in politics, but what he do  
22 and what's going on I don't know.

23 Q You don't know anything about that? A No.

24 Q Now, have you had any problems hearing anything I have  
25 asked you today in court? A Could you repeat, please?

26 Q Yeah. Have you had any problems hearing me speak in

1 court today? A I don't think so.

2 Q Okay. Well, what about your ear? You lost the  
3 hearing in your right ear. When did you regain that?

4 A '43, I think.

5 Q Okay. So you lost it and you both regained it in 1943?

6 A Both what?

7 Q You told us that you had an accident in 1943, you lost  
8 your hearing in your right ear and so the military didn't  
9 take you. Remember telling us that? A Yeah.

10 Q When did you recover the hearing in your right ear?

11 A I still don't hear.

12 Q Pardon me? A I still -- it's still, I don't hear  
13 it.

14 Q You still don't hear in your right ear? A No.

15 Q Everything you hear comes from your left ear?

16 A Yes, sir.

17 Q You told us that you had an ear operation in Canada in  
18 1972-73. Was that operation a failure? A No, the  
19 doctor, he check out and he said better have operation and  
20 clean it up in case in future it gives you trouble in your  
21 head.

22 Q He -- I'm sorry? A He said in case doesn't give  
23 you trouble in the future in your head, so you should have  
24 an operation and clean it up.

25 Q Clean it out? A That's what I heard, yeah.

26 Q Did he do that? A Yes.

1 Q Has it been giving you any trouble, your ear?

2 A Yeah, same thing.

3 Q What kind of trouble does it give you?

4 A Headache to one side.

5 Q Okay. And how often do you get these headaches?

6 A Sometime two, three time a month, sometime one, some-  
7 time none.

8 Q Okay. On November the 6th, 1975, did you have one of  
9 these headaches? A No, I had first day I arrive in

10 San Francisco.

11 Q First day you got in San Francisco? A Yeah.

12 Q But on the night that the Patriarch was killed you  
13 didn't have one of these headaches, did you?

14 A I don't believe, no.

15 Q Now, let me ask you something, Mr. Ismail. How were  
16 you planning to get the gun from the United States back into  
17 Canada? A How I take it to Canada?

18 Q Yes, sir. A Just put it in pocket, that's all.

19 Q Doesn't Canada have very strict gun control?

20 A I don't think so.

21 Q You don't know anything about gun control in Canada?

22 A No.

23 Q Isn't it a fact that they are one of the strictest  
24 countries in the world regarding gun control, what sort of  
25 guns go out and what sort of guns go in? A I hear that,  
26 gun control, I don't know when.

1 Q Now, why didn't you bring one of your own guns that  
2 you tell us that you have down here from Canada when you took  
3 this trip? A I was flying, so --

4 Q You were what? A I was flying, so you can't  
5 carry gun when you are flying, but when you going by bus you  
6 could do it.

7 Q I see. Can't you put a gun into a suitcase and check  
8 your suitcase into the plane, you can carry it that way,  
9 can't you? A I don't think so.

10 Q Did you check that out? A Yeah.

11 Q What did they tell you? A Oh, they checked my  
12 suitcase would have nothing, so they let me come.

13 Q Now, you told us that you carry a gun with you all of  
14 the time in Canada? A Yeah.

15 Q Is your wife familiar with the fact you have a gun?

16 A She don't like it. She knows, but --

17 Q She knows. So if someone were to ask her, "Do you  
18 own any guns," if she was telling the truth she would have  
19 said, "Yeah," and told that? A Probably.

20 Q Your wife has no reason to cover up for you, does she?

21 A I don't know.

22 Q Pardon me? A I don't know.

23 Q Okay. And you always carry this gun with you on your  
24 person in Canada? A In my pocket.

25 Q In your pocket? A In my car sometimes.

26 Q In your car sometimes. Would people at the Ford Motor

1 Company have seen this gun on you where you work?

2 A Some of them, I guess.

3 Q Can you give me some names? A Tom, I don't know  
4 the last name. I can't remember the last name.

5 Q Now, when you would go from Canada to the various  
6 conventions in Flint, Michigan or Chicago, how would you get  
7 there? A How I get there?

8 Q Yes. Drive your car, fly a plane? A By car.

9 Q Always by car? A Mm-hmm.

10 Q Okay. And it is at this time that you would always  
11 bring the guns with you? A Yes.

12 Q And a lot of people have seen you with guns?

13 A Friends.

14 Q Friends have seen you with guns? A Yeah.

15 Q Now, you told us that, talking about your drinking  
16 habits, you used to drink if you went to a wedding, Christmas  
17 party, something like that? A Mm-hmm.

18 Q And that since 1973 you have had a habit of drinking?

19 A Yeah.

20 Q Okay. And what caused you to start drinking in 1973?

21 A What's that?

22 Q Any special reason you started drinking heavily in 1973?

23 A I just get very opset (upset).

24 Q Pardon me? A I get very opset (upset).

25 Q Pardon me?

26 THE COURT: Upset.

1 Q (By Mr. Robinson) Anything that caused you to be very  
2 upset in 1973? A Mar Shimun get married.

3 Q So Mar Shimun got married in 1973 and that made you very  
4 upset and made you start drinking? A Mm-hmm.

5 Q Now, you told us if you get into an argument, if you  
6 just have one shot of Johnny Walker in you, it is like you  
7 have had a whole bottle? A That's right.

8 Q And you sort of lose your head? A Yeah, lose my  
9 mind.

10 Q You told us that your father talked to you about your  
11 drinking? A He heard in 1973 when I visit him in  
12 Lebanon.

13 Q In Lebanon? A Yeah.

14 Q And when did you visit him? What month did you visit  
15 him in Lebanon? A Some time late September, I guess,  
16 early November, something like that.

17 Q What was the purpose of that visit?

18 A Well, when we heard that, and I get so opset (upset) and  
19 I talked on telephone to him, and he said, "I want you to  
20 come over here," so I went there to see him.

21 Q Okay. And he paid your way? A Yes, he did.

22 Q Because you didn't have enough money?

23 A Well, he sent me \$1500, so I don't know why.

24 Q Where was your brother Zaia at this time?

25 A I think in Iraq.

26 Q In Iraq? A I think so.

1 Q Okay. And was he working to obtain a separate state  
2 from Iraq for the Assyrian people? A I think he was  
3 just with my father, but my father doing what he was, too, I  
4 guess.

5 Q Now, you told us in 1962-1961 you weren't drinking too  
6 much at that time. You had a couple drinks, you had an  
7 argument with your wife and you broke all the dishes in your  
8 house? A Mm-hmm.

9 Q Okay. Now, at that time I take it it is your opinion  
10 that the alcohol caused you to do this? A No, I missed  
11 my father very much that time, a lot, coming to Canada for  
12 visit for couple months, and she said, "Wait until next year,"  
13 and I just got mad.

14 Q Okay. So the drinking had nothing to do with it?

15 A Yeah, because I had a drink, too. That is why I --

16 Q That is why you what? A That is why, what happen-  
17 ed.

18 Q How many drinks did you have in 1961-62?

19 A I don't remember. I don't know how much I drink that  
20 time. I wasn't drink that much that time but --

21 Q And then in Chicago in 1972 you got into a fight with a  
22 guy named Sklaria? A Skharia.

23 Q And the reason you did that is because you were drinking?

24 A Well, I was drinking and having good time but when he  
25 mention about Mar Shimun I get very mad.

26 Q Very mad? A Yeah.

1 Q Okay. Because at this time you were very close to the  
2 Patriarch, right? A That's right.

3 Q And was your father present when this man made the  
4 comment about Mar Shimun? A No.

5 Q But you got real upset? A Mm-hmm.

6 Q Because this man had said something bad about somebody  
7 who you loved at that time? A That's right.

8 Q And you had been drinking? A Mm-hmm.

9 Q And you had your gun with you? A I think so.

58 10 Q You didn't shoot him? A No, my brother, he  
11 picked me up, pulled me out.

12 Q Did you draw your gun on this man? A I don't  
13 believe it. The next day they told me we get in argument  
14 with that man and I wanted to jump to him, and my brother and  
15 other guy they take me out of the hotel.

16 Q Did you pull your gun and attempt to shoot this man?

17 A I don't remember. I don't think so. I don't know.

18 Q Now, this time with Edward Younan in September of 1973,  
19 where you swept all of the dishes off the table, remember  
20 that? A Yeah.

21 Q You were very mad at this time, too, right?

22 A Right.

23 Q You had been drinking, right? A Yeah.

24 Q Did you pull your gun and attempt to shoot Edward Younan?

25 A I don't mad at him.

26 Q What? A I didn't mad at Edward Younan.

1 Q Who were you mad at? A We was arguing, I want to  
2 go to Iraq to see my father, and my wife said, "Wait until  
3 summertime to get better," you know, and we had wine there,  
4 and we started drinking wine for Easter, and I just get mad.

5 Q Wait a minute. You told us in 1961-1962 you wanted to  
6 go see your father? A Yeah.

7 Q And your wife said no, and you got mad at that time?

8 A Yeah.

9 Q Now, is that a separate incident from the September --

10 A Separate.

11 Q -- 1973 issue? A That's right.

12 Q There were two separate times? A Yeah.

13 Q So both times you got mad because your wife said, "You  
14 can't go see your father"? A Because she said, "Wait  
15 for summer," so I just remember my father, and I get perhaps  
16 upset.

17 Q Now, when the Patriarch wrote you the letter asking if  
18 you had signed your name to that telegram you told him no,  
19 you hadn't, right? A I tell him what?

20 Q You told him that you hadn't signed your name to that  
21 telegram? A I told him I received the telegram, but  
22 I don't tell him that I send it, or I told him if I send it  
23 I going to send you copy.

24 Q And at that time you didn't know if you were going to  
25 support the Patriarch or not, correct? This is in February  
26 of 1975. A Yeah.

1 Q Okay. Did you ever call the Patriarch on the phone  
2 back in February of 1975 and indicate to him that you were  
3 supporting him and that there were some people talking  
4 against him over in the Middle East, and you would go over  
5 there and kill them? A No.

6 Q Never said any of that? A No.

7 Q Now, you bought a one-way ticket in Canada?

8 A Yeah.

9 Q By the way, did your wife know you were coming to the  
10 United States, Mr. Ismail? A She knows I was traveling.

11 Q Let me ask you this, when you left Canada did your wife  
12 know you were coming to the United States?

13 A I think so.

14 Q Well, you think so? A Mm-hmm.

15 Q Did you tell her you were coming to the United States or  
16 didn't you? A I think I told her.

17 Q Well, Mr. Ismail, if your wife were to have told the  
18 Canadian police officer she didn't know where you were, she  
19 didn't know you were coming to the United States, would she  
20 have told a lie?

21 MR. PESTARINO: I object. It is argumentative, if  
22 she told him.

23 THE COURT: Yes. The objection --

24 MR. ROBINSON: Counsel has indicated that the wife  
25 is going to testify. Since I can't call her and counsel has  
26 indicated, this would be a prior inconsistent statement.

1 THE COURT: He wouldn't know what she told the  
2 Canadian police, so therefore it would be hearsay.

3 MR. ROBINSON: Okay. We will wait until Mrs.  
4 Ismail comes.

5 MR. PESTARINO: I don't know if I am going to call  
6 her.

7 THE COURT: Well, we will see.

8 Q (By Mr. Robinson) Did your wife know you were coming to  
9 San Francisco? A I don't know. Maybe.

10 Q Well, let me ask you this, Mr. Ismail, what did you do,  
11 you just -- how did you get the money?

12 A We had money at home, spending money.

13 Q How much money did you take with you on this trip?

14 A I have in my pocket around \$400.

15 Q \$400 cash money? A Yeah, plus \$80 which was in my  
16 suitcase, 80 Canadian dollar.

17 Q So this is when you left now? A Mm-hmm.

18 Q Right? A Yeah.

19 Q Okay. So you buy yourself a one-way ticket from Canada  
20 to San Francisco? A Yeah.

21 Q And the reason you buy the one-way ticket is because you  
22 are thinking of going home by way of Denver, Colorado, and  
23 Chicago? A My cousin, I visit her in Denver, Colorado,  
24 yeah.

25 Q And how were you going to get from San Jose to Denver,  
26 Colorado? A By bus.

1 Q By bus? A Mm-hmm.

2 Q Have you ever -- you know how long that would take you?

3 A I don't know. Probably one day, or day and a half,  
4 something like that.

5 Q Okay. And then you were going to go from Denver,  
6 Colorado, to Chicago? A Yeah.

7 Q And how were you going to get there? A Same thing.

8 Q By bus? A Mm-hmm.

9 Q Okay. And then you were going to go from Chicago to  
10 Canada? A Yeah.

11 Q And how were you going to get there? A By bus.

12 Q By bus. Okay. Now, did your wife expect you home  
13 at any certain time? A No, but I call her once -- once  
14 a week or twice a week.

15 Q Well, how many times did you call her when you were down  
16 here, Mr. Ismail? A I call her Sunday.

17 Q Sunday. And that would be from the hotel, the San  
18 Franciscan Hotel? A I believe so.

19 Q And that is, I take it, a long distance call?

20 A Yeah.

21 Q All right. Did you reverse the charges or did you pay  
22 for that call, put it on your tab? A I think I pay for  
23 it.

24 Q Okay. Do you know why that isn't indicated on your  
25 telephone tabs from the hotel? A I think I pay for it.

26 Q Okay. And when you called your wife on Sunday, what

1 did you tell her? A I said, "I'm in San Francisco."

2 Q What did she say? A She don't believe it until  
3 Eshaya De Mar Shimun talk to her.

4 Q Who is Eshaya De Mar Shimun? A It is Mar Shimun's  
5 cousin.

6 Q And how did he feel about the Patriarch getting married?

7 A I don't know.

8 Q Didn't you discuss that with him? A No.

9 Q Did you discuss the Patriarch with him? A No.

10 Q Now, the purpose of your coming to San Francisco was what?

11 A Visiting and looking how San Francisco is if we move to  
12 it, something like that.

13 Q Well, where did you visit, what do you mean?

14 A Where did I visit?

15 Q Yeah. Were you looking for a place to live? Were you  
16 looking for a business? Did you just want to see how the  
17 weather was? A See how the weather is, how California

18 is, if we move what kind of business there are.

19 Q Okay. And I take it you knew Kitty Benjamin lived in  
20 San Francisco? A Yeah.

21 Q Did you ever think about calling her on the phone and  
22 saving yourself a lot of money and saying, "Hey, Kitty, how's  
23 the weather down there in San Francisco?"

24 A Yeah, well, if you want to move some place you have to  
25 see it by yourself. You don't want to ask anybody else.

26 Q So you came down here to see the weather by yourself?

1 A. Yeah.

2 Q. What did you do about opening up a small business?

3 Who did you talk to? A. I don't know, probably I talk  
4 to somebody but --

5 Q. Well, who? A. Maybe I told Yule about it. I don't  
6 know.

7 Q. Well -- A. When we were drinking, when we were  
8 sitting drinking maybe I told him that.

9 Q. Did you go out and visit any people that had small  
10 businesses and say, "How much does it cost to get in here?  
11 How much am I going to need to get a bank loan? How's the  
12 business? Good? Bad? Good location"? Did you do any  
13 of that stuff? A. No, I was waiting until my cousin,  
14 ask him if we had any money back home or not.

15 Q. Okay. And at this time you told us that you didn't  
16 have any money left from the sale of the house, right?

17 A. Not too much, no.

18 Q. Now, you went out to dinner with Yule Lazar Friday night?

19 A. Yeah.

20 Q. Okay. And you told us that you had dinner down at his  
21 hotel? A. Yeah.

22 Q. Dining room, right? A. Yeah.

23 Q. Okay. And you had a shot of whiskey?

24 A. I don't know how many shot of whiskey I had. I believe  
25 I had some whiskey.

26 Q. How much did you have? A. I don't know. I believe

1 I had some whiskey but I didn't count how many.

2 Q Were you drunk? A No.

3 Q Didn't affect you at all? A No.

4 Q Okay. Did you have more whiskey on that particular  
5 night when you were having dinner with Yule Lazar than on  
6 November 6th, 1975? A No, I didn't have too much that  
7 night with dinner when he invite me. Even when I invite  
8 him we don't have too much. We have a wine next day with  
9 meal, that's all.

10 Q And you went out with Kitty Benjamin and did the sights  
11 of San Francisco one night? A Some place, I don't know  
12 where it is.

13 Q And were you drinking when you were with her?

14 A Mm-hmm.

15 Q Okay. How much did you have to drink then?

16 A I don't know exactly, three or four shots. I don't  
17 know exactly.

18 Q Were you drinking doubles? You always drink doubles?

19 A Yeah.

20 Q And did you get drunk that night? Did you feel the  
21 effects at all? A I doubt it.

22 Q Did you have more to drink that night than you did on  
23 November the 6th, 1975? A No.

24 Q Okay. Is there any special reason that you drank all  
25 of this alcohol on November 6th, 1975? A I think  
26 reason was I was alone over there. I don't know how to spend

1 the day. I think that was the reason, that's all.

2 Q You were alone over there? A Mm-hmm.

3 Q I take it you were alone a lot of the time when you were  
4 in San Francisco, weren't you? A Not -- no.

5 Q No? A No.

6 Q Well, when Kitty Benjamin and Yule Lazar were working  
7 during the day who were you with? A I was, I think  
8 Monday I take the car, I borrow Yule's car, so I went to  
9 Eshaya's place. He was working and his sister, what I said  
10 was, his mother until 6:00 o'clock and next day and Wednesday,  
11 too.

12 Q You went to Eshaya's place Monday, Tuesday, Wednesday?

13 A Mm-hmm.

14 Q Now, isn't it true that Eshaya doesn't like his cousin,  
15 the Patriarch? A I don't know.

16 Q You never discussed that with him? A No.

17 Q Okay. Let me ask you this, Mr. Ismail, why didn't you  
18 buy yourself a bottle and drink it at the Sunset Motel?

19 A I did.

20 Q You did? A Sure.

21 Q Okay. And when did you drink that at the Sunset Motel?

22 A I didn't drink it all there. I took it to San Francisco  
23 Motel.

24 Q You took it to the San Franciscan Motel? A Yeah.

25 Q What kind of liquor did you buy at the Sunset Motel?

26 A Johnny Walker.

1 Q Johnny Walker. Because you didn't finish it there,  
2 you brought it down to the other hotel? A Right.

3 Q And did you finish it off down at the San Franciscan?

4 A Yeah, I finished. Sunday, I guess, and Monday Eshaya  
5 had couple of drink.

6 Q Eshaya was in your room Monday, too? A For 10, 15  
7 minutes, something like that.

8 Q Was that Monday afternoon or Monday night?

9 A Monday night.

10 Q And then did you go out and buy yourself another bottle?

11 A No, it was big bottle.

12 Q It was a big bottle? A Mm-hmm.

13 Q And when you finished it off Monday, did you go out and  
14 buy yourself another bottle? A No, I didn't finish  
15 until Wednesday night.

16 Q I thought you just told us that you finished it on  
17 Monday? A No. No, it was big bottle.

18 Q So you didn't finish it until Wednesday?

19 A Wednesday night.

20 Q Okay. So then on Thursday afternoon you went out and  
21 bought yourself another bottle? A Yeah.

22 Q And you bought a little bottle this time? A Yeah.

23 Q How come? A I just bought a small bottle.

24 Q Any reason the first time you bought a big bottle, this  
25 time you bought a little bottle? A Wasn't the first  
26 time bottle, buy a small bottle, it wasn't the first time buy

1 a big bottle.

2 Q I'm sorry. I missed that. Any special reason?

3 A There is no special reason, no.

4 Q Now, did you tell Kitty Benjamin about the gun you  
5 purchased? A No.

6 Q Tell her about how you got it? A (Shakes head  
7 negative.)

8 Q Huh? A No.

9 Q When you ate dinner over her house did you take off  
10 your coat? A I don't know what I was wearing that  
11 night, but I doubt if I had a gun with me every day.

12 Q You doubt if you had a gun with you every day?

13 A Yeah.

14 Q And you just take it on some days and not others?

15 A Yeah, sometimes carry, sometimes, yeah.

16 Q Well, is there any special reason that you carried it  
17 on the night of November 6th, 1975, when you went to the pizza  
18 parlor? A No.

19 Q It just happened to be one of the days, one of your gun  
20 days? A Yeah.

21 Q All right. Now, you told us that you thought Yule Lazar  
22 paid the bill at the Sunset Motel? A Mm-hmm.

23 Q Why did you think that? A Because he picked me up  
24 so I thought he paid for it. I asked the guy, he said all  
25 paid for.

26 Q So you thought Yule had paid for it? A Yeah.

1 Q Now, when he picked you up, you put your luggage into  
2 the trunk of his car? A No, he came over there and I  
3 said, "Wait for a few minutes, I have luggage." So he went  
4 in that car and I take my luggage over there, and trunk was  
5 open, so I put one suitcase back, closed, then I kept this  
6 one with me.

7 Q So you had that little grip with you in the front seat?

8 A Yeah, I put it.

9 Q No reason to put that in the trunk, you could put it  
10 right there in your lap? A I think so. I could carry  
11 this one with me.

12 Q And you put your suitcase and the bag with the suits in  
13 it in the trunk? A No, I was wearing another suit and  
14 this suit it was right in that box, suitcase.

15 Q Okay. What time did Mr. Lazar pick you up to move  
16 your stuff Saturday from the hotel down to -- from the motel  
17 to the hotel? A I don't know exactly. I would say  
18 between 5:00, 6:00, 7:00, some time. I don't know exactly.

19 Q And you had stored your stuff behind the desk, right, of  
20 the motel? A Right.

21 Q Okay. Given it to Mr. Crowley and asked him to hold it  
22 back there? A Mm-hmm.

23 Q And Kitty Benjamin came with you to pick you up that  
24 night, came with Yule Lazar? A No.

25 Q No? A Just Yule Lazar.

26 Q Okay. You're sure about that? A I think so.

1 Q Now, when you left San Francisco on Wednesday afternoon,  
2 did you tell Kitty Benjamin where you were going?

3 A No.

4 Q Did you tell Yule Lazar? A No.

5 Q Did you tell them you were going home?

6 A They asked me, "Where you going?" I said, "Maybe I'm  
7 going to Canada." They said, "We have a party in Turlock."  
8 I don't know where it is. I said, "Okay. I'll be there,"  
9 just kidding them, that's all.

10 Q Did you tell them you were going to take a bus up to  
11 Denver and see your relatives? A They didn't ask me  
12 whether I am going to Denver or not.

13 Q Of course they didn't ask you whether you were going to  
14 Denver. They asked you where you were going?

15 A I said, "I'm going home."

16 Q You didn't tell them you were going to Denver first and  
17 then by bus from Denver to Chicago? A No.

18 Q Why not? A I don't know why not.

19 Q You didn't tell them you were going down to see the  
20 Patriarch? A No.

21 Q Why not? A I didn't tell them.

22 Q By the way, this fellow that sold you the gun, you saw  
23 Ronnie Myers come in and testify, didn't you? A Yeah.

24 Q That wasn't the fellow that sold you the gun in the bar,  
25 was it? A No. No.

26 Q Now, how come all of a sudden the day before, the day

1 that you leave, check out of the hotel in San Francisco, you  
2 called a number in Australia, you told us that you wanted to  
3 talk to your niece, I think? A My niece, that's right.

4 Q When was the last time you talked to her?

5 A I believe some time at, September.

6 Q Of 1975? A August or September, I don't remember  
7 exactly.

8 Q Of 1975? A '75, yeah.

9 Q Okay. And when you talked to her at that time was she  
10 at her number at her house? A Yeah.

11 Q Okay. And did she tell you she was going to be leaving  
12 for a year? A She said, company, they want to send  
13 her husband out for couple months maybe, if not longer than  
14 two months she won't go, but if it is more than three months  
15 she would go with him.

16 Q Okay. Why all of a sudden did you decide to call her  
17 on November 6th, 1975? A Maybe I was drunk, that's why.  
18 I don't know.

19 Q Maybe you were drunk? A Maybe I was a little  
20 drunk, happy.

21 Q Now, wait a minute, now, you hadn't started drinking yet  
22 when you called from the hotel on November 6th, 1975?

23 A What's that?

24 Q Yeah. You told us that on November the 6th, 1975, next  
25 to the bus station in the bar you had a double shot at about  
26 1:00 o'clock? A Yeah.

1 Q Okay. And then you had some more drinks down at San  
2 Jose? A Mm-hmm.

3 Q Then you had some more drinks at the pizza parlor?  
4 A Yeah.

5 Q Well, you called Australia --  
6 A Mm-hmm.

7 Q -- before you ever got to the bus station, didn't you?  
8 A That's day before.

9 Q No, you called on November 6th, huh? A No.

10 Q You called the day before? You called on November 5th?  
11 A I think day before, or maybe 5th or 4th.

12 Q The 5th or the 4th you called? A I don't remember  
13 exactly, 5th or 4th.

14 Q And you think that the reason that you called is because  
15 you might have been a little drunk? A I don't know  
16 what's the reason. I just called and talked to her, that's  
17 all.

18 Q And this person, Mr. Kanna, that you called --

19 A Yes.

20 Q -- okay, did you know that he was coming out very strongly  
21 against the Patriarch? A I don't know.

22 Q You didn't know that? A No. I see him in 1972.  
23 I see him in 1972.

24 Q You saw him in 1972? Where did you see him?

25 A When he came to visit my father.

26 Q He came to visit your father? A Yeah.

1 Q Isn't it a fact that he was writing very derogatory  
2 articles about the Patriarch? A I don't know that.

3 Q That he wanted the Patriarch out? A I never read  
4 any article.

5 Q Isn't it a fact that he is a big member of the Assyrian  
6 Universal Alliance, Mr. Kanna is? A I don't know that.

7 Q Why did you call him, sir? A I call him to find  
8 out about my niece.

9 Q And the last time you talked to him was in 1972?

10 A Yeah, I guess so.

11 Q And he is the only one in Australia that can tell you  
12 about your niece? A He is very close to her husband.

13 Q Very close to her husband? A Mm-hmm.

14 THE COURT: Counsel, would this be a good time to  
15 take a break or do you want to go for a little while?

16 MR. PESTARINO: Can we approach the bench?

17 (Discussion off the record.)

18 THE COURT: All right, ladies and gentlemen, we  
19 will take our adjournment for tonight and we will resume  
20 tomorrow morning at 9:45. You will keep in mind the admoni-  
21 tion I have previously given you about not letting anybody  
22 discuss the case with you or in your presence or having you  
23 express any opinion about the case either among yourselves or  
24 with any other person. You can step down and you will be  
25 ordered to return tomorrow morning, also, at 9:45. Any  
26 witnesses under subpoena will be ordered to return. Have a  
good evening. See you tomorrow.

(Whereupon, Court adjourned until 9:45 o'clock a.m.,  
March 23, 1976.)

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TO THE COURT OF APPEALS OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

---oCo---

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
Plaintiff & Respondent, )  
vs. )  
DAVID MALEX ISMAIL, )  
Defendant & Appellant. )

VOLUME IV  
Pages 739 - 1025

---oCo---

REPORTER'S TRANSCRIPT ON APPEAL FROM THE  
JUDGMENT OF THE SUPERIOR COURT OF THE  
STATE OF CALIFORNIA, IN AND FOR THE  
COUNTY OF SANTA CLARA.  
HONORABLE GEORGE H. BARNETT, JUDGE, AND A JURY.

---oCo---

## NINTH DAY

March 23, 1976

9:45 o'clock a.m.

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

MR. ROBINSON: Thank you, Your Honor.

DAVID MALEK ISMAIL,

the witness on the stand at the time of the adjournment, resumed the stand and testified further as follows:

## CROSS-EXAMINATION (Resumed)

BY MR. ROBINSON:

Q. Mr. Ismail, I'd like to ask you some questions about the night of the killing, okay? A. Yeah.

Q. That is November 6th, 1975, a Thursday?

A. Yeah.

Q. Okay. Now, you told us that when you went to the pizza parlor you didn't have any intention of going to the Patriarch's house that night? A. No.

Q. That you were going to -- your original intention was to go the following Friday or Saturday?

A. Say that again, please?

Q. Yes. Your original intention when you arrived in San Jose was to go to the Patriarch's house on either the following Friday, November the 7th, or Saturday, November the 8th? A. Friday.

Q. You were going to go Friday? A. Yeah.

- 1 Q. You knew that for sure? A. Yeah.
- 2 Q. And you made up your mind to go there on Friday?
- 3 A. Yeah.
- 4 Q. Now, what time were you going to go there on Friday?
- 5 A. I just phoned before noon, anytime before noon, I don't
- 6 know.
- 7 Q. You were going to phone before noon?
- 8 A. Yeah.
- 9 Q. And you had made up your mind to call him on Friday?
- 10 A. Yeah.
- 11 Q. Right. Okay. Now, were you going to see him -- were
- 12 you going to try and arrange an appointment on Friday?
- 13 A. Just call him and ask him, "I'm here in San Josey --
- 14 San Jose, and I come and see you?"
- 15 Q. Okay. And you're going to ask him then if he would
- 16 see you? A. Yeah.
- 17 Q. Okay. Were you going to try to arrange an appointment
- 18 for Friday morning or Friday afternoon or Friday night?
- 19 A. Friday morning.
- 20 Q. Friday morning? A. Yeah.
- 21 Q. Okay. And where were you going to call him from?
- 22 A. Motel.
- 23 Q. From the motel? A. Yeah.
- 24 Q. Okay. That would be the Oasis Motel?
- 25 A. The motel I was in, yeah.
- 26 Q. Okay. Now, you wore a suit to the pizza parlor?

1 A. Yeah.

2 Q. Can you tell us why you did that?

3 A. I just wake up that morning and I wear it, that suit.

4 Q. All right. Was there any special reason why you wore  
5 a suit on Thursday when you left --

6 Q. -- the hotel in San Francisco? A. No.

7 Q. You had usually worn sport clothes, right? A. No.

8 A. Yeah.

9 Q. And can you tell us why you put on the suit then as  
10 opposed to your sport clothes?

11 A. There's no  
12 reason. Next day I take another suit, too.

13 Q. So when you went to the pizza parlor you got there via  
14 the taxicab? A. Yeah.

15 Q. Okay. And you got off and you went inside the pizza  
16 parlor? A. Yeah.

17 Q. You ordered yourself a beer? A. Yeah.

18 Q. All right. Now, and then ordered yourself a pizza?

19 A. Right.

20 Q. Okay. Now, when you ordered yourself that beer you  
21 were waiting for your pizza to be made?

22 A. I don't know. I just want to drink beer.

23 Q. You just wanted to drink a beer?

24 Q. Okay. Was there some reason why you just wanted to  
25 drink a beer? Were you thirsty? A. Yeah.

26 A. There is  
no reason. I was alone, and I thought that I have a few  
drink, beer, that's all.

1 Q. And as you sat there, how long did it take you for the  
2 pizza to be made? A. I don't know

3 exactly. I would say thirty minutes, something like that.  
4 I don't know exactly.

5 Q. Thirty minutes. Okay. Was it busy that night in the  
6 pizza parlor, a lot of people in there?

7 A. Wasn't too many people, was busy but not too many  
8 people.

9 Q. Okay. Now, how many beers did you drink before you  
10 received your pizza? A. I don't know exactly.  
11 I would say two, maybe.

12 Q. Okay. And then how did they announce that your pizza  
13 was ready? Did they come over and tell you, did they call  
14 your name, give you a number, anything like that?

15 A. I think they give me piece of paper. I don't know what  
16 was on it. And I think they call me twice, the number, or  
17 they ask me for ticket.

18 Q. They called the number? A. I think so.

19 Q. All right. And when they called the number did you  
20 look at your ticket and see that that was your number?

21 A. Well, I wasn't pay attention for that piece of paper,  
22 they give it to me I don't know what it was.

23 Q. How did you get your pizza then?

24 A. Somebody came I think to my table and say, "Your pizza  
25 is ready," look at paper, I guess, I don't know.

26 Q. You weren't paying attention to see what your -- did

1 you know what that number was for, the ticket?

2 A. No.

3 Q. You had never ordered -- they don't have those sort of  
4 things in Canada, pizza parlors? A. That have  
5 pizza but they don't have a number, as you said.

6 Q. You just wait at the counter for a pizza?

7 A. Yeah.

8 Q. Okay. So somebody came and said that your pizza is  
9 ready? A. Yeah.

10 Q. And then what did you do? A. I think I  
11 went to pick up pizza.

12 Q. Okay. Did they tell you how much it would cost?

13 A. He told me.

14 Q. Let me ask you this, did you pay for your pizza right  
15 when you ordered it or did you pay for it when you picked it  
16 up? A. I don't remember exactly.

17 Q. Okay. And when you were having these two beers in this  
18 thirty minute period where you were waiting for your pizza,  
19 what were you thinking about? A. I don't  
20 know what was thinking about. I don't remember exactly what  
21 I was thinking about at that time.

22 Q. Well, were you thinking about when you were going to  
23 see the Patriarch and what you were going to tell him?

24 A. Probably, I don't know.

25 Q. All right. Were you thinking about how you were going  
26 to go home? A. I thought that day

1 before, how to go home.

2 Q. You thought about that on Wednesday?

3 A. Yeah.

4 Q. Okay. And was that the first time you had thought  
5 about that?

6 A. No.

7 Q. When was the first time you had thought about how you  
8 were going to go home?

9 A. Before I get to  
10 California, I guess.

11 Q. Okay. And so you knew that before you arrived in  
12 California that you were going to take the bus from San Jose  
13 to Denver?

14 A. Yeah.

15 Q. And then from Denver to Chicago? A. Right.

16 Q. Now, had you contacted any of your relatives in  
17 Denver and told them that you were coming?

18 A. No. Before I leave I have to.

19 Q. Pardon me? A. Before I leave  
20 San Jose I have to call them, before.

21 Q. Did you call them? A. No.

22 Q. Okay. You were going to call them but you didn't?

23 A. I'm going to call them before leaving.

24 Q. So then your pizza came, and you started to eat a  
25 little bit of your pizza? A. Yeah.

26 Q. Okay. And the reason that you wanted to order a  
27 pizza was because you were hungry? A. Yeah.

28 Q. Okay. And how much of your pizza did you eat?

29 A. I believe I don't eat. I couldn't too much.

- 1 Q. Well, what do you mean too much, sir?
- 2 A. I couldn't eat too much, that's all.
- 3 Q. Well, one piece, two pieces, three pieces?
- 4 A. I don't remember how many piece but I know more than
- 5 half I left.
- 6 Q. You left more than half? A. I think so.
- 7 Q. Okay. And the reason that you couldn't eat too much?
- 8 A. I don't know. Maybe mixed beer and whiskey, or I don't
- 9 know why.
- 10 Q. Okay. Just you didn't feel like pizza anymore?
- 11 A. I was hungry but that time I feel like sick, and I
- 12 couldn't eat.
- 13 Q. Okay. So then when you felt like you couldn't eat
- 14 anymore, what did you do? A. I was feeling
- 15 like sick, I went outside.
- 16 Q. Okay. Did you feel like you were going to throw up,
- 17 get sick to your stomach? A. Something like
- 18 that, yeah.
- 19 Q. Okay. Did you go to the bathroom to throw up or
- 20 anything like that in the pizza parlor?
- 21 A. I went to bath but I didn't throw up.
- 22 Q. You didn't throw up? A. No.
- 23 Q. And in the bathroom, did you go to the bathroom at
- 24 all. A. No.
- 25 Q. Wash your hands? A. No, just wash
- 26 my face.

1 Q. Wash your face. Okay. Freshen yourself up a little  
2 bit? A. Yeah.

3 Q. Okay. And then you left the pizza parlor, went outside?

4 A. Yeah.

5 Q. Okay. And when you went outside?

6 A. I don't know what I was thinking about outside.

7 Q. Okay. Well, when did you decide to go to the

8 Patriarch's house that night? A. When I went  
9 outside, I think.

10 Q. When you went outside. Okay. And originally you had  
11 decided you were going to go there the next day, on Friday?

12 A. Yeah.

13 Q. And when you went outside you thought about going to  
14 the Patriarch's house that night, Thursday night?

15 A. Yeah, I think.

16 Q. Okay. And you decided, you said, "Well, should I go  
17 there Friday, tomorrow, or should I go there tonight?"

18 You decided on going there tonight, Thursday?

19 A. Yeah.

20 Q. Okay. And the reason that you decided to go there that  
21 night, your reason was because then you would have a free  
22 day on Friday? A. Um-hum.

23 Q. Okay. So you made the conscious decision to go there  
24 on Thursday night? A. Probably that is

25 what I thought.

26 Q. Okay. So then you, after you made this conscious

1 decision to go to the Patriarch's house Thursday night as  
2 opposed to Friday, you started to go towards his house?

3 A. I think so.

4 Q. Well, you think so. What did you do?

5 A. I don't remember it clearly, but I think so. I walked  
6 there.

7 Q. All right. And you walked in the direction of the  
8 Patriarch's house? A. I walked for a  
9 little while, and I don't how many.

10 Q. You told us you walked for about a half hour?

11 A. I think about a half hour. I don't know.

12 Q. When you were out there walking in this half hour  
13 period was it getting dark outside?

14 A. Yeah, I guess.

15 Q. Okay. And was fresh air refreshing you at all? Did  
16 you still feel sick? A. I don't think so.

17 Q. Okay. Didn't feel any effects of the alcohol and the  
18 scotch when you were walking there for the half hour?

19 A. I don't think so.

20 Q. Now, you end up at the Patriarch's house, right?

21 A. Yeah.

22 Q. Okay. And when you approached the Patriarch's house  
23 did you see anybody out in front of his house?

24 A. No, before I get there I see couple of people, couple  
25 of guys and ask where is Woosley.

26 Q. And how far from the Patriarch's house was this when

1 you asked these people? A. Just around the  
2 block.

3 Q. Around the block? A. I think so.

4 Q. So you would have been on Los Pinos?

5 A. I don't know that.

6 Q. And they told you it was just around the corner?

7 A. Yeah.

8 Q. All right. And did you go to the Patriarch's house?

9 A. I believe so.

10 Q. Okay. Now, when you got out in front of the Patriarch's  
11 house were there any kids out in front playing ball or  
12 anything like that? A. I don't remember.

13 Q. Okay. There was nobody out in front of the house,  
14 was there? A. I don't see, I think

15 nobody.

16 Q. Didn't see anybody? A. I don't think so.

17 Q. Now, when you saw the Patriarch's house, how, on  
18 Woosley Street, you knew the Patriarch's house address, 6217?

19 A. Yeah.

20 Q. And how did you know that the second house from the  
21 corner was the Patriarch's house?

22 A. I don't know. I think that the number was on it, I  
23 guess.

24 Q. The number was on the house? A. I think  
25 so.

26 Q. All right. And you could see the number on the house?

1 A. I guess so.

2 Q. And you knew enough in your mind at that time that his  
3 address was 6217 and there was 6217 on the house, right?

4 A. I guess so.

5 Q. So you formed the opinion at that time that that in  
6 fact was the Patriarch's house? A. Um-hum.

7 Q. Okay. And so when you knew that that was the  
8 Patriarch's house, what did you do?

9 A. I went to the house.

10 Q. Okay. How did you approach the house? How did you  
11 go to the house? A. I don't remember  
12 exactly. I knocked the door or bell, I don't remember  
13 exactly.

14 Q. Okay. Is it possible that you didn't knock on the  
15 door? A. No.

16 Q. All right. A. I did something.  
17 I don't know what.

18 Q. You don't remember if you rang the bell or if you  
19 knocked on the door? A. No.

20 Q. Okay. Now, did the Patriarch come to open -- did the  
21 Patriarch come to the door? A. I see a head  
22 behind the window but I don't know was him.

23 Q. You saw a head behind the window?

24 A. Yeah.

25 Q. Could you tell -- and this window is a window that is  
26 right by the front door that you can look out from?

1 A. Yeah.

2 Q. Okay. And could you tell if it was a man or a woman  
3 whose head you saw? A. I don't know.

4 Q. You couldn't tell? A. I don't know.

5 Q. Okay. And how long did this head stay at the front  
6 door, at the window as you were at the front door?

7 A. I don't know exactly.

8 Q. Couple seconds, a minute? A. Maybe  
9 couple second, I don't know exactly.

10 Q. After you saw this head what happened to the front  
11 door? A. It opened.

12 Q. It opened. Okay. Now, this person, did it appear to  
13 you that the person that you saw at the window was the  
14 person that opened the front door? A. I think  
15 so.

16 Q. Okay. It was a relatively short period of time from  
17 seeing the person at the window until the door was opened?

18 A. I think so.

19 Q. Now, when the door was opened did you recognize the  
20 person that opened the door? A. Yeah.

21 Q. Okay. And who was that person?

22 A. Mar Shimun.

23 Q. And how was Mar Shimun dressed?

24 A. He was -- have pants on and shirt, and pants that's  
25 all.

26 Q. And would those be what we would call casual clothes?

- 1 A. I don't know what they call.
- 2 Q. Well, on your prior times that you had seen Mar Shimun  
3 how was he dressed? A. Just like in  
4 picture.
- 5 Q. Just like in the picture? A. Yeah.
- 6 Q. So every time you saw Mar Shimun he was dressed in his  
7 patriarchal clothes? Right? A. Not every  
8 time. Couple times see him in suit in a motel.
- 9 Q. In a suit in motel? A. Yeah, in Flint,  
10 Michigan.
- 11 Q. In Flint, Michigan, you saw him in a suit in a motel?
- 12 A. Yes, sir.
- 13 Q. And the other times you saw him he was dressed in his  
14 patriarchal clothes? A. Yeah.
- 15 Q. Now, when did you see him in a suit in a motel in  
16 Flint, Michigan? A. Two time, I don't  
17 remember exactly, '69, '70 or '71.
- 18 Q. And when you saw the Patriarch in a suit in a motel in  
19 Flint, Michigan, were you with anybody?
- 20 A. I was with my father.
- 21 Q. With your father. Okay. And anybody else?
- 22 A. Well, we went out, in and outside, after half hour,  
23 and there was people, they want to get in and see him again,  
24 so I don't know who there are.
- 25 Q. Okay. Were these members of the church?
- 26 A. Yeah.

1 Q. Okay. And was he receiving people that were members  
2 of his church? A. I think so.

3 Q. Okay. Now, when the Patriarch opened the door, what  
4 was the first thing that was said?

5 A. He opened the door, I said, I don't remember, I said  
6 good evening.

7 Q. Okay. And what did the Patriarch say?

8 A. He smiled, I say, "Good evening," and I kissed his  
9 hand, and I kneel, get up, and he smile in my face, and he  
10 take me in.

11 Q. When you kissed his hand how did you do that?

12 A. I just kneel and kiss hand.

13 Q. You kneeled down? A. Yeah.

14 Q. Okay. And did he extend his hand for you to kiss, or  
15 how did you get his hand? A. I think so.

16 Q. Well, how did you get his hand?

17 A. I don't remember exactly how I get his hand. But I  
18 remember I kiss his hand is all I know.

19 Q. And at this time you said, "Good evening," you were  
20 kneeling down? A. Yeah.

21 Q. On one knee or two knees? A. I don't  
22 remember exactly.

23 Q. Well, how did you -- did you kneel down when you met  
24 the Patriarch on other occasions?

25 A. Other occasions one knee.

26 Q. Pardon me? A. Other occasions one

1 knee.

2 Q. And would you always kneel down when you met the  
3 Patriarch?

A. Yeah.

4 Q. When you were with your father?

A. Yeah.

5 Q. And that was the way that you greeted the Patriarch?

6 A. Right.

7 Q. To show your respect for him?

A. Um-hum.

8 Q. Because he was the leader of the church?

9 A. Right.

10 Q. And was that a custom in the church? When one was  
11 greeting the Patriarch, they would kneel down on one knee?

12 A. Somebody they do, somebody they don't.

13 Q. Okay. And what about the kissing of the hand, was that  
14 also a custom in the church?

A. I don't know.

15 We do it. I don't know it is custom.

16 Q. Had you seen other people do it?

17 A. I seen my father do it, all relative.

18 Q. And the Patriarch smiled at you?

19 A. Yeah.

20 Q. Okay. Did he recognize you?

21 A. Yeah.

22 Q. What did he say to you?

A. He say,

23 "I heard -- we heard that you're in California for a week,"

24 California or San Francisco, he say something about that.

25 I said, "Yes, Kessy."

26 Q. Did he tell you how he heard that?

1 A. No.

2 Q. Did you ask him? A. No.

3 Q. Okay. Were you curious as to how he knew you were in  
4 California?

5 A. No.

6 Q. You weren't curious at all? A. No.

7 Q. Okay. And so -- let me ask you this, Mr. Ismail, did  
8 the Patriarch express any sort of surprise that you were at  
9 his door at 7:00 o'clock at night or 6:50 at night?

10 A. I don't remember exactly.

11 Q. Well, did he look surprised to see you?

12 A. He smiled.

13 Q. Did he say, "What are you doing here without an  
14 appointment?"

15 A. He didn't mention that.

16 Q. He didn't say that at all?

17 A. No.

18 Q. And so then the Patriarch invited you into his house?

19 A. Yeah.

20 Q. All right. Where did he invite you?

21 A. Right in, right in the house.

22 Q. Okay. And what part of the house?

23 A. First part of the house, I don't know, front of the  
24 house. Living room or what?

25 Q. When you went into the house where did you go with  
26 the Patriarch, to the left, to the right, straight back?

A. No, he was front.

Q. Pardon me?

A. He was in the front of

1 me.

2 Q. You followed him? A. Yeah.

3 Q. And did you shut the door? A. I don't  
4 remember.

5 Q. Did the Patriarch shut the door?

6 A. I don't know exactly.

7 Q. Did anybody shut the door? A. I don't  
8 know.

9 Q. Okay. So as far as you know then the door remained  
10 open? A. Maybe.

11 Q. Okay. Now, when you followed the Patriarch into the  
12 house where did you follow him to?

13 A. He turn at me, ten, fifteen feet, I don't remember  
14 exactly, was talking to something, he was talking to me, I  
15 don't know what about.

16 Q. Wait a minute. He was talking to you?

17 A. He was trying to talk to me, something, I don't know  
18 what.

19 Q. Were you having trouble understanding him?

20 A. No. No, he just wants to start to talk about something,  
21 I don't know what.

22 Q. You didn't know what then, or you don't know what now?

23 A. I don't know what then or now.

24 Q. You didn't understand what he was saying? ay nothing,

25 A. He didn't start it.

26 Q. Pardon me? A. He didn't say nothing,

1 he was going to say something.

2 Q. How did you know he was going to say something?

3 A. Because he turned to me, smiled and looked like he  
4 wants to talk to me, say something.

5 Q. So I can get the sequence right, he invites you into  
6 his house, did he turn his back on you and you were  
7 following him?

8 A. No, not his back. He was  
in the front of me.

9 Q. He was in the front of you? A. Yeah, a  
10 little on the left side, my left side.

11 Q. In front of you on your left side?

12 A. Yeah.

13 Q. And you told us that -- well, was he facing you or did  
14 he have his back toward you? A. He was beside  
15 me but little front and ahead me.

16 Q. Ahead of you? A. A little bit, yeah.

17 Q. When you say, "Ahead of you," do you mean closest to  
18 the door or closest to the inside of the house?

19 A. Inside the house.

20 Q. Okay. And so, let's just imagine, if we can, that this  
21 is the front door, the jury railing?

22 A. Yeah.

23 Q. Then it would be you here and the Patriarch facing you,  
24 right?

A. I don't know. Probably.

25 Q. Well, try and remember. Do you remember?

26 A. Not clearly.

1 Q. Well, give us your best estimate then, Mr. Ismail.

2 A. I don't remember clearly.

3 Q. Okay. And so, in any event, you told us a few minutes  
4 ago that the Patriarch invited you into the house?

5 A. Yes, he did.

6 Q. And that he turned around as if -- and you were  
7 following him into the house, right?

8 A. Yeah.

9 Q. Okay. And he turned around as if to say something to  
10 you?

A. Yeah.

11 Q. Well, he must have turned his back to you then and  
12 started to lead you into the house, right? In other words  
13 he didn't invite you into the house and he wasn't walking  
14 back like this talking to you, was he (indicating)?

15 A. I don't know. I don't think so.

16 Q. So he turned his back to you, right, according to your  
17 story and said, "Come on in"? A. No, he  
18 grabbed me, first of all.

19 Q. I see. Okay. When did he grab you, Mr. Ismail?

20 A. When I kneel first.

21 Q. When you kneel first? A. After kissing.

22 Q. Where did he grab you? A. Over here  
23 (indicating).

24 Q. On the arm? A. Umhum.

25 Q. And did he grab you hard? A. No.

26 Q. Did he grab you soft? A. Yeah.

1 Q. All right. And after he grabbed you did he say why  
2 he grabbed you? A. I don't remember why.

3 Q. What did you think when he grabbed you?

4 A. Just he was happy to see me, I guess.

5 Q. So he reached down and grabbed you?

6 A. That is looked to me.

7 Q. I'm sorry? A. That is looked to me.

8 MR. FESTARINO: Looked to him like that.

9 Q. (By Mr. Robinson) Looked to you like he grabbed you?

10 A. Yeah, he was happy.

11 Q. Okay. Now, let's answer my question. When he invited  
12 you into the house did he turn his back to you and start to  
13 walk in? A. He didn't turn his back.

14 He was beside me, a little bit in front of me, a little bit.

15 Q. All right. Well, anyway he says, "Let's go into the  
16 house"?

A. Yeah.

17 Q. And you go into the house with him?

18 A. Yeah.

19 Q. All right. Okay. And where did you go in the house?

20 What part of the house? A. I guess was  
21 living room. I don't know.

22 Q. Well, describe the area that you went into, Mr. Ismail.

23 A. Couldn't describe it.

24 Q. Well, do you know the color of the rugs that were in  
25 there that you say you went into? A. No.

26 Q. Okay. Do you know if there was a dining room table in

1 there?

A. No.

2 Q. All right. Do you know if there was a sofa in there?

3 A. I don't know.

4 Q. Do you know if they had any chairs in there?

5 A. I don't know.

6 Q. All right. Well, this area of the house that he  
7 invited you into that you can't describe for us now, did you  
8 sit down in there?

A. No.

9 Q. Just he invited you into the house and he didn't say,  
10 "Have a seat," or anything like that?

11 A. No, not yet.

12 Q. Not yet? A. No.

13 Q. Did he ever ask you to sit down and have a seat?

14 A. No.

15 Q. Did he say anything like, "Hey, I just put some coffee  
16 on, I got some coffee, my wife's upstairs, why don't you  
17 have a cup of coffee with us?" Did he ever ask anything like  
18 that?

A. I don't remember.

19 Q. You don't remember? Okay. So you are in this area  
20 of the house, did you ever sit down in the house?

21 A. I don't think so.

22 Q. Well, now, you know, try and remember, Mr. Ismail.

23 There is a lot of things that -- strike that.

24 Try and remember. Did you sit down in the house  
25 or did you stand up all of the time when you were in there?

26 A. I believe I didn't sit down.

1 Q. You didn't sit down? A. I don't think so.

2 Q. Okay. And did the Patriarch sit down?

3 A. No. I don't think so.

4 Q. All right. Now, when you were in this area of the  
5 house that you can't describe for us, what happened when you  
6 got in there? A. He turned to me, he wants

7 to say something and I told him that, would I come in here,  
8 why I come and --

9 Q. Well, -- A. -- Assyrian thinking,  
10 and I start saying what I want to say.

11 Q. All right. The Patriarch turned to you and started to  
12 say something, right? A. Yeah.

13 Q. Okay. And I take it that you respect the Patriarch,  
14 correct? A. What's "respect"?

15 Q. You honor the Patriarch? A. Yeah.

16 Q. You just knelt down and kissed his hand, according to  
17 your story, right? A. Yeah, right.

18 Q. Okay. He is a leader of the church, right?

19 A. Yeah.

20 Q. And the leader of the church goes to say something to  
21 you and you interrupt him? A. No.

22 Q. Well, Mr. Ismail, now you just told us that he started  
23 to say something and you said, "I'm telling you why I'm here,"  
24 do you remember telling us that?

25 A. He turned to me, he wants to say, looked to me like  
26 he wanted to say something.

1 Q. All right. And did you wait for him to say something?

2 A. I don't remember exactly I wait for him or not.

3 Q. Well, did he say anything to you?

4 A. Not until I say.

5 Q. What did you say to him? A. I told him that  
6 Assyrian, they don't like to be, Patriarch to be back because  
7 you are married. Assyrian they don't like him to be back as  
8 a Patriarch, and he is married.

9 Q. That was the first thing you said to him?

10 MR. PESTARINO: Let him finish.

11 THE COURT: I didn't quite understand.

12 (Record read by the reporter.)

13 THE WITNESS: Right.

14 Q. (By Mr. Robinson) All right. That is -- is that the  
15 first thing you said to him? A. Yes.

16 Q. You didn't say anything else about, "How's it going?  
17 How you have been," anything like that?

18 A. No, just following these words, I told him that I don't  
19 mind myself, but I can't send that telegraph you give it to  
20 me. So I couldn't finish the words, he gets so upset.

21 Q. Okay. Now, why did you feel that you had to see the  
22 Patriarch in person to deliver this message?

23 A. I don't know why.

24 Q. Well, could you have called him and told him?

25 A. No.

26 Q. Could you have given him a letter and told him?

1 A. No, just I decided to talk to him, maybe I will come in  
2 the summertime to visit California probably.

3 Q. All right. And so you waited, let's see, he asked you  
4 according to your testimony, to send the letter in February,  
5 you waited until November to come down and see him in person  
6 and tell him that you weren't going to send the letter, the  
7 telegram?

8 A. Wasn't special to see him  
9 that visit to California.

10 Q. It wasn't ? A. It wasn't special to  
11 visit him, no.

12 Q. Now, after you told him that you couldn't send the  
13 telegram, that the people didn't want him to be Patriarch  
14 anymore, what happened next?

15 A. Well, he just  
16 turned very upset.

17 Q. What did he do? A. He didn't say  
18 nothing, first of all.

19 Q. How did you know he was upset? A. I  
20 could see by his his -- he slapped me first. He hit me left  
21 hand.

22 Q. Pardon me? By what? A. By left or  
23 right hand, and he asked me to get out.

24 Q. Let me stop you there. Now, he turned very upset, but  
25 he didn't say anything? A. First of all, no.

26 Q. Then did he grab you at all? A. After  
he hit me twice he grabbed me here (indicating).

Q. No. No, wait. Maybe we are not communicating. What

1 I want to do is get the exact sequence of events, the things  
2 that happened in order. Okay? A. Um-hum.

3 Q. One, two, three. You told him that you weren't going  
4 to send the telegram, that the Assyrian people didn't want  
5 him to be Patriarch anymore. Okay? A. Yeah.

6 Q. Then you told us that he didn't say anything right?

7 A. Um-hum.

8 Q. But it appeared to you that he was getting very upset,  
9 right? A. Yeah.

10 Q. Okay. Now, what happened next?

11 A. Next he just hit me.

12 Q. Okay. He hit you. That was the next thing?

13 A. Yeah.

14 Q. Where did he hit you? A. In my face  
15 someplace. I don't remember exactly.

16 Q. All right. Did he hit you with a fist or with an open  
17 hand? A. Open hand.

18 Q. Open hand? A. I guess.

19 Q. And how close were you to the Patriarch when you were  
20 standing in this room and this occurred?

21 A. Pretty close.

22 Q. Very close? A. I think so.

23 Q. Did he have to take any steps to come toward you to hit  
24 you? A. I remember he had some step,  
25 he step and he grabbed me here (indicating).

26 Q. Was that before or after he hit you?

1 A. After.

2 Q. After. All right. Now, I want to know, when he hit  
3 you the first time, according to your story, did he have to  
4 take any steps to hit you? Or could he just reach out and  
5 hit you from where you were standing?

6 A. I think so.

7 Q. You think what? That he had to take steps or he didn't  
8 have to take steps? A. No, I don't think he  
9 had to take any steps.

10 Q. So there were the two of you in his living room  
11 standing within arms distance of each other just standing  
12 there, right? A. Yeah.

13 Q. Okay. And then he became very upset and he slapped you  
14 in the face? A. Yeah.

15 Q. All right. And then he slapped you in the face with his  
16 other hand? A. Yeah.

17 Q. Got you quick, two times right in the face, huh?

18 A. Yeah.

19 Q. Now, what did you do when he slapped you in the face  
20 twice? A. I can't do nothing. I  
21 just try to get out. He grabbed me from here (indicating).

22 Q. All right. Now, when he slapped you in the face, you  
23 were facing him, right? A. Yeah.

24 Q. Did he knock you down when he slapped you?

25 A. I believe when he grabbed me here, he knocked me --

26 Q. No. No, we will get to that. I am going in order.

1 Remember that. When he slapped you in the face the first  
2 time did he knock you down? A. No.

3 Q. When he slapped you in the face the second time did he  
4 knock you down? A. I don't remember,  
5 no.

6 Q. When he slapped you in the face did your eyes start to  
7 water? A. I don't know what you say.

8 Q. Did your eyes, did you get tears in your eyes?

9 A. I don't remember.

10 Q. Did it hurt? A. No, I just felt  
11 ashamed, that's all.

12 Q. You felt ashamed? A. Yeah.

13 Q. Why did you feel ashamed? A. I don't know  
14 why.

15 Q. All right. And so then after he slapped you in the  
16 face two times were you mad at the Patriarch?

17 A. No, I mad at myself why I come.

18 Q. All right. Mad at yourself. A. Well, I  
19 think I thought shouldn't come.

20 Q. So then you decided to leave? A. Yeah.

21 Q. When the Patriarch slapped you in the face two times,  
22 did he say anything to you? A. No.

23 Q. When did he tell you to get out?

24 A. When he grabbed me.

25 Q. When he grabbed you. Okay. And how did he say get  
26 out? Did he scream it or did he say it very softly, "Get

- 1 out"? A. Oh, scream it.
- 2 Q. Screaming and yelling at you? A. Yeah.
- 3 Q. Get out, get out? A. Well, something --
- 4 Q. Was he saying it in English or in Assyrian?
- 5 A. In Assyrian.
- 6 Q. And this is a very loud yell? A. Yeah.
- 7 Q. Okay. And did you say anything to him?
- 8 A. No.
- 9 Q. No. Okay. So after he slapped you twice and was
- 10 screaming loud at you in Assyrian to get out, what happened
- 11 next? A. I believe he hit me by his
- 12 knee.
- 13 Q. Hit you by his knee. Where did he hit you by his knee?
- 14 You indicated -- A. Someplace in
- 15 here (indicating).
- 16 Q. In the front? A. Yeah.
- 17 Q. Indicating around the rib and stomach area right in
- 18 here? A. I don't remember exactly.
- 19 Q. Somewhere on the front of your body?
- 20 A. Yeah.
- 21 Q. Okay. And how did he hit you by his knee? Did he
- 22 raise it up like that? A. Yeah, he was
- 23 grabbing, like that.
- 24 Q. He slapped you twice, then he grabbed you first, and
- 25 then he grabbed you before he hit you with the knee?
- 26 A. Yeah.

1 Q. And where did he grab you? A. Left shoulder.

2 Q. On your left shoulder. And did he grab you with one  
3 hand or two hands? A. I don't remember one  
4 hand or two hands.

5 Q. When he grabbed you on the left shoulder, did he grab  
6 you hard or did he grab you soft?

7 A. I don't remember exactly.

8 Q. Was it the same sort of grab that you told us about  
9 when he put his hand on your left shoulder when you knelt  
10 down to kiss his hand? A. I don't remember  
11 exactly.

12 Q. Okay. So then after he grabs you on the left shoulder,  
13 he knees you, uses his knee to hit you?

14 A. Right.

15 Q. And he hit you somewhere in the front?

16 A. Yeah.

17 Q. How tall is the Patriarch? A. I don't know  
18 how tall he is.

19 Q. Well he is smaller than you, isn't he?

20 A. I don't think so.

21 Q. How tall are you, Mr. Ismail? A. I  
22 believe five nine.

23 Q. Five nine. And wasn't the Patriarch five five, five  
24 six? A. I don't know.

25 Q. Okay. And so this knee, he raises his knee up and  
26 hits you, right? A. Yeah.

1 Q. When he hits you what happens to you? What do you do?

2 A. Well, when he grabbed me, first of all here, I was like  
3 that (indicating).

4 Q. You were like what?

5 THE COURT: Bent over.

6 Q. (By Mr. Robinson) You were bent over?

7 A. Yeah.

8 Q. How come? A. Because I want to get  
9 out and he grabbed me over here, then he knocked me by his  
10 knee.

11 Q. Then he knocked you by his knee?

12 A. Yeah.

13 Q. So he slaps you twice (clapping hands), like that?

14 A. Um-hum.

15 Q. Then you want to get out, so you're bent over, right?

16 A. Yeah.

17 Q. How were you going to run out? Are you going to run  
18 out low in a crouch? A. I don't know how. He  
19 grabbed me, and I bent a little bit like that in front  
20 him. I don't know what to say, what to do.

21 Q. Then the knee came? A. Yeah.

22 Q. Then he hit you with the knee? A. Yeah.

23 Q. After he hit you with the knee what happened to you?

24 A. I believe I fell down. I don't know why.

25 Q. Okay. And at this time you were still in the original  
26 area where you were talking to the Patriarch?

1 A. We was moving, I guess.

2 Q. Was he chasing you? A. I don't know  
3 exactly.

4 MR. FESTARINO: Excuse me, let him finish.

5 THE WITNESS: We was moving. I don't know  
6 exactly from the door or to the wall or someplace, I don't  
7 know. I know we was moving, but I don't know where.

8 Q. (By Mr. Robinson) Was he chasing you?

9 A. Well, yeah.

10 Q. He was. Okay. And you fell down?

11 A. Yeah.

12 Q. Right. Okay. A. I'm not too sure, I  
13 can't clear that, but I just think that I fell down after the  
14 knee.

15 Q. Now, when he grabbed you by the jacket did it rip your  
16 jacket? A. I don't know. You could  
17 look at.

18 Q. Well, your jacket ripped, didn't it, when you fell in  
19 the bushes running? A. I don't know.

20 Q. Okay. Now, after he kneed you --

21 A. Um-hum.

22 Q. Then what happened? A. Then he spit in  
23 my face and he gave two bad words to my father.

24 Q. Now, he kneed you, you fell down, right?

25 A. Yeah.

26 Q. Okay. And did you fall down on your stomach or on your